

**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  
MPX INTERNATIONAL CORPORATION, BIOCANNABIS PRODUCTS LTD.,  
CANVEDA INC., THE CING-X CORPORATION, SPARTAN WELLNESS  
CORPORATION, MPXI ALBERTA CORPORATION, MCLN INC.,  
AND SALUS BIOPHARMA CORPORATION**

**MOTION RECORD  
(Stay Extension and Fee Approval)  
(Returnable October 21, 2022)**

October 13, 2022

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Lawyers for the Applicants

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# **Tab 1**

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
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**IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,  
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CORPORATION, MPXI ALBERTA CORPORATION, MCLN INC., AND SALUS  
BIOPHARMA CORPORATION**

Applicants

**NOTICE OF MOTION  
(Stay Extension and Fee Approval)  
(Returnable October 21, 2022)**

The Applicants will bring a motion before the Honourable Justice Cavanagh of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) on Friday, October 21, 2022 at 12:00 p.m. (Toronto time) or as soon after that time as the motion can be heard.

**PROPOSED METHOD OF HEARING:** The motion is to be heard via videoconference as a result of the COVID-19 pandemic. Zoom details will be provided by the Court.

**THE MOTION IS FOR:**

1. An order (the “**Stay Extension and Fee Approval Order**”) substantially in the form attached hereto at Tab 3 of this motion record, among other things:
  - (a) abridging the time for service of the motion record returnable October 21, 2022 and dispensing with service on any person other than those served;

- (b) extending the Stay Period (as defined below) until and including December 16, 2022 (the “**Stay Extension**”);
- (c) approving the Third Report of KSV Restructuring Inc. (“**KSV**”) in its capacity as the Court-appointed monitor (in such capacity, the “**Monitor**”), to be filed (the “**Third Report**”), the Prior Reports (as defined below) and the activities of the Monitor described therein; and
- (d) approving the fees and disbursements of the Monitor and its counsel as set out in affidavits of Noah Goldstein and Tamie Dolny, respectively, each as attached to the Third Report.

2. Such further and other relief as this Honourable Court deems just.

**THE GROUNDS FOR THIS MOTION ARE:**

***Background***

3. MPXI, a public company listed on the Canadian Securities Exchange, is the ultimate parent company to several companies in the cannabis industry in Canada and internationally, including Thailand, Malta and Switzerland. Through its subsidiaries, its business and operations focus on production and resale, management consulting for cannabis companies, and cannabis education.

4. On July 25, 2022, the Applicants applied for relief pursuant to the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the “**CCAA**”, and these proceedings, the “**CCAA Proceedings**”), and this Court granted an order (the “**Initial Order**”), which, among other things:

- (a) appointed KSV as Monitor;

- (b) approved the Applicants' ability to borrow under a debtor-in-possession ("**DIP**") credit facility up to a maximum principal amount of \$2.67 million (the "**DIP Loan**");
  - (c) stayed, for an initial period of not more than ten days (the "**Stay Period**"), all proceedings and remedies taken or that might be taken in respect of the Applicants, the Monitor or the directors and officers of the Applicants, or affecting the Applicants' business or the Property (as defined in the Initial Order), except with the written consent of the Applicants and the Monitor, or with leave of the Court (the "**Stay of Proceedings**");
  - (d) extended the benefit of the Stay of Proceedings to the Non-Applicant Stay Parties (as defined in the Initial Order) and their respective directors and officers;
  - (e) granted the Administration Charge up to a maximum amount of \$300,000, the DIP Lenders' Charge up to a maximum amount of \$1,200,000, and the Directors' Charge up to a maximum amount of \$145,000 (each as defined in the Initial Order).
5. On August 4, 2022, the Court granted an amended and restated Initial Order (the "**Amended and Restated Initial Order**"), which, among other things:
- (a) increased the Directors' Charge and the DIP Lenders' Charge to \$410,000 and \$2,670,000, respectively; and
  - (b) extended the Stay Period to and including October 21, 2022.

6. The Court also granted an order on August 4, 2022 approving a Sale and Investment Solicitation Process (the “SISP”) in respect of the Applicants and the Non-Applicant Stay Parties (collectively, the “MPXI Entities”).

***Update on the SISP<sup>1</sup>***

7. The SISP contained the following three milestones:

- (a) *Solicitation of interest*: No later than August 5, 2022;
- (b) *Binding Offer Deadline*: September 8, 2022; and
- (c) *Deadline to Notify Qualified Bidders of Successful Bid*: September 12, 2022.

8. In accordance with the SISP, the following efforts were made to solicit interest:

- (a) Known Potential Bidders were identified and contacted;
- (b) the Monitor arranged for notice of the SISP to be published in the Globe and Mail (National Edition) and issued a press release announcing the Opportunity; and
- (c) the Monitor, with the assistance of the Applicants and in consultation with the DIP Lenders, prepared the Teaser Letter and the NDA.

9. The Monitor solicited interest in the Opportunity from 179 Known Potential Bidders by sending each a copy of the Teaser Letter and NDA. Of these, 15 parties executed an NDA to engage in additional due diligence as Qualified Bidders.

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<sup>1</sup> Capitalized terms not otherwise defined in this section have the meanings given to them in the SISP.

10. Following the Binding Offer Deadline, 7 parties had submitted offers. After reviewing and considering the offers, the Applicants and the Monitor, with input from the DIP Lenders, ultimately determined that none should be selected as a Successful Bid. Importantly, when all non-duplicative offers were aggregated together, they were not sufficient to repay the primary secured creditors, the Debentureholders, in full.

11. However, in accordance with the broad flexibility afforded by the SISP, the Applicants and the Monitor are currently negotiating two potential transactions:

- (a) *The Reverse Vesting Transaction:* The Applicants and Monitor have continued discussions with a Qualified Bidder and are currently negotiating a sale of the shares of one of the Applicants and certain related assets pursuant to a share purchase agreement to be effected by way of a “reverse vesting” order (the “**Reverse Vesting Transaction**”); and
- (b) *The Credit Bid Transaction:* The Applicants and the Monitor are also engaged in discussions with the DIP Lenders’ (on behalf of themselves and the Debentureholders) regarding a transaction that contemplates the Debentureholders acquiring certain shares and related assets of the MPXI Entities by way of a credit bid (the “**Credit Bid Transaction**”, and together with the Reverse Vesting Transaction, the “**Potential Sale Transactions**”).

12. The Applicants and the Monitor believe that they will be in a position to finalize the necessary transaction documents in respect of Potential Sale Transactions in the very near future, and intend to return to Court as soon as practical to seek approval of either or both of the Reverse Vesting Transaction and the Credit Bid Transaction.

*Ninth Square*

13. Ninth Square Capital Corporation (“**Ninth Square**”) is the plaintiff in an action against various parties, including MPXI, Jeremy Budd (“**Budd**”), Scott Boyes (“**Boyes**”), and Michael Arnkvarn (“**Arnkvarn**”), each of whom are directors and/or officers of MPXI and certain MPXI Entities. That action includes allegations regarding the conduct of Budd, Boyes and Arnkvarn in their capacity directors and/or officers of MPXI.

14. Early in these CCAA Proceedings, Ninth Square advised that it was taking the position that the Stay of Proceedings did not apply to its action, and advised that it was reserving its rights to seek relief in that regard. The Applicants advised Ninth Square that pursuant to the plain wording of paragraph 19 of the Amended and Restated Initial Order, all “Proceedings” are stayed as against the former, current or future directors or officers (or similar position) of any MPXI Entity and, accordingly, leave of the Court was required to continue any proceedings against them.

15. In late August, 2022, counsel for Ninth Square advised that Ninth Square intended to seek a declaration that the Stay of Proceedings does not apply to Budd, Boyes, or Arnkvarn, and a hearing was scheduled for September 29, 2022 (the “**Ninth Square Motion**”).

16. At the Ninth Square Motion, the Court declined to grant the relief sought by Ninth Square, finding that the wrongful conduct alleged against Budd, Boyes and Arnkvarn in the pleadings of Ninth Square’s action is “inextricably intertwined” with their roles in the management of MPXI, and that the Stay of Proceedings therefore prevents Ninth Square from proceeding with its action against Budd, Boyes, and Arnkvarn.

17. The endorsement issued by Justice Conway (the “**Endorsement**”) suggested that Ninth Square could amend its pleadings to clarify that its action does not apply to the conduct of Budd, Boyes and Arnkvarn in directing MPXI. The Applicants are not aware of any such amendment to date.

18. Notwithstanding the Endorsement and the outcome of the Ninth Square Motion, counsel to Ninth Square advised counsel to the Applicants that Ninth Square would likely object to an extension of the Stay of Proceedings with respect to its action against Budd, Boyes and Arnkvarn.

***Stay Extension and Fee Approval***

*(i) Stay Extension*

19. The Stay Period, as set out in the Amended and Restated Initial Order, runs until and including October 21, 2022. Pursuant to the Stay Extension and Fee Approval Order, the Applicants are seeking an extension of the Stay Period until and including December 16, 2022.

20. It is necessary and in the best interests of the Applicants and their stakeholders that the Stay Period be extended until and including December 16, 2022, as it will:

- (a) allow the MPXI Entities and the Monitor to continue to negotiate and finalize the Potential Sale Transactions and seek any necessary Court approvals;
- (b) if the Potential Sale Transactions are agreed to between the necessary parties and approved by the Court, allow the Applicants to work toward obtaining the necessary regulatory approvals to close either or both of the Potential Sale Transactions;

- (c) provide the necessary stability to allow the MPXI Entities to continue to operate as going concerns or to conduct an orderly wind-out of their businesses, as applicable;
- (d) allow the directors and officers of the MPXI Entities to focus their efforts on the Potential Sale Transactions; and
- (e) continue to advance matters toward a termination of these CCAA Proceedings that will allow certain restructured businesses to emerge as going concern entities.

21. As will be demonstrated in the Cash Flow Forecast appended to the Third Report, the Applicants are forecast to require additional financing to pay certain expenses to be incurred prior to the end of the proposed extension of the Stay Period. An amendment to the DIP Loan (the “**DIP Amendment**”) that will increase the amount of funds available to the Applicants and extend the current maturity of the DIP Loan is currently being prepared by the DIP Lenders.

22. Supplemental materials will be filed if the DIP Amendment is entered into. Provided the DIP Amendment is entered into, the Applicants are forecast to have sufficient liquidity to fund their obligations and the costs of the CCAA Proceedings through the end of the extended Stay Period.

23. Since the granting of the Amended and Restated Initial Order, the Applicants have continued to act in good faith and with due diligence to, among other things, stabilize their business, communicate with Health Canada, employees, customers, suppliers and other key stakeholders, and to assist the Monitor with the SISP and the negotiation of the Potential Sale Transactions.

24. The Monitor and the DIP Lenders are supportive of the proposed extension of the Stay Period, and the Monitor believes it will not materially prejudice any stakeholder.

*(ii) Fee Approval*

25. The proposed Stay Extension and Fee Approval Order also seeks approval of the Third Report and the fees and activities of the Monitor and its counsel. It also seeks approval of the reports previously filed in these CCAA Proceedings, being:

- (a) the report of the proposed Monitor (as KSV then was) dated July 25, 2022 (the **“Pre-Filing Report”**);
- (b) the first report of the Monitor dated July 29, 2022 (the **“First Report”**); and
- (c) the second report of the Monitor dated September 20, 2022 (the **“Second Report”**, and collectively with the Pre-Filing Report and the First Report, the **“Prior Reports”**).

**OTHER GROUNDS**

26. The provisions of the CCAA and the inherent and equitable jurisdiction of this Honourable Court.

27. Rules 1.04, 2.03, 3.02, 16, 38 and 39 of the Ontario *Rules of Civil Procedure*, R.R.O 1990, Reg. 194, as amended.

28. 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 this motion:

- (a) the Affidavit of Jeremy Budd sworn October 13, 2022;
- (b) the Third Report of the Monitor, to be filed; and
- (c) such further and other evidence as counsel may advise and this Court may permit.

October 13, 2022

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**IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C. 1985, c. C-36*, AS AMENDED AND  
IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF MPX INTERNATIONAL CORPORATION,  
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CORPORATION, MPXI ALBERTA CORPORATION, MCLN INC., AND SALUS BIOPHARMA CORPORATION**

Court File No CV-22-00684542-00CL

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

Proceedings Commenced in Toronto

**NOTICE OF MOTION**  
**(Returnable October 21, 2022)**

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Lawyers for the Applicants

# Tab 2

**ONTARIO  
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**IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,  
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BIOPHARMA CORPORATION**

Applicants

**AFFIDAVIT OF JEREMY BUDD  
(Sworn October 13, 2022)**

I, Jeremy Budd, of the City of Toronto, in the Province of Ontario, **MAKE OATH AND SAY:**

1. This affidavit is made in support of a motion brought by MPX International Corporation (“**MPXI**”), BioCannabis Products Ltd., Canveda Inc., The CinG-X Corporation, Spartan Wellness Corporation, MPXI Alberta Corporation, MCLN Inc., and Salus BioPharma Corporation (each individually, an “**Applicant**”, and collectively, the “**Applicants**”).

2. I am the Executive Vice President, Corporate Secretary and General Counsel of MPXI, which wholly-owns each of the other Applicants and which, directly or indirectly, wholly-owns or has an interest in several other non-Applicant affiliates<sup>1</sup> (each of the Applicants and the Non-

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<sup>1</sup> The non-Applicant affiliates are: MPX Australia Pty Ltd.; MPXI UK Limited; MPXI Lesotho (Pty) Ltd.; Highland Farms (Pty) Ltd.; MPXI Malta Operations Limited; MPXI Malta Property Limited; Alphafarma Operations Limited; MPXI Malta Holding Limited; MPXI SA Pty Ltd.; First Growth Holding Pty Ltd.; Salus Bioceutical (Thailand) Co., Ltd.; Salus International Management Ltd.; Holyworld SA; and MPXI Labs SA (collectively, the “**Non-Applicant Stay Parties**”). MPXI understands that MPX Australia Pty Ltd. has since been de-registered from Australia’s corporate registry.

Applicant Stay Parties individually a “**MPXI Entity**” and collectively, the “**MPXI Entities**” or the “**Company**”). I am also a director of MPXI and each of the other Applicants, and a director/and or officer of several of the other MPXI Entities. As such, I have personal knowledge of the Company and the matters to which I depose in this affidavit. Where I have relied on other sources for information, I have so stated and I believe them to be true.

3. All references to currency in this affidavit are in Canadian dollars unless noted otherwise.

#### **I. RELIEF REQUESTED**

4. I swear this affidavit in support of a motion by the Applicants for an order (the “**Stay Extension and Fee Approval Order**”), among other things:

- (a) abridging the time for service of the motion record returnable October 21, 2022 and dispensing with service on any person other than those served;
- (b) extending the Stay Period (as defined below) until and including December 16, 2022 (the “**Stay Extension**”);
- (c) approving the Third Report of KSV Restructuring Inc. (“**KSV**”) in its capacity as the Court-appointed monitor (in such capacity, the “**Monitor**”), to be filed (the “**Third Report**”), the Prior Reports (as defined below) and the activities of the Monitor described therein; and
- (d) approving the fees and disbursements of the Monitor and its counsel as set out in affidavits of Noah Goldstein and Tamie Dolny, respectively, each as attached to the Third Report (together, the “**Fee Affidavits**”).

5. Capitalized terms not otherwise defined herein have the meaning ascribed to them in the Stay Extension and Fee Approval Order.

## II. INTRODUCTION AND BACKGROUND

6. MPXI, a public company listed on the Canadian Securities Exchange, is the ultimate parent company to several companies in the cannabis industry in Canada and internationally, including Thailand, Malta and Switzerland. Through its subsidiaries, its business and operations focus on production and resale, management consulting for cannabis companies, and cannabis education.

7. On July 25, 2022, as a result of a dire liquidity crisis, the Applicants brought an application to this Court for relief pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "CCAA"). On that day, this Court granted an order (the "**Initial Order**"), which, among other things:

- (a) appointed KSV as the Monitor;
- (b) approved the Applicants' ability to borrow under a debtor-in-possession ("**DIP**") credit facility up to a maximum principal amount of \$2.67 million (the "**DIP Loan**");
- (c) stayed, for an initial period of not more than ten days (the "**Stay Period**"), all proceedings and remedies taken or that might be taken in respect of the Applicants, the Monitor or the directors and officers of the Applicants, or affecting the Applicants' business or the Property (as defined in the Initial Order), except with the written consent of the Applicants and the Monitor, or with leave of the Court (the "**Stay of Proceedings**");

- (d) extended the benefit of the Stay of Proceedings to the Non-Applicant Stay Parties and their respective directors and officers; and
- (e) granted the Administration Charge up to a maximum amount of \$300,000, the DIP Lenders' Charge up to a maximum amount of \$1,200,000, and the Directors' Charge up to a maximum amount of \$145,000 (each as defined in the Initial Order).

8. On August 4, 2022, the Court granted an amended and restated Initial Order (the "**Amended and Restated Initial Order**"), which, among other things:

- (a) increased the Directors' Charge and the DIP Lenders' Charge to \$410,000 and \$2,670,000, respectively; and
- (b) extended the Stay Period to and including October 21, 2022.

9. The Initial Order and Amended and Restated Initial Order also provided certain relief related to MPXI's obligations to make securities filings and hold an annual meeting. Copies of the Initial Order and Amended and Restated Initial Order are attached hereto as **Exhibits "A"** and **"B"**, respectively.

10. On August 4, 2022, the Court also granted an order (the "**SISP Approval Order**") approving a Sale and Investment Solicitation Process in respect of the MPXI Entities (the "**SISP**"). A copy of the SISP Approval Order is attached hereto as **Exhibit "C"**.

### III. UPDATE ON THE SISP<sup>2</sup>

11. The SISP contained the following milestones:

Milestone	Date
Commence solicitation of interest from parties, including delivering NDA and Teaser Letter, and upon execution of NDA, Confidential Information Memorandum and access to Data Room	No later than August 5, 2022.
Binding Offer Deadline	September 8, 2022 at 5:00 PM EST
Deadline to notify Qualified Bidders of Successful Bid	September 12, 2022 at 5:00 PM EST

12. Since the granting of the SISP Approval Order, the Monitor, with the assistance of the MPXI Entities, has solicited interest in a sale of, or investment in, all or part of the MPXI Entities' Business and Property.

13. In accordance with the SISP, the following efforts were made to solicit interest in the Opportunity:

- (a) Known Potential Bidders were identified by preparing a list of potential bidders, including, among others:
  - (i) parties that had approached the Monitor and/or the MPXI Entities indicating an interest in the Opportunity;

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<sup>2</sup> Capitalized terms not otherwise defined in this section have the meanings given to them in the SISP.

- (ii) multiple parties who the Monitor and/or the MPXI Entities, in consultation with the DIP Lenders, believed may have had an interest in purchasing all or part of the Business and Property or investing in the MPXI Entities pursuant to the terms of the SISP; and
  - (iii) any other credible parties as determined by the Monitor and/or the MPXI Entities, in consultation with the DIP Lenders, suggested by a stakeholder as a potential bidder who may be interested in the Opportunity;
- (b) the Monitor arranged for notice of the SISP to be published in The Globe and Mail (National Edition) and issued a press release announcing the Opportunity; and
- (c) the Monitor, with the assistance of the MPXI Entities and in consultation with the DIP Lenders, prepared:
  - (i) the Teaser Letter which described the Opportunity, outlined the process under the SISP and invited recipients to express their interest pursuant to SISP; and
  - (ii) the NDA.

14. The Monitor solicited interest in the Opportunity from 179 Known Potential Bidders by sending each a copy of the Teaser Letter and NDA. Of the Potential Bidders who were provided with a copy of the Teaser Letter, 15 parties executed an NDA to engage in additional due diligence as Qualified Bidders.

15. As of the Binding Offer Deadline, 7 parties had submitted offers. The Monitor and the Applicants, with input from the DIP Lenders, reviewed these offers and assessed their value.

Ultimately, in accordance with the SISP, the Applicants and the Monitor, in consultation with the DIP Lenders determined that none of the offers received in the SISP should be selected as a Successful Bid, as none of them offered sufficient value for the assets that would be acquired. Importantly, when all non-duplicative offers were aggregated together, they were not sufficient to repay the primary secured creditors, the Debentureholders, in full.

16. However, in accordance with the broad flexibility afforded by the SISP, the Applicants and the Monitor are currently negotiating two potential transactions:

(a) *The Reverse Vesting Transaction:* The Applicants have continued good faith discussions with a Qualified Bidder that submitted an offer for the shares of one of the Applicants and certain related assets. The Applicants, the Monitor, and the Qualified Bidder are still negotiating the terms of the proposed transaction and anticipate that if the parties reach mutually acceptable terms, the transaction will consist of a share purchase agreement to be effected by way of a “reverse vesting” order (the “**Reverse Vesting Transaction**”).

(b) *The Credit Bid Transaction:* The Applicants and the Monitor are also engaged in discussions with the DIP Lenders (on behalf of themselves and the Debentureholders) regarding a transaction that contemplates the Debentureholders acquiring certain shares and related assets of the MPXI Entities by way of a credit bid (the “**Credit Bid Transaction**”, and together with the Reverse Vesting Transaction, the “**Potential Sale Transactions**”).

17. The Applicants and the Monitor currently believe that they will be in a position to finalize the necessary transaction documents in respect of the Potential Sale Transactions in the very near

future. The Applicants intend to return to Court as soon as practical to seek approval of either or both of the Reverse Vesting Transaction and the Credit Bid Transaction. If approved, the Applicants will require additional time to obtain the necessary regulatory approvals and satisfy the conditions precedent to consummate either or both Potential Sale Transactions.

#### **IV. NINTH SQUARE**

18. Ninth Square Capital Corporation (“**Ninth Square**”) is the plaintiff in an action against various parties, including MPXI, myself, Scott Boyes (“**Boyes**”), and Michael Arnkvarn (“**Arnkvarn**”). Each of myself, Boyes, and Arnkvarn are directors and/or officers of various MPXI Entities, including MPXI. Ninth Square’s Consolidated Statement of Claim is attached hereto as **Exhibit “D”**. That action includes allegations regarding the conduct of myself, Boyes and Arnkvarn in our capacity directors and/or officers of MPXI.

19. In early August, 2022, Ninth Square advised that it was taking the position that the Stay of Proceedings did not apply to its action, and advised that it was reserving its rights to seek relief in that regard. Specifically, Ninth Square advised that it wished to continue with discoveries previously scheduled in this action for November and December.

20. The Applicants advised Ninth Square that pursuant to the plain wording of paragraph 19 of the Amended and Restated Initial Order, all “Proceedings” are stayed as against the former, current or future directors or officers (or similar position) of any MPXI Entity and, accordingly, leave of the Court was required to continue any proceedings against them.

21. In late August, 2022, counsel for Ninth Square advised that Ninth Square intended to seek a declaration that the Stay of Proceedings does not apply to myself, Boyes, or Arnkvarn in respect of the Ninth Square action.

22. The motion brought by Ninth Square (the “**Ninth Square Motion**”) was heard by the Court on September 29, 2022. The Court declined to grant the relief sought by Ninth Square, finding that the wrongful conduct alleged against myself, Boyes and Arnkvarn in the pleadings of Ninth Square’s action is “inextricably intertwined” with our roles in the management of MPXI, and that the Stay of Proceedings therefore prevents Ninth Square from proceeding with its action against us. The endorsement of Justice Conway (the “**Endorsement**”) issued in respect of the Ninth Square Motion is attached hereto as **Exhibit “E”**.

23. Notwithstanding the Endorsement and the outcome of the Ninth Square Motion, I understand that on October 11, 2022, counsel to Ninth Square advised counsel to the Applicants that Ninth Square would likely object to an extension of the Stay of Proceedings with respect to its action against myself, Boyes and Arnkvarn.

24. As indicated in the Endorsement, Justice Conway suggested that Ninth Square could amend its pleadings to clarify that its action does not apply to our conduct in directing MPXI. To my knowledge, this has not been done.

## V. STAY EXTENSION AND FEE APPROVAL

### (i) *Stay Extension*

25. As discussed above, the Stay Period currently runs until and including October 21, 2022. Pursuant to the Stay Extension and Fee Approval Order, the Applicants are seeking an extension of the Stay Period until and including December 16, 2022.

26. The Stay of Proceedings has allowed the MPXI Entities to maintain the status quo and has given the MPXI Entities and their directors and officers much-needed breathing space to focus on a sale of its business and assets for the benefit of the MPXI Entities' stakeholders. The Stay Extension will ensure that the MPXI Entities have continued stability. It is necessary and in the best interests of the Applicants and their stakeholders that the Stay Period be extended until and including December 16, 2022, as it will:

- (a) allow the MPXI Entities and the Monitor to continue to negotiate and finalize the Potential Sale Transactions and seek any necessary Court approvals;
- (b) if the Potential Sale Transactions are agreed to between the necessary parties and approved by the Court, allow the Applicants to work toward obtaining the necessary regulatory approvals to close either or both of the Potential Sale Transactions;
- (c) provide the necessary stability to allow the MPXI Entities to continue to operate as going concerns or to conduct an orderly wind-out of their businesses, as applicable;
- (d) allow the directors and officers of the MPXI Entities to focus their efforts on the Potential Sale Transactions; and

- (e) continue to advance matters toward a termination of these CCAA Proceedings that will allow certain restructured businesses to emerge as going concern entities.

27. At this critical juncture in the CCAA Proceedings the continued focus of myself, Boyes and Arnkvarn on the Potential Sale Transactions will be imperative in ensuring a successful restructuring and maximizing value for the Applicants' stakeholders.

28. As will be demonstrated in the Cash Flow Forecast appended to the Third Report, the Applicants are forecast to require additional financing to pay certain expenses to be incurred prior to the end of the proposed extension of the Stay Period. I understand that the DIP Lenders are currently preparing an amendment to the DIP Loan (the "**DIP Amendment**") that will increase the amount of funds available to the Applicants and extend the current maturity of the DIP Loan. I understand that, if the DIP Amendment is entered into, the Applicants will file supplemental materials attaching the DIP Amendment, or the Monitor will append the DIP Amendment to the Third Report. Provided the DIP Amendment is entered into, the Applicants are forecast to have sufficient liquidity to fund their obligations and the costs of the CCAA Proceedings through the end of the extended Stay Period.

29. Since the granting of the Amended and Restated Initial Order, the Applicants have continued to act in good faith and with due diligence to, among other things, stabilize their business, communicate with Health Canada, employees, customers, suppliers and other key stakeholders, and to assist the Monitor with the SISP and the negotiation of the Potential Sale Transactions.

30. I understand that the Monitor is supportive of the proposed extension of the Stay Period, and believes that it will not materially prejudice any stakeholder. I also understand that the DIP Lenders support the proposed extension of the Stay Period.

**(ii) Fee Approval**

31. The proposed Stay Extension and Fee Approval Order seeks approval of the Third Report and the fees and activities of the Monitor and its counsel described therein. It also seeks approval of the reports that were previously filed in these CCAA Proceedings, being:

- (a) the report of the proposed Monitor (as KSV then was) dated July 25, 2022 (the **“Pre-Filing Report”**);
- (b) the first report of the Monitor dated July 29, 2022 (the **“First Report”**); and
- (c) the second report of the Monitor dated September 20, 2022 (the **“Second Report”**, and collectively with the Pre-Filing Report and the First Report, the **“Prior Reports”**).

32. I understand that the Monitor and its counsel will prepare the Fee Affidavits, which will be attached to the Third Report.

**VI. CONCLUSION**

33. Since the granting of the Initial Order, the Applicants have acted and continue to act in good faith and with due diligence to, among other things, stabilize their business and assist with the SISP, each with the view of maximizing value for their stakeholders.

34. I believe that the relief sought and described herein is in the best interests of the MPXI Entities and their stakeholders. Further, the Monitor and the DIP Lenders are supportive of the relief sought pursuant to the Stay Extension and Fee Approval Order.

35. I swear this affidavit in support of the Applicants' motion for the Stay Extension and Fee Approval Order, and for no other or improper purpose.

**SWORN BEFORE ME** over )  
videoconference on this 13<sup>th</sup> day of October )  
2022. The affiant was located in the City of )  
Toronto, in the Province of Ontario and the )  
Commissioner was located in the City of )  
Toronto, in the Province of Ontario. This )  
affidavit was commissioned remotely as a )  
result of COVID-19 and the declaration was )  
administered in accordance with Ontario )  
*Regulation 431/20.* )



**Thomas Gray**

A Commissioner for Oaths in and for the  
Province of Ontario



**Jeremy Budd**

**THIS IS EXHIBIT "A" REFERRED TO IN THE  
AFFIDAVIT OF JEREMY BUDD SWORN  
THE 13<sup>TH</sup> DAY OF OCTOBER, 2022**

A handwritten signature in black ink, appearing to be 'TG' with a long horizontal stroke extending to the right.

---

**THOMAS GRAY**  
**A Commissioner for taking affidavits, etc.**



Court File No. CV-22-684542-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

THE HONOURABLE CHIEF ) MONDAY, THE 25<sup>th</sup>  
 )  
JUSTICE MORAWETZ ) DAY OF JULY, 2022  
 )

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 MPX  
INTERNATIONAL CORPORATION, BIOCANNABIS PRODUCTS LTD., CANVEDA INC.,  
THE CING-X CORPORATION, SPARTAN WELLNESS CORPORATION, MPXI ALBERTA  
CORPORATION, MCLN INC., AND SALUS BIOPHARMA CORPORATION  
(collectively, the "**Applicants**")

**INITIAL ORDER**

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

**ON READING** the affidavit of Jeremy Blumer sworn July 25, 2022 and the Exhibits thereto (the "**Blumer Affidavit**") and the Pre-Filing Report of KSV Restructuring Inc. ("**KSV**") dated July 25, 2022, 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 Applicants and the additional parties listed in Schedule "A" hereto (collectively, the "**Non-Applicant Stay Parties**") and together with the Applicants, the "**MPXI Entities**"), counsel for KSV, counsel for David Taylor, Alastair Crawford, Broughton Finance and Brahma Finance Limited (collectively, the "**Initial DIP Lenders**"), and such other parties listed on the Counsel Slip, and on reading the consent of KSV to act as Monitor (the "**Monitor**"),

## SERVICE

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.

## APPLICATION

2. **THIS COURT ORDERS AND DECLARES** that each of the Applicants is a company to which the CCAA applies. Although not Applicants, the Non-Applicant Stay Parties shall enjoy the benefits of the protections and authorizations provided under the terms of this Order.

## POSSESSION OF PROPERTY AND OPERATIONS

3. **THIS COURT ORDERS** that the Applicants shall remain in possession and control of their respective current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof (the "**Property**"). Subject to further Order of this Court, the Applicants shall continue to carry on business in a manner consistent with the preservation of their business (the "**Business**") and Property. The Applicants are authorized and empowered to continue to retain and employ the employees, consultants, agents, experts, accountants, counsel and such other persons (collectively "**Assistants**") currently retained or employed by them, with liberty to retain such further Assistants as they deem reasonably necessary or desirable in the ordinary course of business or for the carrying out of the terms of this Order.

4. **THIS COURT ORDERS** that the MPXI Entities shall be entitled to continue to utilize the central cash management system currently in place as described in the Blumer Affidavit or, with the consent of the Monitor and the Initial DIP Lenders, together with any other lender who participates in the DIP Facility (as defined below) (together, the "**DIP Lenders**"), 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 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 MPXI Entities of funds transferred, paid, collected or otherwise dealt with in the Cash

Management System, shall be entitled to provide the Cash Management System without any liability in respect thereof to any Person (as hereinafter defined) other than the MPXI Entities, pursuant to the terms of the documentation applicable to the Cash Management System, and shall be, in its capacity as provider of the Cash Management System, an unaffected creditor under any plan of compromise or arrangement (a “**Plan**”) with regard to any claims or expenses it may suffer or incur in connection with the provision of the Cash Management System.

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

- (a) all outstanding and future wages, salaries, employee and pension benefits, vacation pay and employee expenses 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 consent of the Monitor and the DIP Lenders, amounts owing for goods and services actually supplied to the Applicants prior to the date of this Order and all outstanding amounts related to honouring customer obligations whether existing before or after the date of this Order, incurred in the ordinary course of business and consistent with existing policies and procedures;
- (c) any taxes, duties or other payments required under the Cannabis Legislation (as defined below); and
- (d) the fees and disbursements of any Assistants retained or employed by the Applicants in respect of these proceedings, at their standard rates and charges.

6. **THIS COURT ORDERS** that, except as otherwise provided to the contrary herein, and subject to the Definitive Documents (as defined below), the Applicants shall be entitled but not required to pay all reasonable expenses incurred by the Applicants in carrying on the Business in the ordinary course prior to, on, or, after this Order, and in carrying out the provisions of this Order, which expenses shall include, without limitation:

- (a) all expenses and capital expenditures reasonably necessary for the preservation of the Property or the Business including, without limitation, payments on account of insurance (including directors' and officers' insurance), maintenance and security services; and
- (b) payment for goods or services actually supplied to the Applicants on or following the date of this Order.

Payments for amounts incurred prior to this Order shall require the consent of the Monitor and the DIP Lenders, or leave of this Court.

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

- (a) any statutory deemed trust amounts in favour of the Crown in right of Canada or of any Province thereof or any other taxation authority which are required to be deducted from employees' wages, including, without limitation, amounts in respect of (i) employment insurance; (ii) Canada Pension Plan; and (iii) income taxes.
- (b) all goods and services or other applicable sales taxes (collectively, "**Sales Taxes**") required to be remitted by the Applicants in connection with the sale of goods and services by the Applicants, but only where such Sales Taxes are accrued or collected after the date of this Order;
- (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 Applicants.

8. **THIS COURT ORDERS** that until a real property lease is disclaimed in accordance with the CCAA, the Applicants shall pay all amounts constituting rent or payable as rent under real property leases (including, for greater certainty, common area maintenance charges, utilities and realty taxes and any other amounts payable to the landlord under the lease) or as otherwise may be

negotiated between the applicable Applicant and the landlord from time to time ("**Rent**"), for the period commencing from and including the date of this Order, monthly, on the first day of each month, in advance (but not in arrears) 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.

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

## **RESTRUCTURING**

10. **THIS COURT ORDERS** that each of the Applicants shall, subject to such requirements as are imposed by the CCAA and such covenants as may be contained in the Definitive Documents, have the right to:

- (a) with the prior consent of the DIP Lenders, 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 \$250,000 in any one transaction or \$1,000,000 in the aggregate;
- (b) sell inventory in the ordinary course of business consistent with past practice, or otherwise with the consent of the Monitor and the DIP Lenders;
- (c) terminate the employment of such of its employees or temporarily lay off such of its employees as it deems appropriate; and
- (d) 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 Applicants to proceed with an orderly restructuring of the Business.

## **NO PROCEEDINGS AGAINST THE MPXI ENTITIES OR THEIR RESPECTIVE PROPERTY**

11. **THIS COURT ORDERS** that until and including August 4, 2022, 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**") shall be commenced or continued against or in respect of any MPXI Entity or the Monitor or their respective employees and representatives acting in such capacities, or affecting the Business or the Property, except with the written consent of the MPXI Entities and the Monitor, or with leave of this Court, and any and all Proceedings currently under way against or in respect of any MPXI Entity or affecting the Business or the Property, are hereby stayed and suspended pending further Order of this Court.

## **NO EXERCISE OF RIGHTS OR REMEDIES**

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

## **NO INTERFERENCE WITH RIGHTS**

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, licence or permit in favour of or held by any MPXI Entity, except with the written consent of the MPXI Entities 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 or arrangements with an MPXI Entity or statutory or regulatory mandates for the supply of goods and/or services, including without limitation all computer software, communication and other data services, centralized banking services, security services, payroll services, insurance, transportation services, utility or other services to the Business or an MPXI Entity, are hereby restrained until further Order of this Court from discontinuing, altering, interfering with, suspending or terminating the supply of such goods or services as may be required by the MPXI Entities, and that the MPXI Entities shall be entitled to the continued use of their current premises, telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the MPXI Entities in accordance with normal payment practices of the MPXI Entities or such other practices as may be agreed upon by the supplier or service provider and the applicable MPXI Entity 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 an MPXI Entity. 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 (or similar position) of any MPXI Entity with respect to any claim against the directors or officers that arose before the date hereof and that relates to any obligations of an MPXI Entity whereby the directors or officers are alleged under any law to be liable in their capacity as directors or officers for the payment or performance of

such obligations, until a compromise or arrangement in respect of the Applicants, if one is filed, is sanctioned by this Court or is refused by the creditors of the Applicants or this Court.

### **DIRECTORS' AND OFFICERS' INDEMNIFICATION AND CHARGE**

17. **THIS COURT ORDERS** that the Applicants shall indemnify their directors and officers against obligations and liabilities that they may incur as a director or officer of the Applicants after the commencement of the within proceedings, except to the extent that, with respect to any officer or director, the obligation or liability was incurred as a result of the director's or officer's gross negligence or wilful misconduct.

18. **THIS COURT ORDERS** that the directors and officers of the Applicants shall be entitled to the benefit of and are hereby granted a charge (the "**Directors' Charge**") on the Property, which charge shall not exceed an aggregate amount of \$145,000, unless permitted by further Order of this Court, as security for the indemnity provided in paragraph 17 of this Order. The Directors' Charge shall have the priority set out in paragraphs 36 and 38 herein.

19. **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 Applicants' directors and officers shall only be entitled to the benefit of the Directors' Charge to the extent that they do not have coverage under any director's and officer's insurance policy, or to the extent that such coverage is insufficient to pay amounts indemnified in accordance with paragraph 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 Applicants with the powers and obligations set out in the CCAA or set forth herein and that the MPXI Entities and their shareholders, officers, directors, and Assistants shall advise the Monitor of all material steps taken by the MPXI Entities pursuant to this Order, and shall co-operate fully with the Monitor in the exercise of its powers and discharge of its obligations and provide the Monitor with the assistance that is necessary to enable the Monitor to adequately carry out the Monitor's functions.

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 Applicants' receipts and disbursements, including the management and deployment/use of any funds advanced by the DIP Lenders to the Applicants under the DIP Term Sheet;
- (b) report to this Court at such times and intervals as the Monitor may deem appropriate with respect to matters relating to the Property, the Business, and such other matters as may be relevant to the proceedings herein;
- (c) assist the Applicants, to the extent required by the Applicants, in their dissemination, to the DIP Lenders and its counsel on a weekly basis of financial and other information as agreed to between the Applicants and, the DIP Lenders which may be used in these proceedings including reporting on a basis to be agreed with the DIP Lenders;
- (d) advise the Applicants in their preparation of the Applicant's cash flow statements and reporting required by the DIP Lenders, which information shall be reviewed with the Monitor and delivered to the DIP Lenders and its counsel on a periodic basis, but not less than weekly, or as otherwise agreed to by the DIP Lenders;
- (e) monitor all payments, obligations and any transfers as between the MPXI Entities;
- (f) receive funds advanced by the DIP Lenders and to disburse such funds to the Applicants pursuant to the terms of the DIP Term Sheet, including any actions or activities incidental thereto;
- (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 MPXI Entities, to the extent that is necessary to adequately assess the Applicants' business and financial affairs or to perform its duties arising under this Order;
- (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) 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 or be deemed to take possession of the Property, pursuant to any provision of any federal, provincial or other law respecting, among other things, the manufacturing, possession, processing and distribution of cannabis or cannabis products including, without limitation, under the *Cannabis Act* S.C. 2018, c.16, the *Controlled Drugs and Substances Act*, S.C. 1996, c. 19, the *Excise Act, 2001*, S.C. 2002, c. 22., the *Ontario Cannabis Licence Act*, S.O. 2018, c. 12, Sched. 2, the *Ontario Cannabis Control Act*, S.O. 2017, c. 26, Sched. 1, the *Ontario Cannabis Retail Corporation Act*, 2017, S.O. 2017, c. 26, the *Alberta Gaming, Liquor and Cannabis Act*, R.S.A. 2000, c. G-1, the *Alberta Gaming, Liquor and Cannabis Regulation*, Alta. Reg. 143/996, or other such applicable federal, provincial or other legislation or regulations (collectively, the "**Cannabis Legislation**"), and shall take no part whatsoever in the management or supervision of the management of the Business and shall not, by fulfilling its obligations hereunder, be deemed to have taken or maintained possession or control of the Business or Property, or any part thereof within the meaning of any Cannabis Legislation or otherwise, and nothing in this Order shall be construed as resulting in the Monitor being an employer or successor employer within the meaning of any statute, regulation or rule of law or equity for any purpose whatsoever.

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*, the *Ontario Occupational Health and Safety Act*, the *Alberta Environmental Protection and Enhancement Act*, R.S.A. 2000, c. E-12, the *Alberta Water Act*, R.S.A. 2000, c. W-3 and the *Alberta Occupational Health and Safety Act*, S.A. 2020, c. O-2.2 and all regulations thereunder (the "**Environmental Legislation**"), provided however that nothing herein shall exempt the Monitor from any duty to

report or make disclosure imposed by applicable Environmental Legislation. The Monitor shall not, as a result of this Order or anything done in pursuance of the Monitor's duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

24. **THIS COURT ORDERS** that, in addition to the rights and protections afforded to the DIP Lenders under this Order or at law, the DIP Lenders shall not incur any liability or obligation as a result of the carrying out of the provisions of this Order, save and except for any gross negligence or willful misconduct on its part.

25. **THIS COURT ORDERS** that that the Monitor shall provide any creditor of the Applicants, including without limitation, the DIP Lenders, with information provided by the Applicants in response to reasonable requests for information made in writing by such creditor addressed to the Monitor. The Monitor shall not have any responsibility or liability with respect to the information disseminated by it pursuant to this paragraph. In the case of information that the Monitor has been advised by the Applicants is confidential, the Monitor shall not provide such information to creditors unless otherwise directed by this Court or on such terms as the Monitor and the Applicants may agree.

26. **THIS COURT ORDERS** that, in addition to the rights and protections afforded to the Monitor under the CCAA or as an officer of this Court, neither the Monitor nor its respective employees and representatives acting in such capacities shall incur any liability or obligation as a result of the appointment of the Monitor or the carrying out by it of the provisions of this Order, including under any Cannabis Legislation, save and except for any gross negligence or wilful misconduct on its part. Nothing in this Order shall derogate from the protections afforded the Monitor by the CCAA or any applicable legislation.

27. **THIS COURT ORDERS** that the Monitor, counsel to the Monitor and counsel to the Applicants shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges, whether incurred prior to, on or subsequent to, the date of this Order, by the Applicants as part of the costs of these proceedings. The Applicants are hereby authorized and directed to pay the accounts of the Monitor, counsel for the Monitor and counsel for the Applicants on a weekly basis.

28. **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.

29. **THIS COURT ORDERS** that the Monitor, counsel to the Monitor, and the Applicants' counsel 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 \$300,000, unless consented to by the DIP Lenders and 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, both before and after the making of this Order in respect of these proceedings. The Administration Charge shall have the priority set out in paragraphs 36 and 38 hereof.

#### **DIP FINANCING**

30. **THIS COURT ORDERS** that the Applicants are hereby authorized and empowered to obtain and borrow under a credit facility from the DIP Lenders in order to finance the Applicants' working capital requirements and other general corporate purposes and capital expenditures.

31. **THIS COURT ORDERS** that such credit facility shall be on the terms and subject to the conditions set forth in the Summary of Terms and Conditions for Credit Facility between the DIP Lenders and the Applicants dated as of July 25, 2022 (as may be amended from time to time, the "**DIP Term Sheet**"), filed.

32. **THIS COURT ORDERS** that the Applicants are hereby authorized and empowered to execute and deliver such credit agreements, mortgages, charges, hypothecs and security documents, guarantees and other definitive documents (collectively, the "**Definitive Documents**"), as are contemplated by the DIP Term Sheet or as may be reasonably required by the DIP Lenders pursuant to the terms thereof, and the Applicants are hereby authorized and directed to pay and perform all of their indebtedness, interest, fees, liabilities and obligations to the DIP Lenders under and pursuant to the DIP Term Sheet and the Definitive Documents as and when the same become due and are to be performed, notwithstanding any other provision of this Order.

33. **THIS COURT ORDERS** that the DIP Lenders shall be entitled to the benefit of and is hereby granted a charge (the "**DIP Lenders' Charge**") on the Property, which DIP Lenders' Charge shall not exceed the amount of \$1,200,000 or secure an obligation that exists before this Order is made. The DIP Lenders' Charge shall have the priority set out in paragraphs 36 and 38 hereof.

34. **THIS COURT ORDERS** that, notwithstanding any other provision of this Order:

- (a) the DIP Lenders may take such steps from time to time as it may deem necessary or appropriate to file, register, record or perfect the DIP Lenders' Charge or any of the Definitive Documents;
- (b) upon the occurrence of an event of default under the Definitive Documents or the DIP Lenders' Charge, the DIP Lenders, upon 4 business days notice to the Applicants and the Monitor, may exercise any and all of its rights and remedies against the Applicants or the Property under or pursuant to the DIP Term Sheet, Definitive Documents and the DIP Lenders' Charge, including without limitation, to cease making advances to the Applicants and set off and/or consolidate any amounts owing by the DIP Lenders to the Applicants against the obligations of the Applicants to the DIP Lenders under the DIP Term Sheet, the Definitive Documents or the DIP Lenders' Charge, to make demand, accelerate payment and give other notices, or to apply to this Court for the appointment of a receiver, receiver and manager or interim receiver, or for a bankruptcy order against the Applicants and for the appointment of a trustee in bankruptcy of the Applicants; and
- (c) the foregoing rights and remedies of the DIP Lenders shall be enforceable against any trustee in bankruptcy, interim receiver, receiver or receiver and manager of the Applicants or the Property.

35. **THIS COURT ORDERS AND DECLARES** that, unless otherwise agreed to by the DIP Lenders, the DIP Lenders shall be treated as unaffected in any Plan filed by any of Applicants under the CCAA, or any proposal filed by any of the Applicants under the *Bankruptcy and Insolvency Act*, with respect to any advances made under the Definitive Documents.

## **VALIDITY AND PRIORITY OF CHARGES CREATED BY THIS ORDER**

36. **THIS COURT ORDERS** that the priorities of the Directors' Charge, the Administration Charge and the DIP Lenders' Charge (collectively, the "**Charges**"), as among them, shall be as follows:

First - Administration Charge (to the maximum amount of \$300,000);

Second - DIP Lenders' Charge (to the maximum amount of \$1,200,000); and

Third - Directors' Charge (to the maximum amount of \$145,000).

37. **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.

38. **THIS COURT ORDERS** that each of the Charges (all as constituted and defined herein) shall constitute a charge on the Property and such Charges shall rank in priority to all other security interests, trusts, liens, charges and encumbrances, claims of secured creditors, statutory or otherwise (collectively, "**Encumbrances**") in favour of any Person; provided that the Charges shall rank behind Encumbrances in favour of any Persons that have not been served with notice of this application. The Applicants and the beneficiaries of the Charges shall be entitled to seek priority of the Charges ahead of such Encumbrances on a subsequent motion on notice to those parties.

39. **THIS COURT ORDERS** that except as otherwise expressly provided for herein, or as may be approved by this Court, the Applicants shall not grant any Encumbrances over any Property that rank in priority to, or *pari passu* with, any of the Charges unless the Applicants also obtain the prior written consent of the Monitor, the DIP Lenders and the beneficiaries of the Charges, or further Order of this Court.

40. **THIS COURT ORDERS** that the Charges, the DIP Term Sheet and the Definitive Documents shall not be rendered invalid or unenforceable and the rights and remedies of the chargees entitled to the benefit of the Charges (collectively, the "**Chargees**") and/or the DIP

Lenders thereunder shall not otherwise be limited or impaired in any way by: (a) the pendency of these proceedings and the declarations of insolvency made herein; (b) any application(s) for bankruptcy order(s) issued pursuant to BIA, or any bankruptcy order made pursuant to such applications; (c) the filing of any assignments for the general benefit of creditors made pursuant to the BIA; (d) the provisions of any federal or provincial statutes; or (e) any negative covenants, prohibitions or other similar provisions with respect to borrowings, incurring debt or the creation of Encumbrances, contained in any existing loan documents, lease, sublease, offer to lease or other agreement (collectively, an "**Agreement**") which binds the Applicants, and notwithstanding any provision to the contrary in any Agreement:

- (a) neither the creation of the Charges nor the execution, delivery, perfection, registration or performance of the DIP Term Sheet or the Definitive Documents shall create or be deemed to constitute a breach by the Applicants of any Agreement to which they are a party;
- (b) none of the Chargees shall have any liability to any Person whatsoever as a result of any breach of any Agreement caused by or resulting from the Applicants entering into the DIP Term Sheet, the creation of the Charges, or the execution, delivery or performance of the Definitive Documents; and
- (c) the payments made by the Applicants pursuant to this Order, the DIP Term Sheet 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.

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

#### **CORPORATE MATTERS**

42. **THIS COURT ORDERS** that MPX International Corporation be and is hereby relieved of any obligation to call and hold an annual meeting of its shareholders until further Order of this Court.

## SERVICE AND NOTICE

43. **THIS COURT ORDERS** that the Monitor shall: (i) without delay, publish in the Globe and Mail, National Edition, a notice containing the information prescribed under the CCAA; and (ii) within five (5) days after the date of this Order, (A) make this Order publicly available in the manner prescribed under the CCAA, (B) send, in the prescribed manner, a notice to every known creditor who has a claim against any of the Applicants of more than \$1,000 (excluding individual employees, former employees with retirement savings plan entitlements, and retirees and other beneficiaries who have entitlements under any retirement savings plans), and (C) prepare a list showing the names and addresses of those creditors and the estimated amounts of those claims, and make it publicly available in the prescribed manner, all in accordance with Section 23(1)(a) of the CCAA and the regulations made thereunder; provided that the Monitor shall not make the claims, names and addresses of individuals who are creditors publicly available unless otherwise ordered by this Court.

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

45. **THIS COURT ORDERS** that the Applicants and the Monitor and their respective counsel are at liberty to serve or distribute this Order, any other materials and orders as may be reasonably required in these proceedings, including any notices, or other correspondence, by forwarding true copies thereof by electronic message to the Applicants' creditors or other interested parties and their advisors. For greater certainty, any such distribution or service shall be deemed to be in satisfaction of a legal or judicial obligation, and notice requirements within the meaning of clause 3(c) of the *Electronic Commerce Protection Regulations*, Reg. 81000-2175 (SOR/DORS).

46. **THIS COURT ORDERS** that, except with respect to any motion to be heard on the Comeback Date (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 Applicants or the Monitor in these CCAA proceedings shall, subject to further Order of this Court, provide the service list in these proceedings (the “**Service List**”) with responding motion materials or a written notice (including by e-mail) stating its objection to the motion and the grounds for such objection by no later than 5:00 p.m. (Toronto time) on the date that is two (2) days prior to the date such motion is returnable (the “**Objection Deadline**”). The Monitor shall have the ability to extend the Objection Deadline after consulting with the Applicants.

47. **THIS COURT ORDERS** that following the expiry of the Objection Deadline, counsel to the Monitor or counsel to the Applicants shall inform the Court, including by way of a 9:30 a.m. appointment, of the absence or the status of any objections to the motion and the judge having carriage of the motion may determine (a) whether a hearing in respect of the motion is necessary, (b) if a hearing is necessary, the date and time of the hearing, (c) whether such hearing will be in person, by telephone or videoconference, or by written submissions only, and (d) the parties from whom submissions are required. In the absence of any such determination, a hearing will be held in the ordinary course on the date specified in the notice of motion.

## **GENERAL**

48. **THIS COURT ORDERS** that any interested party that wishes to amend or vary this Order shall be entitled to appear or bring a motion before this Court on August 4, 2022, at 10:30 a.m. (Toronto Time) or such other date as may be set by this Court upon the granting of this Order (the “**Comeback Date**”), provided, however, that the Chargees shall be entitled to rely on this Order as issued and entered and on the Charges and priorities set forth in paragraphs 36 and 38 hereof with respect to any fees, expenses and disbursements incurred, as applicable, until the date this Order may be amended, varied or stayed.

49. **THIS COURT ORDERS** that, notwithstanding paragraph 48 of this Order, each of the Applicants, the DIP Lenders 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 under this Order or in the interpretation of this Order hereunder.

50. **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 any of the Applicants, the Business or the Property.

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

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

53. **THIS COURT ORDERS** that this Order and all of its provisions are effective as of 12:01 a.m. (Toronto time) on the date of this Order.



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Chief Justice G.B. Morawetz

**SCHEDULE "A"**  
**NON-APPLICANT STAY PARTIES**

MPX Australia Pty Ltd.  
MPXI UK Limited  
MPXI Lesotho (Pty) Ltd.  
Highland Farms (Pty) Ltd.  
MPXI Malta Operations Limited  
MPXI Malta Property Limited  
Alphafarma Operations Limited  
MPXI Malta Holding Limited  
MPXI SA Pty Ltd.  
First Growth Holding Pty Ltd.  
Salus Bioceutical (Thailand) Co., Ltd.  
Salus International Management Ltd.  
Holyworld SA  
MPXI Labs SA

**IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED AND IN THE MATTER OF AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF MPX INTERNATIONAL CORPORATION, BIOCANNABIS PRODUCTS LTD., CANVEDA INC., THE CING-X CORPORATION, SPARTAN WELLNESS CORPORATION, MPXI ALBERTA CORPORATION, MCLN INC., AND SALUS BIOPHARMA CORPORATION**

Court File No.: \_\_\_\_\_

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

Proceedings Commenced in Toronto

**INITIAL ORDER**

**BENNETT JONES LLP**  
One First Canadian Place  
Suite 3400, P.O. Box 130  
Toronto, Ontario  
M5X 1A4

**Sean Zweig (LSO# 57307I)**  
**Mike Shakra (LSO# 64604K)**  
**Thomas Gray (LSO# 82473H)**

Tel: 416-863-1200  
Fax: 416-863-1716

Lawyers for the Applicants

**THIS IS EXHIBIT "B" REFERRED TO IN THE  
AFFIDAVIT OF JEREMY BUDD SWORN  
THE 13<sup>TH</sup> DAY OF OCTOBER, 2022**

A handwritten signature in black ink, appearing to be 'TG' with a long horizontal stroke extending to the right.

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**THOMAS GRAY**  
**A Commissioner for taking affidavits, etc.**



Court File No. CV-22-00684542-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

THE HONOURABLE CHIEF ) THURSDAY, THE 4<sup>th</sup>  
 )  
JUSTICE MORAWETZ ) DAY OF AUGUST, 2022  
 )

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 MPX  
INTERNATIONAL CORPORATION, BIOCANNABIS PRODUCTS LTD., CANVEDA INC.,  
THE CING-X CORPORATION, SPARTAN WELLNESS CORPORATION, MPXI ALBERTA  
CORPORATION, MCLN INC., AND SALUS BIOPHARMA CORPORATION  
(collectively, the "**Applicants**")

**AMENDED & RESTATED INITIAL ORDER**

(amending Initial Order dated July 25, 2022)

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

**ON READING** the affidavit of Jeremy Blumer sworn July 25, 2022 and the Exhibits thereto (the "**Blumer Affidavit**"), the affidavit of Jeremy Blumer sworn July 28, 2022 and the Exhibits thereto, the Pre-Filing Report of KSV Restructuring Inc. ("**KSV**") dated July 25, 2022 and the First Report of KSV dated July 29, 2022, 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 Applicants and the additional parties listed in Schedule "A" hereto (collectively, the "**Non-Applicant Stay Parties**" and together with the Applicants, the "**MPXI Entities**"), counsel for KSV in its capacity as court-appointed monitor (the "**Monitor**"), counsel for David Taylor, Alastair Crawford, Broughton Finance and Brahma Finance Limited (collectively, the "**Initial DIP Lenders**"), and such 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 Thomas Gray sworn July 28, 2022,

### **SERVICE**

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.

### **APPLICATION**

2. **THIS COURT ORDERS AND DECLARES** that each of the Applicants is a company to which the CCAA applies. Although not Applicants, the Non-Applicant Stay Parties shall enjoy the benefits of the protections and authorizations provided under the terms of this Order.

### **PLAN OF ARRANGEMENT**

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

### **POSSESSION OF PROPERTY AND OPERATIONS**

4. **THIS COURT ORDERS** that the Applicants shall remain in possession and control of their respective current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof (the "**Property**"). Subject to further Order of this Court, the Applicants shall continue to carry on business in a manner consistent with the preservation of their business (the "**Business**") and Property. The Applicants are authorized and empowered to continue to retain and employ the employees, consultants, agents, experts, accountants, counsel and such other persons (collectively "**Assistants**") currently retained or employed by them, with liberty to retain such further Assistants as they deem reasonably necessary or desirable in the ordinary course of business or for the carrying out of the terms of this Order.

5. **THIS COURT ORDERS** that the MPXI Entities shall be entitled to continue to utilize the central cash management system currently in place as described in the Blumer Affidavit or, with the consent of the Monitor and the Initial DIP Lenders, together with any other lender who participates in the DIP Facility (as defined below) (together, the “**DIP Lenders**”), 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 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 MPXI Entities of funds transferred, paid, collected or otherwise dealt with in the Cash Management System, shall be entitled to provide the Cash Management System without any liability in respect thereof to any Person (as hereinafter defined) other than the MPXI Entities, pursuant to the terms of the documentation applicable to the Cash Management System, and shall be, in its capacity as provider of the Cash Management System, an unaffected creditor under any Plan with regard to any claims or expenses it may suffer or incur in connection with the provision of the Cash Management System.

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

- (a) all outstanding and future wages, salaries, employee and pension benefits, vacation pay and employee expenses 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 consent of the Monitor and the DIP Lenders, amounts owing for goods and services actually supplied to the Applicants prior to the date of this Order and all outstanding amounts related to honouring customer obligations whether existing before or after the date of this Order, incurred in the ordinary course of business and consistent with existing policies and procedures;
- (c) any taxes, duties or other payments required under the Cannabis Legislation (as defined below); and

- (d) the fees and disbursements of any Assistants retained or employed by the Applicants in respect of these proceedings, at their standard rates and charges.

7. **THIS COURT ORDERS** that, except as otherwise provided to the contrary herein, and subject to the Definitive Documents (as defined below), the Applicants shall be entitled but not required to pay all reasonable expenses incurred by the Applicants in carrying on the Business in the ordinary course prior to, on, or, after this Order, and in carrying out the provisions of this Order, which expenses shall include, without limitation:

- (a) all expenses and capital expenditures reasonably necessary for the preservation of the Property or the Business including, without limitation, payments on account of insurance (including directors' and officers' insurance), maintenance and security services; and
- (b) payment for goods or services actually supplied to the Applicants on or following the date of this Order.

Payments for amounts incurred prior to this Order shall require the consent of the Monitor and the DIP Lenders, or leave of this Court.

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

- (a) any statutory deemed trust amounts in favour of the Crown in right of Canada or of any Province thereof or any other taxation authority which are required to be deducted from employees' wages, including, without limitation, amounts in respect of (i) employment insurance; (ii) Canada Pension Plan; and (iii) income taxes.
- (b) all goods and services or other applicable sales taxes (collectively, "**Sales Taxes**") required to be remitted by the Applicants in connection with the sale of goods and services by the Applicants, but only where such Sales Taxes are accrued or collected after the date of this Order;
- (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 Applicants.

9. **THIS COURT ORDERS** that until a real property lease is disclaimed in accordance with the CCAA, the Applicants shall pay all amounts constituting rent or payable as rent under real property leases (including, for greater certainty, common area maintenance charges, utilities and realty taxes and any other amounts payable to the landlord under the lease) or as otherwise may be negotiated between the applicable Applicant and the landlord from time to time ("**Rent**"), for the period commencing from and including the date of this Order, monthly, on the first day of each month, in advance (but not in arrears) 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 and in the Definitive Documents, the Applicants are hereby directed, until further Order of this Court: (a) to make no payments of principal, interest thereon or otherwise on account of amounts owing by the Applicants to any of their creditors as of this date; (b) to grant no security interests, trust, liens, charges or encumbrances upon or in respect of any of their Property; and (c) to not grant credit or incur liabilities except in the ordinary course of the Business.

## **RESTRUCTURING**

11. **THIS COURT ORDERS** that each of the Applicants shall, subject to such requirements as are imposed by the CCAA and such covenants as may be contained in the Definitive Documents, have the right to:

- (a) with the prior consent of the DIP Lenders, 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 \$250,000 in any one transaction or \$1,000,000 in the aggregate;
- (b) sell inventory in the ordinary course of business consistent with past practice, or otherwise with the consent of the Monitor and the DIP Lenders;

- (c) terminate the employment of such of its employees or temporarily lay off such of its employees as it deems appropriate; and
- (d) 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 Applicants to proceed with an orderly restructuring of the Business.

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

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

## **NO PROCEEDINGS AGAINST THE MPXI ENTITIES OR THEIR RESPECTIVE PROPERTY**

14. **THIS COURT ORDERS** that until and including October 21, 2022, 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**") shall be commenced or continued against or in respect of any MPXI Entity or the Monitor or their respective employees and representatives acting in such capacities, or affecting the Business or the Property, except with the written consent of the MPXI Entities and the Monitor, or with leave of this Court, and any and all Proceedings currently under way against or in respect of any MPXI Entity or affecting the Business or the Property, are hereby stayed and suspended pending further Order of this Court.

## **NO EXERCISE OF RIGHTS OR REMEDIES**

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

## **NO INTERFERENCE WITH RIGHTS**

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

## **CONTINUATION OF SERVICES**

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

## **NON-DEROGATION OF RIGHTS**

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

## **PROCEEDINGS AGAINST DIRECTORS AND OFFICERS**

19. **THIS COURT ORDERS** that during the Stay Period, and except as permitted by subsection 11.03(2) of the CCAA, no Proceeding may be commenced or continued against any of the former, current or future directors or officers (or similar position) of any MPXI Entity with respect to any claim against the directors or officers that arose before the date hereof and that relates to any obligations of an MPXI Entity whereby the directors or officers are alleged under any law to be liable in their capacity as directors or officers for the payment or performance of

such obligations, until a compromise or arrangement in respect of the Applicants, if one is filed, is sanctioned by this Court or is refused by the creditors of the Applicants or this Court.

### **DIRECTORS' AND OFFICERS' INDEMNIFICATION AND CHARGE**

20. **THIS COURT ORDERS** that the Applicants shall indemnify their directors and officers against obligations and liabilities that they may incur as a director or officer of the Applicants after the commencement of the within proceedings, except to the extent that, with respect to any officer or director, the obligation or liability was incurred as a result of the director's or officer's gross negligence or wilful misconduct.

21. **THIS COURT ORDERS** that the directors and officers of the Applicants shall be entitled to the benefit of and are hereby granted a charge (the "**Directors' Charge**") on the Property, which charge shall not exceed an aggregate amount of \$410,000, unless permitted by further Order of this Court, as security for the indemnity provided in paragraph 20 of this Order. The Directors' Charge shall have the priority set out in paragraphs 39 and 41 herein.

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

### **APPOINTMENT OF MONITOR**

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

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

- (a) monitor the Applicants' receipts and disbursements, including the management and deployment/use of any funds advanced by the DIP Lenders to the Applicants under the DIP Term Sheet;
- (b) report to this Court at such times and intervals as the Monitor may deem appropriate with respect to matters relating to the Property, the Business, and such other matters as may be relevant to the proceedings herein;
- (c) assist the Applicants, to the extent required by the Applicants, in their dissemination, to the DIP Lenders and its counsel on a weekly basis of financial and other information as agreed to between the Applicants and, the DIP Lenders which may be used in these proceedings including reporting on a basis to be agreed with the DIP Lenders;
- (d) advise the Applicants in their preparation of the Applicant's cash flow statements and reporting required by the DIP Lenders, which information shall be reviewed with the Monitor and delivered to the DIP Lenders and its counsel on a periodic basis, but not less than weekly, or as otherwise agreed to by the DIP Lenders;
- (e) advise the Applicants in their development of the Plan, if any, and any amendments to the Plan;
- (f) assist the Applicants, to the extent required by the Applicants, with the holding and administering of creditors' or shareholders' meetings for voting on the Plan;
- (g) monitor all payments, obligations and any transfers as between the MPXI Entities;
- (h) receive funds advanced by the DIP Lenders and to disburse such funds to the Applicants pursuant to the terms of the DIP Term Sheet, including any actions or activities incidental thereto;
- (i) 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 MPXI

Entities, to the extent that is necessary to adequately assess the Applicants' business and financial affairs or to perform its duties arising under this Order;

- (j) 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
- (k) perform such other duties as are required by this Order or by this Court from time to time.

25. **THIS COURT ORDERS** that the Monitor shall not take possession of the Property or be deemed to take possession of the Property, pursuant to any provision of any federal, provincial or other law respecting, among other things, the manufacturing, possession, processing and distribution of cannabis or cannabis products including, without limitation, under the *Cannabis Act* S.C. 2018, c.16, the *Controlled Drugs and Substances Act*, S.C. 1996, c. 19, the *Excise Act, 2001*, S.C. 2002, c. 22,, the *Ontario Cannabis Licence Act*, S.O. 2018, c. 12, Sched. 2, the *Ontario Cannabis Control Act*, S.O. 2017, c. 26, Sched. 1, the *Ontario Cannabis Retail Corporation Act*, 2017, S.O. 2017, c. 26, the *Alberta Gaming, Liquor and Cannabis Act*, R.S.A. 2000, c. G-1, the *Alberta Gaming, Liquor and Cannabis Regulation*, Alta. Reg. 143/996, or other such applicable federal, provincial or other legislation or regulations (collectively, the "**Cannabis Legislation**"), and shall take no part whatsoever in the management or supervision of the management of the Business and shall not, by fulfilling its obligations hereunder, be deemed to have taken or maintained possession or control of the Business or Property, or any part thereof within the meaning of any Cannabis Legislation or otherwise, and nothing in this Order shall be construed as resulting in the Monitor being an employer or successor employer within the meaning of any statute, regulation or rule of law or equity for any purpose whatsoever.

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

or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the *Ontario Environmental Protection Act*, the *Ontario Water Resources Act*, the *Ontario Occupational Health and Safety Act*, the *Alberta Environmental Protection and Enhancement Act*, R.S.A. 2000, c. E-12, the *Alberta Water Act*, R.S.A. 2000, c. W-3 and the *Alberta Occupational Health and Safety Act*, S.A. 2020, c. O-2.2 and all regulations thereunder (the "**Environmental Legislation**"), provided however that nothing herein shall exempt the Monitor from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Monitor shall not, as a result of this Order or anything done in pursuance of the Monitor's duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

27. **THIS COURT ORDERS** that, in addition to the rights and protections afforded to the DIP Lenders under this Order or at law, the DIP Lenders shall not incur any liability or obligation as a result of the carrying out of the provisions of this Order, save and except for any gross negligence or willful misconduct on its part.

28. **THIS COURT ORDERS** that that the Monitor shall provide any creditor of the Applicants, including without limitation, the DIP Lenders, with information provided by the Applicants in response to reasonable requests for information made in writing by such creditor addressed to the Monitor. The Monitor shall not have any responsibility or liability with respect to the information disseminated by it pursuant to this paragraph. In the case of information that the Monitor has been advised by the Applicants is confidential, the Monitor shall not provide such information to creditors unless otherwise directed by this Court or on such terms as the Monitor and the Applicants may agree.

29. **THIS COURT ORDERS** that, in addition to the rights and protections afforded to the Monitor under the CCAA or as an officer of this Court, neither the Monitor nor its respective employees and representatives acting in such capacities shall incur any liability or obligation as a result of the appointment of the Monitor or the carrying out by it of the provisions of this Order, including under any Cannabis Legislation, save and except for any gross negligence or wilful misconduct on its part. Nothing in this Order shall derogate from the protections afforded the Monitor by the CCAA or any applicable legislation.

30. **THIS COURT ORDERS** that the Monitor, counsel to the Monitor and counsel to the Applicants shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges, whether incurred prior to, on or subsequent to, the date of this Order, by the Applicants as part of the costs of these proceedings. The Applicants are hereby authorized and directed to pay the accounts of the Monitor, counsel for the Monitor and counsel for the Applicants on a weekly basis.

31. **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.

32. **THIS COURT ORDERS** that the Monitor, counsel to the Monitor, and the Applicants' counsel 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 \$300,000, unless consented to by the DIP Lenders and 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, both before and after the making of this Order in respect of these proceedings. The Administration Charge shall have the priority set out in paragraphs 39 and 41 hereof.

#### **DIP FINANCING**

33. **THIS COURT ORDERS** that the Applicants are hereby authorized and empowered to obtain and borrow under a credit facility from the DIP Lenders in order to finance the Applicants' working capital requirements and other general corporate purposes and capital expenditures, provided that borrowings under such credit facility shall not exceed \$2,670,000 unless permitted by further Order of this Court.

34. **THIS COURT ORDERS** that such credit facility shall be on the terms and subject to the conditions set forth in the Summary of Terms and Conditions for Credit Facility between the DIP Lenders and the Applicants dated as of July 25, 2022 (as may be amended from time to time, the "**DIP Term Sheet**"), filed.

35. **THIS COURT ORDERS** that the Applicants are hereby authorized and empowered to execute and deliver such credit agreements, mortgages, charges, hypothecs and security

documents, guarantees and other definitive documents (collectively, the "**Definitive Documents**"), as are contemplated by the DIP Term Sheet or as may be reasonably required by the DIP Lenders pursuant to the terms thereof, and the Applicants are hereby authorized and directed to pay and perform all of their indebtedness, interest, fees, liabilities and obligations to the DIP Lenders under and pursuant to the DIP Term Sheet and the Definitive Documents as and when the same become due and are to be performed, notwithstanding any other provision of this Order.

36. **THIS COURT ORDERS** that the DIP Lenders shall be entitled to the benefit of and is hereby granted a charge (the "**DIP Lenders' Charge**") on the Property, which DIP Lenders' Charge shall not exceed the amount of \$2,670,000 (plus interest, fees and costs) or secure an obligation that exists before this Order is made. The DIP Lenders' Charge shall have the priority set out in paragraphs 39 and 41 hereof.

37. **THIS COURT ORDERS** that, notwithstanding any other provision of this Order:

- (a) the DIP Lenders may take such steps from time to time as it may deem necessary or appropriate to file, register, record or perfect the DIP Lenders' Charge or any of the Definitive Documents;
- (b) upon the occurrence of an event of default under the Definitive Documents or the DIP Lenders' Charge, the DIP Lenders, upon 4 business days notice to the Applicants and the Monitor, may exercise any and all of its rights and remedies against the Applicants or the Property under or pursuant to the DIP Term Sheet, Definitive Documents and the DIP Lenders' Charge, including without limitation, to cease making advances to the Applicants and set off and/or consolidate any amounts owing by the DIP Lenders to the Applicants against the obligations of the Applicants to the DIP Lenders under the DIP Term Sheet, the Definitive Documents or the DIP Lenders' Charge, to make demand, accelerate payment and give other notices, or to apply to this Court for the appointment of a receiver, receiver and manager or interim receiver, or for a bankruptcy order against the Applicants and for the appointment of a trustee in bankruptcy of the Applicants; and

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

38. **THIS COURT ORDERS AND DECLARES** that, unless otherwise agreed to by the DIP Lenders, the DIP Lenders shall be treated as unaffected in any Plan filed by any of Applicants under the CCAA, or any proposal filed by any of the Applicants under the *Bankruptcy and Insolvency Act* (the "**BIA**"), with respect to any advances made under the Definitive Documents.

### **VALIDITY AND PRIORITY OF CHARGES CREATED BY THIS ORDER**

39. **THIS COURT ORDERS** that the priorities of the Directors' Charge, the Administration Charge and the DIP Lenders' Charge (collectively, the "**Charges**"), as among them, shall be as follows:

First - Administration Charge (to the maximum amount of \$300,000);

Second - DIP Lenders' Charge (to the maximum amount of \$2,670,000, plus interest, fees, and costs); and

Third - Directors' Charge (to the maximum amount of \$410,000).

40. **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.

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

42. **THIS COURT ORDERS** that except as otherwise expressly provided for herein, or as may be approved by this Court, the Applicants shall not grant any Encumbrances over any Property that rank in priority to, or *pari passu* with, any of the Charges unless the Applicants also obtain

the prior written consent of the Monitor, the DIP Lenders and the beneficiaries of the Charges, or further Order of this Court.

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

- (a) neither the creation of the Charges nor the execution, delivery, perfection, registration or performance of the DIP Term Sheet or the Definitive Documents shall create or be deemed to constitute a breach by the Applicants of any Agreement to which they are a party;
- (b) none of the Chargees shall have any liability to any Person whatsoever as a result of any breach of any Agreement caused by or resulting from the Applicants entering into the DIP Term Sheet, the creation of the Charges, or the execution, delivery or performance of the Definitive Documents; and
- (c) the payments made by the Applicants pursuant to this Order, the DIP Term Sheet or the Definitive Documents, and the granting of the Charges, do not and will not constitute preferences, fraudulent conveyances, transfers at undervalue, oppressive conduct, or other challengeable or voidable transactions under any applicable law.

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

## **CORPORATE MATTERS**

45. **THIS COURT ORDERS** that MPX International Corporation be and is hereby relieved of any obligation to call and hold an annual meeting of its shareholders until further Order of this Court.

## **RELIEF FROM REPORTING AND FILING OBLIGATIONS**

46. **THIS COURT ORDERS** that the decision by MPXI to incur no further expenses in relation to any filings (including financial statements), disclosures, core or non-core documents, restatements, amendments to existing filings, press releases or any other actions (collectively, the "**Securities Filings**") that may be required by any federal, provincial or other law respecting securities or capital markets in Canada, or by the rules and regulations of a stock exchange, including, without limitation, the *Securities Act* (Ontario), RSO 1990, c S.5 and comparable statutes enacted by other provinces of Canada, the CSE Policies 1-10 and other rules, regulations and policies of the Canadian Securities Exchange (collectively, the "**Securities Provisions**"), is hereby authorized, provided that nothing in this paragraph shall prohibit any securities regulator or stock exchange from taking any action or exercising any discretion that it may have of a nature described in section 11.1(2) of the CCAA as a consequence of MPXI failing to make any Securities Filings required by the Securities Provisions.

47. **THIS COURT ORDERS** that none of the directors, officers, employees, and other representatives of MPXI nor the Monitor shall have any personal liability for any failure by MPXI to make any Securities Filings required by the Securities Provisions.

## **SERVICE AND NOTICE**

48. **THIS COURT ORDERS** that the Monitor shall: (i) without delay, publish in the Globe and Mail, National Edition, a notice containing the information prescribed under the CCAA; and (ii) within five (5) days after the date of this Order, (A) make this Order publicly available in the manner prescribed under the CCAA, (B) send, in the prescribed manner, a notice to every known creditor who has a claim against any of the Applicants of more than \$1,000 (excluding individual employees, former employees with retirement savings plan entitlements, and retirees and other beneficiaries who have entitlements under any retirement savings plans), and (C) prepare a list

showing the names and addresses of those creditors and the estimated amounts of those claims, and make it publicly available in the prescribed manner, all in accordance with Section 23(1)(a) of the CCAA and the regulations made thereunder; provided that the Monitor shall not make the claims, names and addresses of individuals who are creditors publicly available unless otherwise ordered by this Court.

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

50. **THIS COURT ORDERS** that the Applicants and the Monitor and their respective counsel are at liberty to serve or distribute this Order, any other materials and orders as may be reasonably required in these proceedings, including any notices, or other correspondence, by forwarding true copies thereof by electronic message to the Applicants' creditors or other interested parties and their advisors. For greater certainty, any such distribution or service shall be deemed to be in satisfaction of a legal or judicial obligation, and notice requirements within the meaning of clause 3(c) of the *Electronic Commerce Protection Regulations*, Reg. 81000-2175 (SOR/DORS).

51. **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 Applicants or the Monitor in these CCAA proceedings shall, subject to further Order of this Court, provide the service list in these proceedings (the "**Service List**") with responding motion materials or a written notice (including by e-mail) stating its objection to the motion and the grounds for such objection by no later than 5:00 p.m. (Toronto time) on the date that is two (2) days prior to the date such motion is returnable (the "**Objection Deadline**"). The Monitor shall have the ability to extend the Objection Deadline after consulting with the Applicants.

52. **THIS COURT ORDERS** that following the expiry of the Objection Deadline, counsel to the Monitor or counsel to the Applicants shall inform the Court, including by way of a 9:30 a.m. appointment, of the absence or the status of any objections to the motion and the judge having carriage of the motion may determine (a) whether a hearing in respect of the motion is necessary, (b) if a hearing is necessary, the date and time of the hearing, (c) whether such hearing will be in person, by telephone or videoconference, or by written submissions only, and (d) the parties from whom submissions are required. In the absence of any such determination, a hearing will be held in the ordinary course on the date specified in the notice of motion.

### **GENERAL**

53. **THIS COURT ORDERS** that each of the Applicants, the DIP Lenders 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 under this Order or in the interpretation of this Order hereunder.

54. **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 any of the Applicants, the Business or the Property.

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

56. **THIS COURT ORDERS** that each of the Applicants and the Monitor be at liberty and are hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and that the Monitor is authorized and empowered to act as a representative

in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

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

58. **THIS COURT ORDERS** that this Order and all of its provisions are effective as of 12:01 a.m. (Toronto time) on the date of this Order.



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Chief Justice G.B. Morawetz

**SCHEDULE "A"**  
**NON-APPLICANT STAY PARTIES**

MPX Australia Pty Ltd.  
MPXI UK Limited  
MPXI Lesotho (Pty) Ltd.  
Highland Farms (Pty) Ltd.  
MPXI Malta Operations Limited  
MPXI Malta Property Limited  
Alphafarma Operations Limited  
MPXI Malta Holding Limited  
MPXI SA Pty Ltd.  
First Growth Holding Pty Ltd.  
Salus Biocetical (Thailand) Co., Ltd.  
Salus International Management Ltd.  
Holyworld SA  
MPXI Labs SA

**IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED AND IN THE MATTER OF AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF MPX INTERNATIONAL CORPORATION, BIOCANNABIS PRODUCTS LTD., CANVEDA INC., THE CING-X CORPORATION, SPARTAN WELLNESS CORPORATION, MPXI ALBERTA CORPORATION, MCLN INC., AND SALUS BIOPHARMA CORPORATION**

Court File No.: CV-22-00684542-00CL

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

Proceedings Commenced in Toronto

**AMENDED & RESTATED  
INITIAL ORDER**  
(amending Initial Order dated July 25, 2022)

**BENNETT JONES LLP**  
One First Canadian Place  
Suite 3400, P.O. Box 130  
Toronto, Ontario  
M5X 1A4

**Sean Zweig (LSO# 57307I)**  
**Mike Shakra (LSO# 64604K)**  
**Thomas Gray (LSO# 82473H)**

Tel: 416-863-1200  
Fax: 416-863-1716

Lawyers for the Applicants

**THIS IS EXHIBIT "C" REFERRED TO IN THE  
AFFIDAVIT OF JEREMY BUDD SWORN  
THE 13<sup>TH</sup> DAY OF OCTOBER, 2022**

A handwritten signature in black ink, appearing to be 'TG' with a long horizontal stroke extending to the right.

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**THOMAS GRAY**  
**A Commissioner for taking affidavits, etc.**



Court File No. CV-22-00684542-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

THE HONOURABLE CHIEF ) THURSDAY, THE 4<sup>th</sup>  
 )  
JUSTICE MORAWETZ ) DAY OF AUGUST, 2022  
 )

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 MPX INTERNATIONAL CORPORATION, BIOCANNABIS PRODUCTS LTD., CANVEDA INC., THE CING-X CORPORATION, SPARTAN WELLNESS CORPORATION, MPXI ALBERTA CORPORATION, MCLN INC., AND SALUS BIOPHARMA CORPORATION  
(collectively, the "**Applicants**")

**SISP APPROVAL ORDER**

**THIS MOTION**, made by the Applicants, pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**"), for an order, *inter alia*, approving the SISP (as defined below) and certain related relief, was heard this day by Zoom videoconference.

**ON READING** the Notice of Motion of the Applicants, the affidavit of Jeremy Blumer sworn July 28, 2022, the First report of KSV Restructuring Inc. dated July 29 (the "**First Report**"), in its capacity as monitor of the Applicants (the "**Monitor**"), filed, and on hearing the submissions of counsel for the Applicants, counsel for the Monitor, counsel for the DIP Lenders, and such other counsel as were present, no one else appearing although duly served as appears from the affidavit of service of Thomas Gray sworn July 28, 2022;

## **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 under the Sale and Investment Solicitation Process attached hereto as Schedule "A" (the "**SISP**") or the Amended and Restated Initial Order dated August 4, 2022, as applicable.

## **APPROVAL OF THE SISP**

3. **THIS COURT ORDERS** that the SISP (subject to any amendments thereto that may be made in accordance therewith and with this Order) be and is hereby approved and the Monitor, and the Applicants are authorized and directed to carry out the SISP in accordance with its terms and this Order, and are hereby authorized and directed to take such steps as they consider necessary or desirable in carrying out each of their obligations thereunder, subject to prior approval of this Court being obtained before completion of any transaction(s) under the SISP.
4. **THIS COURT ORDERS** that the Applicants and the Monitor and their respective Assistants, affiliates, partners, directors, employees, advisors, agents and controlling persons shall have no liability with respect to any and all losses, claims, damages or liability of any nature or kind to any person in connection with or as a result of performing their duties under the SISP, except to the extent of such losses, claims, damages or liabilities arising or resulting from the gross negligence or wilful misconduct of the Applicants or the Monitor, as applicable, as determined by this Court.
5. **THIS COURT ORDERS** that notwithstanding anything contained herein or in the SISP, the Monitor shall not take possession of the Property or be deemed to take possession of the Property, including pursuant to any provision of the Cannabis Legislation.
6. **THIS COURT ORDERS** that the Monitor or the Applicants may apply to this Court for directions with respect to the SISP at any time.

## PIPEDA

7. **THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the *Canada Personal Information Protection and Electronic Documents Act* and any similar legislation in any other applicable jurisdictions, the Applicants, the Monitor and each of their respective Assistants are hereby authorized and permitted to disclose and transfer to each Qualified Bidder personal information of identifiable individuals but only to the extent desirable or required to negotiate or attempt to complete a transaction pursuant to the SISP (a "**Transaction**"). Each Qualified Bidder 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 Applicants or the Monitor, as applicable, or in the alternative destroy all such information and provide confirmation of its destruction if requested by the Applicants or the Monitor. The Successful Bidder(s) 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 Applicants, and shall return all other personal information to the Applicants or the Monitor or ensure that all other personal information is destroyed and provide confirmation of its destruction if requested by the Applicants or the Monitor.

8. **THIS COURT ORDERS** that the Non-Applicant Stay Parties and their current and former directors, officers, employees, agents and advisors shall provide the Applicants and the Monitor with all information and such other assistance as reasonably required by the Applicants and the Monitor in connection with the SISP and the discharge of their duties and powers under this Order.

9. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada, the United States, Switzerland, South Africa, Malta, Australia, Lesotho, Thailand or any other country, to give effect to this Order and to assist the Applicants, the Monitor and their respective agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Applicants and

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

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

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



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Chief Justice G.B. Morawetz

**SCHEDULE "A"**

## SALE AND INVESTMENT SOLICITATION PROCESS

On July 25, 2022, MPX International Corporation, BioCannabis Products Ltd., Canveda Inc., The Cin-X Corporation, Spartan Wellness Corporation, MPXI Alberta Corporation, MCLN Inc. and Salus BioPharma Corporation (collectively, the "**Applicants**") were granted an initial order (as amended and restated on August 4, 2022 and as may be further 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**", and the Applicants' proceedings thereunder, the "**CCAA Proceedings**"), by the Ontario Superior Court of Justice (Commercial List) (the "**Court**"). All capitalized terms utilized herein and not otherwise defined shall have the meaning ascribed to them in the Initial Order or the Affidavit of Jeremy Blumer sworn July 25, 2022.

Pursuant to an order dated August 4, 2022 (the "**SISP Approval Order**") the Court approved, among other things, the sale and investment solicitation process (the "**SISP**") described herein. In accordance with the SISP Approval Order, KSV Restructuring Inc., in its capacity as the Court-appointed Monitor of the Applicants (in such capacity, the "**Monitor**"), with the assistance of the Applicants and the Non-Applicant Stay Parties (collectively, the "**MPXI Entities**") will conduct the SISP.

### **Opportunity**

1. The SISP is intended to solicit interest in and opportunities for a sale of, or investment in, all or part of the MPXI Entities' assets and business operations (the "**Opportunity**"). The Opportunity may include one or more of a restructuring, recapitalization or other form of reorganization of the business and affairs of one or more of the MPXI Entities as a going concern, or a sale of all, substantially all or one or more components of the MPXI Entities' assets (the "**Property**") and business operations (the "**Business**") as a going concern or otherwise.
2. Any sale of the Property or investment in the Business will be on an "as is, where is" basis and without surviving representations or warranties of any kind, nature, or description by the Monitor, the Applicants or any of their respective agents, advisors or estates, and, in the event of a sale, all of the right, title and interest of the Applicants in and to the Property to be acquired will be sold free and clear of all pledges, liens, security interests, encumbrances, claims, charges, options, and interests therein and thereon pursuant to Court orders, except as otherwise provided in such Court orders.
3. The following are the key dates of the Court-approved SISP:

Milestone	Date
Commence solicitation of interest from parties, including delivering NDA and Teaser Letter, and upon execution of NDA, Confidential Information Memorandum and access to Data Room	No later than August 5, 2022.
Binding Offer Deadline	September 8, 2022 at 5:00 p.m. EDT
Deadline to notify Qualified Bidders of Successful Bid	September 12, 2022 at 5:00 p.m. EDT

**Solicitation of Interest: Notice of the SISP**

4. As soon as reasonably practicable, but in any event by no later than August 5, 2022:
  - (a) the Monitor and the Applicants will prepare a list of potential bidders, including:
    - (i) parties that have approached the MPXI Entities or the Monitor indicating an interest in the Opportunity; and
    - (ii) local and international strategic and financial parties who the Monitor and the Applicants believe may be interested in purchasing all or part of the Business or Property or investing in the MPXI Entities pursuant to the SISP (collectively, the "**Known Potential Bidders**");
  - (b) the Monitor will cause a notice of the SISP (and such other relevant information which the Monitor, in consultation with the Applicants, considers appropriate) (the "**Notice**") to be published in *The Globe and Mail* (National Edition), and such international publications and/or journals as the Monitor, in consultation with the Applicants, considers appropriate;
  - (c) the Applicants will issue a press release setting out the information contained in the Notice and such other relevant information which the Applicants, in consultation with the Monitor, determines is appropriate;
  - (d) the Monitor, with the assistance of the Applicants, will prepare a process summary (the "**Teaser Letter**") describing the Opportunity, outlining the process under the SISP and inviting recipients of the Teaser Letter to express their interest pursuant to the SISP;

- (e) the Monitor shall arrange to have each of the Notice and the Teaser Letter translated to Thai and Maltese, respectively, and advertised in the applicable jurisdictions to solicit interest in the MPXI Entities; and
  - (f) the Applicants, with the assistance of the Monitor, will prepare a non-disclosure agreement in form and substance satisfactory to the Applicants and the Monitor (an "NDA").
5. The Monitor or the Applicants will send the Teaser Letter and NDA to all Known Potential Bidders by no later than August 5, 2022 and to any other party who requests a copy of the Teaser Letter and NDA or who is identified to the MPXI Entities or the Monitor as a potential bidder as soon as reasonably practicable after such request or identification, as applicable.

### **Qualified Bidders**

6. Any party who wishes to participate in the SISP (a "**Potential Bidder**") must provide to the Monitor and the Applicants, at the addresses specified in Schedule "A" hereto (including by email transmission), with a NDA executed by it, acceptable to the Monitor, and written confirmation of the identity of the Potential Bidder, the contact information for such Potential Bidder and full disclosure of the direct and indirect principals of the Potential Bidder.
7. A Potential Bidder (who has delivered the executed NDA and letter as set out above) will be deemed a "**Qualified Bidder**" if the Monitor, in consultation with the Applicants, determines such person is likely, based on the availability of financing, experience and other considerations, to be able to consummate a sale or investment pursuant to the SISP. All Qualified Bidders will receive a Confidential Information Memorandum prepared by the Monitor and will be granted access to a virtual data room ("**Data Room**"). The DIP Lenders, the Debenture Trustee (on behalf of Debentureholders) and any company affiliated with either of the foregoing shall be deemed to be a Qualified Bidder.
8. At any time during the SISP, the Applicants may, in their reasonable business judgment and after consultation with the DIP Lenders and with the consent of the Monitor, eliminate a Qualified Bidder from the SISP, in which case such bidder will be eliminated from the SISP and will no longer be a "Qualified Bidder" for the purposes of the SISP.
9. Potential Bidders must rely solely on their own independent review, diligence, investigation and/or inspection of all information and of the Property and Business in connection with their participation in the SISP and any transaction they enter into with one or more of the MPXI Entities.

### **Due Diligence**

10. The Monitor, in consultation with the Applicants, shall, subject to competitive and other business considerations, afford each Qualified Bidder such access to due diligence materials and information relating to the Property and Business as the Monitor, in consultation with the Applicants, may deem appropriate. Due diligence access may include management presentations, access to the Data Room, on-site inspections, and other matters which a Qualified Bidder may reasonably request and as to which the

Monitor, in its reasonable business judgment and after consulting with the Applicants, may agree. The Monitor will designate a representative to coordinate all reasonable requests for additional information and due diligence access from Qualified Bidders and the manner in which such requests must be communicated. Neither the Applicants nor the Monitor will be obligated to furnish any information relating to the Property or Business to any person other than to Qualified Bidders. Further, and for the avoidance of doubt, selected due diligence materials may be withheld from certain Qualified Bidders if the MPXI Entities, in consultation with the Monitor, determine such information to represent proprietary or sensitive competitive information.

### **Formal Binding Offers and Selection of Successful Bidder(s)**

11. Qualified Bidders that wish to make a formal offer to purchase or make an investment in the MPXI Entities or their Property or Business shall submit a binding offer (a "**Binding Offer**")<sup>1</sup> that complies with all of the following requirements to the Monitor and the Applicants at the addresses specified in Schedule "A" hereto (including by email), so as to be received by them no later 5 p.m. EDT on September 8, 2022 (the "**Binding Offer Deadline**"). For greater certainty, Binding Offers must:
- (a) be submitted on or before the Binding Offer Deadline by a Qualified Bidder;
  - (b) be made by way of binding, definitive transaction document(s) that is/are executed by the Qualified Bidder;
  - (c) contain a clear indication of whether the Qualified Bidder is offering to:
    - (i) acquire all, substantially all or a portion of the Property and/or Business (a "**Binding Sale Offer**"), or
    - (ii) make an investment in, restructure, reorganize or refinance the Business and/or one or more of the MPXI Entities (a "**Binding Investment Offer**");
  - (d) in the case of a Binding Sale Offer, identify or contain information in respect of the following:
    - (i) the purchase price, including details of any liabilities to be assumed by the Qualified Bidder and key assumptions supporting the valuation (the "**Purchase Price**");
    - (ii) a description of the Property subject to the transaction and any of the Property to be excluded;
    - (iii) the Qualified Bidder's intended use of the Property subject to the transaction;

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<sup>1</sup> A "Binding Offer" includes a Binding Sale Offer and a Binding Investment Offer.

- (iv) the Qualified Bidder's proposed treatment of employees of the applicable MPXI Entities (for example, anticipated employment offers and treatment of post-employment benefits);
  - (v) the key terms and provisions to be included in any order of the Court approving the Binding Sale Offer, including whether such order will be a "reverse vesting order";
  - (vi) be accompanied by information confirming the financial capability of the Qualified Bidder and the structure and financing of the transaction (including, but not limited to, the sources of financing to fund the acquisition, evidence of the availability of such financing or such other form of financial disclosure and credit-quality support or enhancement that will allow the Applicants and the Monitor and each of their respective advisors to make a reasonable business or professional judgment as to the Qualified Bidder's financial or other capabilities to consummate the transaction and to perform all obligations to be assumed in such transaction; and the steps necessary and associated timing to obtain financing and any related contingencies, as applicable);
  - (vii) any anticipated corporate, licensing, securityholder, internal, Health Canada, legal or other regulatory approvals required to close the transaction, and an estimate of the anticipated time frame and any anticipated impediments for obtaining such approvals;
  - (viii) an acknowledgement that the Binding Sale Offer is made on an "as-is, where- is" basis;
  - (ix) all conditions to closing of the Binding Sale Offer;
  - (x) any other terms or conditions of the Binding Sale Offer; and
  - (xi) such other information as reasonably requested by the Applicants or the Monitor.
- (e) in the case of an Binding Investment Offer, identify or contain information in respect of the following:
- (i) the aggregate amount of the equity and/or debt investment to be made in the Business/the MPXI Entities in Canadian Dollars;
  - (ii) key assumptions supporting the valuation;
  - (iii) the key terms and provisions to be included in any order of the Court approving the contemplated Binding Investment Offer, including whether such order will be a "reverse vesting order";
  - (iv) the underlying assumptions regarding the pro forma capital structure (including the form and amount of anticipated equity and/or debt levels,

debt service fees, interest or dividend rates, amortization, voting rights or other protective provisions (as applicable), redemption, prepayment or repayment attributes and any other material attributes of the investment);

- (v) a specific indication of the sources of capital for the Qualified Bidder and the structure and financing of the transaction (including, but not limited to, the sources of capital to fund the investment, preliminary evidence of the availability of such capital or such other form of financial disclosure and credit-quality support or enhancement that will allow the Applicants and the Monitor and each of their respective advisors to make a reasonable business or professional judgment as to the Qualified Bidder's financial or other capabilities to consummate the transaction, steps necessary and associated timing to obtain such capital and any related contingencies, as applicable, and a sources and uses analysis);
- (vi) any anticipated corporate, licensing, securityholder, internal, Health Canada, legal or other regulatory approvals required to close the transaction, and an estimate of the anticipated time frame and any anticipated impediments for obtaining such approvals;
- (vii) an acknowledgement that the Binding Investment Offer is made on an "as-is, where-is" basis;
- (viii) all conditions to closing of the Binding Investment Offer;
- (ix) any other terms or conditions of the Binding Investment Offer; and
- (x) such other information as reasonably requested by the Applicants or the Monitor.

12. The Monitor, with the approval of the Applicants, may waive strict compliance with any one or more of the requirements specified above. For the avoidance of doubt, the completion of any Binding Offer shall be subject to the approval of the Court.

#### **Reviewing of Binding Offers and Selection of Successful Bid(s)**

13. Binding Offers will be valued based upon numerous factors, including, without limitation, items such as the Purchase Price and the net value provided by such offer, the claims likely to be created by such offer in relation to other offers, the identity, circumstances and ability of the bidder to successfully complete such transactions, the proposed transaction documents, the effects of the bid on the stakeholders of the MPXI Entities, factors affecting the speed, certainty and value of the transaction (including any licensing, Health Canada, regulatory or legal approvals or third party contractual arrangements required to close the transactions), the assets included or excluded from the offer, any related restructuring costs, and the likelihood and timing of consummating such transactions, each as determined by the Applicants, in consultation with the Monitor and the DIP Lenders.
14. The Applicants and the Monitor, in consultation with and with the approval of the DIP Lenders will: (i) review and evaluate each Binding Offer, provided that each Binding

Offer may be negotiated among the Applicants, in consultation with the Monitor, and the applicable Qualified Bidder, and may be amended, modified or varied to improve such Binding Offer as a result of such negotiations; and (ii) identify the highest or otherwise best Binding Offer(s) (the "**Successful Bid(s)**", and a Qualified Bidder making such Successful Bid, a "**Successful Bidder**") for any particular Property or the Business of the MPXI Entities in whole or part. The determination of any Successful Bid by the Applicants, in consultation with the Monitor and the DIP Lenders, shall be subject to approval by the Court.

15. The Monitor, in consultation with and with the approval of the Applicants and the DIP Lenders, shall notify each Qualified Bidder in writing as to whether its Binding Offer has been selected as a Successful Bid no later than September 12, 2022, or at such later time as the Monitor, in consultation with and with the approval of the Applicants and the DIP Lenders, deems appropriate.
16. The Applicants may, in consultation with and with the approval of the Monitor, aggregate separate Binding Offers to create one "Binding Offer".
17. The Applicants shall have no obligation to enter into a Successful Bid, and they reserve the right, after consultation with the Monitor and the DIP Lenders, to reject any or all Binding Offers.
18. Notwithstanding the process and deadlines outlined above with respect to the SISP:
  - (a) the Monitor may, with the consent of the Applicants and the DIP Lenders, at any time:
    - (i) in accordance with paragraph 26 herein, pause, terminate, amend or modify the SISP;
    - (ii) remove any portion of the Business and the Property from the SISP;
    - (iii) establish further or other procedures for the SISP; and
  - (b) the Applicants may, with the consent of the Monitor and in consultation with the DIP Lenders, at any time bring a motion to the Court to seek approval of:
    - (i) a sale of, or investment in, all or part of the Property or the Business whether or not such sale or investment is in accordance with the terms or timelines set out in this SISP; and/or
    - (ii) a stalking horse agreement in respect of some or all of the Property or Business and related bid procedures in respect of such Property or Business.

### **Sale Approval Motion Hearing**

19. At the hearing of the motion to approve any transaction with a Successful Bidder (the "**Sale Approval Motion**"), the Applicants shall seek, among other things, approval from

the Court to consummate any Successful Bid. All Binding Offers, other than the Successful Bid(s), if any, shall be deemed rejected by the Applicants on and as of the date of approval of the Successful Bid(s) by the Court.

### **Confidentiality, Stakeholder/Bidder Communication and Access to Information**

20. All discussions regarding the SISP should be directed through the Monitor. Under no circumstances should the management of the MPXI Entities or any stakeholder of the MPXI Entities be contacted directly without the prior consent of the Monitor. Any such unauthorized contact or communication could result in exclusion of the interested party from the SISP. For greater certainty, nothing herein shall preclude a stakeholder from contacting potential bidders with the agreement of the Monitor to advise that the Applicants have commenced a SISP and that they should contact the Monitor if they are interested in participating in the SISP.
21. If it is determined by the Monitor, in consultation with the Applicants, that it would be worthwhile to facilitate a discussion between one or more Qualified Bidders and a stakeholder or other third party as a consequence of a condition to closing or potential closing condition identified by such Qualified Bidder, the Monitor may provide such Qualified Bidder with the opportunity to meet with the relevant stakeholder or third party to discuss such condition or potential condition, with a view to enabling such bidder to seek to satisfy the condition or assess whether the condition is not required or can be waived. Any such meetings or other form of communication will take place on terms and conditions considered appropriate by the Monitor, in consultation with the Applicants. The Monitor must be provided with the opportunity to be present at all such communications or meetings.

### **Access to Information and Credit Bidding by Debentureholders and/or DIP Lenders**

22. Following the Binding Offer Deadline, should none of the Binding Offers received be acceptable to the DIP Lenders, including because such Binding Offers do not provide for the immediate repayment in cash of all outstanding amounts owing under the Debentures in full, the Applicants, with the consent of the Monitor and the DIP Lenders, may terminate the SISP and accept a credit bid (or such other bid) from the Debenture Trustee (on behalf of Debentureholders), the Debentureholders or the DIP Lenders for the Business and the Property.
23. Notwithstanding anything contained herein, neither the MPXI Entities nor the Monitor shall provide the Debenture Trustee (on behalf of Debentureholders) or any Debentureholder (including in its capacity as a DIP Lender) with any information relating to the Binding Offers, other than the Subject Information (as defined below), unless and until the Debenture Trustee and/or such Debentureholder(s) confirm to the Applicants and the Monitor in writing that if they submit a credit bid in the SISP, such bid shall not be for an amount greater than the amount owing under the Debentures, plus all amounts ranking in priority to the Debentures. For the purposes of this paragraph, "**Subject Information**" shall mean, subject to the Monitor's determination of whether it is appropriate to disclose: (i) the amount and form of consideration payable in respect of the outstanding obligations under the DIP Term Sheet and the Debentures; (ii) the transaction

structure and the material conditions to closing contemplated in any Binding Offer; and (iii) any other information the Monitor considers appropriate.

### **Supervision of the SISP**

24. This SISP does not, and will not be interpreted to create any contractual or other legal relationship between the MPXI Entities and any Qualified Bidder or any other party, other than as specifically set forth in an NDA or a definitive agreement that may be signed with one or more of the MPXI Entities (including any Stalking Horse Agreement).
25. Participants in the SISP are responsible for all costs, expenses and liabilities incurred by them in connection with the submission of any Binding Offer, due diligence activities, and any other negotiations or other actions whether or not they lead to the consummation of a transaction.
26. The Applicants or the Monitor shall have the right to modify the SISP with the prior written approval of the DIP Lenders if, in their reasonable business judgment, such modification will enhance the process or better achieve the objectives of the SISP; provided that the service list in these CCAA Proceedings shall be advised of any substantive modification to the procedures set forth herein.

## SCHEDULE "A"

### **The Monitor:**

**KSV Restructuring Inc.**  
150 King Street West, Suite 2308  
Toronto, ON M5H 1J9

Attention: Noah Goldstein and Eli Brenner

Email: [ngoldstein@ksvadvisory.com](mailto:ngoldstein@ksvadvisory.com) / [ebrenner@ksvadvisory.com](mailto:ebrenner@ksvadvisory.com)

with copies to:

**Aird & Berlis LLP**  
Brookfield Place, 181 Bay St. #1800  
Toronto, ON M5J 2T9

Attention: Kyle Plunkett and Sam Babe

Email: [kplunkett@airdberlis.com](mailto:kplunkett@airdberlis.com) / [sbabe@airdberlis.com](mailto:sbabe@airdberlis.com)

### **The Applicants**

**The MPXI Entities**  
**c/o Bennett Jones LLP**  
100 King Street West, Suite 3400  
Toronto, ON M5X 1A5

Attention: Sean Zweig and Mike Shakra

Email: [zweigs@bennettjones.com](mailto:zweigs@bennettjones.com) / [shakram@bennettjones.com](mailto:shakram@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 MPX INTERNATIONAL CORPORATION, BIOCANNABIS PRODUCTS LTD., CANVEDA INC., THE  
CING-X CORPORATION, SPARTAN WELLNESS CORPORATION, MPXI ALBERTA CORPORATION, MCLN INC., AND  
SALUS BIOPHARMA CORPORATION**

Court File No.: CV-22-00684542-00CL

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

Proceedings Commenced in Toronto

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**SISP APPROVAL ORDER**

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**BENNETT JONES LLP**  
One First Canadian Place  
Suite 3400, P.O. Box 130  
Toronto, Ontario  
M5X 1A4

**Sean Zweig (LSO# 57307I)**  
**Mike Shakra (LSO# 64604K)**  
**Thomas Gray (LSO# 82473H)**

Tel: 416-863-1200  
Fax: 416-863-1716

Lawyers for the Applicants

**THIS IS EXHIBIT "D" REFERRED TO IN THE  
AFFIDAVIT OF JEREMY BUDD SWORN  
THE 13<sup>TH</sup> DAY OF OCTOBER, 2022**

A handwritten signature in black ink, appearing to be 'TG' with a long horizontal stroke extending to the right.

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**THOMAS GRAY**  
**A Commissioner for taking affidavits, etc.**

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

Proceeding under the *Business Corporations Act*, R.S.O.1990, c. B.16, s. 248

BETWEEN:

NINTH SQUARE CAPITAL CORPORATION

Plaintiff

- v. -

IANTHUS CAPITAL HOLDINGS INC., MPX BIOCEUTICAL ULC,  
MPX INTERNATIONAL CORPORATION,  
W. SCOTT BOYES, JEREMY BUDD and MICHAEL ARNKVARN

Defendants

**CONSOLIDATED STATEMENT OF CLAIM**

1. The plaintiff claims:
  - (a) an order declaring, if necessary, that the plaintiff is a proper person to make an application under section 248 of the *Business Corporations Act*, R.S.O.1990, c. B.16 (the “OBCA”);
  - (b) an order declaring that the statutory arrangement among the corporate defendants and the conduct of the defendants relating to it were oppressive and unfairly prejudicial to and unfairly disregarded the interests of the plaintiff;
  - (c) damages in the amount of \$3,000,000.00;
  - (d) prejudgment interest pursuant to the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended;
  - (e) costs of this action on a substantial indemnity basis, plus HST; and

(f) such other order as this Honourable Court thinks fit.

### **The Parties**

2. The plaintiff, Ninth Square Capital Corporation (“Ninth Square” or the “plaintiff”), is a corporation incorporated under the OBCA.

3. The defendant, iAnthus Capital Holdings Inc. (“iAnthus”), is a corporation incorporated under the *Business Corporations Act*, S.B.C. 2002, c. 57 (the “BCBCA”) with offices in Toronto, Ontario.

4. The defendant, MPX Bioceutical ULC (“MPX ULC”), is a wholly-owned subsidiary of iAnthus that succeeded MPX Bioceutical Corporation (“MPX”) on February 5, 2019, when MPX was amalgamated with 1183271 B.C. Unlimited Liability Company (“1183271”) under the BCBCA. The head office of MPX ULC is in Toronto, Ontario.

5. The defendant, MPX International Corporation (“MPXI”), is a corporation incorporated under the OBCA on October 17, 2018.

6. The defendant, W. Scott Boyes (“Boyes”) was the president, chief executive officer (“CEO”) and chairman of the board of directors of MPX until the statutory arrangement and is the president, CEO and chairman of the board of directors of MPXI.

7. The defendant, Jeremy S. Budd (“Budd”), was the vice-president, general counsel and corporate secretary of MPX until the statutory arrangement and is the vice-president, general counsel and a director of MPXI.

8. The defendant, Michael Arnkvarn (“Arnkvarn”) was the executive vice-president, sales and marketing, and a director of MPX until the statutory arrangement and is the chief operating officer of MPXI.

### **Sale of Spartan Wellness Corporation**

9. In 2018, Ninth Square owned fifty per cent of the outstanding shares (the “Spartan Shares”) of Spartan Wellness Corporation (“Spartan”), a corporation that carried on a business of distributing medical marijuana products to veterans in Canada. The other fifty per cent of Spartan Shares were owned by Veteran Grown Corporation (“Veteran”).

10. On September 17, 2018, Ninth Square entered into a share purchase agreement (the “SPA”), pursuant to which it and Veteran agreed to sell their Spartan Shares to MPX; MPX agreed to purchase the Spartan Shares in exchange for common shares in MPX (“MPX Shares”) and warrants to purchase MPX Shares (“MPX Warrants”). Boyes, Budd and Arnkvarn directed the negotiations relating to the SPA and acquisition of Spartan and determined MPX’s position with respect to the SPA’s terms. Boyes signed the SPA on behalf of MPX.

11. Arnkvarn had responsibility for the conduct of these negotiations. The negotiations were conducted by Shay Shnet, an employee of MPX, who reported to and received instructions from Arnkvarn with respect to the terms of the acquisition of Spartan.

12. MPX was incorporated under the OBCA in 1974. In 2018 it described itself as a “multinational diversified cannabis company focused on the medical and adult-use cannabis markets.” It carried on business primarily in the United States (“US”), where it cultivated, produced and sold cannabis products in four states. MPX shares were listed and traded on the Canadian Securities Exchange.

13. In June, 2018, MPX acquired a Canadian corporation operating as “Canveda”, which had received a cannabis cultivation licence. MPX was attempting to develop Canveda to permit production and sales, but it had no assurance of being able to do so. Its dominant value was in its US assets. Its operating history in Canada was limited; as of August, 2018, it had earned no profits in Canada and had net losses. Thus the value of the MPX Shares was largely based on its US business.

14. Under the terms of the SPA, the consideration for Ninth Square’s and Veteran’s Spartan Shares was \$6,000,000.00. Ninth Square and Veteran were to receive a total of \$3,000,000.00 in MPX Shares and \$500,000.00 in MPX Warrants, that is, \$1,750,000.00 each in MPX Shares and MPX Warrants, and \$1,500,000.00 in MPX

Shares and \$1,000,000.00 in MPX Warrants were to be paid to a fund to be established to provide services for the benefit of veterans (the “Veteran Fund”).

15. On the closing of the transaction agreed to in the SPA (the “Transaction”), \$375,000.00 in MPX Shares and \$62,500.00 in MPX Warrants were to be issued to Ninth Square. The remaining MPX Shares and MPX Warrants were to be issued in four additional tranches based upon the cannabis sales attributable to Spartan over the twenty-four months following the date on which Canveda became fully licensed to produce, distribute and sell cannabis products in Canada (the “Milestones”). As of August, 2019, Canveda has not been licensed to distribute and sell cannabis products.

16. The MPX Shares and MPX Warrants to be paid to the Veteran Fund were also to be issued to the Veteran Fund on the closing of the Transaction and the achievement of each Milestone or if it was later, on the date of the Veteran Fund’s establishment. Ninth Square and Veteran agreed to forego receipt of \$500,000.00 (\$250,000.00 each) relating to MPX Warrants that were to be issued to the Veteran Fund. To this date, the Veteran Fund has not been established.

17. The number of MPX Shares and MPX Warrants to be issued was to be determined based on the volume-weighted average price of MPX Shares on the Canadian Securities Exchange in the thirty days preceding September 19, 2018, when the SPA was announced by MPX. The value so determined was \$0.96 per share. The exercise price of the MPX Warrants, which was to be 120 per cent of this value, was \$1.15.

18. The SPA provided that it could not be assigned by a party, without the prior written consent of each other party, except in two circumstances. Prior to the closing of the Transaction, MPX was entitled to assign the SPA and all of its rights and obligations under it to an affiliate of MPX that undertook to be bound by it, but that such an assignment would not relieve MPX of its obligations under the SPA. After the closing of the Transaction, MPX was entitled to assign its rights under the SPA to a person who purchased the Spartan Shares or all of MPX's outstanding shares.

19. On September 19, 2018, MPX published a news release announcing the acquisition of Spartan. The news release quoted Arnkvarn on the benefits of the acquisition to MPX and identified Boyes as the corporate contact.

20. The closing date of the Transaction was October 1, 2018, by which date the assets and operations of Spartan were transferred to MPX. The closing of the Transaction was confirmed on October 22, 2018, when the closing documents had been completed.

21. On October 22, 2018, MPX issued to Ninth Square \$375,000.00 in MPX Shares (390,625 MPX Shares) and a warrant certificate dated October 1, 2018 for 54,348 MPX Warrants (\$62,500.00). The first Milestone was achieved in March, 2019. In a note to its interim financial statements for the six months ended March 31, 2019, MPXI stated

that it expected the Milestones to be achieved. Ninth Square has not received any further shares or warrants.

### **The Arrangement**

22. When the SPA was being negotiated, MPX was also negotiating its own acquisition by iAnthus. The negotiations between MPX and iAnthus, which began in July, 2018, were led by Boyes. Budd was part of the negotiating team, and Arnkvarn knew the negotiations were being conducted. The terms of the acquisition by means of a statutory plan of arrangement (the “Arrangement”) had substantially taken form before the SPA was signed; iAnthus would acquire MPX and its US assets by acquiring all of its outstanding shares, and MPX’s non-US assets, including Spartan, would be spun out to a new company that would be owned by MPX’s existing shareholders. MPX did not disclose the Arrangement, or its negotiations relating to it, to Ninth Square prior to the signing of the SPA and the provisions of the SPA indicated that an acquisition or merger was not under way.

23. When it signed the SPA, Ninth Square had no knowledge of these negotiations. Had it been aware of the proposed terms of the Arrangement, Ninth Square would not have signed the SPA.

24. MPXI was incorporated on October 17, 2018. The same day, iAnthus incorporated 1183271. The Arrangement was agreed to and announced by iAnthus and MPX the next day, October 18, 2018; the parties to the arrangement agreement (the

“Arrangement Agreement”) were iAnthus, 1183271, MPX and MPXI. Boyes signed the Arrangement Agreement on behalf of MPXI.

25. Under the terms of the Arrangement Agreement, MPX would assign and transfer all its non-US assets and non-US liabilities to MPXI, and MPXI would acquire these assets and assume the liabilities before the Arrangement became effective; iAnthus would acquire MPX’s US assets by purchasing all of the outstanding MPX Shares and having MPX continue under the BCBCA and amalgamate with 1183271 to become MPX ULC, a wholly-owned subsidiary of iAnthus. iAnthus guaranteed all of 1183271’s obligations under the Arrangement Agreement.

26. Although the Arrangement Agreement provided for the assignment and transfer to MPXI of MPX’s non-US assets and for the assumption by MPXI of the liabilities associated with these assets, and defined Spartan as part of these assets, it did not refer expressly to the SPA or the parties to it. As MPXI intended to concentrate on developing its Canadian assets, ownership of Spartan was a material part of the Arrangement.

27. MPX, Boyes, Budd and Arnkvarn understood that the assignment of the SPA could not be effected without Ninth Square’s consent. Under the terms of the Arrangement Agreement, MPXI would become the owner of all of the Spartan Shares, but unless the SPA was assigned to MPXI, the obligations under the SPA would remain with MPX and would become obligations of MPX ULC as a result of MPX’s

amalgamation with 1183271. MPX ULC would thus be responsible to issue its shares and warrants to Ninth Square when the Milestones were achieved by MPXI.

28. iAnthus and MPX announced the Arrangement on October 18, 2018. Their press release disclosed the acquisition by iAnthus of MPX and the spinoff of MPX's non-US assets to MPXI, which would be owned by MPX's existing shareholders. MPX shareholders would receive 0.1673 common share of iAnthus for each MPX Share and common shares of MPXI (0.1 MPXI common share for each MPX Share). The details of the Arrangement were disclosed by MPX in the Information Circular filed with securities regulatory authorities on December 20, 2018 in connection with the calling of a meeting of MPX's shareholders to approve the Arrangement.

29. Ninth Square first became aware of the Arrangement after the announcement on October 18, 2018. It learned of its terms after the filing of MPX's Information Circular.

30. The completion deadline under the Arrangement Agreement was January 31, 2019. On January 24, 2019, after approval of the Arrangement by MPX's shareholders, Budd, on behalf of MPX, sent Ninth Square a proposal informing it that the MPX Shares and MPX Warrants it then held would be subject to the Arrangement and that it would receive MPXI shares and warrants on achievement of the Milestones, without otherwise affecting the terms of the SPA.

31. On January 31, 2019, Budd, on behalf of MPX, sent counsel for Ninth Square an assignment agreement under which MPX would assign the SPA to MPXI, along with a form of consent to be signed by Ninth Square (the “Proposed Consent”). The accompanying email from Budd, MPX’s vice-president and general counsel, said:

Pursuant to the plan of arrangement, the shares of Spartan are being transferred from MPX Bioceutical to MPX International. The obligations of payment stay with the purchase agreement and are therefore obligations of MPX Bioceutical (iAnthus).

The current purchase agreement [i.e., the SPA] doesn’t contemplate a change of control transaction meaning that while Spartan will be a subsidiary of MPX International Corporation upon completion of the plan of arrangement, the agreement, including its obligations, goes with MPX Bioceutical. Accordingly, if we do nothing, your client will be entitled to receive shares/warrants of iAnthus  
....

32. The assignment agreement and Proposed Consent provided that the shares and warrants to be paid to Ninth Square under the SPA would be shares and warrants of MPXI, but the share price and warrant exercise price would remain at \$0.96 and \$1.15, respectively. These proposed terms would have significantly altered the consideration payable under the SPA and thus have fundamentally changed the SPA Transaction. Ninth Square has not signed the Proposed Consent.

33. MPX’s Information Circular stated that the transfer of MPX’s non-US assets to and the assumption of its liabilities by MPXI was to occur “as of the day prior to the Effective Date.” Under the Arrangement, MPX transferred its non-US assets to MPXI and received 100 MPXI common shares. This transfer was treated as a non-taxable rollover under the *Income Tax Act* (Canada).

34. The Arrangement was completed on February 5, 2019. When it announced the completion of the Arrangement, iAnthus characterized its entire business, including MPX ULC and MPX's former US assets, as one business.

35. Concurrent with the Arrangement, iAnthus and MPX ULC entered supplemental indentures with holders of debentures (and warrants) issued by a subsidiary of MPX that were convertible (exercisable) in specified circumstances into MPX Shares. These supplemental indentures acknowledged that MPX ULC was liable for MPX's obligations and provided that iAnthus assumed MPX's obligations to issue MPX Shares on conversion and exercise and that the debentureholders would receive iAnthus shares based on the consideration paid by iAnthus for MPX Shares under the Arrangement. Although Ninth Square had a similar right to receive MPX Shares and MPX Warrants, a similar offer was not made to it.

36. Under the terms of the SPA, the assignment agreement between MPX and MPXI required Ninth Square's consent. As Ninth Square has not consented to the assignment of the SPA, MPX ULC remains responsible to issue shares and warrants to Ninth Square when the Milestones are achieved; the first Milestone was achieved in March, 2019.

#### **Effect of Conduct of MPX's Business and Affairs**

37. The consideration to be received by Ninth Square under the SPA was MPX Shares and MPX Warrants of a public company, whose shares were traded on the

Canadian Securities Exchange. The Arrangement, in effect, has substituted shares and warrants of MPX ULC, a wholly-owned subsidiary of iAnthus, which are not readily transferable.

38. The value of the MPX Shares and MPX Warrants to be received by Ninth Square was based on MPX's total business, including its US assets. The Consent proposed by MPX to Ninth Square in January, 2019 would have substituted shares and warrants of MPXI at prices based on MPX's former business, even though MPX's US assets were acquired by iAnthus. MPXI's shares have a significantly lesser value. The Arrangement thus fundamentally altered the understandings in the SPA and the consideration that was to be received by Ninth Square under it.

1. The SPA

39. It was reasonable for Ninth Square to believe, when it signed the SPA, that an acquisition of MPX was not being negotiated by MPX. MPX had an obligation to disclose its negotiations concerning the Arrangement to Ninth Square before the SPA was signed. Its failure to do so, breached its obligation to act in good faith and in accordance with reasonable standards of fair dealing with respect to the negotiation and formation of the SPA.

40. By entering into the Arrangement, MPX breached the SPA. It also breached its duty to act in good faith with respect to the performance of its obligations under the SPA.

2. Oppression of Ninth Square: OBCA, s. 248

41. The Arrangement thwarted Ninth Square's reasonable expectations concerning the conduct of MPX's business and affairs. It was reasonable for Ninth Square to expect that MPX would not breach the SPA and would not take steps that would alter or negate Ninth Square's entitlement to MPX Shares and MPX Warrants.

42. Ninth Square was a securityholder of MPX with rights under the SPA to acquire additional securities on achievement of the Milestones. Under the terms of the SPA, Ninth Square is currently entitled to receive the \$281,000.00 in MPX Shares and \$50,000.00 in MPX Warrants that is payable on the achievement of the first Milestone.

43. In entering and implementing the Arrangement, as described above, MPX conducted its business and affairs, and its officers and directors exercised their powers in a manner that was oppressive and unfairly prejudicial to Ninth Square and unfairly disregarded Ninth Square's interests. The unfairness of MPX's conduct followed a consistent pattern of disregard for Ninth Square's interests from the inception of the SPA in September, 2018, culminating in the implementation of the Arrangement in February, 2019. MPX ULC, as MPX's successor, is responsible for this conduct.

### 3. iAnthus and MPXI

44. 1183271 was the vehicle used by iAnthus to acquire MPX and its US assets. Its sole director and officer was the chief executive officer of iAnthus who signed the Arrangement Agreement on behalf of both iAnthus and 1183271.

45. MPXI was created as the vehicle to retain MPX's non-US assets for MPX's shareholders. MPX's president signed the Arrangement Agreement as the president of MPXI.

46. iAnthus and MPXI were aware of the SPA and MPX's obligations under it and participated in the unfair conduct described above as parties to the Arrangement. They are also responsible for it. Boyes, Budd and Arnkvarn directed MPXI's participation in this unfair conduct.

### 4. The Individual Defendants

47. In negotiating the SPA and the Arrangement and in entering and implementing the Arrangement, Boyes, Budd and Arnkvarn conducted MPX's business and affairs and exercised their powers in a manner that was oppressive and unfairly prejudicial to Ninth Square and unfairly disregarded Ninth Square's interests.

48. The defendants personally benefited from the Arrangement. They sold their shares in MPX to iAnthus at a premium, received severance payments from MPX

and continued in identical or enhanced roles as directors and officers of MPXI with substantial annual compensation.

The plaintiff proposes that this action be tried at Toronto.

July 13, 2021

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Lawyers for the plaintiff

**Ninth Square Capital Corporation v. iAnthus Capital Holdings Inc., MPX Bioceutical ULC,  
MPX International Corporation, W. Scott Boyes,  
Jeremy Budd and Michael Arnkvorn**

**Plaintiff**

**Defendants**

Court File No. CV-19-625101-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

Proceeding under the *Business Corporations Act*,  
R.S.O.1990, c. B.16, s. 248

Proceeding commenced at TORONTO

**CONSOLIDATED STATEMENT OF  
CLAIM**

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Lawyers for the plaintiff

**THIS IS EXHIBIT "E" REFERRED TO IN THE  
AFFIDAVIT OF JEREMY BUDD SWORN  
THE 13<sup>TH</sup> DAY OF OCTOBER, 2022**

A handwritten signature in black ink, appearing to be 'TG' with a long horizontal stroke extending to the right.

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**THOMAS GRAY**  
**A Commissioner for taking affidavits, etc.**



SUPERIOR COURT OF JUSTICE

**COUNSEL SLIP**

COURT FILE NO.: CV-22-00684542-00CL DATE: September 29, 2022

NO. ON LIST: 2

TITLE OF PROCEEDING: **MPX INTERNATIONAL CORP**

BEFORE JUSTICE: **CONWAY**

**PARTICIPANT INFORMATION**

**For Plaintiff, Applicant, Moving Party, Crown:**

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Phil Anisman	NINTH SQUARE CAPITAL CORPORATION	anismanphil@on.aibn

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Name of Person Appearing	Name of Party	Contact Info
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Guneev Bhinder	iAnthus Capital Holdings Inc ad MPX Biocetical ULC	Guneev.bhinder@mcmillan.ca

## **ENDORSEMENT OF JUSTICE CONWAY:**

**All defined terms used in this Endorsement shall, unless otherwise defined, have the meanings ascribed to them in the Factum of Ninth Square dated September 26, 2022.**

Ninth Square is the plaintiff in a claim against various parties including MPX, MPXI, Boyes, Budd and Arnkvarn (the Directors). The claim relates to a share purchase agreement under which MPX acquired Ninth Square's shares in Spartan in exchange for shares and warrants of MPX. Ninth Square alleges that pursuant to the Arrangement that occurred after the SPA was signed, MPX's non-US assets were spun out to MPXI and that this would have significantly altered the consideration payable to Ninth Square under the SPA.

Ninth Square alleges that the conduct of the defendants with respect to the Arrangement and the SPA was oppressive. Ninth Square is pursuing a consolidated claim against the companies and the Directors. The Directors were directors of MPX at the time the SPA was signed and became directors of MPXI after the Arrangement was implemented.

MPXI is in CCAA proceedings now. The Amended and Restated Order contains a broad stay of proceedings against MPXI, related companies, and their directors "that relates to any obligations of an MPXI Entity whereby the directors or officers are alleged under any law to be liable in their capacity as directors or officers for the payment or performance of such obligations" (paragraph 19). As noted above, the Directors are directors of MPXI, in addition to having been directors of MPX before the spin-off.

Ninth Square seeks a declaration that the Stay does not apply to the claim against the Directors. It argues that the claim against them relates to their conduct as directors of MPX (which is not in CCAA). It further submits that the claim against the Directors is based on their personal conduct rather than on a corporate obligation for which they are legally liable and that the claim against them is therefore not caught by the Stay (relying on the case of *Re Rising Phoenix International Inc.*, 2022 QCCS 1675 (CanLII)).

Ninth Square has discoveries scheduled for the Directors in November and December and does not want to jeopardize those dates. The Directors have taken the position that they will not be attending the discoveries because they are protected by the Stay.

No opposing materials were filed on the motion, apparently due to lack of funding. However, at the hearing, counsel for the Monitor and the Applicants pointed out numerous frailties with Ninth Square's arguments. They note that the Stay in the CCAA order is broadly worded and extends to the Directors. They submit that the language of the consolidated claim blurs the roles of the various companies and the individuals and seeks relief against all of them. In particular, they submit that MPXI is a defendant in the claim and that the Directors are alleged to have "directed MPXI's participation in this unfair conduct" (para 46). They submit that this court cannot determine at this stage that the claim relates only to the Directors' personal conduct and that such a finding at the pleadings stage would prejudice the Directors' defence that they were not acting in their personal capacity. They submit that the claim does not restrict the allegations against the Directors to their conduct with respect to MPX and that the allegations are made against the Directors with respect to MPXI.

At the conclusion of the hearing, I dismissed Ninth Square's motion. I am not persuaded, given the state of the pleadings, that the Stay in paragraph 16 does not apply to the Directors. I agree with counsel for the Monitor and the Applicants that the alleged wrongful conduct of the companies (including MPXI) and the Directors in the consolidated pleading is inextricably intertwined.

Further, Ninth Square urges on me a characterization of the claim against the Directors at this stage, based solely on the pleadings, and solely for the purpose of determining whether or not the Stay applies. In my view, it is premature to engage in the exercise of characterizing the nature of the claim against the Directors at this point and could be prejudicial to the Directors' defence in the action.

At the hearing, I suggested to Ninth Square's counsel that if the pleadings were clarified, that might resolve the issue of whether or not the Stay applies. I also was concerned that this motion was brought for declaratory relief rather than as a lift-stay motion and that the latter would be more appropriate given the broad language of the Stay in the order. Mr. Anisman was concerned that either of those might jeopardize the scheduled discovery dates. The court would be prepared to schedule a return hearing on an expedited basis under the circumstances.

I am dismissing the motion without prejudice to Ninth Square returning to court if it amends the claim or wishes to schedule a lift stay motion for the claim against the Directors.

No costs are sought or awarded.

A handwritten signature in blue ink, appearing to read "Conway J.", with a stylized flourish at the end.

**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 MPX INTERNATIONAL CORPORATION,  
BIOCANNABIS PRODUCTS LTD., CANVEDA INC., THE CING-X CORPORATION, SPARTAN WELLNESS  
CORPORATION, MPXI ALBERTA CORPORATION, MCLN INC., AND SALUS BIOPHARMA CORPORATION**

Court File No CV-22-00684542-00CL

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

Proceedings Commenced in Toronto

**AFFIDAVIT OF JEREMY BUDD**  
**(Sworn October 13, 2022)**

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Lawyers for the Applicants

# **Tab 3**

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

THE HONOURABLE ) FRIDAY, THE 21<sup>ST</sup>  
 )  
JUSTICE CAVANAGH ) DAY OF OCTOBER, 2022  
 )

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 MPX  
INTERNATIONAL CORPORATION, BIOCANNABIS PRODUCTS LTD., CANVEDA INC.,  
THE CING-X CORPORATION, SPARTAN WELLNESS CORPORATION, MPXI ALBERTA  
CORPORATION, MCLN INC., AND SALUS BIOPHARMA CORPORATION  
(collectively, the "**Applicants**")

**ORDER  
(Stay Extension & Fee Approval)**

**THIS MOTION**, made by the Applicants, pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**"), for an order, *inter alia*, approving an extension of the Stay Period and certain related relief, was heard this day by Zoom videoconference.

**ON READING** the Notice of Motion of the Applicants, the affidavit of Jeremy Budd sworn October 13, 2022 (the "**Budd Affidavit**"), the Third Report of KSV Restructuring Inc. dated October ●, 2022 (the "**Third Report**"), in its capacity as monitor of the Applicants (the "**Monitor**"), filed, and on hearing the submissions of counsel for the Applicants, counsel for the Monitor, counsel for the DIP Lenders, and such other counsel as were present, no one else appearing although duly served as appears from the affidavit of service of Thomas Gray sworn October ●, 2022;

## **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 under the Amended and Restated Initial Order dated August 4, 2022 or the Budd Affidavit, as applicable.

## **EXTENSION OF THE STAY PERIOD**

3. **THIS COURT ORDERS** that the Stay Period be and is hereby extended until and including December 16, 2022.

## **APPROVAL OF THE MONITOR'S REPORTS, ACTIVITIES AND FEES**

4. **THIS COURT ORDERS** that the Prior Reports and the Third Report, and the activities of the Monitor and its counsel referred to therein be and are hereby approved; provided, however, that only the Monitor, in its personal capacity and only with respect to its own personal liability, shall be entitled to rely upon or utilize in any way such approval.
5. **THIS COURT ORDERS** that the fees and disbursements of the Monitor and the Monitor's legal counsel, Aird & Berlis LLP ("**A&B**"), as set out in the Third Report and as more particularized within the fee affidavits of the Monitor and A&B included within the Third Report, be and are hereby approved.
6. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada, the United States, Switzerland, South Africa, Malta, Australia, Lesotho, Thailand or any other country, to give effect to this Order and to assist the Applicants, the Monitor and their respective agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Applicants and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this

Order, to grant representative status to the Monitor in any foreign proceeding, or to assist the Applicants, the Monitor and their respective agents in carrying out the terms of this Order.

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

8. **THIS COURT ORDERS** that this Order and all of its provisions are effective as of 12:01 a.m. on the date of this Order and is enforceable without the need for entry or filing.

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**IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C. 1985, c. C-36*, AS AMENDED AND IN THE MATTER OF MPX INTERNATIONAL CORPORATION, BIOCANNABIS PRODUCTS LTD., CANVEDA INC., THE CING-X CORPORATION, SPARTAN WELLNESS CORPORATION, MPXI ALBERTA CORPORATION, MCLN INC., AND SALUS BIOPHARMA CORPORATION**

Court File No.: CV-22-00684542-00CL

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

Proceedings Commenced in Toronto

**ORDER**  
**(Stay Extension & Fee Approval)**

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**IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C. 1985, c. C-36*, AS AMENDED AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF MPX INTERNATIONAL CORPORATION, BIOCANNABIS PRODUCTS LTD., CANVEDA INC., THE CING-X CORPORATION, SPARTAN WELLNESS CORPORATION, MPXI ALBERTA CORPORATION, MCLN INC., AND SALUS BIOPHARMA CORPORATION**

Court File No CV-22-00684542-00CL

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

Proceedings Commenced in Toronto

**MOTION RECORD**  
**(Returnable October 21, 2022)**

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