

**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
(FOR AN AMENDED AND RESTATED INITIAL ORDER AND SISP APPROVAL ORDER
RETURNABLE SEPTEMBER 21, 2023)**

September 15, 2023

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(the "**Applicant**")

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(as of September 14, 2023)

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

B E T W E E N:

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**")

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TAB 1

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

IN THE MATTER OF THE *COMPANIES' CREDITORS
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(the "**Applicant**")

**NOTICE OF MOTION
(MOTION FOR AMENDED AND RESTATED INITIAL ORDER AND SISP APPROVAL
ORDER RETURNABLE SEPTEMBER 21, 2023)**

The Applicant will make a motion before the Honourable Justice Cavanagh of the Ontario Superior Court of Justice (Commercial List) (the "**Court**") on September 21, 2023 at 12:00 p.m. or as soon after that time as the motion may be heard by judicial videoconference via Zoom at Toronto, Ontario. The videoconference details will be circulated to the service list.

PROPOSED METHOD OF HEARING: The motion is to be heard by videoconference.

THE MOTION IS FOR:

- (a) An amended and restated initial order (the "**ARIO**") substantially in the form of the draft order attached at Tab 4 of the Applicant's Motion Record, *inter alia*:
 - (i) extending the Stay Period (as defined below) until November 17, 2023;
 - (ii) increasing the Administration Charge and the Directors' Charge (each as defined in the Initial Order (as defined below)) to the maximum amounts of US\$1,000,000 and US\$2,198,000, respectively; and

- (iii) approving the retention of the Financial Advisor (as defined below), *nunc pro tunc*, on the terms of the Greenhill Engagement Letter (as defined in the ARIO) and granting the Transaction Fee Charge (as defined below) to the maximum amount of US\$2,500,000 to secure payment of the transaction fee payable under the Greenhill Engagement Letter.
- (b) An order (the “**SISP Approval Order**”) substantially in the form of the draft order attached at Tab 5 of the Applicant’s Motion Record, *inter alia*, approving the SISP (as defined below), authorizing the Applicant to implement the SISP pursuant to the terms thereof, and authorizing and directing the Applicant, the Financial Advisor and the Monitor to perform their respective obligations and to do all things reasonably necessary to perform their obligations thereunder; and
- (c) granting such further and other relief as this Honourable Court deems just.

THE GROUNDS FOR THE MOTION ARE:

- (d) On September 14, 2023, the Applicant was granted protection under the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36 (the “**CCAA**”) pursuant to an Initial Order (the “**Initial Order**”) of the Court in this proceeding (this “**CCAA Proceeding**”).

Amended and Restated Initial Order

Extending the Stay of Proceedings

- (e) The Initial Order granted a stay of proceedings in favour of the Applicant and its affiliates, BioSteel Sports Nutrition USA LLC and BioSteel Manufacturing LLC, the

Monitor, and the Directors and Officers (as defined in the Initial Order) until September 24, 2023, or such later date as this Court may order (the “**Stay Period**”).

- (f) The Applicant is seeking to extend the Stay Period until November 17, 2023, to align with the date by which Court-approval of a transaction is contemplated under the SISP, and to allow for completion of the SISP.
- (g) The Applicant has been acting and continues to act in good faith and with due diligence and, since obtaining the Initial Order on September 14, 2023, has provided notice of this proceeding to stakeholders and engaged in discussions with many of its stakeholders in consultation with the Monitor;
- (h) It is just and convenient and in the interests of the Applicant and its stakeholders that the Stay Period be extended to November 17, 2023.

Administration Charge and Directors’ Charge

- (i) The Administration Charge and the Directors’ Charge were each set at an amount appropriate for the first 10 days of this CCAA Proceeding.
- (j) The Applicant is seeking to increase the Administration Charge and the Directors’ Charge to amounts that are fair and reasonable going forward, in light of the circumstances of this CCAA Proceeding and the Applicant’s business, and as determined in collaboration with the Monitor.

- (k) With the concurrence of the Monitor, the Applicant is now seeking to increase the Administration Charge to US\$1,000,000 and the Directors' Charge to US\$2,198,000.

Financial Advisor Retention and Charge

- (l) The Applicant is seeking approval, *nunc pro tunc*, of the retention of Greenhill & Co. Canada Ltd. as financial advisor to the Applicant in this CCAA Proceeding (the "**Financial Advisor**"). The Applicant also seeks the granting of a charge in the amount of US\$2,500,000 for the benefit of the Financial Advisor to secure the payment of the Financial Advisor's transaction fee when due and payable pursuant to the terms of the Financial Advisor's engagement letter (the "**Transaction Fee Charge**").

SISP Approval Order

- (m) The Applicant is seeking approval of a proposed sale and investment solicitation process (the "**SISP**"), and authorization to implement the SISP pursuant to its terms.
- (n) The proposed SISP provides for the solicitation of potentially interested parties by the Applicant and the Financial Advisor which will commence no later than four days following the granting of the SISP Approval Order.
- (o) The Applicant developed the proposed SISP in consultation with its professionals and the Monitor, in order to build on the marketing process that began pre-filing. The SISP provides a fair and reasonable process that will adequately canvass the

market, while simultaneously protecting against the burdens of an extended CCAA Proceeding.

Other Grounds

- (p) The provisions of the CCAA and the inherent and equitable jurisdiction of this Honourable Court;
- (q) 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; and
- (r) Such further and other grounds as counsel may advise and this Honourable Court may permit.

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

- (s) The Affidavit of Sarah Eskandari sworn September 13, 2023 and the exhibits attached thereto;
- (t) The Affidavit of Sarah Eskandari sworn September 15, 2023 and the exhibits attached thereto;
- (u) The Pre-Filing Report of the Proposed Monitor dated September 14, 2023;
- (v) The First Report of the Monitor, to be filed; and
- (w) Such further and other evidence as counsel may advise and this Honourable Court may permit.

September 15, 2023

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

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

PROCEEDING COMMENCED AT
TORONTO

**NOTICE OF MOTION
(Motion for Amended and Restated Initial Order and SISP
Approval Order Returnable September 21, 2023)**

Cassels Brock & Blackwell LLP

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TAB 2

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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

This is Exhibit "A" referred to in the Affidavit of Sarah S. Eskandari sworn 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



Corporate Profile / Profil corporatif

Date and time of Corporate Profile (YYYY-MM-DD)	2023-09-11 9:33 AM	(AAAA-MM-JJ) Date et heure du Profil corporatif
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CORPORATE INFORMATION		RENSEIGNEMENTS CORPORATIFS
Corporate name	Dénomination	
	BIOSTEEL SPORTS NUTRITION INC.	
Corporation number	1165818-2	Numéro de société ou d'organisation
Business number	850120866	Numéro d'entreprise
Governing legislation	Régime législatif	
	<i>Canada Business Corporations Act (CBCA) - 2019-10-01</i> <i>Loi canadienne sur les sociétés par actions (LCSA) - 2019-10-01</i>	
Status	Statut	
	Active	
	Active	

REGISTERED OFFICE ADDRESS	ADRESSE DU SIÈGE
	87 Wingold Avenue, Unit 1 Toronto ON M6B 1P8 Canada

ANNUAL FILINGS	DÉPÔTS ANNUELS
Anniversary date (MM-DD)	10-01 (MM-JJ) Date anniversaire
Filing period (MM-DD)	10-01 to/au 11-30 (MM-JJ) Période de dépôt
Status of annual filings	Statut des dépôts annuels
	Not due 2023 N'est pas dû
	Filed 2022 Déposé
	Filed 2021 Déposé
Date of last annual meeting (YYYY-MM-DD)	Not available / Pas disponible (AAAA-MM-JJ) Date de la dernière assemblée annuelle
Type	Type
	Non-distributing corporation with 50 or fewer shareholders
	Société n'ayant pas fait appel au public et comptant 50 actionnaires ou moins

DIRECTORS		ADMINISTRATEURS
Minimum number	1	Nombre minimal
Maximum number	7	Nombre maximal
Current number	2	Nombre actuel
Samuel H. Carsley	1 Hershey Drive, Smiths Falls ON K7A 0A8, Canada	
Eugene I. Davis	1 Hershey Drive, Smiths Falls ON K7A 0A8, Canada	

CORPORATE HISTORY		HISTORIQUE CORPORATIF
Corporate name history (YYYY-MM-DD)		(AAAA-MM-JJ) Historique de la dénomination
2019-10-01 to present / à maintenant	BIOSTEEL SPORTS NUTRITION INC.	
Certificates issued (YYYY-MM-DD)		(AAAA-MM-JJ) Certificats émis
Certificate of Amalgamation Corporations amalgamated	2019-10-01 Certificat de fusion Corporations amalgamated	
	11351249 11351249 CANADA INC. 7230940 BIOSTEEL SPORTS NUTRITION INC.	
Amendments details are only available for amendments effected after 2010-03-20. Some certificates issued prior to 2000 may not be listed.	Seuls les renseignements concernant les modifications effectuées après 2010-03-20 sont disponibles. Certains certificats émis avant 2000 pourraient ne pas être listés.	
Documents filed (YYYY-MM-DD)		(AAAA-MM-JJ) Documents déposés

The Corporate Profile sets out the most recent information filed with and accepted by Corporations Canada as of the date and time set out on the Profile.	Le Profil corporatif fait état des renseignements fournis et acceptés par Corporations Canada à la date et à l'heure indiquées dans le profil.
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Corporate Registries Online System

Entity Profile

BIOSTEEL SPORTS NUTRITION INC.

Report Created: September 11, 2023

File No.	613094
Entity Type	Extra-Territorial Corporation
Jurisdiction	CANADA
Status	In Compliance

Entity Events

Note: Only the date of the most recent entity event is shown. For a full history, see Filings.

Date Incorporated	October 01, 2019
Date Registered	October 23, 2020
Date Cancelled	N/A
Date of Continuance in NWT	N/A
Date Reinstated	N/A
Date Amalgamated	N/A
Amalgamated to	N/A

Name History

Assumed Name

No assumed name.

Former Names

No former names.

Trade Names

No trade names.

Amalgamated From

No amalgamations.

Addresses

Head Office Delivery Address

87 WINGOLD AVENUE, UNIT 1
TORONTO ON M6B1P8

Head Office Mailing Address

Same as Delivery

Registered Office in Northwest Territories Delivery Address

601, 4920-52 STREET
YELLOWKNIFE NT X1A3T1

Service by Mail Address in Northwest Territories

Same as Delivery

Annual Filings

Last Annual Return Filed	October 21, 2022
Last Annual Return for Year	2022
Next Annual Return Due	November 30, 2023

Directors

See Filings.

Filings

Filing	Filing Date	ID
Directors and Officers	October 21, 2022	10140482
Annual Return	October 21, 2022	10140264
Annual Return	December 08, 2021	9328634
Directors and Officers	December 08, 2021	9328423
Directors and Officers	December 08, 2021	9330179
Registered and Head Offices	October 23, 2020	8314051
Constating Documents	October 23, 2020	8313606



Profile Report

BIOSTEEL SPORTS NUTRITION INC. as of September 11, 2023

Act	Corporations Information Act
Type	Extra-Provincial Federal Corporation with Share
Name	BIOSTEEL SPORTS NUTRITION INC.
Ontario Corporation Number (OCN)	5032077
Governing Jurisdiction	Canada - Federal
Incorporation/Amalgamation Date	October 01, 2019
Registered or Head Office Address	97 Wingold Avenue, Unit 1, Toronto, Ontario, Canada, M6B 1P8
Status	Refer to Governing Jurisdiction
Date Commenced in Ontario	October 01, 2019
Principal Place of Business	97 Wingold Avenue, Unit 1, Toronto, Ontario, Canada, M6B 1P8

Certified a true copy of the record of the Ministry of Public and Business Service Delivery.

V. Quintanilla W.

Director/Registrar

This report sets out the most recent information filed on or after June 27, 1992 in respect of corporations and April 1, 1994 in respect of Business Names Act and Limited Partnerships Act filings and recorded in the electronic records maintained by the Ministry as of the date and time the report is generated, unless the report is generated for a previous date. If this report is generated for a previous date, the report sets out the most recent information filed and recorded in the electronic records maintained by the Ministry up to the "as of" date indicated on the report. Additional historical information may exist in paper or microfiche format.

Chief Officer or Manager

There are no chief officer or managers on file for this corporation.

Certified a true copy of the record of the Ministry of Public and Business Service Delivery.

V. Quintanilla W.

Director/Registrar

This report sets out the most recent information filed on or after June 27, 1992 in respect of corporations and April 1, 1994 in respect of Business Names Act and Limited Partnerships Act filings and recorded in the electronic records maintained by the Ministry as of the date and time the report is generated, unless the report is generated for a previous date. If this report is generated for a previous date, the report sets out the most recent information filed and recorded in the electronic records maintained by the Ministry up to the "as of" date indicated on the report. Additional historical information may exist in paper or microfiche format.

Corporate Name History

Refer to Governing Jurisdiction

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V. Quintanilla W.

Director/Registrar

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Amalgamating Corporations

Corporation Name
Ontario Corporation Number

11351249 CANADA INC.
3204185

Corporation Name
Ontario Corporation Number

BIOSTEEL SPORTS NUTRITION INC.
1928479

Certified a true copy of the record of the Ministry of Public and Business Service Delivery.

V. Quintanilla W.

Director/Registrar

This report sets out the most recent information filed on or after June 27, 1992 in respect of corporations and April 1, 1994 in respect of Business Names Act and Limited Partnerships Act filings and recorded in the electronic records maintained by the Ministry as of the date and time the report is generated, unless the report is generated for a previous date. If this report is generated for a previous date, the report sets out the most recent information filed and recorded in the electronic records maintained by the Ministry up to the "as of" date indicated on the report. Additional historical information may exist in paper or microfiche format.

Active Business Names

This corporation does not have any active business names registered under the Business Names Act in Ontario.

Certified a true copy of the record of the Ministry of Public and Business Service Delivery.

V. Quintanilla W.

Director/Registrar

This report sets out the most recent information filed on or after June 27, 1992 in respect of corporations and April 1, 1994 in respect of Business Names Act and Limited Partnerships Act filings and recorded in the electronic records maintained by the Ministry as of the date and time the report is generated, unless the report is generated for a previous date. If this report is generated for a previous date, the report sets out the most recent information filed and recorded in the electronic records maintained by the Ministry up to the "as of" date indicated on the report. Additional historical information may exist in paper or microfiche format.

Expired or Cancelled Business Names

This corporation does not have any expired or cancelled business names registered under the Business Names Act in Ontario.

Certified a true copy of the record of the Ministry of Public and Business Service Delivery.

V. Quintanilla W.

Director/Registrar

This report sets out the most recent information filed on or after June 27, 1992 in respect of corporations and April 1, 1994 in respect of Business Names Act and Limited Partnerships Act filings and recorded in the electronic records maintained by the Ministry as of the date and time the report is generated, unless the report is generated for a previous date. If this report is generated for a previous date, the report sets out the most recent information filed and recorded in the electronic records maintained by the Ministry up to the "as of" date indicated on the report. Additional historical information may exist in paper or microfiche format.

Document List

Filing Name	Effective Date
CIA - Initial Return PAF: EMILY HOWE - OTHER	March 16, 2020

All "PAF" (person authorizing filing) information is displayed exactly as recorded in the Ontario Business Registry. Where PAF is not shown against a document, the information has not been recorded in the Ontario Business Registry.

Certified a true copy of the record of the Ministry of Public and Business Service Delivery.

V. Quintanilla W.

Director/Registrar

This report sets out the most recent information filed on or after June 27, 1992 in respect of corporations and April 1, 1994 in respect of Business Names Act and Limited Partnerships Act filings and recorded in the electronic records maintained by the Ministry as of the date and time the report is generated, unless the report is generated for a previous date. If this report is generated for a previous date, the report sets out the most recent information filed and recorded in the electronic records maintained by the Ministry up to the "as of" date indicated on the report. Additional historical information may exist in paper or microfiche format.



Rapport de profil

BIOSTEEL SPORTS NUTRITION INC. en date du 11 septembre 2023

Loi	Loi sur les renseignements exigés des personnes morales
Type	Personne morale extraprovinciale fédérale avec capital- actions
Dénomination	BIOSTEEL SPORTS NUTRITION INC.
Numéro de société de l'Ontario	5032077
Autorité législative responsable	Canada - Fédéral
Date de constitution ou de fusion	01 octobre 2019
Adresse légale ou du siège social	97 Wingold Avenue, Unit 1, Toronto, Ontario, Canada, M6B 1P8
Statut	Consulter l'autorité législative responsable
Date de début des activités en Ontario	01 octobre 2019
Établissement principal	97 Wingold Avenue, Unit 1, Toronto, Ontario, Canada, M6B 1P8

Copie certifiée conforme du dossier du ministère des Services au public et aux entreprises.

V. Quintanilla W.

Directeur ou registrateur

Ce rapport présente les renseignements les plus récents déposés à compter du 27 juin 1992 à l'égard des sociétés, et le 1er avril 1994, à l'égard des dépôts en vertu de la Loi sur les noms commerciaux et de la Loi sur les sociétés en commandite et enregistrés dans les dossiers électroniques tenus par le Ministère à la date et à l'heure auxquelles le rapport est généré, sauf si le rapport est généré pour une date antérieure. Si ce rapport est produit pour une date antérieure, le rapport contient les renseignements les plus récents déposés et enregistrés dans les dossiers électroniques tenus par le Ministère jusqu'à la date « en date du » indiquée sur le rapport. Des renseignements historiques supplémentaires peuvent exister au format papier ou microfiche.

Directeur ou dirigeant principal

Il n'y a aucun directeur ni dirigeant principal au dossier pour cette société.

Copie certifiée conforme du dossier du ministère des Services au public et aux entreprises.

V. Quintanilla W.

Directeur ou registrateur

Ce rapport présente les renseignements les plus récents déposés à compter du 27 juin 1992 à l'égard des sociétés, et le 1er avril 1994, à l'égard des dépôts en vertu de la Loi sur les noms commerciaux et de la Loi sur les sociétés en commandite et enregistrés dans les dossiers électroniques tenus par le Ministère à la date et à l'heure auxquelles le rapport est généré, sauf si le rapport est généré pour une date antérieure. Si ce rapport est produit pour une date antérieure, le rapport contient les renseignements les plus récents déposés et enregistrés dans les dossiers électroniques tenus par le Ministère jusqu'à la date « en date du » indiquée sur le rapport. Des renseignements historiques supplémentaires peuvent exister au format papier ou microfiche.

Historique des dénominations sociales

Consulter l'autorité législative responsable

Copie certifiée conforme du dossier du ministère des Services au public et aux entreprises.

V. Quintanilla W.

Directeur ou registrateur

Ce rapport présente les renseignements les plus récents déposés à compter du 27 juin 1992 à l'égard des sociétés, et le 1er avril 1994, à l'égard des dépôts en vertu de la Loi sur les noms commerciaux et de la Loi sur les sociétés en commandite et enregistrés dans les dossiers électroniques tenus par le Ministère à la date et à l'heure auxquelles le rapport est généré, sauf si le rapport est généré pour une date antérieure. Si ce rapport est produit pour une date antérieure, le rapport contient les renseignements les plus récents déposés et enregistrés dans les dossiers électroniques tenus par le Ministère jusqu'à la date « en date du » indiquée sur le rapport. Des renseignements historiques supplémentaires peuvent exister au format papier ou microfiche.

Sociétés fusionnées

Dénomination sociale
Numéro de société de l'Ontario

11351249 CANADA INC.
3204185

Dénomination sociale
Numéro de société de l'Ontario

BIOSTEEL SPORTS NUTRITION INC.
1928479

Copie certifiée conforme du dossier du ministère des Services au public et aux entreprises.

V. Quintanilla W.

Directeur ou registrateur

Ce rapport présente les renseignements les plus récents déposés à compter du 27 juin 1992 à l'égard des sociétés, et le 1er avril 1994, à l'égard des dépôts en vertu de la Loi sur les noms commerciaux et de la Loi sur les sociétés en commandite et enregistrés dans les dossiers électroniques tenus par le Ministère à la date et à l'heure auxquelles le rapport est généré, sauf si le rapport est généré pour une date antérieure. Si ce rapport est produit pour une date antérieure, le rapport contient les renseignements les plus récents déposés et enregistrés dans les dossiers électroniques tenus par le Ministère jusqu'à la date « en date du » indiquée sur le rapport. Des renseignements historiques supplémentaires peuvent exister au format papier ou microfiche.

Noms commerciaux en vigueur

Cette personne morale n'a aucun nom commercial actif enregistré en vertu de la Loi sur les noms commerciaux de l'Ontario.

Copie certifiée conforme du dossier du ministère des Services au public et aux entreprises.

V. Quintanilla W.

Directeur ou registrateur

Ce rapport présente les renseignements les plus récents déposés à compter du 27 juin 1992 à l'égard des sociétés, et le 1er avril 1994, à l'égard des dépôts en vertu de la Loi sur les noms commerciaux et de la Loi sur les sociétés en commandite et enregistrés dans les dossiers électroniques tenus par le Ministère à la date et à l'heure auxquelles le rapport est généré, sauf si le rapport est généré pour une date antérieure. Si ce rapport est produit pour une date antérieure, le rapport contient les renseignements les plus récents déposés et enregistrés dans les dossiers électroniques tenus par le Ministère jusqu'à la date « en date du » indiquée sur le rapport. Des renseignements historiques supplémentaires peuvent exister au format papier ou microfiche.

Noms commerciaux expirés ou révoqués

Les noms commerciaux actifs enregistrés de cette personne morale en vertu de la Loi sur les noms commerciaux de l'Ontario sont expirés ou annulés.

Copie certifiée conforme du dossier du ministère des Services au public et aux entreprises.

V. Quintanilla W.

Directeur ou registrateur

Ce rapport présente les renseignements les plus récents déposés à compter du 27 juin 1992 à l'égard des sociétés, et le 1er avril 1994, à l'égard des dépôts en vertu de la Loi sur les noms commerciaux et de la Loi sur les sociétés en commandite et enregistrés dans les dossiers électroniques tenus par le Ministère à la date et à l'heure auxquelles le rapport est généré, sauf si le rapport est généré pour une date antérieure. Si ce rapport est produit pour une date antérieure, le rapport contient les renseignements les plus récents déposés et enregistrés dans les dossiers électroniques tenus par le Ministère jusqu'à la date « en date du » indiquée sur le rapport. Des renseignements historiques supplémentaires peuvent exister au format papier ou microfiche.

Liste de documents

Nom du dépôt	Date d'entrée en vigueur
CIA - Rapport initial PRE: EMILY HOWE - OTHER	16 mars 2020

Tous les renseignements de la « PRE » (personne autorisant le dépôt) sont affichés exactement tels qu'ils sont enregistrés dans le Registre des entreprises de l'Ontario. Lorsque la PRE ne figure pas sur un document, les renseignements n'ont pas été enregistrés dans le Registre des entreprises de l'Ontario.

Copie certifiée conforme du dossier du ministère des Services au public et aux entreprises.

V. Quintanilla W.

Directeur ou registrateur

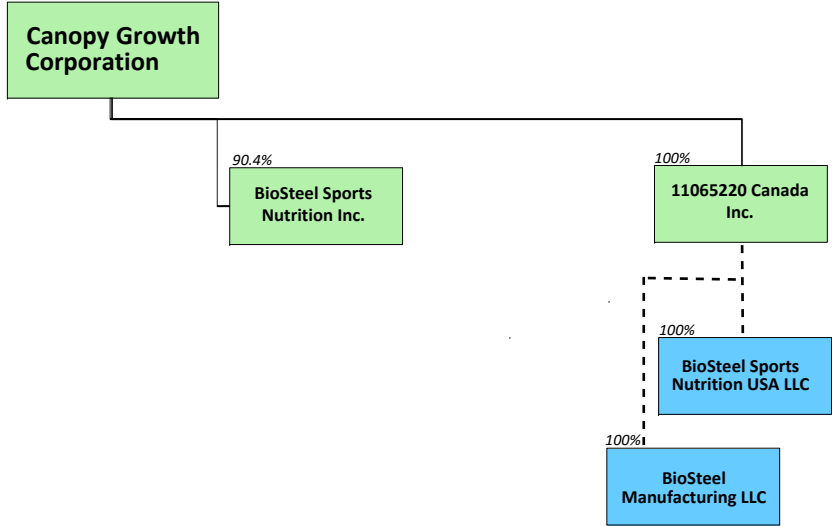
Ce rapport présente les renseignements les plus récents déposés à compter du 27 juin 1992 à l'égard des sociétés, et le 1er avril 1994, à l'égard des dépôts en vertu de la Loi sur les noms commerciaux et de la Loi sur les sociétés en commandite et enregistrés dans les dossiers électroniques tenus par le Ministère à la date et à l'heure auxquelles le rapport est généré, sauf si le rapport est généré pour une date antérieure. Si ce rapport est produit pour une date antérieure, le rapport contient les renseignements les plus récents déposés et enregistrés dans les dossiers électroniques tenus par le Ministère jusqu'à la date « en date du » indiquée sur le rapport. Des renseignements historiques supplémentaires peuvent exister au format papier ou microfiche.

This is Exhibit "B" referred to in the Affidavit of Sarah S. Eskandari sworn 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



- - - Represents indirect ownership.

Percentage (%) represents ownership of voting common shares and membership interests.

1. Canopy Growth Corporation holds a call (and the minority shareholders hold a put) over the minority interests' common shares of BioSteel Sports Nutrition Inc.

Canada

USA

This is Exhibit "C" referred to in the Affidavit of Sarah S. Eskandari sworn 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

BioSteel Sports Nutrition Inc.
Summary of Search Results under the *Personal Property Security Act*

Northwest Territories

File currency date: September 8, 2023
 No results returned.

Ontario

File currency date: September 10, 2023

(1) Reference File Number: 747828531							Expiry Date: January 24, 2029	
Registration Number: 20190124 1141 1590 8558								
DEBTOR(S) NAME							DEBTOR(S) ADDRESS	
BIOSTEEL SPORTS NUTRITION INC.							87 WINGOLD AVENUE, UNIT 1, TORONTO, ON M6B 1P8	
SECURED PARTY NAME							SECURED PARTY ADDRESS	
CANOPY GROWTH CORPORATION							1 HERSHEY DRIVE, SMITHS FALLS, ON K7A 3K8	
COLLATERAL CLASSIFICATION						GENERAL COLLATERAL DESCRIPTION		
GC	I	E	A	O	MV			
	X	X	X	X	X			

(2) Reference File Number: 775780416							Expiry Date: August 26, 2026	
Registration Number: 20210826 0915 1532 0998								
DEBTOR(S) NAME							DEBTOR(S) ADDRESS	

BIOSTEEL SPORTS NUTRITION INC.						UNIT 1, 87 WINGOLD AVENUE, TORONTO, ON M6B 1P8
SECURED PARTY NAME						SECURED PARTY ADDRESS
ROYAL BANK OF CANADA						36 YORK MILLS ROAD, 4TH FLOOR TORONTO ON M2P 0A4
COLLATERAL CLASSIFICATION						GENERAL COLLATERAL DESCRIPTION
GC	I	E	A	O	MV	
			X	X		

This is Exhibit "D" referred to in the Affidavit of Sarah S. Eskandari sworn 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

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

This is Exhibit "E" referred to in the Affidavit of Sarah S. Eskandari sworn 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

BioSteel Sports Nutrition Inc.
Income Statement
For the period ended March 31, 2023¹
CAD

Total - Income	24,274,194.35
Total - Cost Of Sales	90,783,645.73
Gross Profit	(66,509,451.38)
Expense	
Total - 6120100 - Sales & Marketing Overhead	34,884,085.64
Total - 6121099 - Advertising and Promotion	38,729,519.85
Total - 6211100 - Research and Development	89,937.19
Total - 6311900 - Salaries & Benefits	9,315,929.56
Total - 6312902 - Payroll Taxes	611,290.49
Total - 6325700 - Office Costs	1,033,202.37
Total - 6341100 - Travel and Entertainment	682,758.94
Total - 6351000 - Professional Fees	1,104,041.33
Total - 6355201 - Interest and Bank Charges	437,088.93
Total - 6363100 - IT Costs	1,587,607.95
6511102 - Long-Term Incentives	204,341.45
Total - 6611000 - Amortization and Depreciation	204,079.50
Total - 6612000 - Shared Based Compensation	1,142,777.11
Total - 7132100 - Intercompany Expenses	24,017,566.93
Total - Expense	114,044,227.24
Net Ordinary Income	(180,553,678.63)
Net Other Income	(10,552,617.25)
Net Income	(191,106,295.88)

Notes:

1. 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 to this income statement.

BioSteel Sports Nutrition Inc.**Balance Sheet**As at March 31, 2023¹

CAD

ASSETS**Current Assets**

Total Bank	6,104,742.14
Total Accounts Receivable	27,167,116.21
Total - 1141110 - Other Accounts Receivable	(480,545.28)
1141202 - GST/HST on Purchases	52,327.84
Total - 1149500 - Short Term Investments	68,837.08
Total - 1150000 - Inventory	63,778,730.88
Total - 1161101 - Prepaid Expenses	7,396,773.18
Total - 1161200 - Prepaid Sponsorship	8,272,853.27
Total Current Assets	112,360,835.32
Total Fixed Assets	735,938.25
Total ASSETS	113,096,773.57

Total Accounts Payable	30,916,848.33
Total Credit Card	9,348.72
Total - 2131100 - Commodity Tax Payable	417,647.68
Total - 2131200 - Accrued Liabilities	24,367,630.32
Total - 2132101 - Payroll Liabilities	1,939,584.92
Total - 2139900 - Accrued Sponsorship	2,866,212.86
Total - 2491100 - Intercompany Trade Payables	(3,767,660.65)
Total - 2491203 - Intercompany Interest Payable	10,061,411.91
Total - 2491204 - Intercompany Loan	313,830,866.57
Total Current Liabilities	380,641,890.66
Total Long Term Liabilities	373,295.16
Total - 3111201 - Common Shares	44,609,014.16
3121101 - Share-based reserve	1,516,327.16
Retained Earnings	(122,937,457.67)
Net Income	(191,106,295.90)
Total Liabilities & Equity	113,096,773.57

Notes:

1. This version of the balance sheet as at 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 to this balance sheet.

This is Exhibit "F" referred to in the Affidavit of Sarah S. Eskandari sworn 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

Greenhill & Co. Canada Ltd.
79 Wellington Street West
Suite 3403, P.O. Box 333
Toronto, ON M5K 1K7
(416) 601-2560

Greenhill

CONFIDENTIAL

August 24, 2023

BioSteel Sports Nutrition Inc.
1-87 Wingold Avenue
Toronto, ON, M6B 1P8

Attn: Mr. Eugene Davis, Chair of the Special Committee

Dear Mr. Davis:

This letter confirms the terms under which the Special Committee of the Board of Directors (the “Special Committee”) of BioSteel Sports Nutrition Inc. (“BioSteel” and collectively with BioSteel Manufacturing LLC and BioSteel Sports Nutrition USA LLC, the “Company”) has engaged Greenhill & Co. Canada Ltd. (“Greenhill” or the “Financial Advisor”) on an exclusive basis as its investment banker in connection with developing, implementing and advising the Company with respect to, various strategic and business alternatives for the Company, including acting as sole investment banker in leading a process for the sale of the Company and/or all or substantially all of the assets of the Company, and with respect to such other financial matters as to which the Special Committee and the Financial Advisor may agree in writing during the term of this engagement, as more specifically discussed herein. For further clarity, it is understood that BioSteel is a majority owned subsidiary of Canopy Growth Corporation.

For purposes hereof, the term “Company” includes any entity formed or invested in to consummate a Restructuring (as defined below) and/or M&A Transaction (as defined below), and shall also include any successor to or assignee of all or substantially all of the assets and/or business of the Company, whether pursuant to a Plan (as defined below) or otherwise. If appropriate in connection with performing its services for the Company hereunder, the Financial Advisor may utilize the services of one or more of its affiliates, in which case references herein to the Financial Advisor shall include such affiliates.

1. Scope of Services. In connection with its engagement hereunder, the Financial Advisor proposes to undertake the below services on behalf of the Company at the direction of the Special Committee:
 - a. General Financial Advisory Services. The Financial Advisor shall, in each case if reasonably requested by the Special Committee:
 - i. review and analyze the business, operations, and financial projections of the Company;
 - ii. evaluate the Company's potential debt capacity in light of its projected cash flows;
 - iii. assist in the determination of a capital structure for the Company;
 - iv. assist in the determination of a range of values for the Company on a going concern basis;
 - v. advise and attend meetings of the Company's Board of Directors and its Committees (including the Special Committee) with respect to matters on which we have been engaged to advise hereunder; and
 - vi. provide such other general financial advisory services as are customary for similar transactions and as may be mutually agreed upon by the Special Committee and Greenhill.
 - b. Restructuring Services. If the Special Committee determines to pursue a Restructuring, the Financial Advisor shall, in each case if reasonably requested by the Special Committee on behalf of the Company:
 - i. advise and assist the Special Committee and its other specialist advisors in formulating a Restructuring strategy;
 - ii. advise and assist the Special Committee and its other specialist advisors in structuring and effecting the financial aspects of such a Restructuring, subject to the terms and conditions of this agreement;
 - iii. provide financial advice and assistance in developing and seeking approval of a Restructuring plan of reorganization of the Company (as the same may be modified from time to time, a "Plan"), which may or may not be a plan under chapter 11 of title 11 of the United States Code, 11 U.S.C. §§ 101 et seq. (the "U.S. Bankruptcy Code"), the Canada *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. c-36 (the "CCAA"), the *Canada Business Corporations Act*, R.S.C. 1985 c. C-44 (the "CBCA") (or comparable provincial legislation or a proposal under the Bankruptcy and Insolvency Act, R.S.C. 1985, c. B-3 (the "BIA"), or similar proceedings in other jurisdictions (each a "Bankruptcy Case");
 - iv. in connection therewith, provide financial advice and assistance in structuring any new securities, other consideration or other inducements to be offered and/or issued under the Plan;

- v. participate in hearings before the Bankruptcy Court (as defined below) with respect to the matters upon which the Financial Advisor has provided advice, including, as relevant, coordinating with other specialist advisors with respect to testimony in connection therewith;
- vii. assist the Special Committee or the Company and/or participate in negotiations with entities or groups affected by the Plan; and
- viii. assist in preparing documentation within our area of expertise required in connection with the Plan.

For purposes of this agreement, the term “Restructuring” shall mean any recapitalization, reorganization (whether or not on an out-of-court basis or pursuant to a Plan confirmed in connection with any case commenced by or against the Company, whether individually or on a consolidated basis, whether or not pursuant to chapter 11 of the U.S. Bankruptcy Code, CCAA, CBCA, BIA), and/or restructuring (including, without limitation, through any exchange, conversion, cancellation, settlement, forgiveness, retirement and/or modification or amendment to the terms, conditions or covenants thereof), of all or a material portion of the Company's equity and/or debt securities and/or other indebtedness, obligations or liabilities (including, without limitation, bank debt, swap liabilities, pension liabilities, other post-employment benefits (“OPEB”) liabilities, preferred stock, equity interests, capital or operating lease obligations, trade claims, other contract or tort obligations, and other on and off balance sheet indebtedness), however such result is achieved, including, without limitation, pursuant to an exchange transaction, a Plan or a solicitation of consents, waivers, acceptances or authorizations, an acquisition or sale related transaction, the issuance of new securities or debt instruments and/or other similar transactions or series of transactions.

It is understood and agreed that nothing contained in this agreement shall constitute an express or implied commitment by the Financial Advisor to underwrite, place or purchase any securities.

- c. M&A Services. If the Special Committee determines to pursue an M&A Transaction (as defined below), the Financial Advisor shall, in each case if reasonably requested by the Special Committee:
 - i. provide financial advice and assistance to the Special Committee in connection with an M&A Transaction, identify and contact potential acquirors and, at the Special Committee's request, develop and lead a sale process for a potential M&A Transaction including in connection with any in-court process that may be commenced by some or all of the entities comprising the Company;
 - ii. assist the Company on behalf of the Special Committee in preparing a memorandum (with any amendments or supplements thereto, the “M&A Memorandum”), to be used in soliciting potential acquirors, it being agreed that (A) the M&A Memorandum shall be based entirely upon information supplied by the Special Committee and/or the Company, (B) the Company shall be solely responsible for the accuracy and completeness of the M&A Memorandum, and (C) other than as contemplated by this subparagraph, the M&A Memorandum shall not be used, reproduced, disseminated, quoted or

referred to at any time in any way, except with the Financial Advisor's prior written consent;

- iii. assist the Special Committee and/or participate in negotiations with potential acquirors; and
- iv. if appropriate, render an opinion to the Special Committee as to the fairness, from a financial point of view, to the Company or, if applicable, holders of the Company's shares (including the minority shareholders) of the consideration to be received by the Company or such holders (or the exchange ratio provided for) in connection with a proposed Transaction (as defined below) (an "Opinion"); it being understood that the nature and scope of Greenhill's investigation as well as the scope, form and substance of, and the assumptions and qualifications contained in, its Opinion, shall be as Greenhill deems appropriate.

For purposes of this agreement, the term "M&A Transaction" shall mean, whether or not pursuant to a Plan confirmed in connection with any case or cases commenced by or against the Company, whether individually or on a consolidated basis, whether or not pursuant to a Bankruptcy Case, and whether proposed by the Company or any other party, the disposition to one or more third parties in one or a series of related transactions of (x) all or a portion of the equity interests or other equity securities of the Company, or (y) all or a material portion of the assets (including the assignment of any executory contracts, intellectual property, brands, and trademarks) or operations of the Company, in either case, including through a sale or exchange of equity interests or other equity securities, options or assets, a lease of assets with or without a purchase option, a merger, consolidation or other business combination, an exchange or tender offer, a recapitalization, the formation of a joint venture, partnership or similar entity, or any similar transaction.

In rendering its services hereunder, the Financial Advisor is not assuming any responsibility for the Special Committee's underlying business decision to pursue (or not to pursue) any business strategy or to effect (or not to effect) any Restructuring and / or M&A Transaction or other transaction (each, a "Transaction"). The Special Committee agrees that the Financial Advisor shall not have any obligation or responsibility to provide accounting, audit, "crisis management," or business consultant services for the Special Committee or the Company and shall have no responsibility for designing or implementing operating, organizational, administrative, cash management or liquidity improvements, or to provide any advice or opinions with respect to solvency in connection with any Transaction. The Special Committee confirms that it will rely on its own counsel, accountants and other similar expert advisors for legal, accounting, tax, regulatory and other similar advice.

The Special Committee shall, or cause the Company to, make available to the Financial Advisor all information concerning the business, assets, operations, financial condition and prospects of the Company that the Financial Advisor reasonably requests in connection with the services to be performed for the Special Committee hereunder and shall provide the Financial Advisor with reasonable access to the Company's officers, directors, employees, independent accountants, counsel and other advisors and agents as the Financial Advisor deems appropriate. In order to coordinate effectively the Special Committee and the Company's and the Financial Advisor's activities to effect a Transaction, the Special Committee shall, or cause the Company to, promptly inform the Financial Advisor of any discussions, negotiations or inquiries regarding a possible Transaction (including any such discussions, negotiations or inquiries that have occurred prior to the date of this agreement).

The Special Committee shall cause the Company to represent that all information furnished by it or on its behalf to the Financial Advisor, at all times during the Financial Advisor's engagement (i) will be accurate and complete in all material respects, and (ii) will not contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements therein not misleading in light of the circumstances under which such statements are made.

The Special Committee recognizes and confirms that in advising the Special Committee and completing its engagement hereunder, the Financial Advisor will be using and relying on publicly available information and on data, material and other information furnished to the Financial Advisor by the Special Committee, the Company and other parties. It is understood that in performing under this engagement, the Financial Advisor may assume and rely upon the accuracy and completeness of, and is not assuming any responsibility for independent verification of, such publicly available information and the other information so furnished.

2. Compensation. The Special Committee shall cause the Company to pay Greenhill all the cash fees included below, in full and in readily available funds, in U.S. dollars, by direct wire transfer for services rendered under this agreement:

- a. Initial Advisory Fee. An initial advisory fee of \$500,000 (the "Initial Advisory Fee"), payable promptly upon execution of this letter agreement.
- b. Monthly Advisory Fee. A non-refundable financial advisory fee of \$150,000 per month (the "Monthly Advisory Fee"), which shall be due and paid promptly by the Company on a monthly basis and in advance, commencing September 15, 2023. The Monthly Advisory Fee shall continue to be payable thereafter on each monthly anniversary thereof during the term of this engagement.
- c. Base Transaction Fee. If at any time during the Fee Period (as defined below) (a) a Restructuring is consummated, (b) an M&A Transaction is consummated, or (c) the Special Committee or the Company determines to wind up the business following the outcome of either an M&A Transaction or Restructuring process, then in each case the Financial Advisor shall be entitled to receive a fee of \$3,000,000 (the "Base Transaction Fee"); provided however that the Initial Advisory Fee and to the extent previously paid, each Monthly Advisory Fee shall be credited against the Base Transaction Fee payable to reduce the total amount of the Base Transaction Fee paid to the Financial Advisor.
- d. M&A Incentive Fee. If at any time during the Fee Period (as defined below) an M&A Transaction is consummated where the Transaction Value (as defined in Schedule B) exceeds US\$200,000,000, then an incremental fee (the "M&A Incentive Fee") shall be payable. This M&A Incentive fee shall be calculated as the difference between (a) an amount determined in accordance with the formulas set forth in Schedule B hereto and (b) the Base Transaction Fee.

As used in this agreement, "Fee Period" shall mean (i) the term of this agreement and Financial Advisor's engagement hereunder and (ii) the period beginning upon the termination of this agreement by the Company and Financial Advisor's engagement hereunder and extending until 12 full months following such termination by the Company.

3. Recognition of Fee Structure. The Special Committee and the Financial Advisor acknowledge and agree that the hours worked, the results achieved and the ultimate benefit to the Special Committee, the minority shareholders of the Company, and the Company itself, of the work

performed, in each case, in connection with this engagement, may be variable, and that the Special Committee and the Financial Advisor have taken this into account in setting the fees hereunder.

If the Special Committee determines to pursue a Restructuring pursuant to Section 13 (below), the Base Transaction Fee shall be payable upon the earlier of (a) the consummation of a Restructuring and (b) the confirmation, sanction, or approval, as applicable, and effectiveness of a Plan, however, notwithstanding the date upon which a Base Transaction Fee becomes payable, such Base Transaction Fee will be earned upon the earlier of (x) the consummation of a Restructuring and (y) the confirmation, sanction or approval of a Plan.

No fee payable to any other person, by the Special Committee, the Company or any other party, shall affect any fee payable to the Financial Advisor hereunder.

4. Out-of-Pocket Expenses. In addition to any fees payable to the Financial Advisor in accordance with paragraph 2, the Special Committee shall cause the Company, whether or not any transaction contemplated by this agreement shall be proposed or consummated, to reimburse the Financial Advisor on a monthly basis for its necessary travel and other reasonable and documented out-of-pocket expenses (including a maximum of \$50,000 of fees, disbursements and other charges of any legal counsel retained by the Financial Advisor with the Special Committee's prior consent (such consent not to be unreasonably withheld, conditioned or delayed)) incurred in connection with, or arising out of the Financial Advisor's activities under or contemplated by this engagement. All such reimbursements shall be made promptly upon monthly submissions by the Financial Advisor of statements for such expenses.
5. Indemnification. The Special Committee shall cause the Company to indemnify the Financial Advisor and certain related persons in accordance with the indemnification provisions ("Indemnification Provisions") attached to this agreement as Schedule A. Such Indemnification Provisions are an integral part of this agreement, and the terms thereof are incorporated by reference herein. Such Indemnification Provisions shall survive any termination or completion of the Financial Advisor's engagement hereunder.
6. Termination. This agreement and the Financial Advisor's engagement hereunder may be terminated by either the Special Committee or the Financial Advisor at any time and for any reason, upon 30 days prior written notice thereof to the other party, *provided, however*, that termination of the Financial Advisor's engagement hereunder shall not affect the Special Committee/Company's continuing obligation to indemnify the Financial Advisor and certain related persons as provided for in Schedule A to this agreement, and its continuing obligations and agreements under paragraphs 7, 8, 9, 10, 11 and 14 hereof.

Notwithstanding any such termination, the Financial Advisor, shall continue to be entitled to receive from the Company the full fees in the amounts and at the times provided for in paragraph 2 hereof for the entire Fee Period.

Further, any termination of the Financial Advisor's engagement hereunder shall not affect the Company's obligation to reimburse expenses incurred by Greenhill until notice of such termination, as provided in paragraph 4 hereof.

7. Independent Contractor. The Financial Advisor has been retained under this agreement as an independent contractor with no fiduciary or agency relationship to the Special Committee, the minority shareholders, the Company or to any other party.

8. Confidentiality. The advice (oral or written) rendered by the Financial Advisor pursuant to this agreement is intended solely for the benefit and use of the Special Committee in considering the matters to which this agreement relates, and the Special Committee agrees that such advice may not be relied upon by any other person or entity, used for any other purpose or reproduced, disseminated, quoted or referred to at any time, in any manner for any purpose, nor shall any public references to the Financial Advisor be made by the Special Committee, the Board of Directors and/or the Company, without the prior written consent of the Financial Advisor.
9. Public Announcement. The Special Committee, on behalf of the Company, agrees that Greenhill shall have the right, at its own expense, without the Special Committee's or the Company's consent, upon closing of a Transaction, to place announcements and advertisements or otherwise publicize a Transaction in such financial and other newspapers and journals as it may choose, stating that Greenhill acted as financial advisor to the Special Committee in connection with such Transaction. The Special Committee agrees on behalf of the Company that Greenhill may utilize the Company's logo and other marks in any such public announcement and/or general marketing and promotional materials.
10. Choice of Law; Jurisdiction. This agreement shall be deemed to be made in the Province of Ontario. This agreement and all controversies arising from or relating to performance of this agreement shall be governed by, and construed and enforced in accordance with, the laws of the Province of Ontario without giving effect to such province's rules concerning conflicts of laws that might provide for any other choice of law. The Special Committee on behalf of the Company hereby irrevocably consents to personal jurisdiction in the Supreme Court of the State of New York in New York County, Commercial Part, or any Federal court sitting in the Southern District of New York for the purposes of any suit, action or other proceeding arising out of this agreement or any of the agreements or transactions contemplated hereby, which is brought by or against the Company, hereby waives any objection to venue with respect thereto, and hereby agrees that all claims in respect of any such suit, action or proceeding shall be heard and determined in any such court, and that such courts shall have exclusive jurisdiction over any claims arising out of or relating to such agreements or transactions; provided that in the event that the Company becomes a debtor under chapter 11 of the Bankruptcy Code, during any such case, any such claims shall be heard and determined by the Bankruptcy Court (as defined below). The Special Committee on behalf of the Company hereby irrevocably consents to the service of process of any of the aforementioned courts in any such suit, action or proceeding by the mailing of copies thereof by registered or certified mail, postage prepaid, to the Company at its address set forth above, such service to become effective ten (10) days after such mailing. ANY RIGHT TO TRIAL BY JURY WITH RESPECT TO ANY CLAIM OR ACTION ARISING OUT OF THIS AGREEMENT OR CONDUCT IN CONNECTION WITH THE FINANCIAL ADVISOR'S ENGAGEMENT IS HEREBY WAIVED.
11. Successors and Assigns. This agreement shall be binding upon the Financial Advisor and the Company and their respective successors and assigns (including, in the case of the Company, any successor to all or a substantial portion of the assets and/or the businesses or operations of the Company under a Plan or a sale under §363 of the U.S. Bankruptcy Code). This agreement is not intended to confer any rights upon any shareholder, creditor, owner or partner of the Company, or any other person or entity not a party hereto other than the Indemnified Persons referenced in the Indemnification Provisions contained herein.
12. Application for Retention under CCAA, CBCA or BIA. In the event the Special Committee (or any successor committee) determines to commence a CCAA, CBCA or BIA, the Company shall apply promptly to the applicable court, for approval of (a) this agreement; (b) the

retention of Greenhill by the Company under the terms of this agreement, nunc pro tunc to the date of this agreement; (c) the payment of the fees and expenses of Greenhill in the form and at the times contemplated hereby; and (d) security or charge rank for such fees in priority over pre-filing claim of any secured and unsecured creditor of the Company. The Company shall use its commercially reasonable efforts to obtain such court approval and authorization on terms outlined herein; and Greenhill shall have no obligation to provide any services under this agreement unless Greenhill's retention under the terms of this agreement is approved in the manner set forth above by a final order of the applicable court, which order is acceptable to Greenhill, acting reasonably.

The Special Committee (or any successor committee), on behalf of the Company, shall use commercially reasonable efforts to ensure that any cash collateral order, debtor-in-possession financing order and/or similar order entered in a Bankruptcy Case provides for the full and prompt payment of Greenhill's fees and expenses contemplated hereby from any cash collateral and financing proceeds. Greenhill's fees, documented out-of-pocket expenses and indemnification under this agreement shall be entitled to payment priority as expenses of administration or as professional compensation to the fullest extent permitted by the Bankruptcy Code.

13. Chapter 11. In the event that the Company is or becomes a debtor under chapter 11 of the U.S. Bankruptcy Code or the equivalent in any other jurisdiction (other than the Canadian statutory framework, as provided above), the Company shall use its commercially reasonable efforts to promptly apply to the U.S. or relevant Bankruptcy Court for the approval pursuant to sections 327 and 328 of the Bankruptcy Code of this agreement and Greenhill's retention by the Company under the terms of this agreement, subject to the standard of review provided in section 328(a) of the Bankruptcy Code and not subject to any other standard of review under section 330 of the Bankruptcy Code. The Company shall supply Greenhill with a draft of such application and any proposed order authorizing Greenhill's retention sufficiently in advance of the filing of such application and proposed order to enable Greenhill and its counsel to review and comment thereon. Greenhill shall have no obligation to provide any services under this agreement if Greenhill's retention under the material terms of this agreement is not approved under section 328(a) of the Bankruptcy Code by a final order of the Bankruptcy Court no longer subject to appeal, rehearing, reconsideration or petition for certiorari, and which order is reasonably acceptable to Greenhill in all respects. Greenhill acknowledges that in the event that the Bankruptcy Court approves its retention by the Company, Greenhill's fees and expenses shall be subject to the jurisdiction and approval of the Bankruptcy Court under section 328(a) of the Bankruptcy Code and any applicable fee and expense guideline orders. In the event that the Company becomes a debtor under the Bankruptcy Code and Greenhill's engagement hereunder is approved by the Bankruptcy Court, the Company shall pay all fees and expenses of Greenhill hereunder as promptly as practicable in accordance with the terms hereof and the order approving the retention of Greenhill. Subject to being so retained, Greenhill agrees that during the pendency of any Bankruptcy Case, it shall continue to perform its obligations under this agreement and shall file interim and final applications for allowance of the fees and expenses payable to it under the terms of this agreement pursuant to the applicable Federal Rules of Bankruptcy Procedure, and the local rules and orders of the Bankruptcy Court. Prior to commencing a chapter 11 case, the Company shall pay all undisputed amounts theretofore due and payable to Greenhill in cash.

The Special Committee (or any successor committee), on behalf of the Company, shall use best efforts to ensure that any cash collateral order, debtor-in-possession financing order and/or similar order entered in the Bankruptcy Case provides for the full and prompt payment of Greenhill's fees and expenses contemplated hereby from any cash collateral and financing

proceeds. Greenhill's fees, documented out-of-pocket expenses and indemnification under this agreement shall be entitled to payment priority as expenses of administration or as professional compensation to the fullest extent permitted by the Bankruptcy Code.

In agreeing to seek Greenhill's retention under Section 328(a) of the Bankruptcy Code, the Company acknowledges that it believes that Greenhill's general restructuring experience and expertise, its knowledge of the industry in which the Company operates and the capital markets and its merger and acquisition capabilities will inure to the benefit of the Company, that the value to the Company of Greenhill's services hereunder derives in substantial part from that expertise and experience and that, accordingly, the structure and amount of the Initial Advisory Fee, Monthly Advisory Fees, the Base Transaction Fee and the M&A Incentive Fee are reasonable, regardless of the number of hours expended by Greenhill's professionals in performance of the services provided hereunder.

All references above to the U.S. Bankruptcy Code shall mean the equivalent statutory and/or regulatory framework in any other jurisdiction, as applicable and relevant.

14. Entire Agreement. Except as provided herein, this agreement, including Schedule A hereto, embodies the entire agreement and understanding of the parties hereto and supersedes any and all prior agreements, arrangements and understandings relating to the matters provided for herein. No alteration, waiver, amendment, change or supplement hereto shall be binding or effective unless the same is set forth in writing signed by a duly authorized representative of each party.
15. Authority. Each party hereto represents and warrants that it has all requisite power and authority to enter into this agreement and the transactions contemplated hereby. Each party hereto further represents and warrants that this agreement has been duly and validly authorized by all necessary corporate or other action on the part of the Company and has been duly executed and delivered by the Company and constitutes a legal, valid and binding agreement of the Company, enforceable in accordance with its terms; provided, however, that the Financial Advisor hereby acknowledges that its retention in any chapter 11 case by the Company shall be subject to prior Bankruptcy Court approval as provided in paragraph 12 of this agreement.
16. Counterparts. For the convenience of the parties, any number of counterparts of this agreement may be executed by the parties hereto. Each such counterpart shall, and shall be deemed to, be an original instrument, but all such counterparts taken together shall constitute one and the same agreement.
17. Additional Services. If at any time during the term of this agreement the Special Committee or the Company requests additional services or services not currently contemplated in this agreement, the parties may agree on an additional engagement, the terms of which will be set forth in an amendment to this agreement or a separate letter agreement containing terms and conditions to be mutually agreed upon in good faith, including, without limitation, appropriate indemnification provisions. In any such additional engagement, Greenhill shall be paid fees to be mutually agreed upon in good faith by the Special Committee and/or the Company (as relevant) and Greenhill at the appropriate time, which fees shall be customary for similarly situated investment banking firms in similar circumstances.
18. Required Information. The Company acknowledges that Greenhill may be required to obtain, verify and record certain information that identifies each entity that enters into a formal business relationship with Greenhill (including, but not limited to, the Company's complete

legal name, street address and taxpayer ID number or similar identification number) in accordance with the USA Patriot Act and FinCEN rules.

We are pleased to accept this engagement and look forward to working with the Company. Please confirm that the foregoing is in accordance with your understanding by signing and returning to us the enclosed duplicate of this letter, which shall thereupon constitute a binding agreement between the Financial Advisor and the Company.

Very truly yours,

Greenhill & Co. Canada Ltd.



By: _____
Michael Nessim
Managing Director



By: _____
Usman Masood
Managing Director

Accepted and Agreed to:

BioSteel Sports Nutrition Inc

By:  _____
Eugene Davis
Chair of the Special Committee

SCHEDULE A

INDEMNIFICATION

The Company shall indemnify and hold harmless Greenhill, its affiliates and their respective officers, directors, members, partners, employees, agents, representatives and each other entity or person, if any, controlling Greenhill or any of its affiliates (collectively, the "Indemnified Parties") from and against any losses, claims, damages, demands and liabilities (collectively, "Liabilities") (or actions or proceedings in respect thereof), to which any of the Indemnified Parties may become subject related to or arising in any manner out of any activities performed or services furnished pursuant to the attached letter agreement, any matter contemplated thereby or an Indemnified Party's role in connection therewith, including prior to the date hereof (the "Indemnified Activities"), except to the extent a court of competent jurisdiction shall have determined by final nonappealable judgment that such Liabilities resulted directly from the gross negligence or willful misconduct of Greenhill in performing the services that are the subject of the attached letter agreement. In addition, the Company shall promptly reimburse the Indemnified Parties for all costs and expenses (including, without limitation, fees, costs and expenses of legal counsel), as incurred, in connection with (i) the investigation of, preparation for, responding to, serving as a witness in respect of, or defending, pursuing, settling or otherwise becoming involved in, any pending or threatened investigative, administrative, judicial, or regulatory or other claim, action or proceeding or any arbitration or investigation in any jurisdiction related to or arising in any manner out of any Indemnified Activities, whether or not in connection with pending or threatened litigation to which Greenhill (or any other Indemnified Party) or the Company or any of its securityholders is, or is threatened to be, a party (collectively, "Proceedings") and (ii) enforcing any Indemnified Party's right under the attached letter agreement (including this Schedule A).

Greenhill shall notify the Company after it becomes aware that a Proceeding has been commenced (by way of service with a summons or other legal process giving information as to the nature and basis of the claim) against an Indemnified Party in respect of which indemnity may be sought hereunder. In any event, failure to notify the Company shall not relieve the Company from any liability which the Company may have on account of this indemnity or otherwise, except to the extent the Company shall not otherwise have been aware of such Proceeding and the Company shall have been materially prejudiced with respect to the Proceeding by such failure. The Company shall not be liable for any settlement of any Proceeding effected by an Indemnified Party without the Company's written consent, which consent shall not be unreasonably withheld, but if settled in accordance herewith or if there is a judgment against an Indemnified Party, the Company agrees to indemnify the Indemnified Party from and against any Liability by reason of such settlement or judgment. Neither the Company nor any member of the Company's board of directors shall (a) settle, compromise, consent to the entry of a judgment in or otherwise seek to terminate any pending or threatened Proceeding in respect of which indemnity may be sought hereunder, whether or not any Indemnified Party is an actual or potential party to such Proceeding, or (b) participate in or facilitate any such settlement, compromise, consent or termination, including on behalf of the Company's board of directors (or a committee thereof), in each case without Greenhill's prior written consent, unless such settlement, compromise, consent or termination includes an unconditional release of each Indemnified Party from all actual or potential Liabilities relating to the Indemnified Activities (such release to be set forth in an instrument signed by all parties to such settlement, compromise, consent or termination) and does not include a statement as to or an admission of fault, culpability or a failure to act, by or on behalf of any Indemnified Party.

The Company agrees that if any indemnification or reimbursement sought pursuant to this Schedule A were for any reason not to be available to any Indemnified Party or insufficient to hold it harmless as and to the extent contemplated by this Schedule A, then the Company shall contribute to the amount

paid or payable by such Indemnified Party in respect of Liabilities and expenses in such proportion as is appropriate to reflect the relative benefits to the Company and its affiliates, their respective securityholders and creditors on the one hand, and such Indemnified Party on the other, in connection with the transactions contemplated by the attached letter agreement (whether or not consummated) or, if such allocation is not permitted by applicable law as determined by a court of competent jurisdiction by final nonappealable judgment, in such proportion as is appropriate to reflect not only the relative benefits but also the relative fault of the Company (and its affiliates, and their respective directors, employees, agents and other advisors) on the one hand and such Indemnified Party on the other hand, as well as any other equitable considerations. It is hereby agreed that the relative benefits to the Company and its affiliates and their respective securityholders and creditors and to the Indemnified Party with respect to transactions contemplated by the attached letter agreement shall be deemed to be in the same proportion as (i) the total value paid or received or contemplated to be paid or received by the Company and its affiliates and their respective securityholders and creditors pursuant to transactions contemplated by the attached letter agreement (whether or not consummated) bears to (ii) the fees paid to Greenhill under the attached letter agreement (excluding amounts received by Greenhill as reimbursement of expenses and amounts paid under this Schedule A). The relative fault of the Company and the Indemnified Party shall be determined by reference to, among other things, whether the statements, actions or omissions to act or any other alleged conduct were by the Company (or its affiliates or their respective directors, employees, agents or other advisors) or the Indemnified Party and the parties' relative intent, knowledge, access to information and opportunity to correct or prevent such action or omission to act. In no event shall the Indemnified Parties be required to contribute or otherwise be liable for an amount in excess of the aggregate amount of fees actually received by Greenhill pursuant to the attached letter agreement (excluding amounts received by Greenhill as reimbursement of expenses and amounts paid under this Schedule A).

The Company further agrees that no Indemnified Party shall have any Liability (whether direct or indirect, in contract or tort or otherwise) to the Company or any person asserting claims on behalf of or in right of the Company for or in connection with Greenhill's engagement hereunder or the transactions contemplated by the attached letter agreement except to the extent a court of competent jurisdiction shall have determined by final nonappealable judgment that any Liability resulted directly from the gross negligence or willful misconduct of Greenhill in performing the services that are the subject of the attached letter agreement. The indemnity, reimbursement and contribution obligations of the Company shall be in addition to any liability which the Company may otherwise have to an Indemnified Party, shall not be limited by any rights that an Indemnified Party may otherwise have and shall be binding upon and inure to the benefit of any successors, assigns, heirs and personal representatives of the Company or an Indemnified Party.

The indemnity, reimbursement and contribution provisions set forth herein shall remain operative and in full force and effect regardless of (i) any withdrawal, termination or consummation of or failure to initiate or consummate any transaction contemplated by the attached letter agreement, (ii) any investigation made by or on behalf of any party hereto or any person controlling (within the meaning of Section 15 of the U.S. Securities Act of 1933, as amended, or Section 20 of the U.S. Securities Exchange Act of 1934, as amended, in both cases including the equivalent in any other applicable jurisdiction, including Ontario) any party hereto, (iii) any amendment or other modification or termination of the attached letter agreement or the completion of Greenhill's engagement and (iv) whether or not Greenhill shall, or shall not be called upon to, render any formal or informal advice in the course of such engagement.

SCHEDULE BM&A TRANSACTION FEE SCHEDULE

The M&A Incentive Fee with respect to any M&A Transaction shall be calculated by multiplying the Standard Transaction Fee Percentage and the Transaction Value. The Standard Transaction Fee Percentage shall be calculated in accordance with the following table, where the Standard Transaction Fee Percentage is prorated between the intervals of the Transaction Value Markers.

<u>Transaction Value (\$000s)</u>	<u>Standard Transaction Fee Percentage</u>	<u>Standard Transaction Fee</u>
\$200,000	1.50%	\$3,000,000
\$500,000 (or higher)	1.00%	\$5,000,000 (or higher)

For the purpose of calculating an M&A Incentive Fee, “Transaction Value” shall equal the aggregate value of (A) the total value of all proceeds and other consideration paid or payable, directly or indirectly, by an acquirer to a seller or sellers in connection with an M&A Transaction (including, without limitation, amounts paid, distributed or issued, or to be paid, distributed or issued, to holders of equity interests, preferred stock, convertible securities, other equity securities, warrants, stock appreciation rights, options or other rights or securities), including, without limitation: (i) cash; (ii) notes, securities and other property; (iii) payments made in installment; (iv) amounts paid or payable under agreements not to compete or similar agreements; (v) amounts paid under contractual arrangements (including lease arrangements, management fees, put or call agreements); (vi) contingent payments (whether or not related to future earnings or operations); and (vii) amounts held in escrow; plus (B) the aggregate principal amount of all indebtedness and other liabilities (including, without limitation, capitalized leases and preferred stock obligations) outstanding immediately prior to consummation of an M&A Transaction or otherwise, directly or indirectly, assumed, refinanced (including any premiums paid) or consolidated in connection with such M&A Transaction. For greater certainty, the Transaction Value shall exclude any indebtedness owing by the Company to one of its affiliates that may be cancelled, forgiven or otherwise extinguished in connection with an M&A Transaction or Restructuring. For purposes of computing any fees payable to Greenhill hereunder, (x) equity interests issuable upon exercise of options, warrants or other rights of conversion shall be deemed outstanding and (y) non-cash consideration shall be valued as follows: (A) contingent and installment payments shall be valued based upon the estimated net present value thereof using an appropriate discount rate as determined in good faith by Greenhill, (B) publicly traded securities shall be valued at the average of their closing prices (as reported in The Wall Street Journal) for five trading days ending five trading days prior to the closing of the M&A Transaction and (C) any other non-cash consideration shall be valued at the fair market value thereof as determined in good faith by the Company and Greenhill on the day prior to the consummation of the M&A Transaction; provided that if such parties are unable to agree on a fair market value for such non-cash consideration, the parties shall submit such issue to a panel of three arbitrators located in New York, New York (with one arbitrator being chosen by each party and the third being chosen jointly by the parties) for determination, which determination shall be binding upon each of the Company and Greenhill.

Transaction Value also shall include, without duplication (i) the aggregate amount of any dividends or other distributions declared by the acquired company after the date hereof (other than normal recurring cash dividends), (ii) any amounts paid to repurchase any securities of the acquired company (other than repurchases pursuant to and consistent with currently existing stock repurchase programs of the

acquired company) and (iii) in the case of a sale of assets, the net value of any working capital of the acquired company (other than cash) not acquired in such M&A Transaction.

In connection with a sale, transfer or other disposition of 50% or more of the outstanding equity interests of the acquired company, Transaction Value will be calculated as if 100% of such outstanding interests on a fully diluted basis had been acquired at the same per share amount paid in such M&A Transaction.

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

TAB 3

**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.

Applicant

AFFIDAVIT OF SARAH S. ESKANDARI
(sworn September 15, 2023)

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 "**CCAA Proceeding**") but are the subject of certain limited relief in this CCAA Proceeding. 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.

2. On September 13, 2023, I swore an affidavit in support of the Applicant's application for an initial order in this proceeding (the "**Initial Affidavit**"). Terms not defined in this affidavit have the meanings set forth in the Initial Affidavit.

3. I swear this affidavit to provide an update on the Applicant's activities since the granting of the Initial Order (as defined below) on September 14, 2023 and to provide additional information and support for the Comeback Hearing relief not otherwise addressed in my Initial Affidavit. Specifically, this affidavit addresses (i) the SISP Approval Order, which, if granted would among other things, approve the SISP, authorize the Applicant to implement the SISP pursuant to the terms thereof, and authorize and direct the Applicant, the Financial Advisor and the Monitor to perform their respective obligations and to do all things reasonably necessary to perform their obligations thereunder, and (ii) the Amended and Restated Initial Order (the "**ARIO**"), which provides for additional relief customarily granted on a comeback motion.

I. OVERVIEW OF THE APPLICANT'S ACTIVITIES SINCE THE INITIAL ORDER

A. The Applicant's Activities

4. On September 14, 2023, the Applicant was granted protection under the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36 (the "**CCAA**") pursuant to an Initial Order (the "**Initial Order**") of the Ontario Superior Court of Justice (Commercial List) (the "**Court**"). A copy of the Initial Order is attached hereto as **Exhibit "A"**. A copy of the Court's Endorsement issued in connection with the Initial Order is attached hereto as **Exhibit "B"**.

5. The Initial Order, among other things: (i) appointed KSV Restructuring Inc. as monitor within this CCAA Proceeding (in such capacity, the "**Monitor**"); (ii) granted a stay of proceedings in favour of the Applicant until and including September 24, 2023, or such later date as the Court may order (the "**Stay Period**"); (iii) extended the stay of proceedings and other benefits and

requirements of the Initial Order and the CCAA to BioSteel US and BioSteel Manufacturing during the Stay Period; (v) authorized the Applicant to act as the foreign representative in respect of this CCAA Proceeding and to apply for foreign recognition and approval of this CCAA Proceeding, as necessary, in any jurisdiction outside of Canada, including under chapter 15 of the Bankruptcy Code; (vi) granted a charge as security for the respective fees and disbursements of the Monitor, legal counsel to the Monitor, legal counsel to the Applicant and legal counsel to the Special Committee, and the Financial Advisor (solely in respect of its 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; and (vii) granted a charge in favour of the directors and officers of the Applicant, BioSteel US and BioSteel Manufacturing.

6. Since the granting of the Initial Order, the Applicant, with its advisors and in consultation with the Monitor, has been working in good faith and with due diligence to:

- (a) stabilize its business and operations while in hibernation as part of this CCAA Proceeding;
- (b) secure its premises and the premises of BioSteel Manufacturing to preserve the value of the relevant assets;
- (c) remove the licensed intellectual property of its sponsors and partners on digital media platforms and pause the sale of products with licensed materials while the Applicant reviews the relevant contracts and, as appropriate, engages in discussions with the relevant partners;
- (d) advise its stakeholders, including suppliers, customers and counterparties to Sponsorship Agreements of the granting of the Initial Order;

- (e) work closely with the professionals to prepare for the filing of a chapter 15 petition to protect and preserve the BioSteel assets in the United States;
- (f) respond to numerous creditor and stakeholder inquiries regarding this CCAA Proceeding, including requests related to obligations of suppliers and counterparties to Sponsorship Agreements, and inquiries from interested parties on the proposed SISP; and
- (g) finalize and prepare to rapidly launch the SISP, if approved by the Court.

B. Updates on Contract Counterparties

7. Following the granting of the Initial Order, a number of contract counterparties contacted the Applicant, directly or through counsel, regarding the status of their agreements. The Applicant continues to work in good faith and with due diligence with its partners under the Sponsorship Agreements. Among others, the Applicant has been in contact with the following:

- (a) NHL/NHLPA: As discussed in my Initial Affidavit, the NHL/NHLPA Sponsorship Agreement is the Applicant's most significant Sponsorship Agreement. The Applicant has been in contact with the NHL and expects to continue a dialogue regarding the NHL's relationship with BioSteel.
- (b) Athletes and Sports Teams: The Applicant is in discussions with certain of its athlete and sports team partners regarding their continued involvement with BioSteel, including use of co-branded inventory and digital media endorsements.
- (c) Flow: On the evening of September 13, 2023, the Applicant and Canopy received a letter from Flow Beverages Inc. regarding the asset purchase agreement (the "**Verona APA**") in respect of the Verona Facility (which is described in more detail

in paragraph 26 of my Initial Affidavit). The letter makes a demand for payment of an amount which is: (i) in dispute between the parties; (ii) not yet due; and in any event (iii) stayed by the Initial Order. The letter also demands that parties in the SISP be advised of the right of first offer (the “**ROFO**”) contained in the Verona APA. A copy of the correspondence (the “**Flow Letter**”) is attached hereto as **Exhibit “C”**. Counsel to the BioSteel Entities responded by letter dated September 15, 2023, a copy of which is attached hereto at **Exhibit “D”**. The response letter advises that any steps to prosecute claims against BioSteel Manufacturing or its Directors would be a violation of the Initial Order. The response letter further confirms that the ROFO has not been engaged by the solicitation processes undertaken to date and will not be engaged by the proposed SISP.

8. The Applicant is working closely with the Monitor to manage communications with its stakeholders and to take appropriate steps to preserve value.

II. RELIEF SOUGHT

A. SISP Approval Order

9. At the Comeback Hearing, the Applicant intends to seek the SISP Approval Order:
 - (a) approving the SISP, and authorizing the Applicant (with the assistance of the Financial Advisor and under the oversight of the Monitor) to implement the SISP pursuant to the terms thereof;
 - (b) authorizing and directing the Applicant, the Financial Advisor, and the Monitor to perform their respective obligations and do all things reasonably necessary to perform same under the SISP;

- (c) declaring that the Applicant, the Financial Advisor, and the Monitor, and their respective affiliates, partners, directors, officers, employees, legal advisors, representatives, 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 claims result from the gross negligence or wilful misconduct of the Applicant, the Financial Advisor or the Monitor, as applicable, in performing their obligations under the SISP, as determined by the Court in a final order that is not subject to appeal or other review; and
- (d) granting the Monitor, in connection with its role in overseeing the SISP, all of the benefits and protections granted to it under the CCAA, the ARIO and any other Order of the Court in this CCAA Proceeding.

10. The Applicant, in consultation with its professionals and the Monitor, developed the proposed SISP in order to build on the marketing processes that began pre-filing.

11. The SISP sets out the parameters by which the Applicant and the Financial Advisor, under the oversight of the Monitor, will:¹

- (a) disseminate marketing materials and a process letter to potentially interested parties identified by the Applicant and the Financial Advisor, in consultation with the Monitor, and provide such parties with access to a data room upon their

¹ This summary is qualified in all respects by the terms of the SISP.

executing a non-disclosure agreement (“**NDA**”) in form and substance satisfactory to the Applicant;

- (b) solicit binding bids from interested parties for executable transactions involving the business and/or assets of the Applicant and/or the equity or all or substantially all of the assets of each of its affiliates, BioSteel US and BioSteel Manufacturing;
- (c) select a “Successful Bid”; and
- (d) seek Court approval of any Successful Bid.

12. The proposed SISP provides for the solicitation of potentially interested parties by the Applicant and the Financial Advisor which will commence no later than four days following the granting of the SISP Approval Order.

13. Pursuant to the SISP, interested parties must enter into an NDA and submit a binding offer meeting the requirements enumerated in the SISP (a “**Qualified Bid**” and, a party submitting a Qualified Bid, a “**Qualified Bidder**”), as determined by the Applicant, in consultation with the Monitor.

14. In order to constitute a Qualified Bid, each bid must:

- (a) provide consideration, payable in full on closing (the “**Consideration Value**”), and a detailed sources schedule that identifies the composition of the Consideration Value and any assumptions or conditions that could reduce the net consideration payable, including details of any material liabilities that are proposed to be assumed or excluded;

- (b) as part of the Consideration Value, provide cash consideration sufficient to pay: (ii) any obligations in connection with applicable charges granted by the Court in this CCAA Proceeding and any obligations in priority thereto; and (ii) an amount of \$2,000,000 to fund a wind up of this CCAA Proceeding and any further proceedings and wind-up costs;
- (c) provide for the closing of the transaction as soon as possible after the selection of such bid as the Successful Bid and, in any event, by no later than November 15, 2023 (the “**Outside Date**”);
- (d) contain the following documents or information:
 - (i) duly executed binding transaction document(s) and a redline to the draft agreement in the virtual dataroom;
 - (ii) the legal name and identity (including jurisdiction of existence) and contact information of the bidder, full disclosure of its direct and indirect principals, and the name(s) of each of its equityholder(s);
 - (iii) evidence of authorization and approval from the bidder’s board of directors (or equivalent governing body) and, if necessary to complete the transaction, the bidder’s equityholder(s);
 - (iv) disclosure of any past or current connections or agreements with BioSteel or any of their affiliates, any known, potential, prospective bidder, or any current or former officer, manager, director, member or known current or former equity security holder of BioSteel or any of their affiliates; and

- (v) such other information as may be reasonably requested by the Applicant or the Monitor;
- (e) include a letter stating that the bid is submitted in good faith, is binding and is irrevocable until the closing of the Successful Bid, provided, however, that if such bid is not selected as the Successful Bid or as the next-highest or otherwise best Qualified Bid as compared to the Successful Bid (such bid, the “**Back-Up Bid**”) it shall only remain irrevocable until selection of the Successful Bid;
- (f) provide that the bid will serve as the Back-Up Bid if it is not selected as the Successful Bid and, if selected as the Back-Up Bid, it shall remain irrevocable until the earlier of (i) closing of the Successful Bid or (ii) closing of the Back-Up Bid;
- (g) provide written evidence of a bidder’s ability to fully fund and consummate the transaction and satisfy its obligations under the transaction documents, including binding equity/debt commitment letters and/or guarantees covering the full value of all cash consideration and the additional items (in scope and amount) covered by the guarantees provided by affiliates of the bidder in connection with the Successful Bid;
- (h) not be conditional on (i) approval from the bidder’s board of directors or equivalent governing body or equityholders, (ii) the outcome of any due diligence by the bidder; or (iii) financing;
- (i) not include any request for or entitlement to any break fee, expense reimbursement or similar type of payment;
- (j) include acknowledgments and representations that the bidder:

- (i) has had an opportunity to conduct any and all required due diligence prior to making its bid,
- (ii) is not relying upon any written or oral statements, representations, promises, warranties, conditions, or guaranties whatsoever, whether express or implied (by operation of law or otherwise), made by any person or party, including the Applicant, the Financial Advisor, the Monitor and their respective employees, officers, directors, agents, advisors and other representatives, regarding the proposed transactions, this SISP, or any information (or the completeness of any information) provided in connection therewith, except as expressly stated in the proposed transaction documents,
- (iii) is making its bid on an “as is, where is” basis and without surviving representations or warranties of any kind, nature, or description by the Applicant, the Financial Advisor, the Monitor or any of their respective employees, officers, directors, agents, advisors and other representatives, except to the extent set forth in the proposed transactions documents,
- (iv) is bound by the SISP and the SISP Approval Order, and
- (v) is subject to the exclusive jurisdiction of the Court with respect to any disputes or other controversies arising under or in connection with the SISP or such bidder’s respective bid;

- (k) specify any regulatory or other third-party approvals the bidder anticipates would be required to complete the transaction (including the anticipated timing necessary to obtain such approvals);
- (l) be accompanied by a cash deposit (each, a “**Deposit**”) by wire transfer of immediately available funds equal to at least 10% of the Consideration Value to the Monitor;
- (m) include a statement that the bidder will bear its own costs and expenses (including legal and advisor fees) in connection with the proposed transaction and agrees to refrain from and waive any assertion or request for reimbursement on any basis; and
- (n) be received by the Applicant, with a copy to the Financial Advisor and the Monitor, by 5:00 p.m. Eastern Time on October 16, 2023 (as may be extended by the Applicant in consultation with the Monitor, the “**Qualified Bid Deadline**”) at the email addresses set out for such parties in the SISP.

15. If one or more Qualified Bids has been received by the Applicant on or before the Qualified Bid Deadline, the Applicant will proceed to evaluate the bids received and negotiate with the parties who submitted those bids with the objective of selecting a successful bid (the “**Successful Bid**”) (or one or more such bids with the consent of the Monitor and Canopy) and entering into a definitive agreement in respect of such bid(s) by no later than 5:00 p.m. Eastern Time on October 23, 2023 (the “**Definitive Agreement Deadline**”).

16. Following selection of the Successful Bid and finalization of all definitive agreements, the Applicant will apply to the Court for an order or orders approving such further or other Successful Bid and/or the mechanics to authorize the Applicant to complete the transactions contemplated

thereby, as applicable, and authorizing the Applicant to: (i) enter into all necessary agreements and related documentation with respect to the Successful Bid; (ii) undertake such other actions as may be necessary to give effect to such Successful Bid; and (iii) implement the transaction(s) contemplated in the Successful Bid (each, a “**Transaction Order**”).

17. All Deposits paid in accordance with the SISP will be retained by the Monitor in an interest-bearing trust account. If a Successful Bid is selected and a Transaction Order is granted, any Deposit paid in connection with such Successful Bid will be non-refundable and applied to the cash consideration to be paid in connection with the Successful Bid (or be dealt with as otherwise set out in the definitive agreements(s)). Any Deposit delivered with a Qualified Bid that is not selected as a Successful Bid, will be returned to the applicable bidder as soon as reasonably practicable after the Successful Bid is approved pursuant to a Transaction Order or such earlier date as may be determined by the Applicant, in consultation with the Monitor.

18. The SISP authorizes the Applicant to provide general updates and information in respect of the SISP to counsel to any creditor on a confidential basis if such counsel confirms in writing that the applicable creditor will not bid in the SISP and counsel executes a confidentiality agreement with the Applicant.

19. A summary of the significant dates and processes within the proposed SISP is as follows:

SISP Process	Deadline
SISP Approval Order	September 21, 2023
Commence Solicitation	No later than September 25, 2023
Qualified Bid Deadline	October 16, 2023 (5:00 pm ET)
Definitive Agreement Deadline	October 23, 2023 (5:00 pm ET)
Transaction Order	No later than November 3, 2023, subject to court availability
Closing of Successful Bid	No later than November 15, 2023

20. In developing the SISP, the Applicant, in consultation with its professionals and the Monitor, considered a number of factors, including:

- (a) the business of BioSteel was marketed broadly and extensively over the past year, and then again with a renewed process that began in August and called for transaction proposals by early September. 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;
- (b) that the Applicant is of the view that there is significant value in the BioSteel brand and condensed SISP timelines may help minimize the potential impact of the uncertainty surrounding the future of the brand as it relates to current and future partners and customers;
- (c) that Canopy (as agent) is the only secured creditor of the Applicant and it continues to pay the cost of the Applicant's remaining employees necessary to maintain the business during the pendency of the SISP. Canopy has advised that it is unwilling to consent to an extended SISP;
- (d) the pool of potential purchasers for the Applicant's business is limited because of its specialized nature and the vast majority of these potentially interested parties were engaged in the prior marketing processes; and

- (e) due to the public and well-known nature of the BioSteel brand, this CCAA Proceeding and the proposed SISP has already received substantial media attention, ensuring that potential bidders are aware of it.

21. The SISP will terminate in the event that: (a) no Qualified Bid is received by the Qualified Bid Deadline; (b) the Applicant, in consultation with the Monitor, determines that no Qualified Bid should be accepted; (c) definitive agreement(s) with respect to the Successful Bid have not been finalized before the Definitive Agreement Deadline; or (d) the Qualified Bids, in aggregate, do not provide for the timely repayment of the Secured Financing Facility in full in cash and Canopy does not consent to any Qualified Bid(s) being selected as the Successful Bid.

22. In light of the foregoing, the Applicant is of the view that the timelines set out in the SISP are appropriate and will allow interested parties to participate in the SISP. The Applicant is also of the view that the proposed SISP provides a fair and reasonable process that will adequately canvass the market, while simultaneously protecting against the burdens of an extended CCAA Proceeding.

23. I am advised by the Monitor that the SISP was designed with a process timeline that is the maximum amount reasonably supported by the cash flows and related assumptions. I am advised by the Monitor that the Monitor will be filing a report with additional information on the SISP and the cash flow.

B. ARIO

24. As set out in my Initial Affidavit, at the Comeback Hearing, the Applicant will also seek approval of the ARIO. The key provisions of the ARIO are outlined in my Initial Affidavit and summarized and supplemented below.

- (a) Stay of Proceedings/Setoff: The Applicant is seeking an extension of the Stay of Proceedings until November 17, 2023, to coincide with the outside date under the SISP. I am advised the Monitor that the Cash Flow Statement that will be attached to the First Report of the Monitor shows that the Applicant will have sufficient funds to meet its obligations during the proposed stay period without the need for financing. The Applicant will also seek an amendment to the Initial Order to clarify that, during the Stay of Proceedings, no party may assert rights of setoff in respect of any obligations owing before the commencement of this CCAA Proceeding without an order of the Court. The Applicant believes that this provision is required to ensure that no setoff rights will be exercised in a way that will disrupt the SISP described in this Affidavit.
- (b) Permitted Restructurings: 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
- (c) Financial Advisor Engagement: The Applicant also intends to seek approval of the Financial Advisor's engagement letter and the Transaction Fee Charge (as described below). The Financial Advisor actively marketed the BioSteel business prior to the commencement of this CCAA Proceeding and will play a key role in the SISP.
- (d) Amendments to the existing Charges: As described in detail in my Initial Affidavit, the proposed amendments to the Charges include:
- (i) Increasing the Administration Charge to US\$1 million;

- (ii) Increasing the Directors' Charge to US\$2,198,000; and
- (iii) Granting the Transaction Fee Charge in the amount of US\$2.5 million.

25. I swear this affidavit in support of the motion by the Applicant and for no improper purpose.

SWORN BEFORE ME by videoconference on September 15, 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 by videoconference on September 15, 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



Court File No. CV-23-706033-00CL

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

THE HONOURABLE) THURSDAY, THE 14th
JUSTICE CAVANAGH) DAY OF SEPTEMBER, 2023

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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR
ARRANGEMENT OF BIOSTEEL SPORTS NUTRITION INC.

(the "**Applicant**")

INITIAL ORDER

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

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

SERVICE AND DEFINITIONS

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

2. **THIS COURT ORDERS** that capitalized terms used in this Order and not otherwise defined herein shall have the meanings ascribed to them in the Eskandari Affidavit.

APPLICATION

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

POSSESSION OF PROPERTY AND OPERATIONS

4. **THIS COURT ORDERS** that the Applicant shall remain in possession and control of its current and future assets, licences, undertakings and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof (the "**Property**"). Subject to further Order of this Court, the Applicant shall continue to carry on business in a manner consistent with the preservation of its business (the "**Business**") and the Property. The Applicant is authorized and empowered to continue to retain and employ or receive the services of its employees (or employees of affiliates providing services on an intercompany basis), consultants, contractors, agents, experts, accountants, counsel and such other persons (collectively "**Assistants**") currently retained or employed by it, with liberty to retain such further Assistants as it deems reasonably necessary or desirable in the ordinary course of business or for the carrying out of the terms of this Order.

5. **THIS COURT ORDERS** that the Applicant shall be entitled to continue to utilize the central cash management system currently in place as described in the Eskandari Affidavit or, with the prior written consent of the Monitor, replace it with another substantially similar central cash management system (the "**Cash Management System**"), and that any present or future bank providing the Cash Management System shall: (i) not be under any obligation whatsoever to inquire into the propriety, validity or legality of any transfer, payment, collection or other action taken under the Cash Management System, or as to the use or application by the Applicant of funds transferred, paid, collected or otherwise dealt with in the Cash Management System; (ii) be entitled to provide the Cash Management System without any liability in respect thereof to any Person (as hereinafter defined) other than the Applicant, pursuant to the terms of the documentation applicable to the Cash Management System; and (iii) be, in its capacity as provider of the Cash Management System, an unaffected creditor under a plan (if any) with regard to any claims or expenses it may suffer or incur in connection with the provision of the Cash Management System.

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

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

7. **THIS COURT ORDERS** that, except as otherwise provided to the contrary herein, the Applicant shall be entitled but not required to pay all reasonable expenses incurred by the BioSteel Entities in carrying on the Business in the ordinary course after the date of this Order, and in carrying out the provisions of this Order, which expenses shall include, without limitation:

- (a) all expenses and capital expenditures reasonably necessary for the preservation of the Property or the Business including, without limitation, payments on account of insurance (including directors' and officers' insurance), maintenance and security services; and
- (b) payment for goods or services actually supplied to the BioSteel Entities, provided, however, that payment for goods or services actually supplied to the US BioSteel

Entities may only be made with consent of the Monitor, on or following the date of this Order.

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

- (a) any statutory deemed trust amounts in favour of the Crown in right of Canada or of any Province thereof or any other taxation authority which are required to be deducted from employees' wages, including, without limitation, amounts in respect of: (i) employment insurance; (ii) Canada Pension Plan; (iii) Quebec Pension Plan; and (iv) income taxes;
- (b) all goods and services or other applicable sales taxes (collectively, "**Sales Taxes**") required to be remitted by the Applicant in connection with the sale of goods and services by the Applicant, but only where such Sales Taxes are accrued or collected after the date of this Order, or where such Sales Taxes were accrued or collected prior to the date of this Order but not required to be remitted until on or after the date of this Order; and
- (c) any amount payable to the Crown in right of Canada or of any Province thereof or any political subdivision thereof or any other taxation authority in respect of municipal realty, municipal business or other taxes, assessments or levies of any nature or kind which are entitled at law to be paid in priority to claims of secured creditors and which are attributable to or in respect of the carrying on of the Business by the Applicant, whether in Canada, the United States, or another jurisdiction.

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

the amounts set out in the applicable lease. On the date of the first of such payments, any Rent relating to the period commencing from and including the date of this Order shall also be paid.

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

NO PROCEEDINGS AGAINST THE BIOSTEEL ENTITIES, THEIR BUSINESS OR THEIR PROPERTY

11. **THIS COURT ORDERS** that until and including September 24, 2023, or such later date as this Court may order (the “**Stay Period**”), no proceeding or enforcement process in any court or tribunal (each, a “**Proceeding**”, and collectively, “**Proceedings**”) shall be commenced or continued against or in respect of the BioSteel Entities or the Monitor, or affecting the Business or the Property or the business or property of BioSteel US or BioSteel Manufacturing, except with the written consent of the Applicant and the Monitor, or with leave of this Court, and any and all Proceedings currently under way against or in respect of any of the BioSteel Entities or affecting the Business or the Property, or the business or property of BioSteel US or BioSteel Manufacturing, are hereby stayed and suspended pending further Order of this Court or the prior written consent of the Applicant and the Monitor.

NO EXERCISE OF RIGHTS OR REMEDIES

12. **THIS COURT ORDERS** that during the Stay Period, all rights and remedies of any individual, firm, corporation, organization, governmental unit, body or agency, or any other entities (all of the foregoing, collectively being “**Persons**” and each being a “**Person**”) against or in respect of any of the BioSteel Entities or the Monitor, or their respective employees and representatives acting in such capacities, or affecting the Business or the Property or the business or property of BioSteel US or BioSteel Manufacturing, are hereby stayed and suspended except with the written consent of the Applicant and the Monitor, or leave of this Court, provided that nothing in this Order shall: (i) empower any of the BioSteel Entities to carry on any business which it is not lawfully entitled to carry on; (ii) affect such investigations, actions, suits or proceedings by a regulatory body as are permitted by Section 11.1 of the CCAA; (iii) prevent the filing of any registration to preserve or perfect a security interest; or (iv) prevent the registration of a claim for lien.

NO INTERFERENCE WITH RIGHTS

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

CONTINUATION OF SERVICES

14. **THIS COURT ORDERS** that during the Stay Period, all Persons having oral or written agreements with any of the BioSteel Entities or statutory or regulatory mandates for the supply of goods and/or services, including without limitation all computer software, communication and other data services, centralized banking services, payroll and benefit services, accounting services, insurance, transportation services, storage and warehousing, utility, licensing, or other services, to the Business or any of the BioSteel Entities, are hereby restrained until further Order of this Court from discontinuing, altering, interfering with, suspending or terminating the supply of such goods or services as may be required by any of the BioSteel Entities or exercising any other remedy provided under the agreements or arrangements, and that each of the BioSteel Entities shall be entitled to the continued use of its current premises, telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the applicable BioSteel Entities in accordance with the normal payment practices of the applicable BioSteel Entities or such other practices as may be agreed upon by the supplier or service provider and each of the Applicant and the Monitor, or as may be ordered by this Court.

NON-DEROGATION OF RIGHTS

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

PROCEEDINGS AGAINST DIRECTORS AND OFFICERS

16. **THIS COURT ORDERS** that during the Stay Period, and except as permitted by Subsection 11.03(2) of the CCAA, no Proceeding may be commenced or continued against any of the former, current or future directors or officers of any of the BioSteel Entities (other than a director or officer who is or was at any point a shareholder or optionholder of the Applicant) (collectively, the “**Directors and Officers**”) with respect to any claim against the Directors and Officers that arose before the date hereof and that relates to any obligations of any of the BioSteel Entities whereby the Directors and Officers are alleged under any law to be liable in their capacity as the Directors and Officers for the payment or performance of such obligations, until a compromise or arrangement in respect of the Applicant, if one is filed, is sanctioned by this Court or is refused by the creditors of the Applicant or this Court.

DIRECTORS’ AND OFFICERS’ INDEMNIFICATION AND CHARGE

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

18. **THIS COURT ORDERS** that the Directors and Officers shall be entitled to the benefit of and are hereby granted a charge (the “**Directors' Charge**”) on the Property, which charge shall not exceed an aggregate amount of US\$1,279,000, unless permitted by further Order of this Court, as security for the D&O Indemnity provided in paragraph 17 of this Order. The Directors' Charge shall have the priority set out in paragraphs 29 and 31 hereof.

19. **THIS COURT ORDERS** that, notwithstanding any language in any applicable insurance policy to the contrary: (i) no insurer shall be entitled to be subrogated to or claim the benefit of the Directors' Charge; and (ii) the Directors and Officers shall only be entitled to the benefit of the Directors' Charge to the extent that they do not have coverage under any directors' and officers' insurance policy, or to the extent that such coverage is insufficient to pay amounts indemnified in accordance with paragraph 17 of this Order.

APPOINTMENT OF MONITOR

20. **THIS COURT ORDERS** that KSV is hereby appointed pursuant to the CCAA as the Monitor, an officer of this Court, to monitor the business and financial affairs of the Applicant with

the powers and obligations set out in the CCAA or set forth herein and that the Applicant and its shareholders, officers, directors, and Assistants shall advise the Monitor of all material steps taken by the Applicant pursuant to this Order, and shall co-operate fully with the Monitor in the exercise of its powers and discharge of its obligations and provide the Monitor with the assistance that is necessary to enable the Monitor to adequately carry out the Monitor's functions.

21. **THIS COURT ORDERS** that the Monitor, in addition to its prescribed rights and obligations under the CCAA, is hereby directed and empowered to:

- (a) monitor the Applicant's receipts and disbursements;
- (b) report to this Court at such times and intervals as the Monitor may deem appropriate with respect to matters relating to the Property, the Business, and such other matters as may be relevant to the proceeding herein;
- (c) assist the Applicant in the preparation of its cash flow statements;
- (d) monitor all payments, obligations and transfers as between the Applicant and its affiliates;
- (e) have full and complete access to the Property, including the premises, books, records, data, including data in electronic form, and other financial documents of the Applicant, to the extent that is necessary to adequately assess the Applicant's business and financial affairs or to perform its duties arising under this Order;
- (f) be at liberty to engage independent legal counsel or such other persons as the Monitor deems necessary or advisable respecting the exercise of its powers and performance of its obligations under this Order;
- (g) assist the Foreign Representative (as defined below) and its legal counsel as may be required to give effect to the terms of this Order; and
- (h) perform such other duties as are required by this Order or by this Court from time to time.

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

23. **THIS COURT ORDERS** that nothing herein contained shall require the Monitor to occupy or to take control, care, charge, possession or management (separately and/or collectively, “**Possession**”) of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the *Ontario Environmental Protection Act*, the *Ontario Water Resources Act*, or the *Ontario Occupational Health and Safety Act* and regulations thereunder (the “**Environmental Legislation**”), provided however that nothing herein shall exempt the Monitor from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Monitor shall not, as a result of this Order or anything done in pursuance of the Monitor's duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

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

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

26. **THIS COURT ORDERS** that the Monitor, legal counsel to the Monitor, legal counsel to the Applicant and the Special Committee shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges, whether incurred prior to, on or subsequent to the date of this Order, by the Applicant as part of the costs of this proceeding. The Applicant is hereby

authorized and directed to pay the accounts of the Monitor, legal counsel for the Monitor and legal counsel for the Applicant on a bi-weekly basis.

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

ADMINISTRATION CHARGE

28. **THIS COURT ORDERS** that the Monitor, legal counsel to the Monitor, legal counsel to the Applicant and the Special Committee, and Greenhill & Co. Canada Ltd. (the “**Financial Advisor**”) in respect of its Monthly Advisory Fee (as defined by the Greenhill Engagement Letter) shall be entitled to the benefit of and are hereby granted a charge (the “**Administration Charge**”) on the Property, which charge shall not exceed an aggregate amount of US\$750,000 unless permitted by further Order of this Court, as security for their professional fees and disbursements incurred at the standard rates and charges of the Monitor and such counsel or advisors, both before and after the making of this Order in respect of this proceeding. The Administration Charge shall have the priority set out in paragraphs 29 and 31 hereof.

VALIDITY AND PRIORITY OF CHARGES CREATED BY THIS ORDER

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

First – Administration Charge (to the maximum amount of US\$750,000); and

Second – Directors’ Charge (to the maximum amount of US\$1,279,000).

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

31. **THIS COURT ORDERS** that each of the Charges (all as constituted and defined herein) shall constitute a charge on the Property and such Charges shall rank in priority to all other security interests, trusts, liens, charges and encumbrances, and claims of secured creditors, statutory or otherwise (collectively, “**Encumbrances**”) in favour of any Person notwithstanding the order of perfection or attachment; provided that the Charges shall rank behind Encumbrances in favour of any Person that has not been served with notice of the application for this Order. The

Applicant and the beneficiaries of the Charges shall be entitled to seek priority of the Charges ahead of any Encumbrances over which the Charges may not have obtained priority pursuant to this Order on a subsequent motion including, without limitation, on the Comeback Hearing (as defined below), on notice to those Persons likely to be affected thereby.

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

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

- (a) the creation of the Charges shall not create or be deemed to constitute a breach by the Applicant of any Agreement to which it is a party;
- (b) none of the Chargees shall have any liability to any Person whatsoever as a result of any breach of any Agreement caused by or resulting from the creation of the Charges; and
- (c) the payments made by the Applicant pursuant to this Order, and the granting of the Charges, do not and will not constitute preferences, fraudulent conveyances, transfers at undervalue, oppressive conduct, or other challengeable or voidable transactions under any applicable law.

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

SERVICE AND NOTICE

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

36. **THIS COURT ORDERS** that the E-Service Guide of the Commercial List (the “**Guide**”) is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Guide (which can be found on the Commercial List website at <https://www.ontariocourts.ca/scj/practice/practice-directions/toronto/eservice-commercial/>) shall be valid and effective service. Subject to Rule 17.05, this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194, as amended (the “**Rules of Civil Procedure**”). Subject to Rule 3.01(d) of the Rules of Civil Procedure and paragraph 13 of the Guide, service of documents in accordance with the Guide will be effective on transmission. This Court further orders that a Case Website shall be established in accordance with the Guide with the following URL: www.ksvadvisory.com/experience/case/biosteel.

37. **THIS COURT ORDERS** that if the service or distribution of documents in accordance with the Guide or the CCAA and the regulations thereunder is not practicable, the Applicant, the Monitor and each of their respective counsel and agents are at liberty to serve or distribute this Order, any other materials and orders in this proceeding, any notices or other correspondence, by forwarding copies thereof by prepaid ordinary mail, courier, personal delivery, facsimile transmission or electronic message to the Applicant's creditors or other interested parties at their respective addresses (including e-mail addresses) as last shown in the books and records of the Applicant and that any such service or distribution shall be deemed to be received on the earlier of (i) the date of forwarding thereof, if sent by electronic message on or prior to 5:00 p.m. Eastern Time (or on the next business day following the date of forwarding thereof if sent on a non-

business day); (ii) the next business day following the date of forwarding thereof, if sent by courier, personal delivery, facsimile transmission or electronic message sent after 5:00 p.m. Eastern Time; or (iii) on the third business day following the date of forwarding thereof, if sent by ordinary mail.

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

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

COMEBACK HEARING

40. **THIS COURT ORDERS** that the comeback motion in this proceeding shall be heard on September 21, 2023 (the "**Comeback Hearing**").

FOREIGN PROCEEDINGS

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

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

GENERAL

43. **THIS COURT ORDERS** that any interested party (including the Applicant) may apply to this Court to vary or amend this Order on not less than five (5) calendar days' notice to the Service List and any other party or parties likely to be affected by the Order sought; provided, however, that the Chargees shall be entitled to rely on this Order as granted and on the Charges and priorities set forth in paragraphs 29 and 31 hereof with respect to any fees, expenses and disbursements incurred, as applicable, until the date this Order may be amended, varied or stayed.

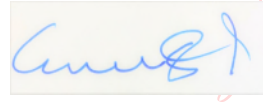
44. **THIS COURT ORDERS** that, notwithstanding paragraph 43 of this Order, the Applicant or the Monitor may from time to time apply to this Court to amend, vary or supplement this Order or for advice and directions in the discharge of its powers and duties hereunder or in the interpretation of this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

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

46. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States, to give effect to this Order and to assist the BioSteel Entities, the Monitor and their respective agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the BioSteel Entities and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Monitor in any foreign proceeding, or to assist the BioSteel Entities and the Monitor and their respective agents in carrying out the terms of this Order.

47. **THIS COURT ORDERS** that each of the Applicant and the Monitor be at liberty and are hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and that the Monitor is authorized and empowered to act as a representative in respect of the within proceeding for the purpose of having this proceeding recognized in a jurisdiction outside Canada.

48. **THIS COURT ORDERS** that this Order and all of its provisions are effective as of 8:00 a.m. (Eastern Time) on the date of this Order without the need for entry or filing.



Digitally signed by
Peter Cavanagh

IN THE MATTER OF THE COMPROMISE OR ARRANGEMENT ACT, R.S.C. 1985, c. C-56, AS AMENDED

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF BIOSTEEL SPORTS NUTRITION INC.

Court File No. CV-23-706033-00CL

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

PROCEEDING COMMENCED AT
TORONTO

INITIAL ORDER

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Lawyers for the Applicant

This is Exhibit "B" referred to in the Affidavit of Sarah S. Eskandari sworn by videoconference on September 15, 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



SUPERIOR COURT OF JUSTICE

COUNSEL SLIP

COURT FILE NO.: To be assigned upon issuance of
Notice of Application

DATE: September 14, 2023

REGISTRAR: L. Lewis

NO. ON LIST: 1

TITLE OF PROCEEDING: In the Matter of a Plan of Compromise or Arrangement of
BioSteel Sports Nutrition Inc.

BEFORE JUSTICE: Mr. Justice Cavanagh

PARTICIPANT INFORMATION

For Plaintiff, Applicant, Moving Party, Crown:

Name of Person Appearing	Name of Party	Contact Info
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For Defendant, Respondent, Responding Party, Defence:

Name of Person Appearing	Name of Party	Contact Info

For Other, Self-Represented:

Name of Person Appearing	Name of Party	Contact Info
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Stuart Brotman	Counsel to Canopy Growth Corporation	sbrotman@fasken.com

ENDORSEMENT OF JUSTICE CAVANAGH:

Introduction

- [1] At the close of oral submissions today, I indicated that I was prepared to grant the initial order in these CCAA proceedings and that I would issue a brief endorsement summarizing my reasons for doing so. Acronyms and other short forms, if not expressly defined, have the meanings assigned in the Applicant’s materials, filed.

Background Facts

- [2] The Applicant is BioSteel Sports Nutrition Inc. (the “Applicant”). The Applicant seeks an Initial Order under the provisions of the *Companies Creditors Arrangement Act* (“the “CCAA”). BioSteel Sports Nutrition USA LLC (“BioSteel U.S.”) and BioSteel Manufacturing LLC (“BioSteel Manufacturing” and, collectively with BioSteel U.S., the “Non-Filing Entities”) are not applicants in this proceeding but are the subject of certain relief requested.
- [3] The Applicant, operating with BioSteel U.S. 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 the professional sports markets. BioSteel products, including ready to drink hydration mixes and supplements (“RTDs”), are available at retailers across Canada, the United States and online.
- [4] In connection with the planned growth of the brand in the United States, BioSteel Manufacturing acquired a facility for the production of RTD’s in the United States and BioSteel began marketing and distributing products in the United States through BioSteel U.S.
- [5] The Applicant’s operations and growth initiatives have been funded in large part by a Secured Financing Facility provided by Canopy Growth Corporation (“Canopy”) and an affiliate of Canopy, as well as through 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, through wholly-owned subsidiaries, 100% of the equity interests of the remaining BioSteel Entities. Pursuant to the Secured Financing Facility, Canopy and its affiliate have collectively

advanced to date over \$366 million to the Applicant. Notwithstanding the already significant investments made by Canopy 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 undertook a broad marketing process to seek an additional investment in or sale of BioSteel. That process returned no actionable bids. In the summer of 2023, a Special Committee was formed to explore strategic alternatives for the Applicant, which included refocusing its sale efforts. The Special Committee engaged a financial advisor to assist in developing a process to solicit interest in BioSteel from potentially interested parties. The Special Committee set a deadline of September 5, 2023 to receive transaction proposals from interested parties. Multiple interested parties provided indications of interest for all or portions of the BioSteel business, but all such indications are 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 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 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.
- [8] 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.

Discussion

- [9] The relief requested in the Initial Order is limited to what is necessary for the Initial Stay Period until the Comeback Hearing and includes, 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 (the "Monitor");
 - c. a stay, 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 option holder 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, licenses, undertakings and properties of every nature and kind whatsoever, and wherever situated including all proceeds thereof (collectively, the "Property") or the

business or property of the U.S. BioSteel Entities, 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 in the materials) 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 the CCAA Proceeding recognized and approved in a jurisdiction outside of Canada, and authorizing the Applicant to apply for foreign recognition and approval of the 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 U.S. \$750,000; and
 - ii. the Directors’ Charge (as defined below) up to a maximum amount of U.S. \$1,279,000.

[10] The Applicant intends to bring a motion at the Comeback Hearing to seek the SISP Approval Order and the Amended and Restated Initial Order.

A. The Applicant Meets the CCAA Statutory Requirements

The CCAA Applies

[11] The CCAA applies to a “debtor company” if the total claims against it exceed \$5 million.

[12] The Applicant was incorporated under the Ontario *Business Corporations Act* and continued federally under the *Canada Business Corporations Act*. The Applicant is insolvent and the claims against it are in excess of \$5 million. Accordingly, the Applicant is a “debtor company” for the purposes of the CCAA.

This Court is the Appropriate Forum for these Proceedings

[13] A debtor company may bring an application under the CCAA in the province within which its head office or its place of business is located. The Applicant maintains its head office in Toronto. Accordingly, this Court is the appropriate forum.

B. The Stay of Proceedings is Appropriate

[14] This Court may grant a stay of proceedings of up to 10 days on an initial application provided is satisfied that: (i) such a stay is appropriate; and (ii) the Applicant has acted in good faith and with due diligence. The primary purpose of the CCAA stay is to maintain the *status quo* for a period while the debtor company consults with its stakeholders with a view to continuing its operations for the benefit of its creditors. The threshold for a stay is low and a debtor company only has to

satisfy this Court stay of proceedings would “usefully further” its efforts to reorganize. A sale under the CCAA is an appropriate use of the CCAA.

[15] The stay of proceedings sought by the Applicant is necessary for the Applicant to preserve value while pursuing a transaction for the benefit of stakeholders. Currently, various contract counterparties have issued default notices and may imminently take steps to terminate supply agreements, distribution arrangements and Sponsorship Agreements. Other parties may seek to initiate or continue litigation. Under the circumstances, I am satisfied that a limited stay period is in the best interests of all stakeholders.

Stay for Non-Filing Entities

[16] The Applicant’s insolvency puts the Non-Filing Entities at significant risk. If enforcement steps are taken against the Non-Filing Entities, it is expected to materially destroy value and negatively impact a sale of BioSteel’s assets or business.

[17] CCAA courts have extended the CCAA stay over non-applicant affiliates, non-affiliated third parties, and foreign non-applicant affiliates. Courts will often do so where the CCAA debtor company’s business is so intertwined with the non-applicant or indispensable to the non-applicant’s business and restructuring that not extending the stay to the other entity would significantly impair the effectiveness of the stay for the debtor company.

[18] I am satisfied that it is appropriate to extend a CCAA stay over non-filing affiliates of the Applicant for the following reasons:

- a. the Non-Filing Entities are intertwined in the Applicant’s business and operate on an integrated basis with the Applicant to manufacture, market, and distribute BioSteel products, notwithstanding that they are not subsidiaries of the Applicant.
- b. Enforcement action against the Non-Filing Entities would be detrimental to the Applicant’s efforts to sell the assets and/or business of BioSteel and would undermine a process that would otherwise benefit the stakeholders of BioSteel as a whole.
- c. The balance of convenience favours extending the stay.
- d. The Proposed Monitor supports extending the stay to the Non-Filing Entities.

[19] In this regard, see *JTI-Macdonald Corp., Re*, 2019 ONSC 1625, at para. 15.

C. The Monitor Should be Appointed

[20] The Proposed Monitor is a licensed trustee within the meaning of section 2 of the BIA and signed a consent to act as the Monitor of the Applicant. The Proposed Monitor is qualified to act as Monitor under section 11.7 of the CCAA.

D. Charges are Appropriate

[21] The Applicant is seeking charges that are usual and customary for a proceeding of this nature. At the Initial Order stage, the proposed charges are not proposed to rank in priority to any secured creditor who was not provided with notice of this proceeding.

Administration Charge

- [22] The CCAA authorizes this Court to grant a priority charge over a debtor company's assets for professional fees and disbursements on notice to affected secured creditors. This Court has recognized that, unless professional advisor fees are protected with the benefit of an administration charge, the objectives of the CCAA would be frustrated.
- [23] The Applicant seeks the Administration Charge against the Property in the maximum amount of U.S. \$750,000 to secure the fees and disbursements incurred both before and after the commencement of the CCAA Proceeding by legal counsel for the Applicant, the Proposed Monitor, and legal counsel for the Proposed Monitor, as well as the monthly fee of the Financial Advisor.
- [24] The amount of the Administration Charge has been determined with guidance from the Proposed Monitor, is supported by the Proposed Monitor, and is limited to what is necessary for the Initial Stay Period.
- [25] I am satisfied that the Administration Charge is fair and reasonable given the size and complexity of the Applicant's business, and the complexity of the restructuring proposed in this CCAA Proceeding.

Directors' Charge

- [26] The CCAA also authorizes this Court to grant a priority charge to indemnify a debtor company's directors and officers on notice to a secured creditors. Directors' charges encouraged directors and officers to remain in place, providing a potential stabilizing force for the company.
- [27] The Applicant has shown that (i) notice has been given to the likely affected secured creditors; (ii) the amount is appropriate; (iii) the Applicant could not obtain adequate indemnification insurance for the directors and officers at a reasonable cost; and (iv) the charge does not apply to obligations incurred by a director or officer as a result of their gross negligence or wilful misconduct.
- [28] The Applicant has worked with the Proposed Monitor to calculate the quantum of the Directors' Charge, and the Proposed Monitor supports the Directors' Charge.
- [29] I am satisfied that the Directors' Charge is necessary to protect the Directors and Officers in the first 10 days of the CCAA Proceeding.

E. Foreign Recognition

- [30] The Initial Order contemplates BioSteel Canada being authorized to act as the foreign representative and 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 the Bankruptcy Code.
- [31] Pursuant to section 56 of the CCAA, the Court has jurisdiction to make an order that allows the Applicant to act as a representative in respect of any proceeding under the CCAA for the purpose of having them recognized in a jurisdiction outside of Canada.
- [32] The Applicant has assets and contractual relationships with parties located in the United States. Accordingly, authorizing BioSteel Canada to seek recognition of the orders of this Court in the United States is appropriate and in the best interests of stakeholders.

Disposition

[33] For these reasons, I grant the requested Initial Order.

This is Exhibit "C" referred to in the Affidavit of Sarah S. Eskandari sworn by videoconference on September 15, 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



BY E-MAIL

September 13, 2023

Sarah S. Eskandari
General Counsel
BioSteel Sports Nutrition Inc.
sarah.eskandari@biosteel.com

Christelle Gedeon
Chief Legal Officer
Canopy Growth Corporation
christelle.gedeon@canopygrowth.com

Re: Asset Purchase Agreement dated November 8, 2022 between BioSteel Manufacturing LLC, Canopy Growth Corporation and Flow Beverages Inc.

Dear Sarah and Christelle:

We refer to the Asset Purchase Agreement dated November 8, 2022 (the **APA**) among BioSteel Manufacturing LLC (**BioSteel LLC**), Canopy Growth Corporation (**Canopy**) and Flow Beverages Inc. (**Flow U.S.**), whereby BioSteel LLC (in such capacity, the **Purchaser**) purchased certain assets (the **Subject Assets**) from Flow U.S.(in such capacity, the **Vendor**) relating to the Verona, Virginia Facility. Capitalized terms not otherwise defined herein will have the meaning ascribed to them in the APA.

Section 2.7 of the APA provides that at Closing, the sum of U.S.\$1,300,000 (the **Indemnity Holdback**) shall be retained by the Purchaser from the Cash Purchase Price to secure the indemnification obligations of the Vendor under the APA. The Purchaser was obligated to hold the Indemnity Holdback funds from the Closing Date until October 30, 2023 (the **Indemnity Holdback Period**). Upon expiration of the Indemnity Holdback Period, the Purchaser shall pay to the Vendor the Indemnity Holdback in cash, less (a) any amounts paid or required to be paid to the Purchaser from the Indemnity Holdback in accordance with the APA, and (b) any amounts with respect to unresolved claims for indemnification in accordance with ARTICLE 5 of the APA until such time as those claims are resolved by an arbitrator or by order of a court of competent jurisdiction, in which case such amount of the Indemnity Holdback shall be paid and released in accordance with the resolution of such claim for indemnification.

Flow has been advised by management of the Purchaser that the Purchaser's employees at the Facility have been instructed to not attend the Facility tomorrow (September 14, 2023) and that production at the Facility has been cancelled until further notice. These developments, combined with the decision from BioSteel Sports Nutrition Inc. (**BioSteel Inc.**) to put all purchase orders for production at Flow Beverage Corp.'s Aurora, Ontario facility on hold effective September 4, 2023, raise significant concerns about the financial viability of BioSteel LLC and the funding of its day-to-day obligations to vendors, employees and others contractual parties.

In that regard, Flow as Vendor hereby puts Biosteel Manufacturing LLC and its directors and officers on formal written notice that the Indemnity Holdback funds being held by BioSteel Manufacturing Inc. in accordance with its obligations under Section 2.7 of the APA are the property of Flow Beverages Inc. as Purchaser, and are held in trust by BioSteel LLC as trustee for Flow Beverages Inc., and in that regard the Directors and Officers of BioSteel LLC have personal fiduciary obligations to Flow Beverages Inc. to ensure that BioSteel LLC takes and necessary steps to segregate, preserve and protect Flow US's Indemnity Holdback property separate from Biosteel LLC's property, and to prevent the Indemnity Holdback funds from being comingled, dissipated, expended, encumbered or seized by BioSteel LLC's creditors. Any failure of BioSteel LLC or its Directors and Officers to comply with such fiduciary obligations owing to Flow Beverages Inc. will result in immediate and direct personal liability for all individuals involved in such breach of trust and/or defalcation of funds while acting in a fiduciary capacity.

Flow Beverages Inc. expects its full U.S.\$1,300,000 Indemnity Holdback property to be released to it on and no later than October 30, 2023, in accordance with the terms of the APA.

Further, we remind you that section 6.4 of the APA provides for a right of first offer in favor of Flow US. in respect of the Subject Assets (the **ROFO**). The ROFO applies in circumstances where BioSteel LLC and Canopy decide to sell the Subject Assets in a transaction, or series of transactions, with an aggregate fair market value of more than U.S.\$1,000,000 and where such sale does not constitute a sale of all or substantially all of the assets of BioSteel LLC.

In our recent discussions with Greenhill & Co. Canada Ltd. (**Greenhill**), BioSteel Inc.'s investment banker running BioSteel Inc.'s strategic process, Messrs. Nessim and Massod both advised Flow Beverage Corp.'s representatives that they were unaware of the existence of the ROFO on the Subject Assets nor of its terms, and accordingly they had not been advising prospective bidders of the ROFO's existence during their due diligence investigations. We find this non-disclosure of such an important property interest in the Subject Assets by BioSteel from Greenhill as BioSteel's investments banker, whether inadvertent or intentional, to be very concerning and calls into question both the integrity of the BioSteel Inc.'s strategic process and the good faith of BioSteel Inc. and its Directors and Officers in pursuing such a process without disclosing a highly material obligation such as the ROFO to prospective bidders.

In that regard, we require that BioSteel and Greenhill to provide immediate and conspicuous disclosure in the data room (and directly to any bidders to date who have accessed the data room) of the existence and terms of the ROFO, so that the market is not further misled during the remainder of the BioSteel Inc.'s strategic process.

FLOW BEVERAGE CORP.

DocuSigned by:
Mathieu Socqué
59194F1FA2E348D...

Mathieu Socqué
General Counsel and Corporate Secretary

This is Exhibit "D" referred to in the Affidavit of Sarah S. Eskandari sworn by videoconference on September 15, 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



September 15, 2023

By Email

Flow Beverage Corp.
155 Industrial Pkwy S., Units 7-10
Aurora, Ontario L4G 3V5

skukulowicz@cassels.com
tel: +1 416-860-6463

Attention: Mathieu Socqué
mathieu.socque@flowhydration.com

Dear Mr. Socqué:

Re: Asset Purchase Agreement dated November 8, 2022 between BioSteel Manufacturing LLC, Canopy Growth Corporation and Flow Beverages Inc.

And Re: In the Matter of a Plan of Compromise or Arrangement of BioSteel Sports Nutrition Inc.; Court File No. CV-23-00706033-00CL

We are counsel to BioSteel Sports Nutrition Inc. (“**BioSteel Canada**”), BioSteel Manufacturing LLC and BioSteel Sports Nutrition USA, LLC (collectively, “**BioSteel US**” and together with BioSteel Canada, “**BioSteel**”). We are in receipt of your letter dated September 13, 2023. Capitalized terms used in this letter and not otherwise defined have the meanings set out in your letter.

Yesterday, BioSteel Canada obtained an initial order (as amended and/or restated from time to time, the “**Initial Order**”) under the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the “**CCAA**”) from the Ontario Superior Court of Justice (Commercial List) (the “**Court**”).

Pursuant to the Initial Order, KSV Restructuring Inc. was appointed as Monitor (in such capacity, the “**Monitor**”) in BioSteel Canada’s CCAA proceeding (the “**CCAA Proceeding**”). The Initial Order and additional information in respect of the CCAA Proceeding are available on the Monitor’s website at the following link: <https://www.ksvadvisory.com/experience/case/biosteel>. For ease of reference, a copy of the Initial Order is also attached as Schedule “A”.

Among other things, the Initial Order granted a stay of proceedings (the “**Stay of Proceedings**”) in favour of BioSteel Canada and BioSteel US, which provides

- pursuant to paragraph 12, all rights and remedies against or in respect of any of the entities comprising BioSteel are stayed and suspended except with the written consent of BioSteel Canada and the Monitor or leave of the Court; and
- pursuant to paragraph 16, no proceeding may be commenced or continued against any of the former, current or future directors or officers of any of the entities comprising BioSteel with respect to any claim against the directors and officers that arose before the date of the Initial Order and that relates to any obligations of any of the entities comprising BioSteel whereby the directors and officers are alleged under any law to be liable in their capacity as the directors and officers for the payment or performance of such obligations.

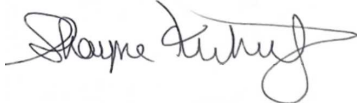
You have threatened to take legal action against one or more of the entities comprising BioSteel and/or their respective directors and officers. Any such action taken in that regard would be in direct violation of the Stay of Proceedings and the Initial Order.

As it relates to your demand for payment of the Indemnity Holdback, without debating the merits of your claim and with full reservation of BioSteel's rights on this issue, as your letter acknowledges such payment obligation, if due, would only be payable *after* October 30, 2023.

Finally, with respect to your allegations regarding the ROFO, as we have advised you in writing on several prior occasions, the ROFO has not been engaged by the sale process conducted by Greenhill to date and will not be engaged in the sale and investment solicitation process (the "**SISP**") that BioSteel Canada will be seeking approval of from the Court at the comeback hearing scheduled for September 21, 2023 at 12:00 pm ET. A copy of the SISP will be provided to you once it becomes publicly available.

Yours truly,

Cassels Brock & Blackwell LLP



Shayne Kukulowicz

cc: Ryan Jacobs and Natalie Levine, Cassels Brock & Blackwell LLP, counsel for BioSteel
Client
Noah Goldstein and Ross Graham, KSV Restructuring Inc., in its capacity as Monitor
Sean Zweig and Jesse Mighton, Bennett Jones LLP, counsel to the Monitor
Stuart Brotman, Fasken Matrineau DuMoulin LLP, counsel to Canopy
Edmond Lamek, DLA Piper (Canada) LLP, counsel to Flow

SCHEDULE "A"

Initial Order



Court File No. CV-23-706033-00CL

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

THE HONOURABLE) THURSDAY, THE 14th
JUSTICE CAVANAGH) DAY OF SEPTEMBER, 2023

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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR
ARRANGEMENT OF BIOSTEEL SPORTS NUTRITION INC.

(the "**Applicant**")

INITIAL ORDER

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

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

SERVICE AND DEFINITIONS

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

2. **THIS COURT ORDERS** that capitalized terms used in this Order and not otherwise defined herein shall have the meanings ascribed to them in the Eskandari Affidavit.

APPLICATION

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

POSSESSION OF PROPERTY AND OPERATIONS

4. **THIS COURT ORDERS** that the Applicant shall remain in possession and control of its current and future assets, licences, undertakings and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof (the “**Property**”). Subject to further Order of this Court, the Applicant shall continue to carry on business in a manner consistent with the preservation of its business (the “**Business**”) and the Property. The Applicant is authorized and empowered to continue to retain and employ or receive the services of its employees (or employees of affiliates providing services on an intercompany basis), consultants, contractors, agents, experts, accountants, counsel and such other persons (collectively “**Assistants**”) currently retained or employed by it, with liberty to retain such further Assistants as it deems reasonably necessary or desirable in the ordinary course of business or for the carrying out of the terms of this Order.

5. **THIS COURT ORDERS** that the Applicant shall be entitled to continue to utilize the central cash management system currently in place as described in the Eskandari Affidavit or, with the prior written consent of the Monitor, replace it with another substantially similar central cash management system (the “**Cash Management System**”), and that any present or future bank providing the Cash Management System shall: (i) not be under any obligation whatsoever to inquire into the propriety, validity or legality of any transfer, payment, collection or other action taken under the Cash Management System, or as to the use or application by the Applicant of funds transferred, paid, collected or otherwise dealt with in the Cash Management System; (ii) be entitled to provide the Cash Management System without any liability in respect thereof to any Person (as hereinafter defined) other than the Applicant, pursuant to the terms of the documentation applicable to the Cash Management System; and (iii) be, in its capacity as provider of the Cash Management System, an unaffected creditor under a plan (if any) with regard to any claims or expenses it may suffer or incur in connection with the provision of the Cash Management System.

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

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

7. **THIS COURT ORDERS** that, except as otherwise provided to the contrary herein, the Applicant shall be entitled but not required to pay all reasonable expenses incurred by the BioSteel Entities in carrying on the Business in the ordinary course after the date of this Order, and in carrying out the provisions of this Order, which expenses shall include, without limitation:

- (a) all expenses and capital expenditures reasonably necessary for the preservation of the Property or the Business including, without limitation, payments on account of insurance (including directors' and officers' insurance), maintenance and security services; and
- (b) payment for goods or services actually supplied to the BioSteel Entities, provided, however, that payment for goods or services actually supplied to the US BioSteel

Entities may only be made with consent of the Monitor, on or following the date of this Order.

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

- (a) any statutory deemed trust amounts in favour of the Crown in right of Canada or of any Province thereof or any other taxation authority which are required to be deducted from employees' wages, including, without limitation, amounts in respect of: (i) employment insurance; (ii) Canada Pension Plan; (iii) Quebec Pension Plan; and (iv) income taxes;
- (b) all goods and services or other applicable sales taxes (collectively, "**Sales Taxes**") required to be remitted by the Applicant in connection with the sale of goods and services by the Applicant, but only where such Sales Taxes are accrued or collected after the date of this Order, or where such Sales Taxes were accrued or collected prior to the date of this Order but not required to be remitted until on or after the date of this Order; and
- (c) any amount payable to the Crown in right of Canada or of any Province thereof or any political subdivision thereof or any other taxation authority in respect of municipal realty, municipal business or other taxes, assessments or levies of any nature or kind which are entitled at law to be paid in priority to claims of secured creditors and which are attributable to or in respect of the carrying on of the Business by the Applicant, whether in Canada, the United States, or another jurisdiction.

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

the amounts set out in the applicable lease. On the date of the first of such payments, any Rent relating to the period commencing from and including the date of this Order shall also be paid.

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

NO PROCEEDINGS AGAINST THE BIOSTEEL ENTITIES, THEIR BUSINESS OR THEIR PROPERTY

11. **THIS COURT ORDERS** that until and including September 24, 2023, or such later date as this Court may order (the “**Stay Period**”), no proceeding or enforcement process in any court or tribunal (each, a “**Proceeding**”, and collectively, “**Proceedings**”) shall be commenced or continued against or in respect of the BioSteel Entities or the Monitor, or affecting the Business or the Property or the business or property of BioSteel US or BioSteel Manufacturing, except with the written consent of the Applicant and the Monitor, or with leave of this Court, and any and all Proceedings currently under way against or in respect of any of the BioSteel Entities or affecting the Business or the Property, or the business or property of BioSteel US or BioSteel Manufacturing, are hereby stayed and suspended pending further Order of this Court or the prior written consent of the Applicant and the Monitor.

NO EXERCISE OF RIGHTS OR REMEDIES

12. **THIS COURT ORDERS** that during the Stay Period, all rights and remedies of any individual, firm, corporation, organization, governmental unit, body or agency, or any other entities (all of the foregoing, collectively being “**Persons**” and each being a “**Person**”) against or in respect of any of the BioSteel Entities or the Monitor, or their respective employees and representatives acting in such capacities, or affecting the Business or the Property or the business or property of BioSteel US or BioSteel Manufacturing, are hereby stayed and suspended except with the written consent of the Applicant and the Monitor, or leave of this Court, provided that nothing in this Order shall: (i) empower any of the BioSteel Entities to carry on any business which it is not lawfully entitled to carry on; (ii) affect such investigations, actions, suits or proceedings by a regulatory body as are permitted by Section 11.1 of the CCAA; (iii) prevent the filing of any registration to preserve or perfect a security interest; or (iv) prevent the registration of a claim for lien.

NO INTERFERENCE WITH RIGHTS

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

CONTINUATION OF SERVICES

14. **THIS COURT ORDERS** that during the Stay Period, all Persons having oral or written agreements with any of the BioSteel Entities or statutory or regulatory mandates for the supply of goods and/or services, including without limitation all computer software, communication and other data services, centralized banking services, payroll and benefit services, accounting services, insurance, transportation services, storage and warehousing, utility, licensing, or other services, to the Business or any of the BioSteel Entities, are hereby restrained until further Order of this Court from discontinuing, altering, interfering with, suspending or terminating the supply of such goods or services as may be required by any of the BioSteel Entities or exercising any other remedy provided under the agreements or arrangements, and that each of the BioSteel Entities shall be entitled to the continued use of its current premises, telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the applicable BioSteel Entities in accordance with the normal payment practices of the applicable BioSteel Entities or such other practices as may be agreed upon by the supplier or service provider and each of the Applicant and the Monitor, or as may be ordered by this Court.

NON-DEROGATION OF RIGHTS

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

PROCEEDINGS AGAINST DIRECTORS AND OFFICERS

16. **THIS COURT ORDERS** that during the Stay Period, and except as permitted by Subsection 11.03(2) of the CCAA, no Proceeding may be commenced or continued against any of the former, current or future directors or officers of any of the BioSteel Entities (other than a director or officer who is or was at any point a shareholder or optionholder of the Applicant) (collectively, the “**Directors and Officers**”) with respect to any claim against the Directors and Officers that arose before the date hereof and that relates to any obligations of any of the BioSteel Entities whereby the Directors and Officers are alleged under any law to be liable in their capacity as the Directors and Officers for the payment or performance of such obligations, until a compromise or arrangement in respect of the Applicant, if one is filed, is sanctioned by this Court or is refused by the creditors of the Applicant or this Court.

DIRECTORS’ AND OFFICERS’ INDEMNIFICATION AND CHARGE

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

18. **THIS COURT ORDERS** that the Directors and Officers shall be entitled to the benefit of and are hereby granted a charge (the “**Directors' Charge**”) on the Property, which charge shall not exceed an aggregate amount of US\$1,279,000, unless permitted by further Order of this Court, as security for the D&O Indemnity provided in paragraph 17 of this Order. The Directors' Charge shall have the priority set out in paragraphs 29 and 31 hereof.

19. **THIS COURT ORDERS** that, notwithstanding any language in any applicable insurance policy to the contrary: (i) no insurer shall be entitled to be subrogated to or claim the benefit of the Directors' Charge; and (ii) the Directors and Officers shall only be entitled to the benefit of the Directors' Charge to the extent that they do not have coverage under any directors' and officers' insurance policy, or to the extent that such coverage is insufficient to pay amounts indemnified in accordance with paragraph 17 of this Order.

APPOINTMENT OF MONITOR

20. **THIS COURT ORDERS** that KSV is hereby appointed pursuant to the CCAA as the Monitor, an officer of this Court, to monitor the business and financial affairs of the Applicant with

the powers and obligations set out in the CCAA or set forth herein and that the Applicant and its shareholders, officers, directors, and Assistants shall advise the Monitor of all material steps taken by the Applicant pursuant to this Order, and shall co-operate fully with the Monitor in the exercise of its powers and discharge of its obligations and provide the Monitor with the assistance that is necessary to enable the Monitor to adequately carry out the Monitor's functions.

21. **THIS COURT ORDERS** that the Monitor, in addition to its prescribed rights and obligations under the CCAA, is hereby directed and empowered to:

- (a) monitor the Applicant's receipts and disbursements;
- (b) report to this Court at such times and intervals as the Monitor may deem appropriate with respect to matters relating to the Property, the Business, and such other matters as may be relevant to the proceeding herein;
- (c) assist the Applicant in the preparation of its cash flow statements;
- (d) monitor all payments, obligations and transfers as between the Applicant and its affiliates;
- (e) have full and complete access to the Property, including the premises, books, records, data, including data in electronic form, and other financial documents of the Applicant, to the extent that is necessary to adequately assess the Applicant's business and financial affairs or to perform its duties arising under this Order;
- (f) be at liberty to engage independent legal counsel or such other persons as the Monitor deems necessary or advisable respecting the exercise of its powers and performance of its obligations under this Order;
- (g) assist the Foreign Representative (as defined below) and its legal counsel as may be required to give effect to the terms of this Order; and
- (h) perform such other duties as are required by this Order or by this Court from time to time.

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

23. **THIS COURT ORDERS** that nothing herein contained shall require the Monitor to occupy or to take control, care, charge, possession or management (separately and/or collectively, “**Possession**”) of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the *Ontario Environmental Protection Act*, the *Ontario Water Resources Act*, or the *Ontario Occupational Health and Safety Act* and regulations thereunder (the “**Environmental Legislation**”), provided however that nothing herein shall exempt the Monitor from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Monitor shall not, as a result of this Order or anything done in pursuance of the Monitor's duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

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

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

26. **THIS COURT ORDERS** that the Monitor, legal counsel to the Monitor, legal counsel to the Applicant and the Special Committee shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges, whether incurred prior to, on or subsequent to the date of this Order, by the Applicant as part of the costs of this proceeding. The Applicant is hereby

authorized and directed to pay the accounts of the Monitor, legal counsel for the Monitor and legal counsel for the Applicant on a bi-weekly basis.

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

ADMINISTRATION CHARGE

28. **THIS COURT ORDERS** that the Monitor, legal counsel to the Monitor, legal counsel to the Applicant and the Special Committee, and Greenhill & Co. Canada Ltd. (the “**Financial Advisor**”) in respect of its Monthly Advisory Fee (as defined by the Greenhill Engagement Letter) shall be entitled to the benefit of and are hereby granted a charge (the “**Administration Charge**”) on the Property, which charge shall not exceed an aggregate amount of US\$750,000 unless permitted by further Order of this Court, as security for their professional fees and disbursements incurred at the standard rates and charges of the Monitor and such counsel or advisors, both before and after the making of this Order in respect of this proceeding. The Administration Charge shall have the priority set out in paragraphs 29 and 31 hereof.

VALIDITY AND PRIORITY OF CHARGES CREATED BY THIS ORDER

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

First – Administration Charge (to the maximum amount of US\$750,000); and

Second – Directors’ Charge (to the maximum amount of US\$1,279,000).

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

31. **THIS COURT ORDERS** that each of the Charges (all as constituted and defined herein) shall constitute a charge on the Property and such Charges shall rank in priority to all other security interests, trusts, liens, charges and encumbrances, and claims of secured creditors, statutory or otherwise (collectively, “**Encumbrances**”) in favour of any Person notwithstanding the order of perfection or attachment; provided that the Charges shall rank behind Encumbrances in favour of any Person that has not been served with notice of the application for this Order. The

Applicant and the beneficiaries of the Charges shall be entitled to seek priority of the Charges ahead of any Encumbrances over which the Charges may not have obtained priority pursuant to this Order on a subsequent motion including, without limitation, on the Comeback Hearing (as defined below), on notice to those Persons likely to be affected thereby.

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

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

- (a) the creation of the Charges shall not create or be deemed to constitute a breach by the Applicant of any Agreement to which it is a party;
- (b) none of the Chargees shall have any liability to any Person whatsoever as a result of any breach of any Agreement caused by or resulting from the creation of the Charges; and
- (c) the payments made by the Applicant pursuant to this Order, and the granting of the Charges, do not and **will** not constitute preferences, fraudulent conveyances, transfers at undervalue, oppressive conduct, or other challengeable or voidable transactions under any applicable law.

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

SERVICE AND NOTICE

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

36. **THIS COURT ORDERS** that the E-Service Guide of the Commercial List (the “**Guide**”) is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Guide (which can be found on the Commercial List website at <https://www.ontariocourts.ca/scj/practice/practice-directions/toronto/eservice-commercial/>) shall be valid and effective service. Subject to Rule 17.05, this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194, as amended (the “**Rules of Civil Procedure**”). Subject to Rule 3.01(d) of the Rules of Civil Procedure and paragraph 13 of the Guide, service of documents in accordance with the Guide will be effective on transmission. This Court further orders that a Case Website shall be established in accordance with the Guide with the following URL: www.ksvadvisory.com/experience/case/biosteel.

37. **THIS COURT ORDERS** that if the service or distribution of documents in accordance with the Guide or the CCAA and the regulations thereunder is not practicable, the Applicant, the Monitor and each of their respective counsel and agents are at liberty to serve or distribute this Order, any other materials and orders in this proceeding, any notices or other correspondence, by forwarding copies thereof by prepaid ordinary mail, courier, personal delivery, facsimile transmission or electronic message to the Applicant's creditors or other interested parties at their respective addresses (including e-mail addresses) as last shown in the books and records of the Applicant and that any such service or distribution shall be deemed to be received on the earlier of (i) the date of forwarding thereof, if sent by electronic message on or prior to 5:00 p.m. Eastern Time (or on the next business day following the date of forwarding thereof if sent on a non-

business day); (ii) the next business day following the date of forwarding thereof, if sent by courier, personal delivery, facsimile transmission or electronic message sent after 5:00 p.m. Eastern Time; or (iii) on the third business day following the date of forwarding thereof, if sent by ordinary mail.

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

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

COMEBACK HEARING

40. **THIS COURT ORDERS** that the comeback motion in this proceeding shall be heard on September 21, 2023 (the "**Comeback Hearing**").

FOREIGN PROCEEDINGS

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

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

GENERAL

43. **THIS COURT ORDERS** that any interested party (including the Applicant) may apply to this Court to vary or amend this Order on not less than five (5) calendar days' notice to the Service List and any other party or parties likely to be affected by the Order sought; provided, however, that the Chargees shall be entitled to rely on this Order as granted and on the Charges and priorities set forth in paragraphs 29 and 31 hereof with respect to any fees, expenses and disbursements incurred, as applicable, until the date this Order may be amended, varied or stayed.

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

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

46. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States, to give effect to this Order and to assist the BioSteel Entities, the Monitor and their respective agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the BioSteel Entities and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Monitor in any foreign proceeding, or to assist the BioSteel Entities and the Monitor and their respective agents in carrying out the terms of this Order.

47. **THIS COURT ORDERS** that each of the Applicant and the Monitor be at liberty and are hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and that the Monitor is authorized and empowered to act as a representative in respect of the within proceeding for the purpose of having this proceeding recognized in a jurisdiction outside Canada.

48. **THIS COURT ORDERS** that this Order and all of its provisions are effective as of 8:00 a.m. (Eastern Time) on the date of this Order without the need for entry or filing.



Digitally signed by
Peter Cavanagh

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF BIOSTEEL SPORTS NUTRITION INC.

Court File No. CV-23-706033-00CL

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

PROCEEDING COMMENCED AT
TORONTO

INITIAL ORDER

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Lawyers for the Applicant

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
(SWORN SEPTEMBER 15, 2023)**

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TAB 4

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

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

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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR
ARRANGEMENT OF BIOSTEEL SPORTS NUTRITION INC.

(the "**Applicant**")

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

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

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

SERVICE AND DEFINITIONS

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

APPLICATION

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

PLAN OF ARRANGEMENT

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

POSSESSION OF PROPERTY AND OPERATIONS

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

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

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

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

8. **THIS COURT ORDERS** that, except as otherwise provided to the contrary herein, the Applicant shall be entitled but not required to pay all reasonable expenses incurred by the BioSteel Entities in carrying on the Business in the ordinary course after the date of the Initial Order, and in carrying out the provisions of this Order, which expenses shall include, without limitation:

- (a) all expenses and capital expenditures reasonably necessary for the preservation of the Property or the Business including, without limitation, payments on account of insurance (including directors' and officers' insurance), maintenance and security services; and
- (b) payment for goods or services actually supplied to the BioSteel Entities, provided, however, that payment for goods or services actually supplied to the US BioSteel Entities may only be made with consent of the Monitor, on or following the date of the Initial Order.

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

- (a) any statutory deemed trust amounts in favour of the Crown in right of Canada or of any Province thereof or any other taxation authority which are required to be deducted from employees' wages, including, without limitation, amounts in respect of: (i) employment insurance; (ii) Canada Pension Plan; (iii) Quebec Pension Plan; and (iv) income taxes;
- (b) all goods and services or other applicable sales taxes (collectively, "**Sales Taxes**") required to be remitted by the Applicant in connection with the sale of goods and services by the Applicant, but only where such Sales Taxes are accrued or collected after the date of the Initial Order, or where such Sales Taxes were accrued or collected prior to the date of the Initial Order but not required to be remitted until on or after the date of the Initial Order; and
- (c) any amount payable to the Crown in right of Canada or of any Province thereof or any political subdivision thereof or any other taxation authority in respect of municipal realty, municipal business or other taxes, assessments or levies of any nature or kind which are entitled at law to be paid in priority to claims of secured creditors and which are attributable to or in respect of the carrying on of the Business by the Applicant, whether in Canada, the United States, or another jurisdiction.

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

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

RESTRUCTURING

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

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

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

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

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

14. **THIS COURT ORDERS** that if a notice of disclaimer is delivered pursuant to Section 32 of the CCAA, then (a) during the notice period prior to the effective time of the disclaimer, the landlord may show the affected leased premises to prospective tenants during normal business hours, on giving the Applicant and the Monitor 24 hours' prior written notice, and (b) at the effective time of the disclaimer, the relevant landlord shall be entitled to take possession of any such leased premises without waiver of or prejudice to any claims or rights such landlord may have against the Applicant in respect of such lease or leased premises, provided that nothing herein shall relieve such landlord of its obligation to mitigate any damages claimed in connection therewith.

NO PROCEEDINGS AGAINST THE BIOSTEEL ENTITIES, THEIR BUSINESS OR THEIR PROPERTY

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

NO EXERCISE OF RIGHTS OR REMEDIES

16. **THIS COURT ORDERS** that during the Stay Period, all rights and remedies of any individual, firm, corporation, organization, governmental unit, body or agency, or any other entities (all of the foregoing, collectively being “**Persons**” and each being a “**Person**”) against or in respect of any of the BioSteel Entities or the Monitor, or their respective employees and representatives acting in such capacities, or affecting the Business or the Property or the business or property of BioSteel US or BioSteel Manufacturing, are hereby stayed and suspended except with the written consent of the Applicant and the Monitor, or leave of this Court, provided that nothing in this Order shall: (i) empower any of the BioSteel Entities to carry on any business which it is not lawfully entitled to carry on; (ii) affect such investigations, actions, suits or proceedings by a regulatory body as are permitted by Section 11.1 of the CCAA; (iii) prevent the filing of any registration to preserve or perfect a security interest; or (iv) prevent the registration of a claim for lien.

NO INTERFERENCE WITH RIGHTS

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

NO PRE-FILING VS POST FILING SET OFF

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

CONTINUATION OF SERVICES

19. **THIS COURT ORDERS** that during the Stay Period, all Persons having oral or written agreements with any of the BioSteel Entities or statutory or regulatory mandates for the supply of goods and/or services, including without limitation all computer software, communication and

other data services, centralized banking services, payroll and benefit services, accounting services, insurance, transportation services, storage and warehousing, utility, licensing, or other services, to the Business or any of the BioSteel Entities, are hereby restrained until further Order of this Court from discontinuing, altering, interfering with, suspending or terminating the supply of such goods or services as may be required by any of the BioSteel Entities or exercising any other remedy provided under the agreements or arrangements, and that each of the BioSteel Entities shall be entitled to the continued use of its current premises, telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of the Initial Order are paid by the applicable BioSteel Entities in accordance with the normal payment practices of the applicable BioSteel Entities or such other practices as may be agreed upon by the supplier or service provider and each of the Applicant and the Monitor, or as may be ordered by this Court.

NON-DEROGATION OF RIGHTS

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

PROCEEDINGS AGAINST DIRECTORS AND OFFICERS

21. **THIS COURT ORDERS** that during the Stay Period, and except as permitted by Subsection 11.03(2) of the CCAA, no Proceeding may be commenced or continued against any of the former, current or future directors or officers of any of the BioSteel Entities (other than a director or officer who is or was at any point a shareholder or optionholder of the Applicant) (collectively, the “**Directors and Officers**”) with respect to any claim against the Directors and Officers that arose before the date of the Initial Order and that relates to any obligations of any of the BioSteel Entities whereby the Directors and Officers are alleged under any law to be liable in their capacity as the Directors and Officers for the payment or performance of such obligations, until a compromise or arrangement in respect of the Applicant, if one is filed, is sanctioned by this Court or is refused by the creditors of the Applicant or this Court.

DIRECTORS' AND OFFICERS' INDEMNIFICATION AND CHARGE

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

23. **THIS COURT ORDERS** that the Directors and Officers shall be entitled to the benefit of and are hereby granted a charge (the "**Directors' Charge**") on the Property, which charge shall not exceed an aggregate amount of US\$2,198,000, unless permitted by further Order of this Court, as security for the D&O Indemnity provided in paragraph 22 of this Order. The Directors' Charge shall have the priority set out in paragraphs 37 and 39 hereof.

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

APPOINTMENT OF MONITOR

25. **THIS COURT ORDERS** that KSV is hereby appointed pursuant to the CCAA as the Monitor, an officer of this Court, to monitor the business and financial affairs of the Applicant with the powers and obligations set out in the CCAA or set forth herein and that the Applicant and its shareholders, officers, directors, and Assistants shall advise the Monitor of all material steps taken by the Applicant pursuant to this Order, and shall co-operate fully with the Monitor in the exercise of its powers and discharge of its obligations and provide the Monitor with the assistance that is necessary to enable the Monitor to adequately carry out the Monitor's functions.

26. **THIS COURT ORDERS** that the Monitor, in addition to its prescribed rights and obligations under the CCAA, is hereby directed and empowered to:

- (a) monitor the Applicant's receipts and disbursements;

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

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

28. **THIS COURT ORDERS** that nothing herein contained shall require the Monitor to occupy or to take control, care, charge, possession or management (separately and/or collectively, "**Possession**") of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection,

conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the *Ontario Environmental Protection Act*, the *Ontario Water Resources Act*, or the *Ontario Occupational Health and Safety Act* and regulations thereunder (the “**Environmental Legislation**”), provided however that nothing herein shall exempt the Monitor from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Monitor shall not, as a result of this Order or anything done in pursuance of the Monitor's duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

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

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

31. **THIS COURT ORDERS** that the Monitor, legal counsel to the Monitor, legal counsel to the Applicant and the Special Committee shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges, whether incurred prior to, on or subsequent to the date of the Initial Order, by the Applicant as part of the costs of this proceeding. The Applicant is hereby authorized and directed to pay the accounts of the Monitor, legal counsel for the Monitor and legal counsel for the Applicant on a bi-weekly basis.

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

ADMINISTRATION CHARGE

33. **THIS COURT ORDERS** that the Monitor, legal counsel to the Monitor, legal counsel to the Applicant and the Special Committee, and Greenhill & Co. Canada Ltd. (the “**Financial Advisor**”) in respect of its Monthly Advisory Fee (as defined by the Greenhill Engagement Letter) shall be entitled to the benefit of and are hereby granted a charge (the “**Administration Charge**”) on the Property, which charge shall not exceed an aggregate amount of US\$1,000,000 unless permitted by further Order of this Court, as security for their professional fees and disbursements incurred at the standard rates and charges of the Monitor and such counsel or advisors, both before and after the making of the Initial Order in respect of this proceeding. The Administration Charge shall have the priority set out in paragraphs 37 and 39 hereof.

ENGAGEMENT OF THE FINANCIAL ADVISOR

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

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

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

VALIDITY AND PRIORITY OF CHARGES CREATED BY THIS ORDER

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

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

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

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

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

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

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

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

- (a) the creation of the Charges shall not create or be deemed to constitute a breach by the Applicant of any Agreement to which it is a party;

- (b) none of the Chargees shall have any liability to any Person whatsoever as a result of any breach of any Agreement caused by or resulting from the creation of the Charges; and
- (c) the payments made by the Applicant pursuant to this Order, and the granting of the Charges, do not and will not constitute preferences, fraudulent conveyances, transfers at undervalue, oppressive conduct, or other challengeable or voidable transactions under any applicable law.

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

SERVICE AND NOTICE

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

44. **THIS COURT ORDERS** that the E-Service Guide of the Commercial List (the “**Guide**”) is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Guide (which can be found on the Commercial List website at <https://www.ontariocourts.ca/scj/practice/practice-directions/toronto/eservice-commercial/>) shall be valid and effective service. Subject to Rule 17.05, this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the *Rules of Civil Procedure*, R.R.O. 1990. Reg. 194, as amended (the “**Rules of Civil Procedure**”). Subject to Rule 3.01(d) of the Rules of Civil Procedure and paragraph 13 of the Guide, service of documents in accordance with the Guide will be effective on transmission. This Court further orders that a Case Website shall be established in accordance with the Guide with the following URL: www.ksvadvisory.com/experience/case/biosteel.

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

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

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

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

FOREIGN PROCEEDINGS

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

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

GENERAL

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

51. **THIS COURT ORDERS** that, notwithstanding paragraph 50 of this Order, the Applicant or the Monitor may from time to time apply to this Court to amend, vary or supplement this Order or for advice and directions in the discharge of its powers and duties hereunder or in the interpretation of this Order.

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

53. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States, to give effect to this Order and to assist the BioSteel Entities, the Monitor and their respective agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the BioSteel Entities and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Monitor in any foreign proceeding, or to assist the BioSteel Entities and the Monitor and their respective agents in carrying out the terms of this Order.

54. **THIS COURT ORDERS** that each of the Applicant and the Monitor be at liberty and are hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the

terms of this Order, and that the Monitor is authorized and empowered to act as a representative in respect of the within proceeding for the purpose of having this proceeding recognized in a jurisdiction outside Canada.

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

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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF BIOSTEEL SPORTS NUTRITION
INC.

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

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

PROCEEDING COMMENCED AT
TORONTO

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

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Lawyers for the Applicant

TAB 5

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

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

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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR
ARRANGEMENT OF BIOSTEEL SPORTS NUTRITION INC.

(the "**Applicant**")

SISP APPROVAL ORDER

THIS MOTION, made by the Applicant pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended, for an order, *inter alia*, approving the Sale and Investment Solicitation Process in respect of the assets and/or business of the Applicant and its affiliates, BioSteel Sports Nutrition USA LLC and BioSteel Manufacturing LLC (collectively, together with the Applicant, the "**BioSteel Entities**"), in the form attached hereto as **Schedule "A"** (the "**SISP**") and certain related relief, was heard this day by judicial videoconference via Zoom in Toronto, Ontario.

ON READING the affidavit of Sarah Eskandari sworn September 13, 2023 and the Exhibits thereto (the "**Initial Eskandari Affidavit**"), the pre-filing report of KSV Restructuring Inc. ("**KSV**") as the proposed Monitor dated September 13, 2023, the affidavit of Sarah Eskandari sworn September 15, 2023 and the Exhibits thereto (the "**Second Eskandari Affidavit**") and the first report of KSV as the Court-appointed monitor of the Applicant (in such capacity, the "**Monitor**") dated September 14, 2023, and on hearing the submissions of counsel for the Applicant, the Monitor, and the other parties listed on the counsel slip, no one appearing for any other party although duly served as appears from the affidavit of service of Stephanie Fernandes sworn September 14, 2023,

SERVICE AND DEFINITIONS

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

SALE AND INVESTMENT SOLICITATION PROCESS

3. **THIS COURT ORDERS** that the SISP is hereby approved and the Applicant is hereby authorized and directed to implement the SISP pursuant to the terms thereof. The Applicant, the Monitor and the Financial Advisor are hereby authorized and directed to perform their respective obligations and to do all things reasonably necessary to perform their obligations thereunder, subject to prior approval of the Court being obtained before completion of any transaction(s) under the SISP.
4. **THIS COURT ORDERS** that the Applicant, the Monitor and the Financial Advisor and their respective affiliates, partners, directors, officers, employees, legal advisors, representatives, agents and controlling persons shall have no liability with respect to any and all losses, claims, damages or liabilities of any nature or kind to any person in connection with or as a result of the SISP, except to the extent of losses, claims, damages or liabilities that arise or result from the gross negligence or wilful misconduct of the Applicant, the Monitor or the Financial Advisor, as applicable, in performing their obligations under the SISP, as determined by this Court in a final order that is not subject to appeal or other review.

5. **THIS COURT ORDERS** that in overseeing the SISP, the Monitor shall have all of the benefits and protections granted to it under the CCAA, the ARIO and any other Order of this Court in the within proceeding.

PIPEDA

6. **THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the *Personal Information Protection and Electronic Documents Act*, S.C. 2000, c. 5 and any similar legislation in any other applicable jurisdictions the Monitor, the Applicant, the Financial Advisor and their respective advisors are hereby authorized and permitted to disclose and transfer to prospective SISP participants that are party to a non-disclosure agreement with the Applicant (each, a “**SISP Participant**”) and their respective advisors personal information of identifiable individuals, but only to the extent required to negotiate or attempt to complete a transaction pursuant to the SISP (a “**Transaction**”). Each SISP Participant to whom such personal information is disclosed shall maintain and protect the privacy of such information and limit the use of such information to its evaluation for the purpose of effecting a Transaction, and, if it does not complete a Transaction, shall return all such information to the Monitor, the Financial Advisor or the Applicant, or, in the alternative, destroy all such information and provide confirmation of its destruction if requested by the Monitor, the Financial Advisor or the Applicant. Any bidder with a Successful Bid shall maintain and protect the privacy of such information and, upon closing of the Transaction(s) contemplated in the Successful Bid(s), shall be entitled to use the personal information provided to it that is related to the Business and/or Property acquired pursuant to the SISP in a manner that is in all material respects identical to the prior use of such information by the Applicant, and shall return all other personal information to the Monitor, the Financial Advisor or the Applicant, or ensure that all other personal information is destroyed and provide confirmation of its destruction if requested by the Monitor, the Financial Advisor or the Applicant.

GENERAL

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

8. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States, to give effect to this Order and to assist the BioSteel Entities, the Monitor and their respective agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the BioSteel Entities and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the BioSteel Entities and the Monitor and their respective agents in carrying out the terms of this Order.

9. **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"
SALE AND INVESTMENT SOLICITATION PROCESS

Sale and Investment Solicitation Process

1. On September 14, 2023, the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) issued an order (the “**Initial Order**”), among other things, granting BioSteel Sports Nutrition Inc. (the “**Applicant**”) relief pursuant to the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36 (the “**CCAA**”).
2. On September [21], 2023, the Court granted: (i) an order amending and restating the Initial Order (the “**ARIO**”), and (ii) an order (the “**SISP Approval Order**”) that, among other things, authorized the Applicant to implement a sale and investment solicitation process (“**SISP**”) in accordance with the terms hereof. Capitalized terms that are not otherwise defined herein have the meanings ascribed to them in the ARIO or the SISP Approval Order, as applicable. Copies of the ARIO and the SISP Approval Order can be found at www.ksvadvisory.com/experience/case/biosteel.
3. This SISP sets out the manner in which: (a) binding bids for executable transactions involving the business and/or assets of the Applicant 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 (together with the Applicant, “**BioSteel**”), will be solicited from interested parties; (b) any such bids received will be addressed; (c) any Successful Bid (as defined below) will be selected; and (d) Court approval of any Successful Bid will be sought.
4. The SISP shall be conducted by the Applicant with the assistance of Greenhill & Co. Canada Ltd. (the “**Financial Advisor**”) under the oversight of KSV Restructuring Inc., in its capacity as Court-appointed monitor (in such capacity, the “**Monitor**”) of the Applicant and the Monitor shall be entitled to receive all information in relation to the SISP.
5. Parties who wish to have their bids considered must participate in the SISP.
6. The Applicant and the Financial Advisor will (under the oversight of the Monitor):
 - a) In accordance with Section 7 below, disseminate marketing materials and a process letter to potentially interested parties identified by the Applicant and the Financial Advisor in consultation with the Monitor;
 - b) solicit interest from parties with a view to such interested parties entering into non-disclosure agreements (each an “**NDA**”) (parties shall only obtain access to the virtual data room and be permitted to participate in the SISP if they execute an NDA, in form and substance satisfactory to the Applicant; provided that those parties that have already executed a NDA with the Applicant shall not be required to execute a further agreement unless such agreement has expired or will expire during the SISP);
 - c) provide applicable parties who have entered into an NDA with the Applicant access to a virtual data room containing, among other things, diligence information; and
 - d) request that such parties submit a binding offer meeting at least the requirements set forth in Section 8 below, as determined by the Applicant in consultation with

the Financial Advisor and Monitor (each a “**Qualified Bid**”), by the Qualified Bid Deadline (as defined below).

7. The SISP shall be conducted subject to the terms hereof and the following key milestones, which milestones may be extended by the Applicant, in consultation with the Monitor:
 - a) the Court issues the SISP Approval Order approving the SISP by no later than September 21, 2023;¹
 - b) the Applicant and Financial Advisor commence solicitation process by no later than September 25, 2023;
 - c) deadline to submit a Qualified Bid – 5:00 p.m. Eastern Time on October 16, 2023 (the “**Qualified Bid Deadline**”);
 - d) deadline to select a Qualified Bid as the successful bid(s) (the “**Successful Bid**”) – by no later than 5:00 p.m. Eastern Time on October 23, 2023 (the “**Definitive Agreement Deadline**”);
 - e) Transaction Order (as defined below) hearing by no later than November 3, 2023, subject to Court availability; and
 - f) closing of the Successful Bid as soon thereafter as possible and, in any event, by no later than November 15, 2023 (the “**Outside Date**”).
8. In order to constitute a Qualified Bid, a bid must comply with the following:
 - a) it provides for aggregate consideration, payable in full on closing (the “**Consideration Value**”), and provides a detailed sources schedule that identifies, with specificity, the composition of the Consideration Value and any assumptions that could reduce the net consideration payable including details of any material liabilities that are being assumed or being excluded;
 - b) as part of the Consideration Value, it provides cash consideration sufficient to pay:
 - (i) any obligations in connection with applicable charges granted by the Court in the Applicant’s CCAA proceeding and any obligations in priority thereto; and (ii) an amount of \$2 million to fund a wind-up of the Applicant’s CCAA proceeding and any further proceedings or wind-up costs;

¹ To the extent any dates would fall on a non-business day, they shall be deemed to be the first business day thereafter.

- c) it contemplates closing of the proposed transaction by not later than the Outside Date;
- d) it contains:
 - i. duly executed binding definitive transaction document(s);
 - ii. the legal name and identity (including jurisdiction of existence) and contact information of the bidder, full disclosure of its direct and indirect principals, and the name(s) of each of its equityholder(s);
 - iii. a redline to the form of asset purchase agreement available in the virtual data room;
 - iv. evidence of authorization and approval from the bidder's board of directors (or equivalent governing body) and, if necessary to complete the transaction, the bidder's equityholder(s);
 - v. disclosure of any past or current connections or agreements with BioSteel or any of their affiliates, any known, potential, prospective bidder, or any current or former officer, manager, director, member or known current or former equity security holder of BioSteel or any of their affiliates; and
 - vi. such other information reasonably requested by the Applicant or the Monitor;
- e) it includes a letter stating that the bid is submitted in good faith, is binding and is irrevocable until closing of the Successful Bid; provided, that if such bid is not selected as the Successful Bid or as the next-highest or otherwise best Qualified Bid as compared to the Successful Bid (such bid, the "**Back-Up Bid**") it shall only remain irrevocable until selection of the Successful Bid;
- f) it provides that the bid will serve as a Back-Up Bid if it is not selected as the Successful Bid and if selected as the Back-Up Bid it will remain irrevocable until the earlier of: (i) closing of the Successful Bid; or (ii) closing of the Back-Up Bid;
- g) it provides written evidence of a bidder's ability to fully fund and consummate the transaction (including financing required, if any, prior to the closing of the transaction to finance this CCAA proceeding) and satisfy its obligations under the transaction documents, including binding equity/debt commitment letters and/or guarantees covering the full value of all cash consideration and the additional items (in scope and amount) covered by the guarantees provided by affiliates of the bidder in connection with the Successful Bid;
- h) it does not include any request for or entitlement to any break fee, expense reimbursement or similar type of payment;
- i) it is not conditional upon:
 - i. approval from the bidder's board of directors (or equivalent governing body) or equityholder(s);

- ii. the outcome of any unperformed due diligence by the bidder; or
 - iii. the bidder obtaining financing;
- j) it includes acknowledgments and representations that the bidder: (i) has had an opportunity to conduct any and all required due diligence prior to making its bid, and has relied solely upon its own independent review, investigation and inspection in making its bid; (ii) is not relying upon any written or oral statements, representations, promises, warranties, conditions, or guaranties whatsoever, whether express or implied (by operation of law or otherwise), made by any person or party, including the Applicant, the Financial Advisor, the Monitor and their respective employees, officers, directors, agents, advisors and other representatives, regarding the proposed transactions, this SISP, or any information (or the completeness of any information) provided in connection therewith, except as expressly stated in the proposed transaction documents; (iii) is making its bid on an “as is, where is” basis and without surviving representations or warranties of any kind, nature, or description by the Applicant, the Financial Advisor, the Monitor or any of their respective employees, officers, directors, agents, advisors and other representatives, except to the extent set forth in the proposed transactions documents; (iv) is bound by this SISP and the SISP Approval Order; and (v) is subject to the exclusive jurisdiction of the Court with respect to any disputes or other controversies arising under or in connection with the SISP or its bid;
- k) it specifies any regulatory or other third-party approvals the party anticipates would be required to complete the transaction (including the anticipated timing necessary to obtain such approvals);
- l) it is accompanied by a cash deposit (the “**Deposit**”) paid by wire transfer of immediately available funds in an amount equal to at least 10% of the Consideration Value, which Deposit shall be retained by the Monitor in an interest-bearing trust account in accordance with the terms hereof;
- m) it includes a statement that the bidder will bear its own costs and expenses (including legal and advisor fees) in connection with the proposed transaction, and by submitting its bid is agreeing to refrain from and waive any assertion or request for reimbursement on any basis; and
- n) it is received by the Applicant, with a copy to the Financial Advisor and the Monitor, by the Qualified Bid Deadline at the email addresses specified on Schedule “A” hereto.
9. The Applicant, in consultation with the Monitor, may in its sole discretion waive compliance with any one or more of the requirements specified in Section 8 above and deem a non-compliant bid to be a Qualified Bid.
10. Following selection of a Successful Bid, if any, the Applicant, with the assistance of its advisors, and in consultation with the Monitor, shall seek to finalize any remaining necessary definitive agreement(s) with respect to the Successful Bid in accordance with the milestones set out in Section 7. Once the necessary definitive agreement(s) with respect to a Successful Bid have been finalized, as determined by the Applicant in

consultation with the Monitor, the Applicant shall apply to the Court for an order or orders approving such Successful Bid and/or the mechanics to authorize the Applicant to complete the transactions contemplated thereby, as applicable, and authorizing the Applicant to: (a) enter into any and all necessary agreements and related documentation with respect to the Successful Bid; (b) undertake such other actions as may be necessary to give effect to such Successful Bid; and (c) implement the transaction(s) contemplated in such Successful Bid (each, a “**Transaction Order**”). If the Successful Bid is not consummated in accordance with its terms, the Applicant shall be authorized, but not required, to elect that the Back-Up Bid (if any) is the Successful Bid.

11. In the event that: (a) no Qualified Bid is received by the Qualified Bid Deadline; (b) the Applicant, in consultation with the Monitor, determines that no Qualified Bid should be accepted; (c) definitive agreement(s) with respect to the Successful Bid have not been finalized before the Definitive Agreement Deadline; or (d) the Qualified Bids, in aggregate, do not provide for the timely repayment of the secured loan and credit facility provided to the Applicant by Canopy Growth Corporation (“**Canopy**”), and its wholly-owned affiliate 11065220 Canada Inc., in full in cash and Canopy does not consent to any Qualified Bid(s) being selected as the Successful Bid, the SISP shall terminate.
12. The highest Qualified Bid may not necessarily be accepted by the Applicant. The Applicant, with the written consent of the Monitor and Canopy, reserves the right not to accept any Qualified Bid or to otherwise terminate the SISP. The Applicant, with the written consent of the Monitor and Canopy, reserve the right to deal with one or more Qualified Bidders to the exclusion of others, to accept a Qualified Bid for different parts of BioSteel or to accept multiple Qualified Bids and enter into definitive agreements in respect of all such bids.
13. If a Successful Bid is selected and a Transaction Order authorizing the consummation of the transaction contemplated thereunder is granted by the Court, any Deposit paid in connection with such Successful Bid will be non-refundable and shall, upon closing of the transaction contemplated by such Successful Bid, be applied to the cash consideration to be paid in connection with such Successful Bid or be dealt with as otherwise set out in the definitive agreement(s) entered into in connection with such Successful Bid. Any Deposit delivered with a Qualified Bid that is not selected as a Successful Bid will be returned to the applicable bidder as soon as reasonably practicable (but not later than ten (10) business days) after the date upon which the Successful Bid is approved pursuant to a Transaction Order or such earlier date as may be determined by the Applicant, in consultation with the Monitor; provided, the Deposit in respect of the Back-Up Bid shall not be returned to the applicable bidder until the closing of the Successful Bid.
14. The Applicant shall be permitted, in its discretion, to provide general updates and information in respect of the SISP to legal counsel to any creditor (each a “**Creditor**”) on a confidential basis, upon: (a) irrevocable confirmation in writing from such counsel that the applicable Creditor will not submit any bid in the SISP; and (b) counsel to such Creditor entering into confidentiality arrangements with the Applicant, in form and substance satisfactory to the Applicant and the Monitor.
15. Any amendments to this SISP may only be made by the Applicant with the written consent of the Monitor, or by further order of the Court.

16. The Applicant, with the written consent of the Monitor and Canopy, may at any time prior to the Qualified Bid Deadline bring a motion in the CCAA proceeding for approval of a 'stalking horse' bid in the SISP.

SCHEDULE "A": E-MAIL ADDRESSES FOR DELIVERY OF BIDS

To the counsel for the Applicant:

rjacobs@cassels.com; skukulowicz@cassels.com; nlevine@cassels.com;
jbornstein@cassels.com

with a copy to the Financial Advisor:

michael.nessim@greenhill.com; usman.masood@greenhill.com

and with a copy to the Monitor and legal counsel to the Monitor:

ngoldstein@ksvadvisory.com; rgraham@ksvadvisory.com; zweigs@bennettjones.com;
mightonj@bennettjones.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

SISP APPROVAL ORDER

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Lawyers for the Applicant

TAB 6

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

THE HONOURABLE) THURSDAY, THE 14th 21st
)
JUSTICE CAVANAGH) DAY OF SEPTEMBER, 2023

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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR
ARRANGEMENT OF BIOSTEEL SPORTS NUTRITION INC.

(the "Applicant")

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

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

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

SERVICE AND DEFINITIONS

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

2. **THIS COURT ORDERS** that capitalized terms used in this Order and not otherwise defined herein shall have the meanings ascribed to them in the Initial Eskandari Affidavit or the Second Eskandari Affidavit, as applicable.

APPLICATION

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

PLAN OF ARRANGEMENT

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

POSSESSION OF PROPERTY AND OPERATIONS

5. ~~4.~~ **THIS COURT ORDERS** that the Applicant shall remain in possession and control of its current and future assets, licences, undertakings and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof (the "**Property**"). Subject to further Order of this Court, the Applicant shall continue to carry on business in a manner consistent with the preservation of its business (the "**Business**") and the Property. The Applicant is authorized and empowered to continue to retain and employ or receive the services of its employees (or employees of affiliates providing services on an intercompany basis), consultants, contractors, agents, experts, accountants, counsel and such other persons (collectively "**Assistants**") currently retained or employed by it, with liberty to retain such further Assistants as it deems reasonably necessary or desirable in the ordinary course of business or for the carrying out of the terms of this Order.

6. ~~5.~~ **THIS COURT ORDERS** that the Applicant shall be entitled to continue to utilize the central cash management system currently in place as described in the Initial Eskandari Affidavit or, with the prior written consent of the Monitor, replace it with another substantially

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

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

- (a) in respect of employees of the Applicant, all outstanding and future wages, salaries, employee and pension benefits, vacation pay and expenses payable prior to, on, or after the date of ~~this~~the Initial Order, in each case incurred in the ordinary course of business and consistent with existing compensation policies and arrangements;
- (b) with the prior written consent of the Monitor, amounts owing for goods and services actually supplied to the Applicant or its affiliates BioSteel Sports Nutrition USA, LLC (“**BioSteel US**”) or BioSteel Manufacturing LLC (“**BioSteel Manufacturing**”, and collectively with the Applicant and BioSteel US, the “**BioSteel Entities**” and each a “**BioSteel Entity**”), including, without limiting the foregoing, services provided by contractors, prior to the date of ~~this~~the Initial Order, with the Monitor considering, among other factors, whether: (i) the supplier or service provider is essential to the Business and ongoing operations of the Applicant and the payment is required to ensure ongoing supply; (ii) making such payment will preserve, protect or enhance the value of the Property or the Business or the business or property of a US BioSteel Entity; and (iii) the supplier or service provider is required to continue to provide goods or services to the Applicant after the date of ~~this~~the Initial Order, including pursuant to the terms of this Order; and,

- (c) the fees and disbursements of any Assistants retained or employed by the Applicant, at their standard rates and charges.

8. ~~7.~~ **THIS COURT ORDERS** that, except as otherwise provided to the contrary herein, the Applicant shall be entitled but not required to pay all reasonable expenses incurred by the BioSteel Entities in carrying on the Business in the ordinary course after the date of ~~this~~the Initial Order, and in carrying out the provisions of this Order, which expenses shall include, without limitation:

- (a) all expenses and capital expenditures reasonably necessary for the preservation of the Property or the Business including, without limitation, payments on account of insurance (including directors' and officers' insurance), maintenance and security services; and
- (b) payment for goods or services actually supplied to the BioSteel Entities, provided, however, that payment for goods or services actually supplied to the US BioSteel Entities may only be made with consent of the Monitor, on or following the date of ~~this~~the Initial Order.

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

- (a) any statutory deemed trust amounts in favour of the Crown in right of Canada or of any Province thereof or any other taxation authority which are required to be deducted from employees' wages, including, without limitation, amounts in respect of: (i) employment insurance; (ii) Canada Pension Plan; (iii) Quebec Pension Plan; and (iv) income taxes;
- (b) all goods and services or other applicable sales taxes (collectively, "**Sales Taxes**") required to be remitted by the Applicant in connection with the sale of goods and services by the Applicant, but only where such Sales Taxes are accrued or collected after the date of ~~this~~the Initial Order, or where such Sales Taxes were accrued or collected prior to the date of ~~this~~the Initial Order but not required to be remitted until on or after the date of ~~this~~the Initial Order; and
- (c) any amount payable to the Crown in right of Canada or of any Province thereof or any political subdivision thereof or any other taxation authority in respect of

municipal realty, municipal business or other taxes, assessments or levies of any nature or kind which are entitled at law to be paid in priority to claims of secured creditors and which are attributable to or in respect of the carrying on of the Business by the Applicant, whether in Canada, the United States, or another jurisdiction.

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

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

RESTRUCTURING

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

- (a) permanently or temporarily cease, downsize or shut down any of its business or operations, and to dispose of redundant or non-material assets not exceeding \$500,000 in any one transaction or \$2,000,000 in the aggregate; and

- (b) pursue all avenues of refinancing of its Business or Property, in whole or part, subject to prior approval of this Court being obtained before any material refinancing.

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

13. **THIS COURT ORDERS** that the Applicant shall provide each of the relevant landlords with notice of the Applicant's intention to remove any fixtures from any leased premises at least seven (7) days prior to the date of the intended removal. The relevant landlord shall be entitled to have a representative present in the leased premises to observe such removal and, if the landlord disputes the Applicant's entitlement to remove any such fixture under the provisions of the lease, such fixture shall remain on the premises and shall be dealt with as agreed between any applicable secured creditors, such landlord and the Applicant, or by further Order of this Court upon application by the Applicant on at least two (2) days notice to such landlord and any such secured creditors. If the Applicant disclaims the lease governing such leased premises in accordance with Section 32 of the CCAA, it shall not be required to pay Rent under such lease pending resolution of any such dispute (other than Rent payable for the notice period provided for in Section 32(5) of the CCAA), and the disclaimer of the lease shall be without prejudice to the Applicant's claim to the fixtures in dispute.

14. **THIS COURT ORDERS** that if a notice of disclaimer is delivered pursuant to Section 32 of the CCAA, then (a) during the notice period prior to the effective time of the disclaimer, the landlord may show the affected leased premises to prospective tenants during normal business hours, on giving the Applicant and the Monitor 24 hours' prior written notice, and (b) at the effective time of the disclaimer, the relevant landlord shall be entitled to take possession of any such leased premises without waiver of or prejudice to any claims or rights such landlord may have against the Applicant in respect of such lease or leased premises, provided that nothing herein shall relieve such landlord of its obligation to mitigate any damages claimed in connection therewith.

NO PROCEEDINGS AGAINST THE BIOSTEEL ENTITIES, THEIR BUSINESS OR THEIR PROPERTY

15. ~~11.~~ **THIS COURT ORDERS** that until and including ~~September 24~~ November 17, 2023, or such later date as this Court may order (the "**Stay Period**"), no proceeding or enforcement

process in any court or tribunal (each, a **“Proceeding”**, and collectively, **“Proceedings”**) shall be commenced or continued against or in respect of the BioSteel Entities or the Monitor, or affecting the Business or the Property or the business or property of BioSteel US or BioSteel Manufacturing, except with the written consent of the Applicant and the Monitor, or with leave of this Court, and any and all Proceedings currently under way against or in respect of any of the BioSteel Entities or affecting the Business or the Property, or the business or property of BioSteel US or BioSteel Manufacturing, are hereby stayed and suspended pending further Order of this Court or the prior written consent of the Applicant and the Monitor.

NO EXERCISE OF RIGHTS OR REMEDIES

16. ~~12.~~ **THIS COURT ORDERS** that during the Stay Period, all rights and remedies of any individual, firm, corporation, organization, governmental unit, body or agency, or any other entities (all of the foregoing, collectively being **“Persons”** and each being a **“Person”**) against or in respect of any of the BioSteel Entities or the Monitor, or their respective employees and representatives acting in such capacities, or affecting the Business or the Property or the business or property of BioSteel US or BioSteel Manufacturing, are hereby stayed and suspended except with the written consent of the Applicant and the Monitor, or leave of this Court, provided that nothing in this Order shall: (i) empower any of the BioSteel Entities to carry on any business which it is not lawfully entitled to carry on; (ii) affect such investigations, actions, suits or proceedings by a regulatory body as are permitted by Section 11.1 of the CCAA; (iii) prevent the filing of any registration to preserve or perfect a security interest; or (iv) prevent the registration of a claim for lien.

NO INTERFERENCE WITH RIGHTS

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

NO PRE-FILING VS POST FILING SET OFF

18. **THIS COURT ORDERS** that no Person shall be entitled to set off any amounts that: (a) are or may become due to the Applicant in respect of obligations arising prior to the date of the Initial Order with any amounts that are or may become due from the Applicant in respect of

obligations arising on or after the date of the Initial Order; or (b) are or may become due from the Applicant in respect of obligations arising prior to the date of the Initial Order with any amounts that are or may become due to the Applicant in respect of obligations arising on or after the date of the Initial Order, each without the consent of the Applicant and the Monitor, or leave of this Court.

CONTINUATION OF SERVICES

19. ~~14.~~ **THIS COURT ORDERS** that during the Stay Period, all Persons having oral or written agreements with any of the BioSteel Entities or statutory or regulatory mandates for the supply of goods and/or services, including without limitation all computer software, communication and other data services, centralized banking services, payroll and benefit services, accounting services, insurance, transportation services, storage and warehousing, utility, licensing, or other services, to the Business or any of the BioSteel Entities, are hereby restrained until further Order of this Court from discontinuing, altering, interfering with, suspending or terminating the supply of such goods or services as may be required by any of the BioSteel Entities or exercising any other remedy provided under the agreements or arrangements, and that each of the BioSteel Entities shall be entitled to the continued use of its current premises, telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of ~~this~~the Initial Order are paid by the applicable BioSteel Entities in accordance with the normal payment practices of the applicable BioSteel Entities or such other practices as may be agreed upon by the supplier or service provider and each of the Applicant and the Monitor, or as may be ordered by this Court.

NON-DEROGATION OF RIGHTS

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

PROCEEDINGS AGAINST DIRECTORS AND OFFICERS

21. ~~16.~~ **THIS COURT ORDERS** that during the Stay Period, and except as permitted by Subsection 11.03(2) of the CCAA, no Proceeding may be commenced or continued against any of the former, current or future directors or officers of any of the BioSteel Entities (other than a director or officer who is or was at any point a shareholder or optionholder of the Applicant) (collectively, the “**Directors and Officers**”) with respect to any claim against the Directors and Officers that arose before the date ~~hereof~~ of the Initial Order and that relates to any obligations of any of the BioSteel Entities whereby the Directors and Officers are alleged under any law to be liable in their capacity as the Directors and Officers for the payment or performance of such obligations, until a compromise or arrangement in respect of the Applicant, if one is filed, is sanctioned by this Court or is refused by the creditors of the Applicant or this Court.

DIRECTORS’ AND OFFICERS’ INDEMNIFICATION AND CHARGE

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

23. ~~18.~~ **THIS COURT ORDERS** that the Directors and Officers shall be entitled to the benefit of and are hereby granted a charge (the “**Directors' Charge**”) on the Property, which charge shall not exceed an aggregate amount of US\$~~1,279,000~~ 2,198,000, unless permitted by further Order of this Court, as security for the D&O Indemnity provided in paragraph ~~47~~ 22 of this Order. The Directors' Charge shall have the priority set out in paragraphs ~~29~~ 37 and ~~31~~ 39 hereof.

24. ~~19.~~ **THIS COURT ORDERS** that, notwithstanding any language in any applicable insurance policy to the contrary: (i) no insurer shall be entitled to be subrogated to or claim the benefit of the Directors' Charge; and (ii) the Directors and Officers shall only be entitled to the benefit of the Directors' Charge to the extent that they do not have coverage under any directors' and officers' insurance policy, or to the extent that such coverage is insufficient to pay amounts indemnified in accordance with paragraph ~~47~~ 22 of this Order.

APPOINTMENT OF MONITOR

25. ~~20.~~ **THIS COURT ORDERS** that KSV is hereby appointed pursuant to the CCAA as the Monitor, an officer of this Court, to monitor the business and financial affairs of the Applicant with the powers and obligations set out in the CCAA or set forth herein and that the Applicant and its shareholders, officers, directors, and Assistants shall advise the Monitor of all material steps taken by the Applicant pursuant to this Order, and shall co-operate fully with the Monitor in the exercise of its powers and discharge of its obligations and provide the Monitor with the assistance that is necessary to enable the Monitor to adequately carry out the Monitor's functions.

26. ~~21.~~ **THIS COURT ORDERS** that the Monitor, in addition to its prescribed rights and obligations under the CCAA, is hereby directed and empowered to:

- (a) monitor the Applicant's receipts and disbursements;
- (b) report to this Court at such times and intervals as the Monitor may deem appropriate with respect to matters relating to the Property, the Business, and such other matters as may be relevant to the proceeding herein;
- (c) assist the Applicant in the preparation of its cash flow statements;
- (d) advise the Applicant in its development of the Plan and any amendments to the Plan;
- (e) assist the Applicant, to the extent required by the Applicant, with the holding and administering of creditors' or shareholders' meetings for voting on the Plan;
- (f) ~~(d)~~ monitor all payments, obligations and transfers as between the Applicant and its affiliates;
- (g) ~~(e)~~ have full and complete access to the Property, including the premises, books, records, data, including data in electronic form, and other financial documents of the Applicant, to the extent that is necessary to adequately assess the Applicant's business and financial affairs or to perform its duties arising under this Order;

- (h) ~~(f)~~ be at liberty to engage independent legal counsel or such other persons as the Monitor deems necessary or advisable respecting the exercise of its powers and performance of its obligations under this Order;
- (i) ~~(g)~~ assist the Foreign Representative (as defined below) and its legal counsel as may be required to give effect to the terms of this Order; and
- (j) ~~(h)~~ perform such other duties as are required by this Order or by this Court from time to time.

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

28. ~~23.~~ **THIS COURT ORDERS** that nothing herein contained shall require the Monitor to occupy or to take control, care, charge, possession or management (separately and/or collectively, "**Possession**") of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the *Ontario Environmental Protection Act*, the *Ontario Water Resources Act*, or the *Ontario Occupational Health and Safety Act* and regulations thereunder (the "**Environmental Legislation**"), provided however that nothing herein shall exempt the Monitor from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Monitor shall not, as a result of this Order or anything done in pursuance of the Monitor's duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

29. ~~24.~~ **THIS COURT ORDERS** that the Monitor shall provide any creditor of the Applicant with information provided by the Applicant in response to reasonable requests for information made in writing by such creditor addressed to the Monitor. The Monitor shall not have any responsibility or liability with respect to the information disseminated by it pursuant to this paragraph. In the case of information that the Monitor has been advised by the Applicant is

confidential, the Monitor shall not provide such information to creditors unless otherwise directed by this Court or on such terms as the Monitor and the Applicant may agree.

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

31. ~~26.~~ **THIS COURT ORDERS** that the Monitor, legal counsel to the Monitor, legal counsel to the Applicant and the Special Committee shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges, whether incurred prior to, on or subsequent to the date of ~~this~~the Initial Order, by the Applicant as part of the costs of this proceeding. The Applicant is hereby authorized and directed to pay the accounts of the Monitor, legal counsel for the Monitor and legal counsel for the Applicant on a bi-weekly basis.

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

ADMINISTRATION CHARGE

33. ~~28.~~ **THIS COURT ORDERS** that the Monitor, legal counsel to the Monitor, legal counsel to the Applicant and the Special Committee, and Greenhill & Co. Canada Ltd. (the "**Financial Advisor**") in respect of its Monthly Advisory Fee (as defined by the Greenhill Engagement Letter) shall be entitled to the benefit of and are hereby granted a charge (the "**Administration Charge**") on the Property, which charge shall not exceed an aggregate amount of US\$~~750,000~~1,000,000 unless permitted by further Order of this Court, as security for their professional fees and disbursements incurred at the standard rates and charges of the Monitor and such counsel or advisors, both before and after the making of ~~this~~the Initial Order in respect of this proceeding. The Administration Charge shall have the priority set out in paragraphs ~~29~~37 and ~~34~~39 hereof.

ENGAGEMENT OF THE FINANCIAL ADVISOR

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

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

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

VALIDITY AND PRIORITY OF CHARGES CREATED BY THIS ORDER

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

First – Administration Charge (to the maximum amount of US\$~~750,000~~1,000,000); ~~and~~

Second – Directors' Charge (to the maximum amount of US\$~~1,279,000~~2,198,000); ~~and~~

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

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

39. ~~31.~~ **THIS COURT ORDERS** that each of the Charges (all as constituted and defined herein) shall constitute a charge on the Property and such Charges shall rank in priority to all other security interests, trusts, liens, charges and encumbrances, and claims of secured

creditors, statutory or otherwise (collectively, “**Encumbrances**”) in favour of any Person notwithstanding the order of perfection or attachment; ~~provided that the Charges shall rank behind Encumbrances in favour of any Person that has not been served with notice of the application for this Order. The Applicant and the beneficiaries of the Charges shall be entitled to seek priority of the Charges ahead of any Encumbrances over which the Charges may not have obtained priority pursuant to this Order on a subsequent motion including, without limitation, on the Comeback Hearing (as defined below), on notice to those Persons likely to be affected thereby.~~

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

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

- (a) the creation of the Charges shall not create or be deemed to constitute a breach by the Applicant of any Agreement to which it is a party;

- (b) none of the Chargees shall have any liability to any Person whatsoever as a result of any breach of any Agreement caused by or resulting from the creation of the Charges; and
- (c) the payments made by the Applicant pursuant to this Order, and the granting of the Charges, do not and will not constitute preferences, fraudulent conveyances, transfers at undervalue, oppressive conduct, or other challengeable or voidable transactions under any applicable law.

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

SERVICE AND NOTICE

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

44. ~~36.~~ **THIS COURT ORDERS** that the E-Service Guide of the Commercial List (the "**Guide**") is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Guide (which can be found on the Commercial List website at <https://www.ontariocourts.ca/scj/practice/practice-directions/toronto/eservice-commercial/>) shall be valid and effective service. Subject to Rule 17.05, this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the *Rules of Civil Procedure*, R.R.O. 1990. Reg. 194, as amended (the "**Rules of Civil Procedure**"). Subject to Rule 3.01(d) of the Rules of Civil Procedure and paragraph 13 of the Guide, service of documents in accordance with the Guide will be effective on transmission. This Court further orders that a Case Website shall be established in accordance with the Guide with the following URL: www.ksvadvisory.com/experience/case/biosteel.

45. ~~37.~~ **THIS COURT ORDERS** that if the service or distribution of documents in accordance with the Guide or the CCAA and the regulations thereunder is not practicable, the Applicant, the Monitor and each of their respective counsel and agents are at liberty to serve or distribute this Order, any other materials and orders in this proceeding, any notices or other correspondence, by forwarding copies thereof by prepaid ordinary mail, courier, personal delivery, facsimile transmission or electronic message to the Applicant's creditors or other interested parties at their respective addresses (including e-mail addresses) as last shown in the books and records of the Applicant and that any such service or distribution shall be deemed to be received on the earlier of (i) the date of forwarding thereof, if sent by electronic message on or prior to 5:00 p.m. Eastern Time (or on the next business day following the date of forwarding thereof if sent on a non-business day); (ii) the next business day following the date of forwarding thereof, if sent by courier, personal delivery, facsimile transmission or electronic message sent after 5:00 p.m. Eastern Time; or (iii) on the third business day following the date of forwarding thereof, if sent by ordinary mail.

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

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

COMEBACK HEARING

~~40. THIS COURT ORDERS~~ that the comeback motion in this proceeding shall be heard on September 21, 2023 (the “~~Comeback Hearing~~”).

FOREIGN PROCEEDINGS

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

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

GENERAL

50. ~~43. THIS COURT ORDERS~~ that any interested party (including the Applicant) may apply to this Court to vary or amend this Order on not less than five (5) calendar days’ notice to the Service List and any other party or parties likely to be affected by the Order sought; provided, however, that the Chargees shall be entitled to rely on this Order as granted and on the Charges and priorities set forth in paragraphs ~~29~~37 and ~~31~~39 hereof with respect to any fees, expenses and disbursements incurred, as applicable, until the date this Order may be amended, varied or stayed.

51. ~~44. THIS COURT ORDERS~~ that, notwithstanding paragraph ~~43~~50 of this Order, the Applicant or the Monitor may from time to time apply to this Court to amend, vary or supplement this Order or for advice and directions in the discharge of its powers and duties hereunder or in the interpretation of this Order.

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

53. ~~46. THIS COURT HEREBY REQUESTS~~ the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States, to give

effect to this Order and to assist the BioSteel Entities, the Monitor and their respective agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the BioSteel Entities and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Monitor in any foreign proceeding, or to assist the BioSteel Entities and the Monitor and their respective agents in carrying out the terms of this Order.

54. ~~47.~~ **THIS COURT ORDERS** that each of the Applicant and the Monitor be at liberty and are hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and that the Monitor is authorized and empowered to act as a representative in respect of the within proceeding for the purpose of having this proceeding recognized in a jurisdiction outside Canada.

| 55. ~~48.~~ **THIS COURT ORDERS** that the Initial Order of this Court dated September 14, 2023 is hereby amended and restated pursuant to this Order, and this Order and all of its provisions are effective as of ~~8:00 a.m.~~12:01 a.m. (Eastern Time) on the date of this Order without the need for entry or filing.

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~~23-00706033-00CL

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

PROCEEDING COMMENCED AT
TORONTO

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

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Lawyers for the Applicant

TAB 7

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

THE HONOURABLE —) ~~WEEKDAY~~ THURSDAY, THE #21st
)
JUSTICE — CAVANAGH) DAY OF ~~MONTH~~ SEPTEMBER,
) 20YR 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 ~~[APPLICANT'S NAME]~~ BIOSTEEL
SPORTS NUTRITION INC.

(the "Applicant")

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

INITIAL ORDER

THIS ~~APPLICATION~~ MOTION, made by the Applicant, pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "CCAA"), for an Amended and Restated Initial Order was heard this day ~~at 330 University Avenue, Toronto, Ontario~~ by judicial videoconference via Zoom.

ON READING the affidavit of ~~[NAME]~~ Sarah S. Eskandari sworn ~~[DATE]~~ September 13, 2023 and the Exhibits thereto, (the "Initial Eskandari Affidavit") and the pre-filing report dated September 14, 2023 of KSV Restructuring Inc. ("KSV") in its capacity as the proposed monitor, the second affidavit of Sarah S. Eskandari sworn September 13, 2023 (the "Second Eskandari Affidavit"), the first report of KSV in its capacity as Court-appointed monitor of the Applicant (in such capacity, the "Monitor") dated September 13, 2023 and on being advised

that the secured creditors who are likely to be affected by the charges created herein were given notice, and on hearing the submissions of counsel for ~~[NAMES]~~ the Applicant, KSV, and the other parties listed on the counsel slip and no one appearing for [NAME] [†] any other party may be granted. See, for example, CCAA Sections 11.2(1), 11.3(1), 11.4(1), 11.51(1), 11.52(1), 32(1), 32(3), 33(2)

[†] Include names of secured creditors or other persons who must be served before certain relief in this model Order

although duly served as appears from the ~~affidavit~~affidavits of service of ~~[NAME]~~sworn
~~[DATE]~~Stephanie Fernandes sworn September 14, 2023 and September 14, 2023, and on
 reading the consent of ~~[MONITOR'S NAME]~~KSV to act as the Monitor,

SERVICE AND DEFINITIONS

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

2. THIS COURT ORDERS that capitalized terms used in this Order and not otherwise defined herein shall have the meanings ascribed to them in the Initial Eskandari Affidavit or the Second Eskandari Affidavit, as applicable.

APPLICATION

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

PLAN OF ARRANGEMENT

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

POSSESSION OF PROPERTY AND OPERATIONS

5. ~~4.~~ **THIS COURT ORDERS** that the Applicant shall remain in possession and control of its current and future assets, licences, undertakings and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof (the "Property"). Subject to

~~may be granted. See, for example, CCAA Sections 11.2(1), 11.3(1), 11.4(1), 11.51(1), 11.52(1), 32(1), 32(3), 33(2) and 36(2).~~

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

further Order of this Court, the Applicant shall continue to carry on business in a manner consistent with the preservation of its business (the "Business") and the Property. The Applicant is authorized and empowered to continue to retain and employ or receive the services of its employees (or employees of affiliates providing services on an intercompany basis), consultants, contractors, agents, experts, accountants, counsel and such other persons (collectively "Assistants") currently retained or employed by it, with liberty to retain such further Assistants as it deems reasonably necessary or desirable in the ordinary course of business or for the carrying out of the terms of this Order.

6. ~~5.~~ **THIS COURT ORDERS** that the Applicant shall be entitled to continue to utilize the central cash management system³ currently in place as described in the Initial Eskandari Affidavit of [NAME] sworn [DATE] ~~or~~ or, with the prior written consent of the Monitor, replace it with another substantially similar central cash management system (the "Cash Management System"), and that any present or future bank providing the Cash Management System shall: (i) not be under any obligation whatsoever to inquire into the propriety, validity or legality of any transfer, payment, collection or other action taken under the Cash Management System, or as to the use or application by the Applicant of funds transferred, paid, collected or otherwise dealt with in the Cash Management System; ~~shall;~~ (ii) be entitled to provide the Cash Management System without any liability in respect thereof to any Person (as hereinafter defined) other than the Applicant, pursuant to the terms of the documentation applicable to the Cash Management System; ~~and shall;~~ (iii) be, in its capacity as provider of the Cash Management System, an unaffected creditor under ~~the Plana plan (if any)~~ with regard to any claims or expenses it may suffer or incur in connection with the provision of the Cash Management System.]

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

- (a) in respect of employees of the Applicant, all outstanding and future wages, salaries, employee and pension benefits, vacation pay and expenses payable prior to, on, or

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

after the date of ~~this~~the Initial Order, in each case incurred in the ordinary course of business and consistent with existing compensation policies and arrangements;~~and~~

(b) with the prior written consent of the Monitor, amounts owing for goods and services actually supplied to the Applicant or its affiliates BioSteel Sports Nutrition USA, LLC (“BioSteel US”) or BioSteel Manufacturing LLC (“BioSteel Manufacturing, and collectively with the Applicant and BioSteel US, the “BioSteel Entities” and each a “BioSteel Entity”), including, without limiting the foregoing, services provided by contractors, prior to the date of the Initial Order, with the Monitor considering, among other factors, whether: (i) the supplier or service provider is essential to the Business and ongoing operations of the Applicant and the payment is required to ensure ongoing supply; (ii) making such payment will preserve, protect or enhance the value of the Property or the Business or the business or property of a US BioSteel Entity; and (iii) the supplier or service provider is required to continue to provide goods or services to the Applicant after the date of the Initial Order, including pursuant to the terms of this Order; and,

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

8. ~~7.~~ **THIS COURT ORDERS** that, except as otherwise provided to the contrary herein, the Applicant shall be entitled but not required to pay all reasonable expenses incurred by the ~~Applicant~~BioSteel Entities in carrying on the Business in the ordinary course after ~~this~~the date of the Initial Order, and in carrying out the provisions of this Order, which expenses shall include, without limitation:

(a) all expenses and capital expenditures reasonably necessary for the preservation of the Property or the Business including, without limitation, payments on account of insurance (including directors’ and officers’ insurance), maintenance and security services; and

(b) payment for goods or services actually supplied to the ~~Applicant~~BioSteel Entities, provided, however, that payment for goods or services actually supplied to the US BioSteel Entities may only be made with consent of the Monitor, on or following the date of ~~this~~the Initial Order.

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

- (a) any statutory deemed trust amounts in favour of the Crown in right of Canada or of any Province thereof or any other taxation authority which are required to be deducted from employees' wages, including, without limitation, amounts in respect of: (i) employment insurance~~;~~; (ii) Canada Pension Plan~~;~~; (iii) Quebec Pension Plan~~;~~; and (iv) income taxes;
- (b) all goods and services or other applicable sales taxes (collectively, "Sales Taxes") required to be remitted by the Applicant in connection with the sale of goods and services by the Applicant, but only where such Sales Taxes are accrued or collected after the date of ~~this~~the Initial Order, or where such Sales Taxes were accrued or collected prior to the date of ~~this~~the Initial Order but not required to be remitted until on or after the date of ~~this~~the Initial Order~~;~~; and
- (c) any amount payable to the Crown in right of Canada or of any Province thereof or any political subdivision thereof or any other taxation authority in respect of municipal realty, municipal business or other taxes, assessments or levies of any nature or kind which are entitled at law to be paid in priority to claims of secured creditors and which are attributable to or in respect of the carrying on of the Business by the Applicant, whether in Canada, the United States, or another jurisdiction.

10. ~~9.~~ **THIS COURT ORDERS** that until a real property lease is disclaimed ~~{or resiliated}~~⁴ in accordance with the CCAA, the Applicant shall pay, without duplication, all amounts constituting rent or payable as rent under real property leases (including, for greater certainty, common area maintenance charges, utilities and realty taxes and any other amounts payable to the landlord under the lease, but for greater certainty, excluding accelerated rent or penalties, fees or other charges arising as a result of the insolvency of the Applicant or the making of this Order) or as otherwise may be negotiated between the Applicant and the landlord from time to time ("Rent"), for the period commencing from and including the date of ~~this~~the Initial Order,

⁴The term "resiliate" should remain if there are leased premises in the Province of Quebec, but can otherwise be removed.

~~twice-monthly~~monthly in equal payments on the first ~~and fifteenth~~ day of each month, in advance (but not in arrears) or, with the prior written consent of the Monitor, at such other time intervals and dates as may be agreed to between the Applicant and landlord, in the amounts set out in the applicable lease. On the date of the first of such payments, any Rent relating to the period commencing from and including the date of ~~this~~the Initial Order shall also be paid.

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

RESTRUCTURING

12. ~~11.~~ **THIS COURT ORDERS** that the Applicant shall, subject to such requirements as are imposed by the CCAA ~~and such covenants as may be contained in the Definitive Documents (as hereinafter defined),~~ have the right to:

(a) permanently or temporarily cease, downsize or shut down any of its business or operations, ~~and~~ to dispose of redundant or non-material assets not exceeding \$~~500,000~~500,000 in any one transaction or \$~~2,000,000~~2,000,000 in the aggregate~~;~~⁵; and

~~(b) [terminate the employment of such of its employees or temporarily lay off such of its employees as it deems appropriate]; and~~

(b) ~~(e)~~ pursue all avenues of refinancing of its Business or Property, in whole or part, subject to prior approval of this Court being obtained before any material refinancing,

⁵ Section 36 of the amended CCAA does not seem to contemplate a pre-approved power to sell (see subsection 36(3)) and moreover requires notice (subsection 36(2)) and evidence (subsection 36(7)) that may not have occurred or be available at the initial CCAA hearing.

all of the foregoing to permit the Applicant to proceed with an orderly restructuring of the Business ~~(the "Restructuring")~~.

13. ~~12.~~ **THIS COURT ORDERS** that the Applicant shall provide each of the relevant landlords with notice of the ~~Applicant's~~ Applicant's intention to remove any fixtures from any leased premises at least seven (7) days prior to the date of the intended removal. The relevant landlord shall be entitled to have a representative present in the leased premises to observe such removal and, if the landlord disputes the ~~Applicant's~~ Applicant's entitlement to remove any such fixture under the provisions of the lease, such fixture shall remain on the premises and shall be dealt with as agreed between any applicable secured creditors, such landlord and the Applicant, or by further Order of this Court upon application by the Applicant on at least two (2) days notice to such landlord and any such secured creditors. If the Applicant disclaims ~~for~~ ~~resiliates~~ the lease governing such leased premises in accordance with Section 32 of the CCAA, it shall not be required to pay Rent under such lease pending resolution of any such dispute (other than Rent payable for the notice period provided for in Section 32(5) of the CCAA), and the disclaimer ~~for~~ ~~resiliation~~ of the lease shall be without prejudice to the Applicant's claim to the fixtures in dispute.

14. ~~13.~~ **THIS COURT ORDERS** that if a notice of disclaimer ~~for~~ ~~resiliation~~ is delivered pursuant to Section 32 of the CCAA, then (a) during the notice period prior to the effective time of the disclaimer ~~for~~ ~~resiliation~~, the landlord may show the affected leased premises to prospective tenants during normal business hours, on giving the Applicant and the Monitor 24 hours' prior written notice, and (b) at the effective time of the disclaimer ~~for~~ ~~resiliation~~, the relevant landlord shall be entitled to take possession of any such leased premises without waiver of or prejudice to any claims or rights such landlord may have against the Applicant in respect of such lease or leased premises, provided that nothing herein shall relieve such landlord of its obligation to mitigate any damages claimed in connection therewith.

**NO PROCEEDINGS AGAINST THE ~~APPLICANT~~ BIOSTEEL ENTITIES, THEIR BUSINESS
OR ~~THE~~ THEIR PROPERTY**

15. ~~14.~~ **THIS COURT ORDERS** that until and including ~~[DATE — MAX. 30~~ ~~DAYS]~~ November 17, 2023, or such later date as this Court may order (the "Stay Period"), no proceeding or enforcement process in any court or tribunal (each, a "Proceeding", and collectively, "Proceedings") shall be commenced or continued against or in respect of the

~~Applicant~~BioSteel Entities or the Monitor, or affecting the Business or the Property or the business or property of BioSteel US or BioSteel Manufacturing, except with the written consent of the Applicant and the Monitor, or with leave of this Court, and any and all Proceedings currently under way against or in respect of any of the Applicant~~BioSteel Entities~~ or affecting the Business or the Property, or the business or property of BioSteel US or BioSteel Manufacturing, are hereby stayed and suspended pending further Order of this Court or the prior written consent of the Applicant and the Monitor.

NO EXERCISE OF RIGHTS OR REMEDIES

16. ~~15.~~ **THIS COURT ORDERS** that during the Stay Period, all rights and remedies of any individual, firm, corporation, organization, governmental unit, body or agency, or any other entities (all of the foregoing, collectively being "Persons" and each being a "Person") against or in respect of any of the Applicant~~BioSteel Entities~~ or the Monitor, or their respective employees and representatives acting in such capacities, or affecting the Business or the Property or the business or property of BioSteel US or BioSteel Manufacturing, are hereby stayed and suspended except with the written consent of the Applicant and the Monitor, or leave of this Court, provided that nothing in this Order shall: (i) empower any of the Applicant~~BioSteel Entities~~ to carry on any business which ~~the Applicant~~it is not lawfully entitled to carry on; (ii) affect such investigations, actions, suits or proceedings by a regulatory body as are permitted by Section 11.1 of the CCAA; (iii) prevent the filing of any registration to preserve or perfect a security interest; or (iv) prevent the registration of a claim for lien.

NO INTERFERENCE WITH RIGHTS

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

NO PRE-FILING VS POST FILING SET OFF

18. **THIS COURT ORDERS** that no Person shall be entitled to set off any amounts that: (a) are or may become due to the Applicant in respect of obligations arising prior to the date of the Initial Order with any amounts that are or may become due from the Applicant in respect of

obligations arising on or after the date of the Initial Order; or (b) are or may become due from the Applicant in respect of obligations arising prior to the date of the Initial Order with any amounts that are or may become due to the Applicant in respect of obligations arising on or after the date of the Initial Order, each without the consent of the Applicant and the Monitor, or leave of this Court.

CONTINUATION OF SERVICES

19. ~~17.~~ **THIS COURT ORDERS** that during the Stay Period, all Persons having oral or written agreements with any of the Applicant BioSteel Entities or statutory or regulatory mandates for the supply of goods and/or services, including without limitation all computer software, communication and other data services, centralized banking services, payroll and benefit services, accounting services, insurance, transportation services, storage and warehousing, utility, licensing, or other services, to the Business or any of the Applicant BioSteel Entities, are hereby restrained until further Order of this Court from discontinuing, altering, interfering with, suspending or terminating the supply of such goods or services as may be required by ~~the Applicant, and that the Applicant~~ any of the BioSteel Entities or exercising any other remedy provided under the agreements or arrangements, and that each of the BioSteel Entities shall be entitled to the continued use of its current premises, telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of ~~this~~ the Initial Order are paid by the ~~Applicant~~ applicable BioSteel Entities in accordance with the normal payment practices of the ~~Applicant~~ applicable BioSteel Entities or such other practices as may be agreed upon by the supplier or service provider and each of the Applicant and the Monitor, or as may be ordered by this Court.

NON-DEROGATION OF RIGHTS

20. ~~18.~~ **THIS COURT ORDERS** that, notwithstanding anything else in this Order, no Person shall be prohibited from requiring immediate payment for goods, services, use of ~~lease~~ leased or licensed property or other valuable consideration provided on or after the date of ~~this~~ the Initial Order, nor shall any Person be under any obligation on or after the date of ~~this~~ the Initial Order to advance or re-advance any monies or otherwise extend any credit to the Applicant. Nothing in this Order shall derogate from the rights conferred and obligations imposed by the CCAA.⁶

⁶~~This non-derogation provision has acquired more significance due to the recent amendments to the CCAA, since a number of actions or steps cannot be stayed, or the stay is subject to certain limits and restrictions. See, for example,~~

PROCEEDINGS AGAINST DIRECTORS AND OFFICERS

21. ~~19.~~ **THIS COURT ORDERS** that during the Stay Period, and except as permitted by ~~subsection~~Subsection 11.03(2) of the CCAA, no Proceeding may be commenced or continued against any of the former, current or future directors or officers of any of the BioSteel Entities (other than a director or officer who is or was at any point a shareholder or optionholder of the Applicant) (collectively, the “Directors and Officers”) with respect to any claim against the ~~directors or officers~~Directors and Officers that arose before the date ~~hereof~~of the Initial Order and that relates to any obligations of ~~the Applicant~~any of the BioSteel Entities whereby the ~~directors or officers~~Directors and Officers are alleged under any law to be liable in their capacity as ~~directors or officers~~the Directors and Officers for the payment or performance of such obligations, until a compromise or arrangement in respect of the Applicant, if one is filed, is sanctioned by this Court or is refused by the creditors of the Applicant or this Court.

DIRECTORS’ AND OFFICERS’ INDEMNIFICATION AND CHARGE

22. ~~20.~~ **THIS COURT ORDERS** that the Applicant shall indemnify ~~its directors and officers~~the Directors and Officers against obligations and liabilities that they may incur as directors or officers of any of the Applicant BioSteel Entities after the commencement of the within ~~proceedings,~~⁷proceeding, except to the extent that, with respect to any ~~officer~~Director or ~~director~~Officer, the obligation or liability was incurred as a result of ~~the director's or officer's~~such Director's or Officer's gross negligence or wilful misconduct (the “D&O Indemnity”).

23. ~~21.~~ **THIS COURT ORDERS** that the ~~directors and officers of the Applicant~~Directors and Officers shall be entitled to the benefit of and are hereby granted a charge (the “Directors’

~~number of actions or steps cannot be stayed, or the stay is subject to certain limits and restrictions. See, for example, CCAA Sections 11.01, 11.04, 11.06, 11.07, 11.08, 11.1(2) and 11.5(1).~~

~~⁷The broad indemnity language from Section 11.51 of the CCAA has been imported into this paragraph. The granting of the indemnity (whether or not secured by a Directors' Charge), and the scope of the indemnity, are discretionary matters that should be addressed with the Court.~~

Charge⁽¹⁾⁸ on the Property, which charge shall not exceed an aggregate amount of US\$2,198,000, unless permitted by further Order of this Court, as security for the ~~indemnity~~D&O Indemnity provided in paragraph ~~{20}22~~ of this Order. The Directors' Charge shall have the priority set out in paragraphs ~~{38}37~~ and ~~{40}herein~~39 hereof.

24. ~~22.~~ **THIS COURT ORDERS** that, notwithstanding any language in any applicable insurance policy to the contrary, (a) no insurer shall be entitled to be subrogated to or claim the benefit of the Directors' Charge; and (b) the ~~Applicant's directors and officers~~Directors and Officers shall only be entitled to the benefit of the Directors' Charge to the extent that they do not have coverage under any directors' and officers' insurance policy, or to the extent that such coverage is insufficient to pay amounts indemnified in accordance with paragraph ~~{20}22~~ of this Order.

APPOINTMENT OF MONITOR

25. ~~23.~~ **THIS COURT ORDERS** that ~~{MONITOR'S NAME}~~KSV is hereby appointed pursuant to the CCAA as the Monitor, an officer of this Court, to monitor the business and financial affairs of the Applicant with the powers and obligations set out in the CCAA or set forth herein and that the Applicant and its shareholders, officers, directors, and Assistants shall advise the Monitor of all material steps taken by the Applicant pursuant to this Order, and shall co-operate fully with the Monitor in the exercise of its powers and discharge of its obligations and provide the Monitor with the assistance that is necessary to enable the Monitor to adequately carry out the Monitor's functions.

26. ~~24.~~ **THIS COURT ORDERS** that the Monitor, in addition to its prescribed rights and obligations under the CCAA, is hereby directed and empowered to:

- (a) monitor the Applicant's receipts and disbursements;
- (b) report to this Court at such times and intervals as the Monitor may deem appropriate with respect to matters relating to the Property, the Business, and such other matters as may be relevant to the ~~proceedings~~proceeding herein;

⁸Section 11.51(3) provides that the Court may not make this security/charging order if in the Court's opinion the Applicant could obtain adequate indemnification insurance for the director or officer at a reasonable cost.

- (c) assist the Applicant in the preparation of its cash flow statements;
- ~~(e) assist the Applicant, to the extent required by the Applicant, in its dissemination, to the DIP Lender and its counsel on a [TIME INTERVAL] basis of financial and other information as agreed to between the Applicant and the DIP Lender which may be used in these proceedings including reporting on a basis to be agreed with the DIP Lender;~~
- ~~(d) advise the Applicant in its preparation of the Applicant's cash flow statements and reporting required by the DIP Lender, which information shall be reviewed with the Monitor and delivered to the DIP Lender and its counsel on a periodic basis, but not less than [TIME INTERVAL], or as otherwise agreed to by the DIP Lender;~~
- (d) ~~(e)~~ advise the Applicant in its development of the Plan and any amendments to the Plan;
- (e) ~~(f)~~ assist the Applicant, to the extent required by the Applicant, with the holding and administering of creditors' or shareholders' meetings for voting on the Plan;
- (f) monitor all payments, obligations and transfers as between the Applicant and its affiliates;
- (g) have full and complete access to the Property, including the premises, books, records, data, including data in electronic form, and other financial documents of the Applicant, to the extent that is necessary to adequately assess the Applicant's business and financial affairs or to perform its duties arising under this Order;
- (h) be at liberty to engage independent legal counsel or such other persons as the Monitor deems necessary or advisable respecting the exercise of its powers and performance of its obligations under this Order; ~~and~~
- (i) assist the Foreign Representative (as defined below) and its legal counsel as may be required to give effect to the terms of this Order; and
- (j) ~~(i)~~ perform such other duties as are required by this Order or by this Court from time to time.

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

28. ~~26.~~ **THIS COURT ORDERS** that nothing herein contained shall require the Monitor to occupy or to take control, care, charge, possession or management (separately and/or collectively, "Possession") of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the *Ontario Environmental Protection Act*, the *Ontario Water Resources Act*, or the *Ontario Occupational Health and Safety Act* and regulations thereunder (the "Environmental Legislation"), provided however that nothing herein shall exempt the Monitor from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Monitor shall not, as a result of this Order or anything done in pursuance of the Monitor's duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

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

30. ~~28.~~ **THIS COURT ORDERS** that, in addition to the rights and protections afforded to the Monitor under the CCAA or as an officer of this Court, the Monitor, its directors, officers, employees, legal counsel and other representatives acting in such capacities shall incur no liability or obligation as a result of ~~its~~ the Monitor's appointment or the carrying out by it of the provisions of this Order, save and except for any gross negligence or wilful misconduct on its

part. Nothing in this Order shall derogate from the protections afforded to the Monitor by the CCAA or any applicable legislation.

31. ~~29.~~ **THIS COURT ORDERS** that the Monitor, legal counsel to the Monitor ~~and, legal~~ counsel to the Applicant and the Special Committee shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges, whether incurred prior to, on or subsequent to the date of the Initial Order, by the Applicant as part of the costs of ~~these proceedings~~ this proceeding. The Applicant is hereby authorized and directed to pay the accounts of the Monitor, legal counsel for the Monitor and legal counsel for the Applicant on a ~~[TIME INTERVAL] basis and, in addition, the Applicant is hereby authorized to pay to the Monitor, counsel to the Monitor, and counsel to the Applicant, retainers in the amount[s] of \$●~~ [, respectively,] to be held by them as security for payment of their respective fees and disbursements outstanding from time to time bi-weekly basis.

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

ADMINISTRATION CHARGE

33. ~~31.~~ **THIS COURT ORDERS** that the Monitor, legal counsel to the Monitor, ~~if any, and the Applicant's counsel~~ legal counsel to the Applicant and the Special Committee, and Greenhill & Co. Canada Ltd. (the "Financial Advisor") in respect of its Monthly Advisory Fee (as defined by the Greenhill Engagement Letter) shall be entitled to the benefit of and are hereby granted a charge (the "Administration Charge") on the Property, which charge shall not exceed an aggregate amount of US\$●1,000,000 unless permitted by further Order of this Court, as security for their professional fees and disbursements incurred at the standard rates and charges of the Monitor and such counsel or advisors, both before and after the making of ~~this~~ the Initial Order in respect of ~~these proceedings~~ this proceeding. The Administration Charge shall have the priority set out in paragraphs ~~{38}~~ 37 and ~~{40}~~ 39 hereof.

ENGAGEMENT OF THE FINANCIAL ADVISOR

DIP FINANCING

~~32. THIS COURT ORDERS that the Applicant is hereby authorized and empowered to obtain and borrow under a credit facility from [DIP LENDER'S NAME] (the "DIP Lender") in order to finance the Applicant's working capital requirements and other general corporate purposes and capital expenditures, provided that borrowings under such credit facility shall not exceed \$● unless permitted by further Order of this Court.~~

~~33. THIS COURT ORDERS THAT such credit facility shall be on the terms and subject to the conditions set forth in the commitment letter between the Applicant and the DIP Lender dated as of [DATE] (the "Commitment Letter"), filed.~~

34. **THIS COURT ORDERS** that the ~~Applicant is hereby authorized and empowered to execute and deliver such credit agreements, mortgages, charges, hypothecs and security documents, guarantees and other definitive documents (collectively, the "Definitive Documents"), as are contemplated by the Commitment Letter or as may be reasonably required by the DIP Lender pursuant to the terms thereof, and the Applicant is hereby authorized and directed to pay and perform all of its indebtedness, interest, fees, liabilities and obligations to the DIP Lender under and pursuant to the Commitment Letter and the Definitive Documents as and when the same become due and are to be performed, notwithstanding any other provision of this~~ Order. engagement of the Financial Advisor by the Applicant as investment banker pursuant to the engagement letter dated as of August 24, 2023 (the "Greenhill Engagement Letter") and payment by the Applicant of the Monthly Advisory Fee (as defined in the Engagement Letter) and the Transaction Fee (as defined in the Initial Eskandari Affidavit) are hereby approved.

35. **THIS COURT ORDERS** that the ~~DIP Lender~~ Financial Advisor shall be entitled to the benefit of and ~~is~~ are hereby granted a charge (the ~~"DIP Lender's Charge"~~ "Transaction Fee Charge") on the Property, ~~which DIP Lender's Charge shall not secure an obligation that exists before this Order is made. The DIP Lender's~~ as security for the Transaction Fee, which charge shall not exceed an aggregate amount of US\$2,500,000. The Transaction Fee Charge shall have the priority set out in paragraphs ~~{38}~~ 37 and ~~{40}~~ hereof 39 herein.

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

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

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

~~(b) upon the occurrence of an event of default under the Definitive Documents or the DIP Lender's Charge, the DIP Lender, upon ● days notice to the Applicant and the Monitor, may exercise any and all of its rights and remedies against the Applicant or the Property under or pursuant to the Commitment Letter, Definitive Documents and the DIP Lender's Charge, including without limitation, to cease making advances to the Applicant and set off and/or consolidate any amounts owing by the DIP Lender to the Applicant against the obligations of the Applicant to the DIP Lender under the Commitment Letter, the Definitive Documents or the DIP Lender's Charge, to make demand, accelerate payment and give other notices, or to apply to this Court for the appointment of a receiver, receiver and manager or interim receiver, or for a bankruptcy order against the Applicant and for the appointment of a trustee in bankruptcy of the Applicant; and~~

~~(c) the foregoing rights and remedies of the DIP Lender shall be enforceable against any trustee in bankruptcy, interim receiver, receiver or receiver and manager of the Applicant or the Property.~~

~~37. THIS COURT ORDERS AND DECLARES that the DIP Lender shall be treated as unaffected in any plan of arrangement or compromise filed by the Applicant under the CCAA, or any proposal filed by the Applicant under the *Bankruptcy and Insolvency Act* of Canada (the "BIA"), with respect to any advances made under the Definitive Documents.~~

VALIDITY AND PRIORITY OF CHARGES CREATED BY THIS ORDER

37. ~~38.~~ **THIS COURT ORDERS** that the priorities of the Administration Charge, the Directors' Charge, the Administration Charge and the DIP Lender's Transaction Fee Charge (collectively, the "Charges"), as among them, shall be as follows⁹:

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

Second – ~~DIP Lender's~~ Directors' Charge (to the maximum amount of US\$2,198,000); and

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

38. ~~39.~~ **THIS COURT ORDERS** that the filing, registration or perfection of the ~~Directors' Charge, the Administration Charge or the DIP Lender's Charge~~ (collectively, the "Charges") shall not be required, and that the Charges shall be valid and enforceable for all purposes, including as against any right, title or interest filed, registered, recorded or perfected subsequent to the Charges coming into existence, notwithstanding any such failure to file, register, record or perfect.

39. ~~40.~~ **THIS COURT ORDERS** that each of the ~~Directors' Charge, the Administration Charge and the DIP Lender's Charge~~ Charges (all as constituted and defined herein) shall constitute a charge on the Property and such Charges shall rank in priority to all other security interests, trusts, liens, charges and encumbrances, and claims of secured creditors, statutory or otherwise (collectively, "Encumbrances") in favour of any Person notwithstanding the order of perfection or attachment.

40. ~~41.~~ **THIS COURT ORDERS** that except as otherwise expressly provided for herein, or as may be approved by this Court on notice to parties in interest, the Applicant shall not grant any Encumbrances over any Property that rank in priority to, or *pari passu* with, any of the

⁹~~The ranking of these Charges is for illustration purposes only, and is not meant to be determinative. This ranking may be subject to negotiation, and should be tailored to the circumstances of the case before the Court. Similarly, the quantum and caps applicable to the Charges should be considered in each case. Please also note that the CCAA now permits Charges in favour of critical suppliers and others, which should also be incorporated into this Order (and the rankings, above), where appropriate.~~

~~Directors' Charge, the Administration Charge or the DIP Lender's Charge~~Charges, unless the Applicant also obtains the prior written consent of the Monitor, ~~the DIP Lender~~ and the beneficiaries of the Administration Charge and the Directors' Charge and the ~~Administration~~Transaction Fee Charge, as applicable, or further Order of this Court.

41. ~~42.~~ **THIS COURT ORDERS** that the ~~Directors' Charge, the Administration Charge, the Commitment Letter, the Definitive Documents and the DIP Lender's Charge~~Charges shall not be rendered invalid or unenforceable and the rights and remedies of the chargees entitled to the benefit of the Charges (collectively, the "Chargees") ~~and/or the DIP Lender~~ thereunder shall not otherwise be limited or impaired in any way by: (a) the pendency of ~~these proceedings~~this proceeding and the declarations of insolvency made herein; (b) any application(s) for bankruptcy order(s) or receivership order(s) issued pursuant to the Bankruptcy and Insolvency Act (Canada) (the "BIA") or otherwise, or any bankruptcy order or receivership order made pursuant to such applications; (c) the filing of any assignments for the general benefit of creditors made pursuant to the BIA; (d) the provisions of any federal or provincial statutes; or (e) any negative covenants, prohibitions or other similar provisions with respect to borrowings, incurring debt or the creation of Encumbrances, contained in any existing loan documents, lease, sublease, offer to lease or other agreement (collectively, an "Agreement") which binds the Applicant, and notwithstanding any provision to the contrary in any Agreement:

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

constitute preferences, fraudulent conveyances, transfers at undervalue, oppressive conduct, or other challengeable or voidable transactions under any applicable law.

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

SERVICE AND NOTICE

43. ~~44.~~ **THIS COURT ORDERS** that the Monitor shall: (i) without delay, publish in ~~[newspapers specified by the Court]~~the National Post (National Edition), a notice containing the information prescribed under the CCAA; and (ii) within five (5) days after the date of ~~this~~the Initial Order, (A) make this Order publicly available in the manner prescribed under the CCAA, (B) send, in the prescribed manner, a copy of the notice to every known creditor who has a claim against the Applicant of more than ~~\$1000~~1,000, and (C) prepare a list showing the names and addresses of those creditors and the estimated amounts of those claims, and make it publicly available in the prescribed manner, all in accordance with ~~Section~~Subsection 23(1)(a) of the CCAA and the regulations made thereunder.

44. ~~45.~~ **THIS COURT ORDERS** that the E-Service ~~Protocol~~Guide of the Commercial List (the "~~Protocol~~Guide") is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the ~~Protocol~~Guide (which can be found on the Commercial List website at ~~http://www.ontariocourts.ca/scj/practice/practice-directions/toronto/e-service-protocol/~~https://www.ontariocourts.ca/scj/practice/practice-directions/toronto/eservice-commercial/) shall be valid and effective service. Subject to Rule 17.05, this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the *Rules of Civil Procedure*, R.R.O. 1990. Reg. 194, as amended (the "Rules of Civil Procedure"). Subject to Rule 3.01(d) of the Rules of Civil Procedure and paragraph ~~21~~13 of the ~~Protocol~~Guide, service of documents in accordance with the ~~Protocol~~Guide will be effective on transmission. This Court further orders that a Case Website shall be established in accordance with the ~~Protocol~~Guide with the following URL ~~<@>~~: www.ksvadvisory.com/experience/case/biosteel.

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

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

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

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

FOREIGN PROCEEDINGS

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

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

GENERAL

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

51. ~~47.~~ **THIS COURT ORDERS** that, notwithstanding paragraph 50 of this Order, the Applicant or the Monitor may from time to time apply to this Court to amend, vary or supplement this Order or for advice and directions in the discharge of its powers and duties hereunder or in the interpretation of this Order.

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

53. ~~49.~~ **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States, to give effect to this Order and to assist the ~~Applicant~~ BioSteel Entities, the Monitor and their respective agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the ~~Applicant~~ BioSteel Entities and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to

the Monitor in any foreign proceeding, or to assist the ~~Applicant~~ BioSteel Entities and the Monitor and their respective agents in carrying out the terms of this Order.

54. ~~50.~~ **THIS COURT ORDERS** that each of the Applicant and the Monitor be at liberty and ~~is~~ are hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and that the Monitor is authorized and empowered to act as a representative in respect of the within ~~proceedings~~ proceeding for the purpose of having ~~these proceedings~~ this proceeding recognized in a jurisdiction outside Canada.

~~51. THIS COURT ORDERS that any interested party (including the Applicant and the Monitor) may apply to this Court to vary or amend this Order on not less than seven (7) days notice to any other party or parties likely to be affected by the order sought or upon such other notice, if any, as this Court may order.~~

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

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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF BIOSTEEL SPORTS NUTRITION
INC.

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

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

**PROCEEDING COMMENCED AT
TORONTO**

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

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Lawyers for the Applicant

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

**MOTION RECORD
(FOR AN AMENDED AND RESTATED INITIAL ORDER
AND SISP APPROVAL ORDER
RETURNABLE SEPTEMBER 21, 2023)**

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