Court File No. CV-22-00685631-00CL

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

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

**AND IN THE MATTER OF PALADIN LABS CANADIAN HOLDING INC. AND PALADIN LABS INC.**

**APPLICATION OF PALADIN LABS INC. UNDER SECTION 46 OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED**

Applicant

# MOTION RECORD
**(Motion for Second Supplemental Order**
**Returnable October 13, 2022)**

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**ONTARIO**
**SUPERIOR COURT OF JUSTICE**
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## INDEX

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Applicant

# NOTICE OF MOTION
**Motion for Second Supplemental Order**
**(Returnable October 13, 2022)**

Paladin Labs Inc. ("**Paladin**"), in its capacity as the foreign representative (the "**Foreign Representative**") in respect of the proceedings commenced by Endo International plc and certain of its affiliates, including Paladin and Paladin Labs Canadian Holding Inc. (the "**Canadian Debtors**"), under chapter 11 of the United States Code (the "**Chapter 11 Cases**"), will make a motion before Chief Justice Morawetz of the Ontario Superior Court of Justice (Commercial List) (the "**Court**") on October 13, 2022, at 2:00 p.m. or as soon thereafter as the motion can be heard.

**PROPOSED METHOD OF HEARING**: The motion is to be heard:

☐ In writing under subrule 37.12.1 (1);
☐ In writing as an opposed motion under subrule 37.12.1(4);
☐ In person;
☐ By telephone conference;
☒ By video conference;

at a Zoom link to be provided to the service list in these proceedings.

**THE MOTION IS FOR**:

1. An Order (the "**Second Supplemental Order**") substantially in the form contained in the Motion Record of the Applicant, among other things, recognizing and enforcing the Second Day Orders (as defined below) entered by the United States Bankruptcy Court for the Southern District of New York (the "**Bankruptcy Court**") following a hearing held on September 28, 2022, pursuant to section 49 of the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended ("**CCAA**"), and granting certain related relief; and

2. Such further and other relief as counsel may request and this Court may permit.

**THE GROUNDS FOR THE MOTION** are as follows:

*The Chapter 11 Cases and the Canadian Proceedings*

3. On August 16, 2022 (the "**Petition Date**"), Endo International plc and certain of its affiliates, including the Canadian Debtors (collectively, the "**Debtors**") commenced the Chapter 11 Cases by filing voluntary petitions with the Bankruptcy Court.[1]

4. The Debtors are pursuing a restructuring under the terms of a restructuring support agreement with the Ad Hoc First Lien Group that contemplates a credit bid acquisition of substantially all of the Debtors' assets by an entity formed by the Ad Hoc First Lien Group, which will serve as the Stalking Horse Bid in a post-petition bidding and auction process to be conducted in the Chapter 11 Cases.

[1] Capitalized terms used and not defined herein, unless otherwise indicated, have the meanings given to them in the Second Affidavit of Daniel Vas, sworn October 7, 2022 (the "**Second Vas Affidavit**").

5. Following a hearing on August 18, 2022 in respect of the various "First Day Motions" filed by the Debtors, the Bankruptcy Court granted certain interim and/or final orders (the "**First Day Orders**"), including an order authorizing Paladin to act as the Foreign Representative for the purpose of these Canadian recognition proceedings.

6. On August 19, 2022, Chief Justice Morawetz granted: (i) an Initial Recognition Order (Foreign Main Proceedings) (the "**Initial Recognition Order**"), among other things, recognizing Paladin as the "foreign representative" and the Chapter 11 Cases as a "foreign main proceeding" as those terms are defined in section 45 of the CCAA, and (ii) a Supplemental Order (Foreign Main Proceedings) (the "**First Supplemental Order**"), among other things, (a) granting recognition to ten First Day Orders, (b) ordering a stay of proceedings in respect of the Canadian Debtors and certain of their affiliates that are named as defendants in Canadian litigation proceedings, and (c) appointing KSV Restructuring Inc. as information officer in respect of the Canadian recognition proceedings (the "**Information Officer**").

*Recognition of the Second Day Orders is Appropriate*

7. On September 28, 2022, the Bankruptcy Court heard various motions filed by the Debtors in the Chapter 11 Cases. The Bankruptcy Court entered (or is expected to enter) the following orders which the Foreign Representative seeks to have recognized by this Court (the "**Second Day Orders**") pursuant to the Second Supplemental Order:

(a) *Order (I) Appointing Roger Frankel as Future Claimants' Representative, Effective as of the Petition Date; and (II) Granting Related Relief*;

(b) *Second Interim Order (I) Authorizing Debtors to (A) Pay Prepetition Wages, Salaries, Employee Benefits and Other Compensation and (B) Continue Employee Benefit Programs and Pay Related Administrative Obligations; (II) Authorizing Financial Institutions to Honor and Process Related Checks and Transfers; and (III) Granting Related Relief*;

(c) *Final Order (I) Authorizing Debtors to Honor Prepetition Obligations to Customers and Related Third Parties and to Otherwise Continue Customer Programs; (II) Granting Relief from Stay to Permit Setoff in Connection with Customer Programs; (III) Authorizing Financial Institutions to Honor and Process Related Checks and Transfers; and (IV) Granting Related Relief*;

(d) *Final Order (I) Authorizing Payment of Certain Prepetition Specified Trade Claims; (II) Authorizing Financial Institutions to Honor and Process Related Checks and Transfers; and (III) Granting Related Relief*;

(e) *Final Order Authorizing (I) Debtors to Pay Certain Prepetition Taxes, Governmental Assessments, and Fees; and (II) Financial Institutions to Honor and Process Related Checks and Transfers*;

(f) *Final Order Authorizing (I) the Debtors to Continue and Renew Their Insurance Programs and Honour all Obligations in Respect Thereof; (II) Financial Institutions to Honor and Process Related Checks and Transfers; and (III) the Debtors to Modify the Automatic Stay With Respect to Workers' Compensation Claims*;

(g) *Final Order (I) Authorizing the Debtors to (A) Continue Using Existing Cash Management Systems, Bank Accounts, and Business Forms and (B) Implement Changes to Their Cash Management System in the Ordinary Course of Business; (II) Granting Administrative Expense Priority for Postpetition Intercompany Claims; (III) Granting a Waiver With Respect to the Requirements of 11 U.S.C. § 345(b); and (IV) Granting Related Relief*;

(h) *Order (I) Authorizing and Approving Procedures For (A) The Use, Sale, Transfer, or Abandonment of De Minimis Assets Free and Clear of Liens, Claims, Interests, and Encumbrances Without Further Order of Court, and (B) The Acquisition of De Minimis Assets; (II) Authorizing Payment of Related Fees and Expenses; and (III) Granting Related Relief* (the "**De Minimis Assets Order**"); and

(i) *Order (I) Prohibiting Utilities from Altering, Refusing, or Discontinuing Service; (II) Deeming Utilities Adequately Assured of Future Performance; and (III) Establishing Procedures for Determining Requests for Additional Adequate Insurance* (the "**Utilities Order**").

8. While the Debtors' motions for the De Minimis Assets Order and the Utilities Order were approved by the Bankruptcy Court at the Second Day Hearing, the applicable orders have not yet been entered.

9. The Debtors' motion for approval of the *Final Order (I) Authorizing the Debtors to Use Cash Collateral; (II) Granting Adequate Protection to Prepetition Secured Parties; (III) Modifying the Automatic Stay; and (IV) Granting Related Relief* (the "**Final Cash Collateral Order**") is scheduled to be heard by the Bankruptcy Court at a separate hearing on October 19,

2022. The Foreign Representative expects to seek recognition of the Final Cash Collateral Order, if granted by the Bankruptcy Court, on a subsequent motion in these proceedings.

10. Section 49 of the CCAA provides that, if an order recognizing a foreign proceeding is made, the Court may make any order that it considers appropriate if it is satisfied that it is necessary for the protection of the debtor company's property or the interests of a creditor or creditors.

11. Recognition of the Second Days Orders by this Court pursuant to the Second Supplemental Order is appropriate to preserve the value of the Canadian Debtors, enable the continued operation of the Canadian Business in the ordinary course, and ensure judicial coordination and comity while the Endo group pursues a global restructuring in the Chapter 11 Cases.

*Recognition of the De Minimis Assets Order*

12. The proposed De Minimis Assets Order authorizes the Debtors to, among other things: (a) use, sell, transfer or abandon assets or business lines of *de minimis* value that are not included in the Stalking Horse Bid (the "**De Minimis Assets**") to a single party or group of related parties with an aggregate sale price of not more than US$2 million, free and clear of liens and without the need for further Court approval, with such liens attaching to the applicable proceeds; and (b) acquire De Minimis Assets in any individual transaction or series of related transactions with an aggregate sale prices of not more than US$2 million without the need for further Court approval.

13. The proposed De Minimis Assets Order prescribes De Minimis Asset Transaction Procedures governing the use, sale, acquisition or transfer of De Minimis Assets by the Debtors, and De Minimis Asset Abandonment Procedures governing the abandonment of De Minimis Assets by the Debtors.

14. Paragraph 5 of the Initial Recognition Order provides that, except with leave of the Court, each of the Canadian Debtors is prohibited from selling or otherwise disposing of (a) outside of the ordinary course of its business, any of its property in Canada that relates to the business, and (b) any of its other property in Canada.

15. The Second Supplemental Order grants recognition to the De Minimis Assets Order and authorizes the Canadian Debtors to deal with their Property in accordance with the De Minimis Assets Order notwithstanding paragraph 5 of the Initial Recognition Order, provided that a Canadian Debtor shall provide not less than seven days' advance notice to the Information Officer prior to taking any action with respect to its Property pursuant to the De Minimis Assets Order.

16. Recognition of the De Minimis Assets Order pursuant to the foregoing approach is consistent with the principles of comity and the recognition of Bankruptcy Court orders granted in a foreign main proceeding, appropriate to enable the Canadian Debtors to deal with any De Minimis Assets in an efficient manner; and protective of the rights of Canadian stakeholders by virtue of the requirement for advance notice to the Information Officer.

*General*

17. The provisions of the CCAA, including Part IV and section 49 thereof.

18. Such further and other grounds as counsel may advise and this Court may permit.

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

19. The Second Vas Affidavit;

20. The Affidavit of Andrew Harmes, sworn October 7, 2022;

21. The First Report of the Information Officer, to be filed; and

22. Such further and other evidence as counsel may advise and this Court may permit.

Date: October 7, 2022

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Court File No. CV-19-00628233-00CL

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

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APPLICATION OF PALADIN LABS INC. UNDER SECTION 46 OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED

Applicant

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

Proceeding commenced at Toronto

**NOTICE OF MOTION**
**(Returnable October 13, 2022)**

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**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 PALADIN LABS CANADIAN HOLDING INC. AND PALADIN LABS INC.**

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Applicant

# SECOND AFFIDAVIT OF DANIEL VAS

(Sworn October 7, 2022)

I, Daniel Vas, of the City of Pincourt, in the Province of Quebec, MAKE OATH AND SAY:

1. I am a director of Paladin Labs Inc. ("**Paladin**") and Paladin Labs Canadian Holding Inc. (together with Paladin, the "**Canadian Debtors**"). I am also the Executive Director of Finance of Paladin and have served in that position since 2020. I have been employed by Paladin since 2008 and have served in a number of finance roles prior to becoming Executive Director of Finance. As such, I have knowledge of the matters deposed to herein, save where I have obtained information from others or public sources. Where I have obtained information from others or public sources I believe it to be true. The Debtors do not waive or intend to waive any applicable privilege by any statement herein.

2. On August 16, 2022 (the "**Petition Date**"), Endo International plc ("**Endo Parent**") and certain of its affiliates, including the Canadian Debtors (collectively, the "**Debtors**") commenced cases (the "**Chapter 11 Cases**") under chapter 11 of the United States Code (the "**Bankruptcy Code**") by filing voluntary petitions in the United States Bankruptcy Court for the Southern District of New York (the "**Bankruptcy Court**"). The Chapter 11 Cases have been assigned to the Honourable Judge James L. Garrity, Jr.

3. Following a hearing in respect of the Debtors' First Day Motions on August 18, 2022 (the "**First Day Hearing**"), the Bankruptcy Court granted certain First Day Orders, including the Foreign Representative Order authorizing Paladin to act as the foreign representative of the Chapter 11 Cases (the "**Foreign Representative**") for purposes of these Canadian recognition proceedings.

4. Paladin, in its capacity as Foreign Representative, brought an application before the Ontario Superior Court of Justice (Commercial List) (the "**Court**") for recognition of the Chapter 11 Cases under Part IV of the *Companies' Creditors Arrangement Act* (the "**CCAA**"). On August 19, 2022, the Honourable Chief Justice Morawetz granted the following orders:

(a) an Initial Recognition Order (Foreign Main Proceedings) (the "**Initial Recognition Order**"), *inter alia*, recognizing Paladin as the "foreign representative" in respect of the Chapter 11 Cases and the Chapter 11 Cases as a "foreign main proceeding" as those terms are defined in section 45 of the CCAA; and

(b) a Supplemental Order (Foreign Main Proceedings) (the "**First Supplemental Order**"), *inter alia*:

(i) recognizing certain First Day Orders of the Bankruptcy Court;

(ii) ordering a stay of proceedings in respect of the Canadian Debtors, any subsidiary, affiliate or related party of Endo Parent or the Canadian Debtors that is named as a defendant in the Canadian litigation proceedings (the "**Canadian Litigation Defendants**"), and the directors and officers of the Canadian Debtors and the Canadian Litigation Defendants; and

(iii) appointing KSV Restructuring Inc. as information officer in respect of these Canadian recognition proceedings (the "**Information Officer**").

5. Copies of the Initial Recognition Order and the First Supplemental Order (without schedules other than Schedule "A") are attached hereto as Exhibits "A" and "B", respectively.

6. This affidavit is sworn in support of a motion by the Foreign Representative for an Order (the "**Second Supplemental Order**") recognizing and enforcing certain orders (the "**Second Day Orders**") entered by the Bankruptcy Court following a hearing held on September 28, 2022 (the "**Second Day Hearing**").

7. Background information with respect to the Debtors, the reasons for the initiation of the Chapter 11 Cases, and the Canadian Debtors and the Canadian Business is set out in my affidavit sworn August 17, 2022 (the "**First Affidavit**"). Capitalized terms used and not defined herein have the meanings given to them in my First Affidavit.

## I. UPDATE ON THE CHAPTER 11 CASES

8. Following the initiation of the Chapter 11 Cases, the Debtors have continued to operate their business in the ordinary course, communicate with their stakeholders, and advance their restructuring objectives, including seeking the Second Day Orders from the Bankruptcy Court.

9. On September 2, 2022, the United States Trustee for Region 2 (the "**U.S. Trustee**") appointed (a) an Official Committee of Unsecured Creditors (the "**UCC**"), and (b) an Official Committee of Opioid Claimants (the "**OCC**" and, together with the UCC, the "**Statutory Committees**").

10. The Multi-State Endo Executive Committee (the "**Multi-State EC**"), comprised of seven states who act as a steering committee on behalf of certain state Attorneys General that had not settled their states' claims against the Debtors at the commencement of the Chapter 11 Cases, has also formed in the Chapter 11 Cases. The Multi-State EC is not a statutory "committee" for purposes of the Bankruptcy Code.

11. Since the commencement of the Chapter 11 Cases, the Debtors and their advisors have been working to provide their stakeholders and parties in interest, including the Ad Hoc First Lien Group, the Statutory Committees, the Multi-State EC and the U.S. Trustee, with information regarding the Debtors and their restructuring initiatives and to respond to diligence requests.

12. On September 13, 2022, the Debtors filed a Notice of Adjournment indicating that the Second Day Hearing, originally scheduled for September 21, 2022, had been rescheduled to September 28, 2022.

13. A meeting of the Debtors' creditors was held on September 19, 2022 in accordance with section 341 of the Bankruptcy Code.

14. The Second Day Hearing of the Bankruptcy Court was heard by Judge Garrity on September 28, 2022. Prior to the Second Day Hearing, the Debtors resolved a number of objections to the proposed Second Day Orders through discussions with their stakeholders. As a result, most of the Second Day Orders were issued by the Bankruptcy Court without opposition. Objections to aspects of certain other Second Day Orders – including objections with respect to the Future Claimants Representative Order and the Second Interim Wages Order (each as described below) – were addressed and determined by the Bankruptcy Court at the Second Day Hearing.

15. The Second Day Orders of the Bankruptcy Court for which the Foreign Representative seeks recognition in Canada pursuant to the Second Supplemental Order are described in Section III of this affidavit.

16. As described in my First Affidavit, and in the First Day Declaration of Mark Bradley filed in support of the Chapter 11 Cases, the Debtors are pursuing a restructuring under the terms of a restructuring support agreement (the "**RSA**") with the Ad Hoc First Lien Group that contemplates a credit bid acquisition of substantially all of the Debtors' assets by an entity formed by the Ad Hoc First Lien Group, which will serve as a stalking horse bid (the "**Stalking Horse Bid**") in a post-petition bidding and auction process to be conducted in the Chapter 11 Cases.

17. The Debtors and their advisors are continuing to advance the restructuring process, including negotiating the definitive purchase and sale agreement for the Stalking Horse Bid with the Ad Hoc First Lien Group; updating the proposed Bidding Procedures contained in the RSA to

reflect certain feedback from stakeholders; and preparing information and materials for provision to potential purchasers in connection with the bidding and auction process. The Debtors intend to seek the Bankruptcy Court's approval of the Stalking Horse Bid and the Bidding Procedures on a subsequent motion to be brought in the Chapter 11 Cases.

## II. UPDATE ON THE CANADIAN DEBTORS

18. The Canadian Debtors have continued to operate the Canadian Business in the ordinary course following the initiation of the Chapter 11 Cases and these Canadian recognition proceedings. Paladin's stakeholders have generally been supportive of its efforts to continue normal course business operations. The Canadian Business has been cash-flow positive since the commencement of the Chapter 11 Cases.

19. Following the Petition Date, Paladin sent notices to its employees, customers and suppliers to inform them of its intention to continue normal course business operations during the Debtors' restructuring process. Paladin conducted a virtual "town-hall" meeting with its employees and its representatives have engaged in discussions with customers, suppliers and other stakeholders regarding the Chapter 11 Cases and the ongoing operations of the Canadian Business.

20. In addition, the Foreign Representative, with the assistance of the Information Officer, caused to be published, in accordance with the Initial Recognition Order, a notice of these proceedings once a week for two consecutive weeks in the Globe and Mail (National Edition) and Le Devoir.

21. Paladin has provided regular updates to the Information Officer with respect to the Canadian Business, including through regularly-scheduled discussions involving me, Paladin's legal counsel (Goodmans LLP) and the Information Officer.

## III. SECOND DAY ORDERS

22. Pursuant to the proposed Second Supplemental Order, the Foreign Representative seeks recognition by this Court of the following Second Day Orders that have been entered (or are anticipated to be entered) by the Bankruptcy Court, each of which is described in more detail below:

(a) *Order (I) Appointing Roger Frankel as Future Claimants' Representative, Effective as of the Petition Date; and (II) Granting Related Relief* (the "**Future Claimants Representative Order**");

(b) *Second Interim Order (I) Authorizing Debtors to (A) Pay Prepetition Wages, Salaries, Employee Benefits and Other Compensation and (B) Continue Employee Benefit Programs and Pay Related Administrative Obligations; (II) Authorizing Financial Institutions to Honor and Process Related Checks and Transfers; and (III) Granting Related Relief* (the "**Second Interim Wages Order**");

(c) *Final Order (I) Authorizing Debtors to Honor Prepetition Obligations to Customers and Related Third Parties and to Otherwise Continue Customer Programs; (II) Granting Relief from Stay to Permit Setoff in Connection with Customer Programs; (III) Authorizing Financial Institutions to Honor and Process Related Checks and Transfers; and (IV) Granting Related Relief* (the "**Final Customer Programs Order**");

(d) *Final Order (I) Authorizing Payment of Certain Prepetition Specified Trade Claims; (II) Authorizing Financial Institutions to Honor and Process Related Checks and Transfers; and (III) Granting Related Relief* (the "**Final Vendor Order**");

(e) *Final Order Authorizing (I) Debtors to Pay Certain Prepetition Taxes, Governmental Assessments, and Fees; and (II) Financial Institutions to Honour and Process Related Checks and Transfers* (the "**Final Taxes Order**");

(f) *Final Order Authorizing (I) the Debtors to Continue and Renew Their Insurance Programs and Honour all Obligations in Respect Thereof; (II) Financial*

*Institutions to Honor and Process Related Checks and Transfers; and (III) the Debtors to Modify the Automatic Stay With Respect to Workers' Compensation Claims* (the "**Final Insurance Order**");

(g) *Final Order (I) Authorizing the Debtors to (A) Continue Using Existing Cash Management Systems, Bank Accounts, and Business Forms and (B) Implement Changes to Their Cash Management System in the Ordinary Course of Business; (II) Granting Administrative Expense Priority for Postpetition Intercompany Claims; (III) Granting a Waiver With Respect to the Requirements of 11 U.S.C. § 345(b); and (IV) Granting Related Relief* (the "**Final Cash Management Order**");

(h) *Order (I) Authorizing and Approving Procedures For (A) The Use, Sale, Transfer, or Abandonment of De Minimis Assets Free and Clear of Liens, Claims, Interests, and Encumbrances Without Further Order of Court, and (B) The Acquisition of De Minimis Assets; (II) Authorizing Payment of Related Fees and Expenses; and (III) Granting Related Relief* (the "**De Minimis Assets Order**"); and

(i) *Order (I) Prohibiting Utilities from Altering, Refusing, or Discontinuing Service; (II) Deeming Utilities Adequately Assured of Future Performance; and (III) Establishing Procedures for Determining Requests for Additional Adequate Insurance* (the "**Utilities Order**").

23. The Future Claimants Representative Order, the Second Interim Wages Order, the Final Customer Programs Order, the Final Vendor Order, the Final Taxes Order, the Final Insurance Order, and the Final Cash Management Order are attached hereto as Exhibits "C" to "I".

24. While the Debtors' motions for the De Minimis Assets Order and the Utilities Order were approved by the Bankruptcy Court at the Second Day Hearing, the applicable orders have not yet been entered. I understand that copies of the De Minimis Assets Order and the Utilities Order, when entered, will be provided to the Court in a separate affidavit.

25. At the Second Day Hearing, the Bankruptcy Court also heard the Debtors' motion for an *Order (I) Waiving the Requirement That Each Debtor Files a Separate List of its 20 Largest Unsecured Creditors; (II) Authorizing the Debtors to File a Single Consolidated List of Their 50 Largest Unsecured, Non-Insider Creditors; (III) Authorizing the Debtors and the Claims and*

*Noticing Agent to Redact Personally Identifiable Information for Individuals; (IV) Authorizing the Claims and Noticing Agent to Withhold Publication of Claims Filed by Individuals Until Further Order of the Court; (V) Establishing Procedures for Notifying Creditors of the Commencement of the Debtors' Chapter 11 Cases; and (VI) Granting Related Relief* (the "**Creditor Listing Order**"). I understand that the U.S. Trustee objected to the Creditor Listing Order at the Second Day Hearing on the issue of whether it was appropriate for the Debtors to redact personally identifiable information of individual creditors and other stakeholders in various documents to be made publicly available in the Chapter 11 Cases. The Debtors' motion was taken under advisement by the Bankruptcy Court. The Foreign Representative intends to seek recognition of the Creditor Listing Order, if entered, on a subsequent motion in these proceedings.

26. The Debtors' motion for approval of the *Final Order (I) Authorizing the Debtors to Use Cash Collateral; (II) Granting Adequate Protection to Prepetition Secured Parties; (III) Modifying the Automatic Stay; and (IV) Granting Related Relief* (the "**Final Cash Collateral Order**") is scheduled to be heard by the Bankruptcy Court at a separate hearing on October 19, 2022. The Foreign Representative expects to seek recognition of the Final Cash Collateral Order, if granted by the Bankruptcy Court, on a subsequent motion in these proceedings.

27. My understanding of the Second Day Orders and related motions, and the Second Day Hearing, is based primarily on my discussions with and information provided by the Canadian Debtors' counsel, Goodmans LLP.

**A. Future Claimants Representative Order**

28. On August 17, 2022, the Debtors filed a motion (the "**FCR Motion**") seeking an order authorizing the appointment in the Chapter 11 Cases of Roger Frankel as the future claimants' representative (the "**FCR**") to represent the interests of persons who, given the nature of their claims, may be unable to assert their claims and protect their interests in the Chapter 11 Cases. I understand that a copy of the FCR Motion will be provided to the Court in a separate affidavit.

29. In the FCR Motion, the Debtors asserted that a future claimants' representative is appropriate when: (a) the injury is such that either (i) there is a potential latency period between the exposure and manifestation of an alleged harm, or (ii) the nature of the injury itself may make the injured party unable to identify or otherwise incapable of understanding the extent of harm and rights associated; and (b) no current party in the proceeding adequately represents the future claimants' interests.

30. At the Second Day Hearing, the U.S. Trustee agreed that the appointment of an FCR would be appropriate in the circumstances but took the position that the Bankruptcy Court should establish a process to enable all parties in interest an opportunity to propose other qualified candidates to act as the FCR. The Bankruptcy Court overruled the objection and granted the Future Claimants Representative Order.

31. The Future Claimants Representative Order appoints Roger Frankel as the FCR, effective as of the Petition Date, on behalf of any "Future Claimants", including Future Claimants with claims against the Canadian Debtors. The Future Claimants Representative Order defines a Future Claimant as an individual:

(a) who asserts one or more personal injury claims against a Debtor or a successor of the Debtors' businesses based on a Debtor's conduct either (i) before the effective date of the Debtors' plan of reorganization or liquidation, or such other date as the Bankruptcy Court may order (the "**Effective Date**") (as it relates to opioid products); or (ii) before the Petition Date (as it relates to transvaginal mesh and ranitidine products);

(b) whose claims relate to opioid products, transvaginal mesh products, or ranitidine products; and

(c) who could not be compelled by virtue of any bar order under applicable bankruptcy procedures to assert such claims in the Chapter 11 Cases or otherwise be barred from asserting such claims under applicable law because, among other reasons, the claimant: (i) was unware of the injury as of the Effective Date; (ii) has a latent manifestation of the injury after the Effective Date; or (iii) as of the Effective Date, was otherwise unable or incapable of asserting such claims.

32. The Future Claimants Representative Order provides that the definition of Future Claimants is without prejudice to the rights of the Debtors, the OCC, the UCC, the Ad Hoc First Lien Group or the FCR to file a motion seeking to modify the definition of Future Claimants.

33. The Future Claimants Representative Order sets out the terms and conditions of the FCR's appointment, including that the FCR shall be entitled to retain professionals (with the prior approval of the Bankruptcy Court), shall have standing to be heard as a party-in-interest in all matters relating to the Chapter 11 Cases, and shall have such powers and duties of a committee, as set forth in section 1103 of the Bankruptcy Code, as are appropriate for an FCR.

**B. Second Interim Wages Order**

34. At the First Day Hearing, the Bankruptcy Court considered the Debtors' Wages Motion, a copy of which is attached as Exhibit "F" to the affidavit of Nargis Fazli sworn August 18, 2022 in these proceedings. Capitalized terms used and not otherwise defined in this subsection B have the meanings given to them in the Wages Motion. The Interim Wages Order was entered by the

Bankruptcy Court on August 19, 2022 and recognized by this Court pursuant to the First Supplemental Order.

35. A number of parties in interest, including the U.S. Trustee, the OCC and the Multi-State EC, filed objections to the Debtors' proposed Final Wages Order. The objections related primarily to the terms of the proposed Final Wages Order authorizing the Debtors to make certain bonus, retention and severance payments. To provide the Statutory Committees with additional time to perform due diligence with respect to the subject matter of the Wages Motion, the Debtors agreed to adjourn the final hearing on the Wages Motion and to instead seek entry of the Second Interim Wages Order at the Second Day Hearing. The final relief on the Wages Motion has been adjourned to November 10, 2022 and the Debtors will seek additional interim relief at the Bankruptcy Court hearing on October 13, 2022.

36. The Second Interim Wages Order authorizes the Debtors to, among other things and subject to any interim and final orders, as applicable, approving the use of cash collateral (the "**Cash Collateral Order**"): (a) pay all amounts required under or related to their Compensation and Benefit Programs, including any Prepetition Employee Obligations and any prepetition Processing Costs, provided that, during the period from September 28, 2022 through October 13, 2022, such payments on account of Employee Bonus Plans, Non-Insider Retention Programs, and payments that exceed the Employee Cap shall be limited to US$372,998.00 in the aggregate as set forth in the Schedule of Second Interim Payments attached as Exhibit 1 to the Second Interim Wages Order; (b) continue to pay and honour their obligations arising under their Compensation and Benefit Programs as such programs were in effect as of the Petition Date and, upon notice to counsel to the Ad Hoc First Lien Group and counsel to any statutory committee appointed in the

Chapter 11 Cases, to amend, replace, modify, supplement or terminate such Compensation and Benefit Programs in the ordinary course of business, provided, *inter alia*, that the Second Interim Wages Order does not authorize any action that is otherwise prohibited by the Bankruptcy Code; and (c) forward any unpaid amounts on account of deductions or payroll taxes to the appropriate third-party recipients or taxing authorities in accordance with the Debtors' prepetition practices and policies.

37. The Second Interim Wages Order provides that (a) pending entry of the Final Wages Order, the Debtors are not authorized to remit, pay, satisfy or honour prepetition or postpetition obligations that have accrued or will accrue on account of Outside Director Compensation, Outside Director Expenses, or the Severance Plan, and (b) the Debtors will not make any payments of Spot Awards or under any Employee Bonus Plans or Retention Programs to insiders without further order of the Bankruptcy Court. The Second Interim Wages Order preserves the rights of all parties in interest to object to payments that the Debtors have made or are seeking to make, upon entry of the Final Wages Order, under the Employee Bonus Plans, Non-Insider Retention Programs, Severance Plans, and in excess of the Employee Cap.

### C. Final Customer Programs Order

38. To preserve the Debtors' critical relationships with their customers, in the ordinary course of business the Debtors provide certain programs, practices, incentives, discounts, promotions and other accommodations (collectively, the "**Customer Programs**"). The Final Customer Programs Order authorizes the Debtors to, among other things and subject to the Cash Collateral Order: (a) continue the Customer Programs in the ordinary course of business and to perform and honour all prepetition obligations thereunder, (b) continue utilizing third parties in connection with

administering the Customer Programs and to pay prepetition amounts owing in the ordinary course of business to third parties in connection with administering the Customer Programs, and (c) continue, renew, replace, modify, revise and/or terminate their Customer Programs as they deem appropriate, in their sole discretion and in the ordinary course of business.

**D. Final Vendor Order**

39. The Final Vendor Order authorizes the Debtors, subject to the Cash Collateral Order, to pay prepetition Specified Trade Claims, comprised of:

(a) Lienholder Claims, being claims by vendors that provide shipping, transport, warehouses, freight forwarding, and mechanical services who have lien rights under applicable non-bankruptcy law;

(b) 503(b)(9) Claims, being claims by vendors based on the delivery of goods or materials within 20 days before the Petition Date;

(c) Foreign Vendor Claims, being claims by third-party vendors that have minimal or no assets in the United States; and

(d) Critical Vendor Claims, being claims by suppliers of equipment, goods, and services essential to the Debtors' business that are not otherwise Lienholders, 503(b)(9) Vendors, or Foreign Vendors.

40. The Final Vendor Order provides that the aggregate payments in respect of Critical Vendor Claims shall not exceed US$30 million (the "**Critical Vendors Claims Cap**"). In the event that the Debtors will exceed the Critical Vendors Claims Cap, the Debtors are required to provide notice to the Ad Hoc First Lien Group, the Ad Hoc Cross-Holder Group, the UCC, the OCC and the U.S. Trustee of their intent to do so. The Debtors would then file a proposed order with the Bankruptcy Court increasing the Critical Vendors Claims Cap.

41. The Final Vendor Order provides that the Debtors may condition payment of any Specified Trade Claims upon agreement by the applicable vendor to continue to supply goods or services to

the Debtors on customary trade terms or such other terms as may be acceptable to the Debtors. Except as otherwise permitted under the Final Vendor Order, the Debtors must condition payment of any Specified Trade Claims on the vendor entering into a Trade Agreement in the form attached to the Final Vendor Order.

42. As described in my First Affidavit, the Canadian Business depends on a consistent supply of goods and services from a number of third party suppliers. Many of the critical suppliers of the Canadian Business constitute "Foreign Vendors" for purposes of the Final Vendor Order. In accordance with the Interim Vendor Order recognized by this Court pursuant to the First Supplemental Order, Paladin has paid certain prepetition obligations owing to its critical vendors to ensure the continued operation of the Canadian Business without disruption.

**E. Final Taxes Order**

43. The Final Taxes Order authorizes the Debtors, subject to the Cash Collateral Order, to pay Taxes and Fees, without regard to whether such Taxes and Fees accrued or arose before, on, or after the Petition Date. "Taxes and Fees" is broadly defined as including income taxes, licence and reporting fees, gross receipt taxes, good and services taxes, regulatory fees, real and personal property taxes, sales and use taxes, and any other types of taxes, fees, assessments, or similar charges in respect of such taxes and fees. The Final Taxes Order provides that the Debtors shall not accelerate or pay any prepetition Taxes before such amounts are due and payable.

44. Paladin incurs various obligations for Taxes and Fees in the operation of the Canadian Business, including sales taxes (good and services taxes, harmonized sales taxes and Quebec sales tax), federal and provincial income taxes, and regulatory fees. Paladin is current on all tax

remittances and has continued to pay taxes and fees when due during the Chapter 11 Cases in accordance with the Interim Taxes Order.

**F. Final Insurance Order**

45. The Final Insurance Order authorizes the Debtors, among other things and subject to the Cash Collateral Order to (a) continue the Insurance Policies, workers' compensation insurance policies, Bonding Program and Letters of Credit (collectively, the "**Insurance Programs**") without interruption and in accordance with the same practices and procedures in effect prior to the Petition Date; (b) pay prepetition and postpetition obligations that may be owed in connection with the Insurance Programs; and (c) in consultation with the Ad Hoc First Lien Group, the UCC and the OCC, renew or obtain new Insurance Policies or execute other agreements in connection with their Insurance Programs.

46. The Insurance Policies maintained by the Debtors include coverage to the Debtors for, among other things, general liability, products liability, cyber, crime, casualty, workers' compensation and employment practices liability, directors' and officers liability, first-party property losses, and various other liability and property losses. Most of the Debtors' insurance policies are in the name of Endo Parent and provide certain coverage for its subsidiaries and affiliates. Paladin is the named insured under (a) a general liability insurance policy issued by Chubb Insurance Company of Canada, and (b) a fronted products liability policy issued by ACE American Insurance Company. Both policies were renewed by Paladin prior to their expiry on September 25, 2022 in accordance with the Interim Insurance Order recognized by this Court pursuant to the First Supplemental Order.

**G. Final Cash Management Order**

47. As described in my First Affidavit, Paladin is an integrated participant in the centralized cash management system operated by Endo (the "**Cash Management System**"), although Paladin's bank accounts are not subject to the cash pooling arrangements involving the Company's U.S.-based entities. Paladin also participates in Endo's system of transactions between Company entities (the "**Intercompany Transactions**") that may result in claims as between different entities in the corporate group (the "**Intercompany Claims**").

48. The Final Cash Management Order authorizes the Debtors, among other things and subject to the Cash Collateral Order, to (a) continue operating the Cash Management System, including through Intercompany Transactions, and to make ordinary course changes to the Cash Management System, provided that the Debtors shall provide reasonable notice to counsel to the Ad Hoc First Lien Group, counsel to the UCC, counsel to the OCC, counsel to the FCR and the U.S. Trustee prior to making any material changes; and (b) open any new bank accounts or close any existing bank accounts as they deem necessary and appropriate, subject to certain stakeholder notice and consultation rights set out in the Final Cash Management Order.

49. The Final Cash Management Order also authorizes the Debtors to continue Intercompany Transactions in the ordinary course of business, including with the Non-Debtor Affiliates, and to honour and make payments in respect of Intercompany Claims arising after the Petition Date in accordance with the Intercompany Transactions and past practice, provided that the Debtors shall obtain either (a) the consent of the UCC, the OCC, the FCR and the Ad Hoc First Lien Group, or (b) relief from the Bankruptcy Court, before (i) effectuating Intercompany Transactions between a Debtor and a Non-Debtor Affiliate that is not an Indian Non-Debtor Affiliate, or (ii) engaging in

Intercompany Transactions between Debtors and Indian Non-Debtor Affiliates in excess of amounts set forth in the Approved Budget (as defined in the Cash Collateral Order).

50. In order to preserve the relative values of the Debtors' estates, the Final Cash Management Order provides that all Intercompany Claims arising after the Petition Date shall be granted a superpriority administrative expense claim pursuant to section 507(b) of the Bankruptcy Code, subject and junior to any claims, including adequate protections claims, granted pursuant to the Cash Collateral Order.

51. Paladin has continued to engage in Intercompany Transactions during the Chapter 11 Cases, in accordance with the Interim Cash Management Order recognized by this Court pursuant to the First Supplemental Order. These Intercompany Transactions relate primarily to Paladin's existing product distribution agreements with other Endo entities. Paladin has the authority to settle the Intercompany Claims arising from such Intercompany Transactions in the normal course during the Chapter 11 Cases. Paladin has not advanced or repaid any Intercompany Loans during the Chapter 11 Cases.

**H. De Minimis Assets Order**

52. The Debtors' motion for the De Minimis Assets Order was granted by the Bankruptcy Court at the Second Day Hearing. As of the date of this affidavit, the order has not yet been entered. The proposed De Minimis Assets Order authorizes the Debtors to, among other things: (a) use, sell, acquire, invest or transfer assets or business lines of *de minimis* value that are not included in the Stalking Horse Bid (the "**De Minimis Assets**") to a single party or group of related parties with an aggregate sale price of not more than US$2 million, free and clear of Liens and without the

need for further Court approval, with such Liens attaching to the applicable proceeds; (b) acquire De Minimis Assets in any individual transaction or series of related transactions with an aggregate sale prices of not more than US$2 million without the need for further Court approval; (c) abandon a De Minimis Asset to the extent that a sale thereof cannot be consummated at a value greater than the cost of liquidating such De Minimis Asset; and (d) pay the reasonable and necessary fees and expenses incurred in connection with the use, sale, transfer or acquisition of De Minimis Assets.

53. The proposed De Minimis Assets Order defines and prescribes De Minimis Asset Transaction Procedures governing the use, sale, acquisition or transfer of De Minimis Assets by the Debtors, and De Minimis Asset Abandonment Procedures governing the abandonment of De Minimis Assets by the Debtors. These procedures provide certain consultation rights in favour of the Ad Hoc First Lien Group, the UCC and the OCC and, in the case of (a) the use, sale, acquisition or transfer of De Minimis Assets with a transaction value greater than US$500,000, or (b) the abandonment of De Minimis Assets, the Debtors are required to provide prescribed advance notice to certain notice parties set out in the De Minimis Assets Order prior to taking such actions.

54. Paragraph 5 of the Initial Recognition Order granted by this Court provides that, except with leave of the Court, each of the Canadian Debtors is prohibited from selling or otherwise disposing of (a) outside of the ordinary course of its business, any of its property in Canada that relates to the business, and (b) any of its other property in Canada.

55. The Second Supplemental Order grants recognition of the De Minimis Assets Order and authorizes the Canadian Debtors to deal with their Property in accordance with the De Minimis Assets Order notwithstanding paragraph 5 of the Initial Recognition Order, provided that a Canadian Debtor shall provide not less than seven days' advance notice to the Information Officer

prior to taking any action with respect to its Property pursuant to the De Minimis Assets Order. This will provide the Information Officer with the opportunity to review and consider any such transaction and, if necessary, raise any objections with the Canadian Debtors or this Court prior to the completion of the applicable transaction.

56. The Canadian Debtors submit that this approach embodied in the Second Supplemental Order is (a) consistent with the principles of comity and the recognition of Bankruptcy Court orders granted in a foreign main proceeding, (b) appropriate to enable the Canadian Debtors to deal with any De Minimis Assets in an efficient and cost-effective manner, (c) protective of the rights of Canadian stakeholders by virtue of the requirement for advance notice to the Information Officer, and (d) consistent with the relief commonly granted in initial orders in plenary CCAA proceedings permitting debtor companies to dispose of non-material assets without further Order of the Court.

## I. Utilities Order

57. The Debtors' motion for the Utilities Order was granted by the Bankruptcy Court at the Second Day Hearing. As of the date of this affidavit, the order has not yet been entered. The proposed Utilities Order provides that, among other things and subject to the Cash Collateral Order: (a) the Debtors' Utility Providers are prohibited from altering, refusing or discontinuing Utility Services to the Debtors on account of any unpaid prepetition charges or the commencement of the Chapter 11 Cases or from requiring any deposit or security for continued service other than the Adequate Assurance Procedures set forth in the Utilities Order; (b) the Debtors shall deposit a sum equal to US$133,471 (subject to adjustment in accordance with the Utilities Order, the "**Adequate Assurance Deposit**") into an existing account of the Debtors that is not being used for operations during the Chapter 11 Cases, which Adequate Assurance Deposit shall be allocated for,

and be payable to, each Utility Provider in the amounts set forth in Exhibit 1 to the Utilities Order; (c) the Debtors are authorized to pay on a timely basis, in accordance with their prepetition practices, all undisputed invoices for Utility Services rendered by Utility Providers after the Petition Date; and (d) any Utility Provider seeking additional adequate assurance of payment must do so in accordance with the Adequate Assurance Procedures set forth in the Utilities Order.

## IV. CONCLUSION

58. I believe that the relief sought in the proposed Second Supplemental Order is appropriate to preserve the value of the Canadian Debtors and the Canadian Business for the benefit of a broad range of stakeholders. The requested relief will enable the continued operation of the Canadian Business in the ordinary course while Endo pursues a restructuring in the Chapter 11 Cases.

SWORN BEFORE ME by videoconference on this 7th day of October, 2022. This affidavit was commissioned remotely in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely. The affiant was located in the City of Pincourt in the Province of Quebec and I was located in the City of Toronto in the Province of Ontario.

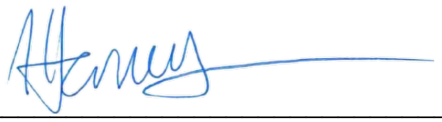
Commissioner for Taking Affidavits
(or as may be)

Andrew Harmes LSO#73221A

Digitally signed by Daniel Vas
Date: 2022.10.07 09:34:58
-04'00'

Daniel Vas

**THIS IS EXHIBIT "A"**
**TO THE SECOND AFFIDAVIT OF DANIEL VAS**
**SWORN BEFORE ME OVER VIDEOCONFERENCE**
**THIS 7TH DAY OF OCTOBER, 2022**



Commissioner for Taking Affidavits

Court File No. CV-22-00685631-00CL

**ONTARIO**

**SUPERIOR COURT OF JUSTICE**

**(COMMERCIAL LIST)**

| | | |
|---|---|---|
| THE HONOURABLE CHIEF | ) | FRIDAY, THE 19TH |
| | ) | |
| 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 PALADIN LABS CANADIAN HOLDING INC. AND PALADIN LABS INC.**

**APPLICATION OF PALADIN LABS INC. UNDER SECTION 46 OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED**

Applicant

**INITIAL RECOGNITION ORDER**
**(FOREIGN MAIN PROCEEDING)**

**THIS APPLICATION**, made pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**") and section 106 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, by Paladin Labs Inc. ("**Paladin**") in its capacity as the foreign representative (the "**Foreign Representative**") of the proceedings commenced on August 16, 2022 in the United States Bankruptcy Court for the Southern District of New York (the "**Bankruptcy Court**") pursuant to chapter 11 of title 11 of the United States Code (the "**Foreign Proceeding**") for an Order substantially in the form enclosed in the Application Record, was heard this day by judicial videoconference in Toronto, Ontario.

**ON READING** the Notice of Application, the affidavit of Daniel Vas sworn August 17, 2022 (the "**Vas Affidavit**") and the affidavits of Nargis Fazli sworn August 18, 2022 and August

19, 2022, each filed, and upon being provided with copies of the documents required by section 46 of the CCAA,

**AND UPON BEING ADVISED** by counsel for the Foreign Representative that in addition to this Initial Recognition Order, a Supplemental Order (Foreign Main Proceeding) (the "**Supplemental Order**") is being sought,

**AND UPON HEARING** the submissions of counsel for the Foreign Representative, counsel for KSV Restructuring Inc., in its capacity as the proposed information officer (the "**Information Officer**"), and counsel for such other parties as were present and wished to be heard:

**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.

**FOREIGN REPRESENTATIVE**

2. **THIS COURT ORDERS AND DECLARES** that the Foreign Representative is the "foreign representative" as defined in section 45 of the CCAA in respect of the Foreign Proceeding.

**CENTRE OF MAIN INTEREST AND RECOGNITION OF FOREIGN PROCEEDING**

3. **THIS COURT DECLARES** that the centre of its main interests for each of Paladin and Paladin Labs Canadian Holding Inc. (collectively, the "**Canadian Debtors**" and each a "**Canadian Debtor**") is the United States of America and that the Foreign Proceeding is hereby recognized as a "foreign main proceeding" as defined in section 45 of the CCAA in respect of the Canadian Debtors.

**STAY OF PROCEEDINGS**

4. **THIS COURT ORDERS** that until otherwise ordered by this Court:

(a) all proceedings taken or that might be taken against any Canadian Debtor under the *Bankruptcy and Insolvency Act* or the *Winding-up and Restructuring Act* are stayed;

(b) further proceedings in any action, suit or proceeding against any Canadian Debtor are restrained; and

(c) the commencement of any action, suit or proceeding against any Canadian Debtor is prohibited.

**NO SALE OF PROPERTY**

5. **THIS COURT ORDERS** that, except with leave of this Court, each of the Canadian Debtors is prohibited from selling or otherwise disposing of:

(a) outside the ordinary course of its business, any of its property in Canada that relates to the business; and

(b) any of its other property in Canada.

**GENERAL**

6. **THIS COURT ORDERS** that within five (5) business days from the date of this Order, or as soon as practicable thereafter, the Foreign Representative, with the assistance of the Information Officer, shall cause to be published, once a week for two consecutive weeks, a notice substantially in the form attached to this Order as Schedule "A" in the Globe and Mail (National Edition) in English and in Le Devoir (or such other French-language newspaper as the Foreign Representative may determine in consultation with the Information Officer) in French.

7. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, or regulatory or administrative body having jurisdiction in Canada to give effect to this Order and to assist the Canadian Debtors, the Foreign Representative, the Information Officer and their respective counsel and agents in carrying out the terms of this Order.

8. **THIS COURT ORDERS AND DECLARES** that the Interim Order (Foreign Proceeding) of this Court dated August 17, 2022 (the "**Interim Order**") shall be of no further force and effect once this Order and the Supplemental Order become effective, and that this

Order shall be effective as of 12:01 a.m. on the date of this Order without the need for entry or filing of this Order, provided that nothing herein shall invalidate any action taken in compliance with the Interim Order prior to the effectiveness of this Order and the Supplemental Order.

9. **THIS COURT ORDERS** that any interested party may apply to this Court to vary or amend this Order or seek other relief on not less than seven (7) days' notice to the Canadian Debtors, the Foreign Representative, the Information Officer and their respective counsel, and 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.

Chief Justice G.B. Morawetz

**Schedule "A" – Notice of Recognition Orders**

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

**AND IN THE MATTER OF PALADIN LABS CANADIAN HOLDING INC. AND PALADIN LABS INC. (COLLECTIVELY, THE "CANADIAN DEBTORS")**

**NOTICE OF RECOGNITION ORDERS**

**PLEASE BE ADVISED** that this Notice is being published pursuant to an Initial Recognition Order (Foreign Main Proceeding) of the Ontario Superior Court of Justice (Commercial List) (the "**Canadian Court**") granted on August 19, 2022 (the "**Initial Recognition Order**").

**PLEASE TAKE NOTICE** that on August 16, 2022, Endo International plc and certain of its subsidiaries and affiliates, including the Canadian Debtors, commenced voluntary reorganization proceedings (the "**Chapter 11 Proceedings**") pursuant to chapter 11 of title 11 of the United States Code with the United States Bankruptcy Court for the Southern District of New York (the "**Bankruptcy Court**"). In connection with the Chapter 11 Proceedings, Paladin Labs Inc. was appointed to act as a representative (the "**Foreign Representative**") in respect of the Chapter 11 Proceedings. The Foreign Representative's address is Suite 600, 100 Boulevard Alexis-Nihon, Montreal, Quebec.

**AND TAKE NOTICE** that the Initial Recognition Order and a Supplemental Order (Foreign Main Proceeding (collectively with the Initial Recognition Order, the "**Recognition Orders**") have been issued by the Canadian Court in proceedings (the "**Canadian Recognition Proceedings**") under Part IV of the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**"), among other things: (i) declaring that the Chapter 11 Proceedings are recognized as a "foreign main proceeding", as defined in section 45 of the CCAA, in respect of the Canadian Debtors; (ii) granting a stay of proceedings against the Canadian Debtors and any subsidiary, affiliate or related party of Endo International plc or any Canadian Debtor that is a defendant in litigation proceedings in Canada (collectively, the "**Canadian Litigation Defendants**") and their respective directors and officers in Canada; (iii) prohibiting the commencement of any proceedings against the Canadian Debtors, the Canadian Litigation Defendants or their respective directors and officers in Canada absent further order of the Canadian Court; (iv) recognizing certain orders granted by the Bankruptcy Court in the Chapter 11 Proceedings; and (v) appointing KSV Restructuring Inc. as the information officer with respect to the Canadian Recognition Proceedings (the "**Information Officer**").

**AND TAKE NOTICE** that motions, orders and notices filed with the Bankruptcy Court in the Chapter 11 Proceedings are available at: https://restructuring.ra.kroll.com/endo and that the Recognition Orders, and any other orders that may be granted by the Canadian Court in the Canadian Recognition Proceedings, are available at: https://www.ksvadvisory.com/experience/case/endo.

**AND TAKE NOTICE** that counsel for the Foreign Representative is:

Goodmans LLP
333 Bay Street, Suite 3400
Toronto, ON M5H 2S7

Attention: Endo/Paladin Canadian Recognition Proceedings
Phone: (416) 979-2211
Email: endocanadianrecognition@goodmans.ca

**PLEASE FINALLY TAKE NOTICE** that if you wish to receive copies of the Recognition Orders or obtain further information in respect of the matters set forth in this Notice, you may contact the Information Officer:

KSV Restructuring Inc.
150 King Street West, Suite 2308
Toronto, Ontario M5H 1J9
Attention: Jordan Wong
Phone: 416-932-6025
Email: jwong@ksvadvisory.com

DATED AT TORONTO, ONTARIO this ● day of ●, 2022.

Court File No. CV-22-00685631-00CL

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

AND IN THE MATTER OF PALADIN LABS CANADIAN HOLDING INC. AND PALADIN LABS INC.

APPLICATION OF PALADIN LABS INC. UNDER SECTION 46 OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED

Applicant

**ONTARIO**
**SUPERIOR COURT OF JUSTICE**
**(COMMERCIAL LIST)**
Proceeding commenced at Toronto

**INITIAL RECOGNITION ORDER**
**(FOREIGN MAIN PROCEEDING)**

**GOODMANS LLP**
Barristers & Solicitors
333 Bay Street, Suite 3400
Toronto, ON M5H 2S7

**Robert J. Chadwick LSO#: 35165K**
rchadwick@goodmans.ca

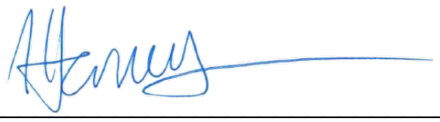
**Bradley Wiffen LSO#: 64279L**
bwiffen@goodmans.ca

**Ti-Anna Wang LSO#: 78624D**
twang@goodmans.ca

Tel: 416.979.2211
Fax: 416.979.1234

Lawyers for the Applicant

**THIS IS EXHIBIT "B"**
**TO THE SECOND AFFIDAVIT OF DANIEL VAS**
**SWORN BEFORE ME OVER VIDEOCONFERENCE**
**THIS 7TH DAY OF OCTOBER, 2022**



Commissioner for Taking Affidavits

Electronically issued / Délivré par voie électronique : 25-Aug-2022
Toronto Superior Court of Justice / Cour supérieure de justice


Court File No. CV-22-00685631-00CL

**ONTARIO**

**SUPERIOR COURT OF JUSTICE**

**(COMMERCIAL LIST)**

| | | |
|---|---|---|
| THE HONOURABLE CHIEF | ) | FRIDAY, THE 19TH |
| | ) | |
| 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 PALADIN LABS CANADIAN HOLDING INC. AND PALADIN LABS INC.**

**APPLICATION OF PALADIN LABS INC. UNDER SECTION 46 OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED**

Applicant

**SUPPLEMENTAL ORDER**
**(FOREIGN MAIN PROCEEDING)**

**THIS APPLICATION**, made pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**") and section 106 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, by Paladin Labs Inc. ("**Paladin**") in its capacity as the foreign representative (the "**Foreign Representative**") in respect of the proceedings commenced on August 16, 2022 in the United States Bankruptcy Court for the Southern District of New York (the "**Bankruptcy Court**") pursuant to chapter 11 of title 11 of the United States Code (the "**Foreign Proceeding**") for an Order substantially in the form enclosed in the Application Record, was heard this day by judicial videoconference in Toronto, Ontario.

**ON READING** the Notice of Application, the affidavit of Daniel Vas sworn August 17, 2022 (the "**Vas Affidavit**") and the affidavits of Nargis Fazli sworn August 18, 2022 and August 19, 2022, each filed,

**AND ON HEARING** the submissions of counsel for the Foreign Representative, counsel for KSV Restructuring Inc. ("**KSV**"), in its capacity as the proposed Information Officer (as defined below), and counsel for such other parties as were present and wished to be heard, and on reading the consent of KSV to act as the Information Officer:

**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.

**INITIAL RECOGNITION ORDER**

2. **THIS COURT ORDERS** that any capitalized terms not otherwise defined herein shall have the meanings given to such terms in the Initial Recognition Order (Foreign Main Proceeding) of this Court dated August 19, 2022 (the "**Initial Recognition Order**").

3. **THIS COURT ORDERS** that the provisions of this Supplemental Order shall be interpreted in a manner complementary and supplementary to the provisions of the Initial Recognition Order, provided that in the event of a conflict between the provisions of this Supplemental Order and the provisions of the Initial Recognition Order, the provisions of the Initial Recognition Order shall govern.

**RECOGNITION OF FOREIGN ORDERS**

4. **THIS COURT ORDERS** that the following orders (collectively, the "**Foreign Orders**") of the Bankruptcy Court made in the Foreign Proceeding, copies of which are attached hereto as Schedules "B" to "K", are hereby recognized and given full force and effect in all provinces and territories of Canada pursuant to section 49 of the CCAA:

(a) *Order (I) Authorizing the Foreign Representatives to Act for the Debtors in Foreign Proceedings and (II) Granting Related Relief* (the "**Foreign Representative Order**");

(b) *Order (I) Directing Joint Administration of the Chapter 11 Cases Pursuant to Bankruptcy Rule 1015(b); (II) Waiving the Requirements of Section 342(c)(1) of the Bankruptcy Code and Bankruptcy Rule 2002(n); and (III) Granting Related Relief* (the "**Joint Administration Order**);

(c) *Order (I) Enforcing and Restating Sections 362, 365, 525, and 541 of the Bankruptcy Code; (II) Approving Form and Manner of Notice to Non-U.S. Customers, Suppliers, and Other Stakeholders of the Debtors; (III) Approving Form and Manner of Notice to Non-U.S. Customers, Suppliers, and Other Stakeholders of the Non-Debtor Affiliates; and (IV) Granting Related Relief* (the "**Notice of Stay Order**");

(d) *Interim Order (I) Authorizing Debtors to (A) Pay Prepetition Wages, Salaries, Employee Benefits and Other Compensation and (B) Continue Employee Benefits Programs and Pay Related Administrative Obligations; (II) Authorizing Financial Institutions to Honor and Process Related Checks and Transfers; and (III) Granting Related Relief* (the "**Interim Wages Order**");

(e) *Interim Order (I) Authorizing Debtors to Honor Prepetition Obligations to Customers and Related Third Parties and to Otherwise Continue Customer Programs; (II) Granting Relief from Stay to Permit Setoff in Connection with the Customer Programs; (III) Authorizing Financial Institutions to Honor and Process Related Checks and Transfers; and (IV) Granting Related Relief* (the "**Interim Customer Programs Order**");

(f) *Interim Order (I) Authorizing Payment of Certain Prepetition Specified Trade Claims; (II) Authorizing Financial Institutions to Honor and Process Related Checks and Transfers; and (III) Granting Related Relief* (the "**Interim Vendor Order**");

(g) *Interim Order Authorizing (I) Debtors to Pay Certain Prepetition Taxes, Governmental Assessments and Fees; and (II) Financial Institutions to Honor and Process Related Checks and Transfers* (the "**Interim Taxes Order**");

(h) *Interim Order Authorizing (I) the Debtors to Continue and Renew Their Insurance Programs and Honor all Obligations in Respect Thereof; (II) Financial Institutions to Honor and Process Related Checks and Transfers; and (III) the Debtors to Modify the Automatic Stay With Respect to Workers' Compensation Claims* (the "**Interim Insurance Order**");

(i) *Interim Order (I) Authorizing the Debtors to (A) Continue Using Existing Cash Management Systems, Bank Accounts, and Business Forms and (B) Implement Changes to Their Cash Management System in the Ordinary Course of Business; (II) Granting Administrative Expense Priority for Postpetition Intercompany Claims; (III) Granting a Waiver With Respect to the Requirements of 11 U.S.C. § 345(b); and (IV) Granting Related Relief* (the "**Interim Cash Management Order**"); and

(j) *Interim Order (I) Authorizing Debtors' Use of Cash Collateral; (II) Granting Adequate Protection to Prepetition Secured Parties; (III) Modifying the Automatic Stay; and (IV) Granting Related Relief* (the "**Interim Cash Collateral Order**"),

provided, however, that in the event of any conflict between the terms of the Foreign Orders and the Orders of this Court made in the within proceedings, the Orders of this Court shall govern with respect to Property (as defined below) in Canada.

**APPOINTMENT OF INFORMATION OFFICER**

5. **THIS COURT ORDERS** that KSV (the "**Information Officer**") is hereby appointed as an officer of this Court, with the powers and duties set out herein and in any other Order made in these proceedings.

**STAY OF PROCEEDINGS**

6. **THIS COURT ORDERS** that until such date as this Court may order (the "**Stay Period**"), no proceeding or enforcement process in any court or tribunal in Canada (each, a "**Proceeding**") shall be commenced or continued against or in respect of (a) Paladin or Paladin Labs Canadian Holding Inc. (collectively, the "**Canadian Debtors**" and each a "**Canadian Debtor**") or affecting their business (the "**Business**") or their current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof (the "**Property**"), or (b) any subsidiary, affiliate or related party of Endo International plc or any Canadian Debtor that is a defendant in the Canadian Litigation (as defined in the Vas Affidavit) or subject to any other Proceeding in Canada (collectively, the "**Canadian Litigation Defendants**"), including without limitation those entities listed on Schedule "A" hereto, except with the written consent of the applicable Canadian Debtor or Canadian Litigation Defendant and the Information Officer, or with leave of this Court, and any and all Proceedings currently under way against or in respect of any of the Canadian Debtors or the Canadian Litigation Defendants or affecting the Business or the Property, including, but not limited to, the Canadian Litigation, are hereby stayed and suspended pending further Order of this Court.

**NO EXERCISE OF RIGHTS OR REMEDIES**

7. **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 or person (all of the foregoing, collectively being "**Persons**" and each being a "**Person**") against or in

respect of the Canadian Debtors or the Canadian Litigation Defendants, or affecting the Business or the Property, are hereby stayed and suspended except with the written consent of the applicable Canadian Debtor or Canadian Litigation Defendant and the Information Officer, or with leave of this Court, provided that nothing in this Order shall (i) prevent the assertion of or the exercise of rights and remedies in the Foreign Proceeding, (ii) empower any Canadian Debtor or Canadian Litigation Defendant to carry on any business in Canada which such Canadian Debtor or Canadian Litigation Defendant is not lawfully entitled to carry on, (iii) affect such investigations or Proceedings by a regulatory body as are permitted by section 11.1 of the CCAA, (iv) prevent the filing of any registration to preserve or perfect a security interest, or (v) prevent the registration of a claim for lien.

**NO INTERFERENCE WITH RIGHTS**

8. **THIS COURT ORDERS** that during the Stay Period, no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, lease, licence or permit in favour of or held by any of the Canadian Debtors and affecting the Business or Property in Canada, except with leave of this Court.

**ADDITIONAL PROTECTIONS**

9. **THIS COURT ORDERS** that during the Stay Period, all Persons having oral or written agreements with the Canadian Debtors or statutory or regulatory mandates for the supply of goods and/or services in Canada, including without limitation all licencing arrangements, manufacturing arrangements, computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation services, utility or other services provided in respect of the Property or Business of the Canadian Debtors, are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the Canadian Debtors, and that the Canadian Debtors shall be entitled to the continued use in Canada of their current premises, bank accounts, telephone numbers, facsimile numbers, internet addresses and domain names.

10. **THIS COURT ORDERS** that during the Stay Period, and except as permitted by subsection 11.03(2) of the CCAA, no Proceeding may be commenced or continued against any of the former, current or future directors or officers of the Canadian Debtors or the Canadian Litigation Defendants with respect to any claim against the directors or officers that arose before the date hereof and that relates to any obligations of the Canadian Debtors or the Canadian Litigation Defendants 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.

11. **THIS COURT ORDERS** that no Proceeding shall be commenced or continued against or in respect of the Information Officer, except with leave of this Court. In addition to the rights and protections afforded the Information Officer herein, or as an officer of this Court, the Information Officer shall have the benefit of all of the rights and protections afforded to a Monitor under the CCAA, and shall incur no liability or obligation as a result of its appointment or the carrying out of the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part.

**OTHER PROVISIONS RELATING TO INFORMATION OFFICER**

12. **THIS COURT ORDERS** that the Information Officer:

(a) is hereby authorized to provide such assistance to the Foreign Representative in the performance of its duties as the Foreign Representative may reasonably request;

(b) shall report to this Court at such times and intervals that the Information Officer considers appropriate with respect to the status of these proceedings and the status of the Foreign Proceeding, which reports may include information relating to the Property, the Business, or such other matters as may be relevant to the proceedings herein;

(c) shall 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 Canadian Debtors, to the extent that is necessary to perform its duties arising under this Order; and

(d) shall be at liberty to engage independent legal counsel or such other persons as the Information Officer deems necessary or advisable respecting the exercise of its powers and performance of its obligations under this Order.

13. **THIS COURT ORDERS** that the Canadian Debtors and the Foreign Representative shall (i) advise the Information Officer of all material steps taken by the Canadian Debtors or the Foreign Representative in these proceedings or in the Foreign Proceeding, (ii) co-operate fully with the Information Officer in the exercise of its powers and discharge of its obligations, and (iii) provide the Information Officer with the assistance that is necessary to enable the Information Officer to adequately carry out its functions.

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

15. **THIS COURT ORDERS** that the Information Officer (i) shall post on its website all Orders of this Court made in these proceedings, all reports of the Information Officer filed herein, and such other materials as this Court may order from time to time, and (ii) may post on its website any other materials that the Information Officer deems appropriate.

16. **THIS COURT ORDERS** that the Information Officer may provide any creditor of a Canadian Debtor with information provided by the Canadian Debtors in response to reasonable requests for information made in writing by such creditor addressed to the Information Officer. The Information Officer 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 Information Officer has been advised by a Canadian Debtor is privileged or confidential, the Information Officer shall not provide such information to creditors unless otherwise directed by this Court or on such terms as the Information Officer, the Foreign Representative and the applicable Canadian Debtor may agree.

17. **THIS COURT ORDERS** that Goodmans LLP, as Canadian counsel to the Canadian Debtors ("**Canadian Counsel**"), the Information Officer and counsel to the Information Officer shall be paid by the Canadian Debtors their reasonable fees and disbursements incurred in respect of these proceedings, both before and after the making of this Order, in each case at their standard rates and charges unless otherwise ordered by the Court on the passing of accounts. The Canadian Debtors are hereby authorized and directed to pay the accounts of Canadian Counsel, the Information Officer and counsel for the Information Officer on a monthly basis or on such terms as such parties may agree.

18. **THIS COURT ORDERS** that the Information Officer and its legal counsel shall pass their accounts from time to time, and for this purpose the accounts of the Information Officer and its legal counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice, and the accounts of the Information Officer and its counsel shall not be subject to approval in the Foreign Proceeding.

19. **THIS COURT ORDERS** that Canadian Counsel, the Information Officer and counsel to the Information Officer shall be entitled to the benefit of and are hereby granted a charge (the "**Administration Charge**") on the Property in Canada, which charge shall not exceed an aggregate amount of CDN$200,000, as security for their professional fees and disbursements incurred in respect of these proceedings, both before and after the making of this Order. The Administration Charge shall have the priority set out in paragraph 21 hereof.

**VALIDITY AND PRIORITY OF CHARGE CREATED BY THIS ORDER**

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

21. **THIS COURT ORDERS** that the Administration Charge (as constituted and defined herein) shall constitute a charge on the Property in Canada and such Administration Charge 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.

22. **THIS COURT ORDERS** that except as otherwise expressly provided for herein, or as may be approved by this Court, the Canadian Debtors shall not grant any Encumbrances over any Property in Canada that rank in priority to, or *pari passu* with, the Administration Charge, unless the Canadian Debtors also obtain the prior written consent of the beneficiaries of the Administration Charge (collectively, the "**Chargees**").

23. **THIS COURT ORDERS** that the Administration Charge shall not be rendered invalid or unenforceable and the rights and remedies of the Chargees shall not otherwise be limited or impaired in any way by (i) the pendency of these proceedings and the declarations of insolvency made herein; (ii) any application(s) for bankruptcy or receivership order(s) issued pursuant to the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the "**BIA**") or otherwise, or any orders made pursuant to such applications; (iii) the filing of any assignments for the general benefit of creditors made pursuant to the BIA; (iv) the provisions of any federal or provincial statutes; or (v) any negative covenants, prohibitions or other similar provisions with respect to borrowings, incurring debt or the creation of Encumbrances, contained in any existing loan documents, lease, sublease, offer to lease or other agreement (collectively, an "**Agreement**") which binds any Canadian Debtor, and notwithstanding any provision to the contrary in any Agreement:

(a) the creation of the Administration Charge shall not create or be deemed to constitute a breach by a Canadian Debtor of any Agreement to which it is a party;

(b) none of the Chargees shall have any liability to any Person whatsoever as a result of any breach of any Agreement caused by or resulting from the creation of the Administration Charge; and

(c) the payments made by the Canadian Debtors to the Chargees pursuant to this Order, and the granting of the Administration Charge, do not and will not constitute preferences, fraudulent conveyances, transfers at undervalue,

oppressive conduct, or other challengeable or voidable transactions under any applicable law.

24. **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 Canadian Debtor's interest in such real property leases.

**SERVICE AND NOTICE**

25. **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 https://www.ontariocourts.ca/scj/practice/practice-directions/toronto/eservice-commercial/) shall be valid and effective service. Subject to Rule 17.05, this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the Rules of Civil Procedure. Subject to Rule 3.01(d) of the Rules of Civil Procedure, 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/experience/case/endo.

26. **THIS COURT ORDERS** that if the service or distribution of documents in accordance with the Protocol is not practicable, the Canadian Debtors, the Foreign Representative, the Information Officer, and their respective counsel are at liberty to serve or distribute this Order, any other materials and orders in these proceedings, and any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery, facsimile transmission or electronic transmission to the Canadian Debtors' creditors or other interested parties at their respective addresses (including e-mail addresses) as last shown on the records of the applicable Canadian Debtor and that any such service or distribution shall be deemed to be received (a) in the case of delivery by personal delivery, facsimile or electronic transmission, on the date of delivery or transmission, (b) in the case of delivery by prepaid ordinary mail, on the third business day after mailing, and (c) in the case of delivery by courier, on the next business day following the date of forwarding thereof.

27. **THIS COURT ORDERS** that the Canadian Debtors, the Foreign Representative, the Information Officer, and their respective counsel are at liberty to serve or distribute this Order, the Initial Recognition Order, and 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 Canadian Debtors' 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 juridical obligation and notice requirements within the meaning of clause 3(c) of the *Electronic Commerce Protection Regulations,* Reg. 81000-2-175 (SOR/DORS).

**GENERAL**

28. **THIS COURT ORDERS** that the Information Officer may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.

29. **THIS COURT ORDERS** that nothing in this Order shall prevent the Information Officer from acting as an interim receiver, a receiver, a receiver and manager, a monitor, a proposal trustee, or a trustee in bankruptcy of any Canadian Debtor, the Business or the Property.

30. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, or regulatory or administrative body having jurisdiction in Canada, the United States of America or any other foreign jurisdiction, to give effect to this Order and to assist the Canadian Debtors, the Foreign Representative, the Information Officer, and their respective counsel and agents in carrying out the terms of this Order. All courts, tribunals, and regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Canadian Debtors, the Foreign Representative, and the Information Officer, the latter as an officer of this Court, as may be necessary or desirable to give effect to this Order, or to assist the Canadian Debtors, the Foreign Representative, and the Information Officer and their respective agents in carrying out the terms of this Order.

31. **THIS COURT ORDERS** that each of the Canadian Debtors, the Foreign Representative and the Information Officer shall be at liberty and is hereby authorized and empowered to apply to any court, tribunal, or regulatory or administrative body, wherever

located, for the recognition of this Order and for assistance in carrying out the terms of this Order.

32. **THIS COURT ORDERS** that the Guidelines for Communication and Cooperation between Courts in Cross-Border Insolvency Matters issued by the Judicial Insolvency Network and adopted by this Court and the Bankruptcy Court and attached as Schedule "L" hereto are hereby adopted by this Court for the purposes of these recognition proceedings.

33. **THIS COURT ORDERS** that any interested party may apply to this Court to vary or amend this Order or seek other relief on not less than seven (7) days' notice to the Canadian Debtors, the Foreign Representative, the Information Officer and their respective counsel, and 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.

34. **THIS COURT ORDERS** that this Order shall be effective as of 12:01 a.m. on the date of this Order without the need for entry or filing of this Order.

Chief Justice G.B. Morawetz

## SCHEDULE "A"
## CANADIAN LITIGATION DEFENDANTS

1. Endo International plc
2. Endo Ventures Limited
3. Endo Pharmaceuticals Inc.
4. Par Pharmaceutical Companies, Inc.
5. Par Pharmaceutical, Inc.
6. DAVA Pharmaceuticals, LLC
7. Generics Bidco I, LLC

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

AND IN THE MATTER OF PALADIN LABS CANADIAN HOLDING INC. AND PALADIN LABS INC.

APPLICATION OF PALADIN LABS INC. UNDER SECTION 46 OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED

Applicant

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

Proceeding commenced at Toronto

**SUPPLEMENTAL ORDER**
**(FOREIGN MAIN PROCEEDING)**

**GOODMANS LLP**
Barristers & Solicitors
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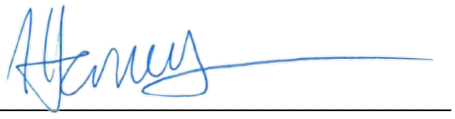
Tel: 416.979.2211
Fax: 416.979.1234

Lawyers for the Applicant

**THIS IS EXHIBIT "C"**
**TO THE SECOND AFFIDAVIT OF DANIEL VAS**
**SWORN BEFORE ME OVER VIDEOCONFERENCE**
**THIS 7TH DAY OF OCTOBER, 2022**



Commissioner for Taking Affidavits

**UNITED STATES BANKRUPTCY COURT**
**SOUTHERN DISTRICT OF NEW YORK**

| | |
|---|---|
| ***In re*** | **Chapter 11** |
| **ENDO INTERNATIONAL plc, *et al.*,** | **Case No. 22-22549 (JLG)** |
| **Debtors.**[1] | **(Jointly Administered)** |
| | **Related Docket Nos. 21, 40, 186, 205, 252** |

**ORDER (I) APPOINTING ROGER FRANKEL AS FUTURE CLAIMANTS' REPRESENTATIVE, EFFECTIVE AS OF THE PETITION DATE; AND (II) GRANTING RELATED RELIEF**

Upon the motion (the "Motion")[2] of the debtors and debtors in possession (collectively, the "Debtors" and together with their non-debtor affiliates, the "Company") in the above-captioned cases (the "Chapter 11 Cases") for an order (this "Order") appointing Roger Frankel as future claimants' representative in the Chapter 11 Cases (the "FCR"), effective as of the Petition Date, all as more fully set forth in the Motion and the *Declaration of Roger Frankel in Support of the Motion of the Debtors for Entry of an Order Order (I) Appointing Roger Frankel as Future Claimants' Representative, Effective as of the Petition Date; and (II) Granting Related Relief* attached thereto as Exhibit B (the "Frankel Declaration"); and this Court having reviewed the Motion, including the Prepetition FCRA attached to the Motion as Exhibit C, and the Frankel Declaration, and having heard the statements of counsel regarding the relief requested in the

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1 The last four digits of Debtor Endo International plc's tax identification number are 3755. Due to the large number of debtors in these chapter 11 cases, a complete list of the debtor entities and the last four digits of their federal tax identification numbers is not provided herein. A complete list of such information may be obtained on the website of the Debtors' claims and noticing agent at https://restructuring.ra.kroll.com/endo/. The location of the Debtors' service address for purposes of these chapter 11 cases is: 1400 Atwater Dr, Malvern PA 19355.

2 Capitalized terms used but not defined herein shall have the meanings ascribed to such terms in the Motion.

Motion at a hearing before this Court, if any (the "Hearing"); and this Court having found that (a) this Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157(a)-(b) and 1334(b) and the Amended Standing Order of Reference M-431, dated January 31, 2012 (Preska, C.J.); (b) this is a core proceeding pursuant to 28 U.S.C. §§ 157(a) - (b) and 1334(b); (c) venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and (d) due and proper notice of the Motion and the Hearing was sufficient under the circumstances; and this Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and it appearing that the relief requested in the Motion is in the best interests of the Debtors, their estates, creditors, and other parties-in-interest; and upon all of the proceedings had before this Court and after due deliberation and sufficient cause appearing therefore;

**IT IS HEREBY ORDERED THAT:**

1. The Motion is GRANTED as set forth herein.

2. All objections to the entry of this Order, to the extent not withdrawn or settled, are overruled.

3. Roger Frankel is hereby appointed as the FCR, effective as of the Petition Date.

4. The FCR is hereby appointed to protect the rights of any individual (such individuals, the "Future Claimants"), subject to paragraph 5 herein:

(a) who asserts one or more personal injury claims against a Debtor or a successor of the Debtors' businesses based on a Debtor's conduct either (i) before the Effective Date (as it relates to opioid products); or (ii) before the Petition Date (as it relates to transvaginal mesh and ranitidine products);

(b) whose claims relate to opioid products, transvaginal mesh products, or ranitidine products; and

(c) who could not be compelled by virtue of any bar date order pursuant to Federal Rule of Bankruptcy Procedure 3003(c)(3) (whether or not any such order is issued in the Chapter 11 Cases) to assert such

> claims in the Chapter 11 Cases or otherwise be barred from asserting such claims under applicable law because, among other reasons, the claimant: (i) was unaware of the injury as of the Effective Date; (ii) has a latent manifestation of the injury after the Effective Date; or (iii) as of the Effective Date, was otherwise unable or incapable of asserting such claims; for the avoidance of doubt, if an individual could be required by virtue of any bar date order issued pursuant to Federal Rule of Bankruptcy Procedure 3003(c)(3) (whether or not any such order is issued in the Chapter 11 Cases) to assert its claims in the Chapter 11 Cases, or otherwise would be barred under applicable law from asserting such claims after the passing of the applicable deadlines for asserting such claims in the Chapter 11 Cases, then such individual is not a Future Claimant.

5. The definition of Future Claimants is without prejudice to the right of the Debtors, the Official Committee of Opioid Claimants (the "OCC"), the Official Committee of Unsecured Creditors (the "UCC"), the Ad Hoc First Lien Group (as defined in the First Day Declaration), or the FCR to file a motion seeking entry of an order modifying the definition of Future Claimants, or of this Court to modify such definition (after proper notice, an opportunity to object, and a hearing) in connection with confirmation of any chapter 11 plan containing a discharge or any orders approving one or more sales of the Debtors' assets "free and clear" of liabilities.

6. The FCR is appointed subject to the following terms and conditions:

(a) Standing. The FCR shall have standing under section 1109(b) of the Bankruptcy Code to be heard as a party-in-interest in all matters relating to the Chapter 11 Cases and shall have such powers and duties of a committee, as set forth in section 1103 of the Bankruptcy Code, as are appropriate for an FCR.

(b) Right to Receive Notices. The FCR and professionals retained by the FCR and approved by this Court shall have the right to receive all notices and pleadings that are required to be served upon any statutory committee and its counsel pursuant to applicable law or an order of this Court.

(c) Engagement of Professionals. The FCR may, with prior approval from this Court pursuant to sections 105(a) and 1103 of the Bankruptcy Code and consistent with the treatment afforded other professionals in the Chapter 11 Cases, retain attorneys and other professionals.

(d) Compensation. The FCR shall apply for compensation in accordance with the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure, the Local Bankruptcy Rules for the Southern District of New York, and any order entered by this Court establishing procedures for interim compensation and reimbursement of expenses of professionals. Subject to Court approval, the FCR shall be compensated at an hourly rate of $1,160, subject to periodic adjustment, plus reimbursement of reasonable and documented expenses.

(e) Limitation of Liability. The FCR will not be liable for any damages or have any obligations other than as prescribed by order of this Court; *provided*, *however*, that the FCR may be liable for damages caused by willful misconduct or gross negligence. The FCR will not be liable to any person as a result of any action or omission taken or made in good faith.

(f) Indemnification. The Debtors will indemnify, defend, and hold harmless the FCR and his partners, associates, principals, employees, advisors, and professionals (collectively, the "Indemnified Parties" and each, individually, an "Indemnified Party") from and against any losses, claims, damages, or liabilities (or actions in respect thereof) to which any Indemnified Party may become subject as a result of or in connection with the FCR's rendering of services in his capacity as the FCR, unless and until it is finally judicially determined that such losses, claims, damages, or liabilities were caused by gross negligence, willful misconduct, fraud, or bad faith on the part of one or more of the Indemnified Parties in performing their obligations. The foregoing entitlement of the FCR shall include, without limitation, (i) the right to be indemnified against any liability related or resulting from any information provided by the FCR that is inaccurate in any respect as a result of misrepresentation, omission, failure to update, or otherwise, unless the FCR actually knew of such inaccuracy at the time of the misrepresentation, omission, failure to update, or other occurrence in such action or proceeding, whether such action is concluded, ongoing, or threatened, and (ii) the right to be indemnified for any expenses, including reasonable attorney's fees, that the FCR may incur in enforcing this indemnification provision. Any such indemnification will be an allowed administrative expense under section 503(b) of the Bankruptcy Code. For the avoidance of doubt, gross negligence, willful misconduct, fraud, or bad faith on the part of one Indemnified Party will not preclude indemnification for the other Indemnified Parties. If, before the earlier of (i) the effective date of a plan confirmed in the Chapter 11 Cases, and (ii) the entry of an order closing the Chapter 11 Cases, an Indemnified Party believes that he, she, or it is entitled to payment of any amount by the Debtors on account of the Debtors obligations to indemnify, defend, and hold harmless as set forth herein, including, without limitation, the advancement of defense costs, the Indemnified Party must file an application for such amounts with this Court, and the Debtors may not pay any such amounts to the Indemnified Party before the entry of an order by this Court authorizing such payments.

> The preceding sentence is intended to specify the period of time during which this Court has jurisdiction over the Debtors' obligations to indemnify, defend, and hold harmless as set forth herein, and is not a limitation on the duration of the Debtors' obligation to indemnify any Indemnified Party. In the event that a cause of action is asserted against any Indemnified Party as a result of or in connection with the FCR's rendering services in his capacity as the FCR, the Indemnified Party shall have the right to choose his, her, or its own counsel.

7. Nothing in this Order shall determine any trust-related allocations or trust distribution procedures.

8. Nothing in this Order shall be a determination by this Court that Future Claimants exist in these Chapter 11 Cases or in any other opioid-related chapter 11 case, nor shall anything in this Order be deemed an admission by the OCC, the UCC, or any other interested party in these Chapter 11 Cases that Future Claimants exist in these Chapter 11 Cases or in any other opioid-related chapter 11 case.

9. The Debtors, the FCR, and any party-in-interest that may be the beneficiary of any release or injunction granted or order approving a sale or sales of the Debtors' assets in these cases (the "Protected Parties") may use and rely on this Order (a) in these Chapter 11 Cases, for prosecution of any proposed plan of reorganization in these Chapter 11 Cases, any proposed sale or sales of the Debtors' assets, and any appellate or other proceedings related to, arising from or connected to the Chapter 11 Cases and (b) in support of or in furtherance of the enforcement of any order entered, or plan of reorganization confirmed, in these Chapter 11 Cases. No other person may use the entry of this Order in any other pending proceeding, situation, pleading, case, controversy, dispute, argument, or for any purpose unrelated to the Debtors, any reorganized debtor, any confirmed plan of reorganization in these Chapter 11 Cases, or the sale or sales of any of the Debtors' assets.

10. For the avoidance of doubt, nothing in this Order shall be construed as the OCC's or UCC's support, in any way, for the Restructuring Support Agreement [Docket No. 20], the Restructuring Term Sheet attached thereto, any opioid trust term sheet, any proposed plan of reorganization, any proposed disclosure statement, any confirmed plan of reorganization in these Chapter 11 Cases, or any matters contained in any of such documents or related documents, in any manner whatsoever, other than the matters contained in this Order.

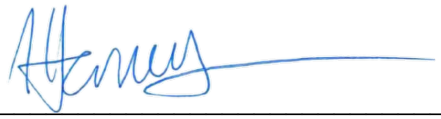
11. The Debtors are authorized to take all actions necessary to effectuate the relief granted in this Order in accordance with the Motion.

12. This Court retains exclusive jurisdiction with respect to all matters arising from or related to the implementation, interpretation, and enforcement of this Order.

Dated: September 30, 2022
New York, New York

/s/ *James L. Garrity, Jr.*
THE HONORABLE JAMES L. GARRITY, JR.
UNITED STATES BANKRUPTCY JUDGE

**THIS IS EXHIBIT "D"**
**TO THE SECOND AFFIDAVIT OF DANIEL VAS**
**SWORN BEFORE ME OVER VIDEOCONFERENCE**
**THIS 7TH DAY OF OCTOBER, 2022**



Commissioner for Taking Affidavits

**UNITED STATES BANKRUPTCY COURT**
**SOUTHERN DISTRICT OF NEW YORK**

| | |
|---|---|
| ***In re*** | **Chapter 11** |
| **ENDO INTERNATIONAL plc, *et al.*,** | **Case No. 22-22549 (JLG)** |
| **Debtors.**[1] | **(Jointly Administered)** |
| | **Related Docket Nos. 7, 91, 279** |

**SECOND INTERIM ORDER (I) AUTHORIZING DEBTORS TO (A) PAY PREPETITION WAGES, SALARIES, EMPLOYEE BENEFITS AND OTHER COMPENSATION AND (B) CONTINUE EMPLOYEE BENEFITS PROGRAMS AND PAY RELATED ADMINISTRATIVE OBLIGATIONS; (II) AUTHORIZING FINANCIAL INSTITUTIONS TO HONOR AND PROCESS RELATED CHECKS AND TRANSFERS; AND (III) GRANTING RELATED RELIEF**

Upon the motion (the "Motion")[2] of the debtors and debtors in possession (collectively, the "Debtors" and together with their non-debtor affiliates, the "Company") in the above-captioned cases (the "Chapter 11 Cases") for an interim order and a final order (a) authorizing, but not directing, the Debtors, in their sole discretion, to (i) pay Prepetition Employee Obligations and related Processing Costs arising under or related to Compensation and Benefits Programs and (ii) continue their Compensation and Benefits Programs in effect as of the Petition Date (and as may be amended, renewed, replaced, modified, revised, supplemented and/or terminated from time to time in the ordinary course of business) and pay related administrative

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1 The last four digits of Debtor Endo International plc's tax identification number are 3755. Due to the large number of debtors in these chapter 11 cases, a complete list of the debtor entities and the last four digits of their federal tax identification numbers is not provided herein. A complete list of such information may be obtained on the website of the Debtors' claims and noticing agent at https://restructuring.ra.kroll.com/endo/. The location of the Debtors' service address for purposes of these chapter 11 cases is: 1400 Atwater Drive, Malvern, PA 19355.

2 Capitalized terms used but not defined herein shall have the meanings ascribed to such terms in the Motion and Reply.

obligations; (b) authorizing and directing the Banks to honor and process related checks and transfers; and (c) granting related relief, all as more fully set forth in the Motion; and upon the Debtors' request for additional interim relief for the period ranging from September 28, 2022 through October 13, 2022 (the "Second Interim Period") as detailed in the Debtors' reply to the Objections (the "Reply") and as set forth in this second interim order (the "Second Interim Order") and the Court having reviewed the Motion, the First Day Declaration, and the Reply, and held a hearing to consider the relief requested in the Motion (the "Hearing") and granted the first interim order (the "Interim Order"); and the Court having found that (a) the Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and the Amended Standing Order of Reference M-431, dated January 31, 2012 (Preska, C.J.); (b) this is a core proceeding pursuant to 28 U.S.C. § 157(a)-(b) and 1334(b); (c) venue is proper before the Court pursuant to 28 U.S.C. §§ 1408 and 1409; and (d) due and proper notice of the Motion has been provided to the Notice Parties (as defined below) and it appearing that no other or further notice need be provided; and the Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and it appearing that the relief requested in the Motion is necessary to avoid immediate and irreparable harm to the Debtors and their estates and is in the best interests of the Debtors, their estate, creditors, and other parties-in-interest after taking into account the priority scheme of the Bankruptcy Code; and upon all of the proceedings had before the Court and after due deliberation and sufficient cause appearing therefor;

**IT IS HEREBY ORDERED THAT**

1. The Motion is GRANTED on a second interim basis as set forth herein.

2. The Debtors are hereby authorized, but not directed, in their sole discretion, to pay all amounts required under or related to the Compensation and Benefits Programs, including any Prepetition Employee Obligations and any prepetition Processing Costs; *provided, however*

that notwithstanding the foregoing, during the Second Interim Period, such payments on account of the Employee Bonus Plans, Non-Insider Retention Programs, and payments that exceed the Employee Cap shall be limited to $372,998.00 in the aggregate as set forth in the Schedule of Second Interim Payments attached hereto as **Exhibit 1**.

3. Subject to paragraph 2 of this Second Interim Order, the Debtors are authorized, but not required, in their sole discretion, (a) to continue to pay and honor their obligations arising under or related to their Compensation and Benefits Programs as such Compensation and Benefits Programs were in effect as of the Petition Date and (b) upon notice to counsel to the Ad Hoc First Lien Group and counsel to any statutory committee appointed in the Chapter 11 Cases, to amend, renew, replace, modify, revise, supplement and/or terminate such Compensation and Benefits Programs in the ordinary course of business; *provided that*, this Second Interim Order does not authorize any action that is otherwise prohibited by the Bankruptcy Code, and, beginning on the date that is seven days after entry of this Second Interim Order and on a weekly basis thereafter, the Debtors shall provide a report describing any payments on account of any prepetition Reimbursable Expenses to counsel to the Ad Hoc First Lien Group, counsel to the Ad Hoc Cross-Holder Group, counsel to the U.S. Trustee, and counsel to any statutory committee appointed in the Chapter 11 Cases (collectively, the "Notice Parties"), including the name and job title of each employee to be reimbursed and a description of each expense. The Debtors shall confer with any Notice Party who objects to such payments to make any adjustments necessary to resolve such objection.

4. Notwithstanding the authority provided in paragraphs 2 and 3 above, pending entry of the Final Order, the Debtors are not authorized to remit, pay, satisfy, or honor prepetition or postpetition obligations that have accrued or will accrue on account of Outside

Director Compensation, Outside Director Expenses, or the Severance Plan. The Debtors shall, following consultation with the Ad Hoc First Lien Group, provide seven days' notice to the Notice Parties of any proposed Spot Awards, including the name and job title of each employee to be paid or awarded. The Debtors shall not make any such payment pending the resolution of a timely objection from any Notice Party, including, without limitation, the Ad Hoc First Lien Group. Notwithstanding the foregoing, the Debtors shall not make any payments of Spot Awards or under any Employee Bonus Plans or Retention Programs to insiders (as defined in section 101(31) of the Bankruptcy Code) without further order of this Court; provided that to the extent that any Employee who participates in Employee Bonus Plans or Retention Programs is later determined by the Debtors or by this Court to be an Insider, such Employee will no longer be eligible to participate in any such programs absent further order from the Court and all rights of parties in interest, including any statutory committees appointed in these Chapter 11 Cases and the U.S. Trustee, to seek clawback or disgorgement of payments made to such Insiders are reserved. For the avoidance of doubt, all claims relating to any prepetition payments made under any Compensation and Benefits Programs to Insiders are expressly preserved.

5. Following entry of this Second Interim Order and on a monthly basis thereafter, the Debtors shall provide a report describing any payments made pursuant to the relief granted in the Motion, including an aggregate total of such payments as compared to the applicable caps established by this Second Interim Order, to the Notice Parties.

6. The Debtors are authorized, but not directed, in their sole discretion, to (a) continue utilizing third parties for certain services solely as described in the Motion and to pay or cause to be paid such claims as and when such obligations are due and (b) pay prepetition

amounts owing in the ordinary course of business to third parties in connection with administering and maintaining the Compensation and Benefits Programs.

7. The Debtors are authorized to forward any unpaid amounts on account of deductions or payroll taxes to the appropriate third-party recipients or taxing authorities in accordance with the Debtors' prepetition practices and policies.

8. All Banks are (a) authorized and directed to receive, process, honor, and pay any and all checks, drafts, electronic transfers, and other forms of payment used by the Debtors on account of the Compensation and Benefits Programs, whether presented before, on, or after the Petition Date; and (b) prohibited from placing any hold on, or attempting to reverse, any automatic transfer on account of the Compensation and Benefits Programs. The Banks shall rely on the representations of the Debtors as to which checks and fund transfers should be honored and paid pursuant to this Second Interim Order without any duty of further inquiry and without liability for following the Debtors' instructions.

9. Any party receiving payment from the Debtors is authorized and directed to rely on the representations of the Debtors as to which payments are authorized by this Second Interim Order.

10. Notwithstanding anything to the contrary contained herein, any payment to be made hereunder, and any authorization contained herein, shall be subject to and in accordance with any interim and final orders, as applicable, approving the use of cash collateral (the "Cash Collateral Order") and any budget in connection with any such use of cash collateral. To the extent there is any inconsistency between the terms of the Cash Collateral Order and any action taken or proposed to be taken hereunder, the terms of the Cash Collateral Order shall control.

11. As directed in the Interim Order, the Debtors shall maintain a matrix/schedule of payments made pursuant to this Order, including the following information: (a) the names of the payee; (b) the nature, date and amount of the payment; (c) the category or type of payment as characterized in the Motion; and (d) the Debtor or Debtors that made the payment. As directed in the Interim Order, the Debtors shall provide a copy of such matrix/schedule to the U.S. Trustee, counsel to the Ad Hoc First Lien Group, counsel to the Ad Hoc Cross-Holder Group, and any statutory committee appointed in the Chapter 11 Cases every 30 days beginning upon entry of the Interim Order.

12. For the avoidance of doubt, to the extent that any employee is determined by a final order of this Court or any court of competent jurisdiction to have: (a) knowingly participated in any criminal misconduct in connection with his or her employment with the Debtors or (b) been aware, other than from public sources, of acts or omissions of others that such employee knew at the time were fraudulent or criminal with respect to the Debtors' commercial practices in connection with the sale of opioids and failed to report such fraudulent or criminal acts or omissions internally at the Debtors or to law enforcement authorities at any time during his or her employment with the Debtors, such employee shall not be eligible to receive any payments approved by the Interim Order or this Second Interim Order. All parties' rights, if any, to seek disgorgement of payments following the entry of such final order are reserved. Nothing in this paragraph shall, or shall be deemed to, create, expand, or otherwise modify any party's rights, standing, authority, or ability, statutory or otherwise, to (a) investigate, pursue, assert, prosecute, or settle any claims or causes of action of any kind or nature (including but not limited to disgorgement), or (b) object to, or seek to unwind or undo, the Interim Order or this Second Interim Order and the relief granted pursuant to each.

13. Nothing contained in the Motion or this Second Interim Order, nor any payment made pursuant to the authority granted by this Second Interim Order, shall constitute or be construed as (a) an admission as to the validity of any claim against the Debtors, (b) a waiver of the Debtors' rights to dispute the amount of, basis for, or validity of any claim against the Debtors, (c) a waiver of any claims or causes of action that may exist against any creditor or interest holder, (d) promise to pay any claim, (e) an approval, assumption, adoption, or rejection of any agreement, contract, program, policy, or lease between the Debtors and any third party under section 365 of the Bankruptcy Code, or (f) otherwise affecting the Debtors' rights under section 365 of the Bankruptcy Code to assume or reject any executory contract or unexpired lease.

14. Nothing in the Motion or this Second Interim Order, nor as a result of any payment made pursuant to this Second Interim Order, shall be deemed or construed as a waiver of the right of the Debtors, or shall impair the ability of the Debtors, to contest the validity and amount of any payment made pursuant to this Second Interim Order.

15. Nothing herein shall create, nor is intended to create, any rights in favor of or enhance the status of any claim held by any party.

16. The rights of all parties in interest, including any statutory committees appointed in these Chapter 11 Cases and the U.S. Trustee, to object to payments that the Debtors have made or are seeking to make, upon entry of the Final Order, under the Employee Bonus Plans, Non-Insider Retention Programs, Severance Plans, and in excess of the Employee Cap, are expressly preserved.

17. Notwithstanding Bankruptcy Rule 6004(h), this Second Interim Order shall be effective and enforceable immediately upon entry.

18. The Debtors are authorized and empowered to take all action necessary to effectuate the relief granted in this Second Interim Order.

*[Remainder of Page Intentionally Left Blank.]*

19. This Court shall retain jurisdiction with respect to all matters arising from or related to the implementation, interpretation, or enforcement of this Second Interim Order.

Dated: October 3, 2022
New York, New York

/s/ *James L. Garrity, Jr.*
HONORABLE JAMES L. GARRITY, JR
U.S. BANKRUPTCY JUDGE

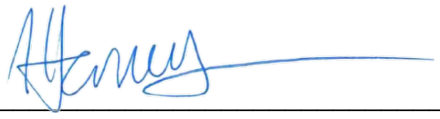
**Exhibit 1**

**Schedule of Second Interim Payments**

# Schedule of Second Interim Payments

| 2ND INTERIM ORDER TO PAY WAGES, SALARIES, EMPLOYEE BENEFITS, AND OTHER COMPENSATION | | | | | |
|---|---|---|---|---|---|
| **Wage Relief Group** | **Count** | **Amount** | **Administrative** | **Priority Unsecured** | **General Unsecured** |
| Pre-Petition Amounts | | | | | |
| Sales IC True-up | 52 | $54,630 | | $50,762 | $3,868 |
| Sales IC - Other | 11 | 25,145 | | 25,145 | |
| Sign-On Bonus | 5 | 29,835 | | 28,419 | 1,416 |
| Wage Claim | 2 | 4,489 | | | 4,489 |
| **Subtotal - Pre-Petition Amounts** | **70** | **$114,098** | | **$104,326** | **$9,772** |
| Post Petition Amounts | | | | | |
| LTIP | 8 | $202,234 | $202,234 | | |
| Sign-On Bonus | 1 | 40,000 | $40,000 | | |
| 2020 Restructuring Initiative | 1 | 10,000 | $10,000 | | |
| **Subtotal - Post-Petition Amounts** | **10** | **$252,234** | **$252,234** | | |
| **SubTotal** | **80** | **$366,332** | **$252,234** | **$104,326** | **$9,772** |
| Additional Pre-Petition Amounts | | | | | |
| Sales IC - True Up | 2 | $6,666 | | $6,666 | |
| **Grand Total** | **82** | **$372,998** | **$252,234** | **$110,992** | **$9,772** |

**THIS IS EXHIBIT "E"**
**TO THE SECOND AFFIDAVIT OF DANIEL VAS**
**SWORN BEFORE ME OVER VIDEOCONFERENCE**
**THIS 7TH DAY OF OCTOBER, 2022**



Commissioner for Taking Affidavits

**UNITED STATES BANKRUPTCY COURT**
**SOUTHERN DISTRICT OF NEW YORK**

| | |
|---|---|
| ***In re*** | **Chapter 11** |
| **ENDO INTERNATIONAL plc, *et al.*,** | **Case No. 22-22549 (JLG)** |
| **Debtors.**[1] | **(Jointly Administered)** |
| | **Related Docket Nos. 10, 83, 262** |

**FINAL ORDER (I) AUTHORIZING DEBTORS TO HONOR PREPETITION OBLIGATIONS TO CUSTOMERS AND RELATED THIRD PARTIES AND TO OTHERWISE CONTINUE CUSTOMER PROGRAMS; (II) GRANTING RELIEF FROM STAY TO PERMIT SETOFF IN CONNECTION WITH THE CUSTOMER PROGRAMS; (III) AUTHORIZING FINANCIAL INSTITUTIONS TO HONOR AND PROCESS RELATED CHECKS AND TRANSFERS; AND (IV) GRANTING RELATED RELIEF**

Upon the motion (the "Motion")[2] of the debtors and debtors in possession (collectively, the "Debtors" and together with their non-debtor affiliates, the "Company") in the above-captioned cases (the "Chapter 11 Cases") for an order (a) authorizing, but not directing, the Debtors, in their sole discretion, to honor certain prepetition obligations owed to Customers under the Customer Programs and to otherwise continue, renew, replace, modify, implement, revise and/or terminate Customer Programs in the ordinary course of business; (b) granting relief from stay to permit setoff in connection with the Customer Programs; (c) authorizing and directing the Banks to honor and process related checks and transfers; and (d) granting related relief, all as more

[1] The last four digits of Debtor Endo International plc's tax identification number are 3755. Due to the large number of debtors in these chapter 11 cases, a complete list of the debtor entities and the last four digits of their federal tax identification numbers is not provided herein. A complete list of such information may be obtained on the website of the Debtors' claims and noticing agent at https://restructuring.primeclerk.com/endo/. The location of the Debtors' service address for purposes of these chapter 11 cases is: 1400 Atwater Drive, Malvern, PA 19355.

[2] Capitalized terms used but not defined herein shall have the meanings ascribed to such terms in the Motion.

fully set forth in the Motion; and the Court having reviewed the Motion and the First Day Declaration and having heard the statements of counsel regarding the relief requested in the Motion at a hearing before the Court (the "Hearing"); and the Court having found that (a) the Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157(a)-(b) and 1334(b) and the Amended Standing Order of Reference M-431, dated January 31, 2012 (Preska, C.J.); (b) this is a core proceeding pursuant to 28 U.S.C. § 157(b); (c) venue is proper before the Court pursuant to 28 U.S.C. §§ 1408 and 1409; and (d) due and proper notice of the Motion and the Hearing was sufficient under the circumstances; and the Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein, in that such relief provides a material net benefit to the Debtors' estates and creditors after taking into account the Bankruptcy Code's priority scheme and such relief is a proper exercise of business judgment and in the best interests of the Debtors, their estates, creditors and all parties in interest; now, therefore,

**IT IS HEREBY ORDERED THAT:**

1. The Motion is GRANTED on a final basis as set forth herein.

2. The Debtors are authorized, but not directed, in their sole discretion, and are granted relief from section 362 of the Bankruptcy Code, where applicable, to continue the Customer Programs, including, but not limited to, the Chargeback Program, Rebate and Fee Program, Prompt Pay Discount Program, Product Return Program, Co-Pay Reductions, and Other Customer Programs, in the ordinary course of business on a post-petition basis and, without further order of this Court, to perform and honor all prepetition obligations thereunder, including making all payments, satisfying all obligations and permitting all setoffs in connection therewith, in each case, in the ordinary course of business and in the same manner and on the same basis as if the Debtors performed and honored such obligations prior to the Petition Date; *provided* that the Debtors shall provide updates to the Ad Hoc First Lien Group, the Official Committee of

Unsecured Creditors (the "UCC"), and the Official Committee of Opioid Claimants (the "OCC") as to the foregoing upon reasonable request.

3. The Debtors are authorized, but not directed, to (a) continue utilizing third parties in connection with administering and maintaining the Customer Programs as described in the Motion and to pay or cause to be paid such claims as and when such obligations are due and (b) pay prepetition amounts owing in the ordinary course of business to third parties in connection with administering and maintaining the Customer Programs; *provided* that the Debtors shall provide updates to the Ad Hoc First Lien Group, the UCC, and the OCC as to the foregoing upon request.

4. The Debtors are authorized, but not directed, in their sole discretion, to continue, renew, replace, modify, implement, revise and/or terminate their Customer Programs as they deem appropriate, in their sole discretion, and in the ordinary course of business, without further application to this Court; *provided* that the Debtors shall provide updates to the Ad Hoc First Lien Group, the UCC, and the OCC as to the foregoing upon reasonable request.

5. All Banks are (a) authorized and directed to receive, process, honor and pay any and all checks, drafts, electronic transfers and other forms of payment used by the Debtors on account of the Customer Programs, whether presented before, on or after the Petition Date; and (b) prohibited from placing any hold on, or attempting to reverse, any automatic transfer on account of the Customer Programs. The Banks shall rely on the representations of the Debtors as to which checks and fund transfers should be honored and paid pursuant to this Order without any duty of further inquiry and without liability for following the Debtors' instructions.

6. Any party receiving payment from the Debtors is authorized and directed to rely on the representations of the Debtors as to which payments are authorized by this Order.

7. As directed in the Interim Order, the Debtors shall maintain a matrix/schedule of cash payments made pursuant to this Order, including the following information: (a) the names of the payee; (b) the nature, date and amount of the payment; (c) the category or type of payment as characterized in the Motion; and (d) the Debtor or Debtors that made the payment, including the allocation of costs between Debtors and non-Debtor affiliates. As directed in the Interim Order, the Debtors shall provide a copy of such matrix/schedule to the U.S. Trustee, counsel to the Ad Hoc First Lien Group, counsel to the Cross-Holder Group, the Proposed FCR (as defined in the First Day Declaration) and counsel to the Proposed FCR, the UCC, the OCC, and any other statutory committee appointed in the Chapter 11 Cases every 30 days beginning upon entry of the Interim Order.

8. Nothing contained herein is or should be construed as: (a) an implication or admission as to the validity of any claim against the Debtors, (b) a waiver of the Debtors' or any other party-in-interest's rights to dispute the amount of, basis for, or validity of any claim against the Debtors, (c) a waiver of any claims or causes of action that may exist against any creditor or interest holder, (d) a promise to pay any claim, (e) a concession by the Debtors that any liens (contractual, common law, statutory or otherwise) satisfied pursuant to the Motion are valid (and all rights to contest the extent, validity or perfection or seek avoidance of all such liens are expressly reserved), (f) an approval, assumption, adoption, or rejection of any agreement, contract, program, policy, or lease between the Debtors and any third party under section 365 of the Bankruptcy Code, (g) a waiver of the obligation of any party in interest to file a proof of claim, or (h) otherwise affecting the Debtors' rights under section 365 of the Bankruptcy Code to assume or reject any executory contract or unexpired lease. If this Court grants the relief sought herein, any payment made pursuant to this Court's order is not intended to be and should not be construed as

an admission to the validity of any claim or a waiver of the Debtors' rights to subsequently dispute such claim.

9. Notwithstanding anything to the contrary contained herein, any payment to be made hereunder, and any authorization contained, hereunder herein, shall be subject to and in accordance with any interim and final orders, as applicable, approving the use of cash collateral (the "Cash Collateral Order") and any budget in connection with any such use of cash collateral. To the extent there is any inconsistency between the terms of the Cash Collateral Order and any action taken or proposed to be taken hereunder, the terms of the Cash Collateral Order shall control.

10. Nothing in the Motion or this Order, nor as a result of any payment made pursuant to this Order, shall be deemed or construed as a waiver of the right of the Debtors, or shall impair the ability of the Debtors, to contest the validity and amount of any payment made pursuant to this Order.

11. Nothing herein shall create, nor is intended to create, any rights in favor of or enhance the status of any claim held by any party.

12. Notwithstanding Bankruptcy Rule 6004(h), this Order shall be effective and enforceable immediately upon entry.

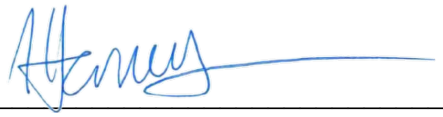
13. The Debtors are authorized and empowered to take all action necessary to effectuate the relief granted in this Order.

14. This Court shall retain jurisdiction with respect to all matters arising from or related to the implementation, interpretation, or enforcement of this Order.

Dated: September 30, 2022
New York, New York

/s/ *James L. Garrity, Jr.*
THE HONORABLE JAMES L. GARRITY, JR.
UNITED STATES BANKRUPTCY JUDGE

**THIS IS EXHIBIT "F"**
**TO THE SECOND AFFIDAVIT OF DANIEL VAS**
**SWORN BEFORE ME OVER VIDEOCONFERENCE**
**THIS 7TH DAY OF OCTOBER, 2022**



Commissioner for Taking Affidavits

**UNITED STATES BANKRUPTCY COURT**
**SOUTHERN DISTRICT OF NEW YORK**

| | |
|---|---|
| ***In re*** | **Chapter 11** |
| **ENDO INTERNATIONAL plc, *et al.*,** | **Case No. 22-22549 (JLG)** |
| **Debtors.**[1] | **(Jointly Administered)** |
| | **Related Docket Nos. 11 & 86** |

**FINAL ORDER (I) AUTHORIZING PAYMENT OF CERTAIN PREPETITION SPECIFIED TRADE CLAIMS; (II) AUTHORIZING FINANCIAL INSTITUTIONS TO HONOR AND PROCESS RELATED CHECKS AND TRANSFERS; AND (III) GRANTING RELATED RELIEF**

Upon the motion (the "Motion")[2] of the debtors and debtors in possession (collectively, the "Debtors" and together with their non-debtor affiliates, the "Company") in the above-captioned cases (the "Chapter 11 Cases") for an order (a) authorizing, but not directing, the Debtors, in their sole discretion, to pay certain Specified Trade Claims in the ordinary course on a postpetition basis, and approving procedures related thereto, of (i) Lienholders; (ii) 503(b)(9) Vendors; (iii) Foreign Vendors; and (iv) Critical Vendors in an aggregate amount not to exceed the Critical Vendors Claims Cap; (b) authorizing and directing the Banks to honor and process related checks and transfers; and (c) granting related relief, all as more fully set forth in the Motion; and the Court having reviewed the Motion and the First Day Declaration and having heard the

[1] The last four digits of Debtor Endo International plc's tax identification number are 3755. Due to the large number of debtors in these chapter 11 cases, a complete list of the debtor entities and the last four digits of their federal tax identification numbers is not provided herein. A complete list of such information may be obtained on the website of the Debtors' claims and noticing agent at https://restructuring.ra.kroll.com/endo/. The location of the Debtors' service address for purposes of these chapter 11 cases is: 1400 Atwater Drive, Malvern, PA 19355.

[2] Capitalized terms used but not defined herein shall have the meanings ascribed to such terms in the Motion.

statements of counsel regarding the relief requested in the Motion at a hearing before the Court (the "Hearing"); and the Court having found that (a) the Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157(a)-(b) and 1334(b) and the Amended Standing Order of Reference M-431, dated January 31, 2012 (Preska, C.J.); (b) this is a core proceeding pursuant to 28 U.S.C. § 157(b); (c) venue is proper before the Court pursuant to 28 U.S.C. §§ 1408 and 1409; and (d) due and proper notice of the Motion and the Hearing was sufficient under the circumstances; and the Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein, in that such relief provides a material net benefit to the Debtors' estates and creditors after taking into account the Bankruptcy Code's priority scheme, such relief is necessary to avoid immediate and irreparable harm to the Debtors and their estates as contemplated by Bankruptcy Rule 6003(b) and is a proper exercise of business judgment and in the best interests of the Debtors, their estates, creditors and all parties in interest; now, therefore,

**IT IS HEREBY ORDERED THAT:**

1. The Motion is GRANTED on a final basis as set forth herein.

2. The Debtors are authorized, but not directed, to pay prepetition Specified Trade Claims comprising all outstanding (a) Lienholder Claims, 503(b)(9) Claims, and Foreign Vendor Claims and (b) Critical Vendor Claims, subject to the Critical Vendors Claims Cap, *provided* that to the extent any payment on account of any such Lienholder Claims, 503(b)(9) Claims, Foreign Vendor Claims, or Critical Vendor Claims is in excess of $500,000, the Debtors shall provide three (3) business days' notice or such shorter notice as is reasonably practicable under the circumstances to counsel for the Official Committee of Unsecured Creditors (the "UCC") and the Official Committee of Opioid Creditors (the "OCC") in advance of such payment. In the event the Debtors will exceed the Critical Vendors Claims Cap, the Debtors shall provide

notice to the Ad Hoc First Lien Group, the Ad Hoc Cross-Holder Group, the UCC, the OCC, and the U.S. Trustee of their intent to do so (the "Critical Vendors Claims Cap Notice"). Following the provision of the Critical Vendors Claims Cap Notice, the Debtors shall file with the Court and serve upon all parties entitled to service of the Motion a proposed order increased the Critical Vendors Claims Cap (the "Proposed Critical Vendors Claims Cap Order"). If no party objects to the Proposed Critical Vendors Claims Cap Order within seven days after the filing of the Proposed Critical Vendors Claims Cap Order, the Court may enter the Proposed Critical Vendors Claims Cap Order without a hearing.

3. The Debtors, in their sole discretion, may condition payment of any Specified Trade Claims upon agreement by the Specified Trade Claimant to supply goods or services to the Debtors on such Specified Trade Claimant's Customary Trade Terms (as defined below) for a period following the date of the agreement or on such other terms and conditions as are acceptable to the Debtors. As used herein, "Customary Trade Terms" means, with respect to a Specified Trade Claimant, (a) the normal and customary trade terms, practices and programs (including, but not limited to, credit limits, pricing, cash discounts, timing of payments and programs), that were most favorable to the Debtors and in effect between such Specified Trade Claimant and the Debtors in the 18-month period prior to the Petition Date or (b) such other trade terms as agreed to by the Debtors and such Specified Trade Claimant.

4. The form of Trade Agreement attached hereto as **Exhibit 1** is approved in its entirety. Except as otherwise set forth herein, the Debtors shall condition payment of Specified Trade Claims pursuant to this Order upon the execution of a Trade Agreement. Notwithstanding anything to the contrary herein, the Debtors are authorized, but not directed, in their sole discretion, to enter into such Trade Agreements when and if the Debtors determine, in the exercise of their

business judgment, that it is appropriate to do so. A Trade Agreement, once agreed to and accepted by a Specified Trade Claimant, shall be the legally binding contractual relationship between the parties governing the commercial trade relationship as provided therein; *provided* that the Debtors may agree to implement such modifications to the form of Trade Agreement the Debtors deem necessary or advisable in the reasonable exercise of their business judgment to obtain Customary Trade Terms from the applicable Specified Trade Claimant; *provided*, *further*, that the Debtors may pay a Specified Trade Claim without the applicable Specified Trade Claimant having executed a Trade Agreement only if the Debtors determine, in their reasonable business judgment, that a Trade Agreement is unnecessary to ensure the applicable Specified Trade Claimant's continued performance on Customary Trade Terms; *provided*, *further*, that the Debtors will, on a bi-weekly basis beginning with the first full calendar week following entry of this Order, provide updates to the Ad Hoc First Lien Group, the UCC, and the OCC regarding (i) material modifications to or terminations of Trade Agreements and (ii) material disputes with respect to any Specified Trade Claimant. For the avoidance of doubt, no Trade Agreement, nor any other agreement entered into by the Debtors in connection with payments made pursuant to the relief granted by this Order, shall waive or impair any right of any party in interest to pursue claims and causes of action arising under any section of chapter 5 of the Bankruptcy Code, including claims and causes of action arising under section 549 of the Bankruptcy Code.

5. Any party who accepts payment from the Debtors of a Specified Trade Claim (each, a "Payment") (regardless of whether a Trade Agreement has been executed) shall be deemed to have agreed to the terms and provisions of this Order and shall be deemed to have waived, solely to the extent so paid, any and all prepetition claims, of whatever type, kind or priority, against the Debtors, their properties and estates.

6. If the Debtors, in their sole discretion, determine that a Specified Trade Claimant has not complied with the terms and provisions of the Trade Agreement or has failed to continue to provide Customary Trade Terms following the date of the agreement, or on such terms as were individually agreed to between the Debtors and such Specified Trade Claimant, the Debtors may terminate the Trade Agreement, together with the other benefits to the Specified Trade Claimant as contained in this Order; *provided*, *however*, that the Trade Agreement may be reinstated (a) if such determination is subsequently reversed by the Court for good cause after it is shown that the determination was materially incorrect after notice and a hearing following a motion from the Specified Trade Claimant, (b) the underlying default under the Trade Agreement is fully cured by the Specified Trade Claimant not later than five business days after the date the initial default occurred or (c) the Debtors, in their sole discretion, reach a subsequent agreement with the Specified Trade Claimant; *provided*, *further*, that the Debtors will, upon reasonable request, provide updates to the Ad Hoc First Lien Group and any statutory committee appointed in these Chapter 11 Cases regarding (i) material modifications to or terminations of Trade Agreements and (ii) material disputes with respect to any Specified Trade Claimant.

7. If a Trade Agreement is terminated as set forth above, or if a Specified Trade Claimant that has received Payment later refuses to continue to supply goods or services for the applicable period in compliance with the Trade Agreement or this Order, then (a) the Debtors may, in their sole discretion, declare that the Payment is a voidable postpetition transfer pursuant to section 549(a) of the Bankruptcy Code that the Debtors may recover in cash or in goods from such Specified Trade Claimant, (b) the creditor shall immediately return such Payments to the extent that the aggregate amount of such Payments exceeds the postpetition obligations then outstanding without giving effect to alleged setoff rights, recoupment rights, adjustments or offsets of any type

whatsoever, and (c) the creditor's Specified Trade Claim shall be reinstated in such an amount so as to restore the Debtors and the Specified Trade Claimants to their original positions as if the Trade Agreement had never been entered into and no Payment had been made.

8. All Trade Agreements shall be deemed to have terminated, together with other benefits to Specified Trade Claimants as contained in this Order, upon entry of an order converting the Chapter 11 Cases to a case under chapter 7 of the Bankruptcy Code.

9. Any party who accepts Payment from the Debtors (regardless of whether a Trade Agreement has been executed) shall, at the Debtors' request take all actions necessary to remove any mechanics' liens, possessory liens or similar state law trade liens on the Debtors' assets such party may have based upon such Specified Trade Claims at such party's sole expense.

10. As ordered in the Interim Order, the Debtors shall provide this Court, the U.S. Trustee, counsel to the Ad Hoc First Lien Group, counsel to the Ad Hoc Cross-Holder Group, the proposed FCR (as defined in the First Day Declaration) and counsel to the Proposed FCR, and any official committee appointed in the Chapter 11 Cases with reasonable and timely access to information, including, without limitation, a list of Critical Vendors and updates regarding (a) material modifications to or terminations of Trade Agreements and (b) material disputes with respect to any Specified Trade Claimant, which such parties shall keep confidential and treat as for professional eyes only, sufficient to enable such parties to monitor payments made, obligations satisfied, and other actions taken.

11. As ordered in the Interim Order, the Debtors shall maintain a matrix/schedule of payments made pursuant to this Order, including the following information: (a) the names of the payee; (b) the nature, date and amount of the payment; (c) the category or type of payment as characterized in the Motion; and (d) the Debtor or Debtors that made the payment.

The Debtors shall provide a copy of such matrix/schedule to the Court, the U.S. Trustee, counsel to the Ad Hoc First Lien Group, counsel to the Ad Hoc Cross-Holder Group, the Proposed FCR and counsel to the Proposed FCR, and any statutory committee appointed in the Chapter 11 Cases bi-weekly beginning upon entry of the Interim Order.

12. All Banks are (a) authorized and directed to receive, process, honor and pay any and all checks, drafts, electronic transfers and other forms of payment used by the Debtors on account of the Specified Trade Claims, whether presented before, on or after the Petition Date; and (b) prohibited from placing any hold on, or attempting to reverse, any automatic transfer on account of the Specified Trade Claims. The Banks shall rely on the representations of the Debtors as to which checks and fund transfers should be honored and paid pursuant to this Order without any duty of further inquiry and without liability for following the Debtors' instructions.

13. Any party receiving payment from the Debtors is authorized and directed to rely on the representations of the Debtors as to which payments are authorized by this Order.

14. Notwithstanding anything to the contrary contained herein, any payment to be made hereunder, and any authorization contained, hereunder herein, shall be subject to and in accordance with any interim and final orders, as applicable, approving the use of cash collateral (the "Cash Collateral Order") and any budget in connection with any such use of cash collateral. To the extent there is any inconsistency between the terms of the Cash Collateral Order and any action taken or proposed to be taken hereunder, the terms of the Cash Collateral Order shall control.

15. Nothing herein shall impair or prejudice the Debtors', the UCC's, the OCC's, or any other party-in-interest's ability to contest the extent, perfection, priority, validity or amounts of any claims or liens held by any Specified Trade Claimant and the Debtors' rights to

contest the extent, validity or perfection or seek the avoidance of all such liens or the priority of such claims are fully preserved.

16. Nothing contained herein is or should be construed as: (a) an implication or admission as to the validity of any claim against the Debtors, (b) a waiver of the Debtors' or any other party-in-interest's rights to dispute the amount of, basis for, or validity of any claim against the Debtors, (c) a waiver of any claims or causes of action that may exist against any creditor or interest holder, (d) a promise to pay any claim, (e) a concession by the Debtors that any liens (contractual, common law, statutory or otherwise) satisfied pursuant to the Motion are valid (and all rights to contest the extent, validity or perfection or seek avoidance of all such liens are expressly reserved), (f) an approval, assumption, adoption, or rejection of any agreement, contract, program, policy, or lease between the Debtors and any third party under section 365 of the Bankruptcy Code, (g) a waiver of the obligation of any party in interest to file a proof of claim, or (h) otherwise affecting the Debtors' rights under section 365 of the Bankruptcy Code to assume or reject any executory contract or unexpired lease. If this Court grants the relief sought herein, any payment made pursuant to this Court's order is not intended to be and should not be construed as an admission to the validity of any claim or a waiver of the Debtors' rights to subsequently dispute such claim.

17. Nothing herein shall create, nor is intended to create, any rights in favor of or enhance the status of any claim held by any party.

18. The Court finds and determines that the requirements of Bankruptcy Rule 6003 are satisfied and that the relief requested is necessary to avoid immediate and irreparable harm.

19. Under the circumstances of the Chapter 11 Cases, notice of the Motion is adequate under Bankruptcy Rule 6004(a).

20. Notwithstanding Bankruptcy Rule 6004(h), this Order shall be effective and enforceable immediately upon entry.

21. The Debtors are authorized and empowered to take all action necessary to effectuate the relief granted in this Order (including, without limitation, making copies of this Order, the Motion and any materials or other information related thereto available in any local language in a jurisdiction in which the Debtors or their affiliates operate).

22. This Court shall retain jurisdiction with respect to all matters arising from or related to the implementation, interpretation or enforcement of this Order.

Dated: September 30, 2022
New York, New York

/s/ *James L. Garrity, Jr.*
THE HONORABLE JAMES L. GARRITY, JR.
UNITED STATES BANKRUPTCY JUDGE

# Exhibit 1

## Form of Trade Agreement

**TRADE AGREEMENT**

The Debtors (as defined herein) and [__] hereby enter into the following trade agreement (this "Trade Agreement") dated as of this [ , 202_].

**Recitals**

WHEREAS on August 16, 2022 (the "Petition Date"), Endo International plc and its debtor affiliates, as debtors and debtors in possession (collectively, the "Debtors" and together with their non-debtor affiliates, the "Company"), commenced the chapter 11 cases (the "Bankruptcy Case") by filing voluntary petitions for relief under title 11 of the United States Code (the "Bankruptcy Code") in the United States Bankruptcy Court for the Southern District of New York (the "Court").

WHEREAS on [__], 202_, the Court entered the *Final Order (I) Authorizing Payment of Certain Prepetition Specified Trade Claims; (II) Authorizing Financial Institutions to Honor and Process Related Checks and Transfers; and (III) Granting Related Relief* (the "Order") [Docket No. _] authorizing the Debtors, under certain conditions, to pay the prepetition claims of certain vendors subject to the terms and conditions set forth therein.

WHEREAS pursuant to the Order, to receive payment on account of prepetition claims, each Specified Trade Claimant must agree to continue to supply goods or services to the Debtors on "Customary Trade Terms." As used herein, "Customary Trade Terms" means, with respect to a Specified Trade Claimant, (a) the normal and customary trade terms, practices and programs (including, but not limited to, credit limits, pricing, cash discounts, timing of payments and programs), that were most favorable to the Debtors and in effect between such Specified Trade Claimant and the Debtors in the 18-month period prior to the Petition Date or (b) such other trade terms as agreed to by the Debtors and such Specified Trade Claimant.

WHEREAS the Debtors and [__] (collectively, the "Parties") agree to the following terms as a condition of payment on account of certain prepetition claims that [__] may hold against the Debtors.

**Agreement**

1. The Parties hereby agree that [__] is a "Specified Trade Claimant" (as defined in the Order) (herein [__] will be referred to as "Specified Trade Claimant").

2. [OPTION 1: The balance of Specified Trade Claimant's aggregate prepetition claim(s) against the Debtors is $[__] (the "Agreed Trade Claim"). The Agreed Trade Claim does not constitute a claim allowed by the Bankruptcy Court in this case, and signing this Trade Agreement does not excuse the Specified Trade Claimant from any requirement of filing a proof of claim in the Bankruptcy Case.

3. Following execution of this Trade Agreement, the Debtors will pay the Specified Trade Claimant $[__] (the "Payment Amount") in [partial/full] satisfaction of the Agreed Trade Claim. The Payment Amount will be paid pursuant to the Customary Trade Terms set forth below,

and will be applied to any invoices previously received by the Debtors on account of the Agreed Trade Claim.

4. OPTION 2: The parties hereby agree that the Specified Trade Claimant delivered to the Debtors, and the Debtors received, goods valued at $[__] within twenty (20) days before the Petition Date, for which the Specified Trade Claimant did not receive payment (the "Agreed 503(b)(9) Claim"). $[__] of the Payment Amount will be applied toward the Agreed 503(b)(9) Claim. The Agreed 503(b)(9) Claim does not constitute a claim allowed by the Bankruptcy Court in this case, and signing this Trade Agreement does not excuse the Specified Trade Claimant from any requirement of filing a proof of claim in the Bankruptcy Case.]

5. For a period from the date this Trade Agreement is executed until the earlier of (a) the effective date of a chapter 11 plan for the Debtors or (b) [DATE], the Specified Trade Claimant shall supply goods [and/or] services to the Debtors based on the following Customary Trade Terms: [CUSTOMIZE PER VENDOR]

6. The Parties further agree, acknowledge and represent that:

(a) the Parties have reviewed the terms and provisions of the Order and consent to be bound by such terms and that this Trade Agreement is expressly subject to the Order;

(b) any payments made on account of the Agreed Trade Claim shall be subject to the terms and conditions of the Order, including any orders of the Court granting the relief requested in the Order on a final basis, as applicable;

(c) if the Specified Trade Claimant refuses to supply goods or services to the Debtors as provided herein or otherwise fails to perform any of their obligations hereunder, the Debtors may exercise all rights and remedies available under the Order, the Bankruptcy Code, or applicable law;

(d) the Specified Trade Claimant will not separately seek payment for any claims pursuant to section 503(b)(9) of the Bankruptcy Code or other similar claims outside of the terms of the Order or this Trade Agreement unless Specified Trade Claimant's participation in the vendor payment program authorized by the Order is terminated;

(e) in consideration for receiving the Payment Amount, the Specified Trade Claimant shall not file or otherwise assert against the Debtors, their estates or any other person or entity or any of their respective assets or property (real or personal) any lien (regardless of the statute or other legal authority upon which the lien is asserted) related to any remaining prepetition amounts allegedly owed to the Specified Trade Claimant by the Debtors arising from agreements entered into before the Petition Date. Furthermore, if the Specified Trade Claimant has taken steps to file or assert a lien before entering into this Trade Agreement, the Specified Trade Claimant agrees to take all necessary steps to remove the lien as soon as possible at its sole cost and expense;

(f) if the Specified Trade Claimant fails to comply with the terms and provisions of this Trade Agreement, the Debtors may, in their discretion, and without further order of the Bankruptcy Court; (i) declare that any payment of the Payment Amount is a voidable postpetition transfer pursuant to section 549(a) of the Bankruptcy Code that the Debtors may recover in cash or in goods from the Specified Trade Claimant (including by setoff against postpetition obligations); (ii) declare that the Specified Trade Claimant shall immediately return the Payment Amount to the Debtors without giving effect to any alleged setoff rights, recoupment rights, adjustments or other offsets of any type whatsoever, and Specified Trade Claimant's claim shall be reinstated to such amount so as to restore the Debtors and the Specified Trade Claimant to their original positions as if the Trade Agreement had never been entered into and the Payment Amount had not been paid; and/or (iii) if there exists an outstanding postpetition balance due from the Debtors to Specified Trade Claimant, the Debtors may elect to recharacterize and apply the Payment Amount to such outstanding postpetition balance and the Specified Trade Claimant shall be required to repay to the Debtors such paid amounts that exceed the postpetition obligations then outstanding without the right of any setoffs, claims, provisions for payment of any claims, or otherwise;

(g) if the Specified Trade Claimant fails to comply with the terms and provisions of this Trade Agreement, the Debtors may, in their discretion, declare that such Trade Agreement has terminated; *provided* that the Trade Agreement may be reinstated if:

(i) after notice and a hearing (following a motion filed by the respective Specified Trade Claimant), the Bankruptcy Court reverses the Debtors' decision to terminate the Trade Agreement for good cause shown that the Debtors' determination was materially incorrect;

(ii) the Specified Trade Claimant fully cures the underlying default of the Trade Agreement within five (5) business days from the date of receipt of notice of termination of the Trade Agreement; or

(iii) the Debtors, in their sole discretion, reach a commercially acceptable agreement with the breaching party.

(h) the Parties hereby submit to the exclusive jurisdiction of the Court to resolve any dispute arising under or in connection with this Trade Agreement.

7. Subject to the requirements of the Bankruptcy Code, further orders of the Court, or applicable law, and unless it otherwise becomes public without a breach of this Trade Agreement, the Specified Trade Claimant agrees to hold in confidence and not disclose to any party: (a) any and all payments made by the Debtors pursuant to this Trade Agreement; (b) the terms of payment set forth herein; (c) the Customary Trade Terms; and (d) this Trade Agreement (collectively, the "Confidential Information"); *provided* that if any party seeks to compel the Specified Trade

Claimant's disclosure of any or all of the Confidential Information, through judicial action or otherwise, or the Specified Trade Claimant intends to disclose any or all of the Confidential Information, the Specified Trade Claimant shall immediately provide the Debtors with prompt written notice so that the Debtors may seek an injunction, protective order or any other available remedy to prevent such disclosure; *provided*, *further*, that if such remedy is not obtained, the Specified Trade Claimant shall furnish only such information as the Specified Trade Claimant is legally required to provide.

8. The undersigned hereby represent and warrant that: (a) they have full authority to execute this Trade Agreement on behalf of the respective Parties; (b) the respective Parties have full knowledge of, and have consented to, this Trade Agreement; and (c) they are fully authorized to bind the Party to all of the terms and conditions of this Trade Agreement.

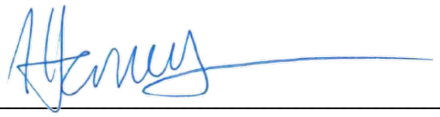
9. This Trade Agreement sets forth the entire understanding of the Parties regarding the subject matter hereof and supersedes all prior oral or written agreements between them. This Trade Agreement may not be changed, modified, amended or supplemented, except in a writing signed by both Parties.

10. This Trade Agreement may be executed in counterparts, each of which shall be deemed to be an original, but all of which shall constitute one and the same agreement. Signatures by facsimile or electronic signatures shall count as original signatures for all purposes.

AGREED AND ACCEPTED AS OF THE DATE SET FORTH ABOVE:

| **[APPLICABLE DEBTOR]** | **[TRADE CLAIMANT]** |
| --- | --- |
| _____ | _____ |

**THIS IS EXHIBIT "G"**
**TO THE SECOND AFFIDAVIT OF DANIEL VAS**
**SWORN BEFORE ME OVER VIDEOCONFERENCE**
**THIS 7TH DAY OF OCTOBER, 2022**



Commissioner for Taking Affidavits

**UNITED STATES BANKRUPTCY COURT**
**SOUTHERN DISTRICT OF NEW YORK**

| | |
|---|---|
| ***In re*** | **Chapter 11** |
| **ENDO INTERNATIONAL plc, *et al.*,** | **Case No. 22-22549 (JLG)** |
| **Debtors.**[1] | **(Jointly Administered)**<br>**Related Docket Nos. 12, 84, 273** |

**FINAL ORDER AUTHORIZING (I) DEBTORS TO PAY CERTAIN PREPETITION TAXES, GOVERNMENTAL ASSESSMENTS, AND FEES; AND (II) FINANCIAL INSTITUTIONS TO HONOR AND PROCESS RELATED CHECKS AND TRANSFERS**

Upon the motion (the "Motion")[2] of the debtors and debtors in possession (collectively, the "Debtors") in the above-captioned cases (the "Chapter 11 Cases"), pursuant to sections 105(a), 363(b), 507(a) and 541 of the Bankruptcy Code for entry of an interim order and a final order (this "Final Order") authorizing, but not directing, (i) the Debtors, in their sole discretion, to make payments to certain international, federal, state, and local governmental and quasi-governmental units on account of prepetition Taxes and Fees; and (ii) the Banks to receive, process, honor, and pay any and all checks, drafts, and other forms of payment, including, but not limited to, fund transfers, on account of the Taxes and Fees, whether such checks or other requests were submitted before, on, or after the Petition Date, as set forth more fully in the Motion; and the Court having reviewed the Motion and held a hearing to consider the relief requested in the Motion (the "Hearing"); and the Court having found that (a) the Court has jurisdiction over this matter

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1 The last four digits of Debtor Endo International plc's tax identification number are 3755. Due to the large number of debtors in these chapter 11 cases, a complete list of the debtor entities and the last four digits of their federal tax identification numbers is not provided herein. A complete list of such information may be obtained on the website of the Debtors' claims and noticing agent at https://restructuring.ra.kroll.com/Endo. The location of the Debtors' service address for purposes of these chapter 11 cases is: 1400 Atwater Drive, Malvern, PA 19355.

2 Capitalized terms used but not defined herein shall have the meanings ascribed to such terms in the Motion.

pursuant to 28 U.S.C. §§ 157(a)-(b) and 1334(b) and the Amended Standing Order of Reference M-431, dated January 31, 2012 (Preska, C.J.); (b) this is a core proceeding pursuant to 28 U.S.C. §§ 157(a)-(b) and 1334(b); (c) venue is proper before the Court pursuant to 28 U.S.C. §§ 1408 and 1409; and (d) due and proper notice of the Motion and Hearing was sufficient under the circumstances; and the Court having determined that the legal and factual bases set forth in the Motion and at the Hearing establish just cause for the relief granted herein; and the Court having determined that immediate relief is necessary to avoid irreparable harm to the Debtors and their estates as contemplated by Bankruptcy Rule 6003(b) and is in the best interests of the Debtors, their estates, creditors and all parties in interest; now, therefore,

**IT IS HEREBY ORDERED THAT:**

1. The Motion is GRANTED on a final basis as set forth herein.

2. The Debtors are authorized, but not directed, in their sole discretion, to pay the Taxes and Fees (without regard to whether the Taxes and Fees accrued or arose before, on, or after the Petition Date), including, but not limited to, all of those Taxes and Fees subsequently determined, upon audit or otherwise, to be owed, with all such payments subject to, and in compliance with, any interim or final order approving the Debtors' use of cash collateral (the "Cash Collateral Order"). In no event shall the Debtors pay any prepetition Taxes before such amounts are due and payable, and this Final Order shall not be deemed to allow the Debtors to accelerate payment of any amounts for any Taxes that may be due and owing by the Debtors.

3. The Debtors will provide the official committee of unsecured creditors (the "UCC"), the official committee of opioid claimants (the "OCC"), and the Ad Hoc First Lien Group with seven (7) days' notice prior to entering into settlements of claims for Taxes and Fees asserted in excess of $5,000,000.

4. All Banks are (a) authorized and directed to receive, process, honor, and pay any and all checks, drafts, electronic transfers, and other forms of payment used by the Debtors on account of the Taxes and Fees, whether presented before, on, or after the Petition Date; *provided, however*, that sufficient funds are on deposit in the applicable accounts to cover such payments; and (b) prohibited from placing any hold on, or attempting to reverse, any automatic transfer on account of the Taxes and Fees. The Banks shall rely on the representations of the Debtors as to which checks and fund transfers should be honored and paid pursuant to this Final Order without any duty of further inquiry and without liability for following the Debtors' instructions.

5. Any party receiving payment from the Debtors is authorized and directed to rely on the representations of the Debtors as to which payments are authorized by this Final Order.

6. The Debtors shall maintain a matrix/schedule of payments made pursuant to this Final Order, including the following information: (a) the names of the payee; (b) the nature, date and amount of the payment; (c) the category or type of payment as characterized in the Motion; (d) the Debtor or Debtors that made the payment; and (e) the aggregate total of payments issued as compared to the relief granted pursuant to this Final Order. The Debtors shall provide a copy of such matrix/schedule to the U.S. Trustee, counsel to the Ad Hoc First Lien Group, counsel to the Ad Hoc Cross-Holder Group, counsel to the future claims representative, Kramer Levin Naftalis & Frankel LLP (Attn: Kenneth H. Eckstein, Esq. (keckstein@kramerlevin.com), Amy Caton, Esq. (acaton@kramerlevin.com), Rachael Ringer, Esq. (rringer@kramerlevin.com), and Megan M. Wasson, Esq. (mwasson@kramerlevin.com)), counsel to the UCC, and Cooley LLP (Attn: Summer M. McKee, Esq. (smckee@cooley.com), Cullen Speckhart, Esq.

(cspeckhart@cooley.com), and Evan Lazerowitz, Esq. (elazerowitz@cooley.com)), counsel to the OCC, every 30 days beginning upon entry of this Final Order.

7. Notwithstanding anything to the contrary contained herein, any payment to be made hereunder, and any authorization contained, hereunder herein, shall be subject to the Cash Collateral Order and any budget in connection with any such use of cash collateral. To the extent there is any inconsistency between the terms of the Cash Collateral Order and any action taken or proposed to be taken hereunder, the terms of the Cash Collateral Order shall control.

8. Nothing contained in the Motion or this Final Order, nor any payment made pursuant to the authority granted by this Final Order, shall constitute or be construed as (a) an implication or admission as to the validity of any claim against the Debtors or a finding that any particular claim is an administrative expense claim or other priority claim; (b) a waiver of the Debtors' or any other party-in-interest's rights to dispute the amount of, basis for, or validity of any claim against the Debtors; (c) a waiver of any claims or causes of action that may exist against any creditor or interest holder; (d) a promise or requirement to pay any claim; (e) a concession by the Debtors that any liens (contractual, common law, statutory or otherwise) satisfied pursuant to the Motion are valid (and all rights to contest the extent, validity or perfection or seek avoidance of all such liens are expressly reserved); (f) an approval, assumption, adoption, or rejection of any agreement, contract, program, policy, or lease between the Debtors and any third party under section 365 of the Bankruptcy Code; (g) a waiver of the obligation of any party in interest to file a proof of claim; or (h) otherwise affecting the Debtors' rights under section 365 of the Bankruptcy Code to assume or reject any executory contract or unexpired lease.

9. Nothing in the Motion or this Final Order, nor as a result of any payment made pursuant to this Final Order, shall be deemed or construed as a waiver of the right of the

Debtors, or shall impair the ability of the Debtors, to contest the validity and amount of any payment made pursuant to this Final Order.

10. Nothing herein shall create, nor is intended to create, any rights in favor of or enhance the status of any claim held by any party.

11. Notwithstanding Bankruptcy Rule 6004(h), this Final Order shall be effective and enforceable immediately upon entry.

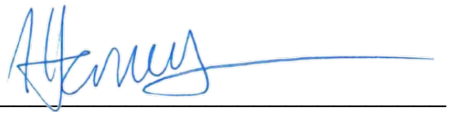
12. The Debtors are authorized and empowered to take all action necessary to effectuate the relief granted in this Final Order (including, without limitation, making copies of this Final Order, the Motion and any materials or other information related thereto available in any local language in a jurisdiction in which the Debtors or their affiliates operate).

13. This Court shall retain jurisdiction with respect to all matters arising from or related to the implementation, interpretation or enforcement of this Final Order.

Dated: September 30, 2022
New York, New York

/s/ *James L. Garrity, Jr.*
THE HONORABLE JAMES L. GARRITY, JR.
UNITED STATES BANKRUPTCY JUDGE

**THIS IS EXHIBIT "H"**
**TO THE SECOND AFFIDAVIT OF DANIEL VAS**
**SWORN BEFORE ME OVER VIDEOCONFERENCE**
**THIS 7TH DAY OF OCTOBER, 2022**



Commissioner for Taking Affidavits

**UNITED STATES BANKRUPTCY COURT**
**SOUTHERN DISTRICT OF NEW YORK**

| | |
|---|---|
| ***In re*** | **Chapter 11** |
| **ENDO INTERNATIONAL plc, *et al.*,** | **Case No. 22-22549 (JLG)** |
| **Debtors.**[1] | **(Jointly Administered)** |
| | **Related Docket Nos. 13, 93, 272** |

**FINAL ORDER AUTHORIZING (I) THE DEBTORS TO CONTINUE AND RENEW THEIR INSURANCE PROGRAMS AND HONOR ALL OBLIGATIONS IN RESPECT THEREOF; (II) FINANCIAL INSTITUTIONS TO HONOR AND PROCESS RELATED CHECKS AND TRANSFERS; AND (III) THE DEBTORS TO MODIFY THE AUTOMATIC STAY WITH RESPECT TO WORKERS' COMPENSATION CLAIMS**

Upon the motion (the "Motion")[2] of the debtors and debtors in possession (collectively, the "Debtors") in the above-captioned cases (the "Chapter 11 Cases"), pursuant to sections 105(a), 363(b), 507(a) and 541 of the Bankruptcy Code for entry of an interim order and a final order (this "Final Order") authorizing, but not directing, (i) the Debtors to continue and, in consultation with the Ad Hoc First Lien Group, renew their Insurance Programs, (ii) the financial institutions to honor and process related checks and transfers, and (iii) the Debtors to modify the automatic stay, if and to the extent applicable, with respect to the Workers' Compensation Claims, all as set forth more fully in the Motion; and the Court having reviewed the Motion and held a hearing to consider the relief requested in the Motion on a final basis (the "Hearing"); and the

[1] The last four digits of Debtor Endo International plc's tax identification number are 3755. Due to the large number of debtors in these chapter 11 cases, a complete list of the debtor entities and the last four digits of their federal tax identification numbers is not provided herein. A complete list of such information may be obtained on the website of the Debtors' claims and noticing agent at https://restructuring.ra.kroll.com/Endo. The location of the Debtors' service address for purposes of these chapter 11 cases is: 1400 Atwater Drive, Malvern, PA 19355.

[2] Capitalized terms used but not defined herein shall have the meanings ascribed to such terms in the Motion.

Court having found that (a) the Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157(a)-(b) and 1334(b) and the Amended Standing Order of Reference M-431, dated January 31, 2012 (Preska, C.J.); (b) this is a core proceeding pursuant to 28 U.S.C. §§ 157(a)-(b) and 1334(b); (c) venue is proper before the Court pursuant to 28 U.S.C. §§ 1408 and 1409; and (d) due and proper notice of the Motion and Hearing was sufficient under the circumstances; and the Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and the Court having determined that immediate relief is necessary to avoid irreparable harm to the Debtors and their estates as contemplated by Bankruptcy Rule 6003(b) and is in the best interests of the Debtors, their estates, creditors and all parties in interest; now, therefore,

**IT IS HEREBY ORDERED THAT:**

1. The Motion is GRANTED on a final basis as set forth herein.

2. The Debtors are hereby authorized, but not directed, in their sole discretion, to continue their Insurance Programs—including, but not limited to, the Insurance Policies[3], the surety bonds listed on **Exhibit D** attached to the Motion, and the Letters of Credit listed on **Exhibit E** attached to the Motion—without interruption and in accordance with the same practices and procedures as were in effect prior to the Petition Date.

3. The Debtors are authorized, but not directed, in their sole discretion, to pay prepetition and postpetition obligations, if any, that may be owed in connection with the Insurance Programs (including Broker's fees, insurance deductibles, and other amounts), whether due and payable before, on or after the Petition Date to the extent any such obligations are owed, *provided,*

[3] For the avoidance of doubt, the term Insurance Policies shall include all insurance policies (including those providing workers' compensation coverage) issued or providing coverage at any time to the Debtors or their predecessors, whether expired, current or prospective, and any agreements related thereto, whether or not listed on **Exhibit C** attached to the Motion.

*that,* the Debtors shall provide five (5) days' notice to the Ad Hoc First Lien Group, the official committee of unsecured creditors (the "UCC"), and the official committee of opioid claimants (the "OCC") of any payments to Marsh LLC relating to prepetition obligations exceeding $25,000.

4. The Debtors are authorized, but not directed, in consultation with the Ad Hoc First Lien Group, the UCC, and the OCC to renew or obtain new Insurance Policies or execute other agreements in connection with their Insurance Programs, including, without limitation, upon the expiration or termination of any Insurance Policy. The Debtors shall provide five (5) days' notice to the Ad Hoc First Lien Group, the UCC, and the OCC before making any material modifications to any of the Debtors' material Insurance Programs, including terminating or permitting any material Insurance Policies to lapse.

5. For the avoidance of doubt, this Final Order does not (a) alter, amend or modify the terms and conditions of any of the Insurance Policies, (b) relieve the Debtors or the Insurers of any of their respective obligations under the Insurance Policies, or (c) alter, in any way, the rights of any Insurer to contest and/or litigate the existence, primacy and/or scope of available coverage under the Insurance Policies or the rights of the Debtors under the Bankruptcy Code or otherwise with respect to any such contest or litigation.

6. All Banks are (a) authorized and directed to receive, process, honor, and pay any and all checks, drafts, electronic transfers, and other forms of payment used by the Debtors on account of the Insurance Programs, whether presented before, on, or after the Petition Date, and (b) prohibited from placing any hold on, or attempting to reverse, any automatic transfer on account of the Insurance Programs. The Banks shall rely on the representations of the Debtors as to which checks and fund transfers should be honored and paid pursuant to this Final Order without any duty of further inquiry and without liability for following the Debtors' instructions.

7. The Debtors shall maintain a matrix/schedule of payments made pursuant to this Final Order, including the following information: (a) the names of the payee; (b) the nature, date and amount of the payment; (c) the category or type of payment as characterized in the Motion; and (d) the Debtor or Debtors that made the payment. The Debtors shall provide a copy of such matrix/schedule to the U.S. Trustee, counsel to the Ad Hoc First Lien Group, counsel to the Ad Hoc Cross-Holder Group, counsel to the future claims representative, Kramer Levin Naftalis & Frankel LLP (Attn: Kenneth H. Eckstein, Esq. (keckstein@kramerlevin.com), Amy Caton, Esq. (acaton@kramerlevin.com), Rachael Ringer, Esq. (rringer@kramerlevin.com), and Megan M. Wasson, Esq. (mwasson@kramerlevin.com)), counsel to the UCC, and Cooley LLP (Attn: Summer M. McKee, Esq. (smckee@cooley.com), Cullen Speckhart, Esq. (cspeckhart@cooley.com), and Evan Lazerowitz, Esq. (elazerowitz@cooley.com)), counsel to the OCC, every 30 days beginning upon entry of this Final Order.

8. Any party receiving payment from the Debtors is authorized and directed to rely on the representations of the Debtors as to which payments are authorized by this Final Order.

9. The Debtors are authorized, but not directed, to continue their workers' compensation Insurance Policies and to pay or set off, subject to terms of the Insurance Policies, any outstanding prepetition claims, taxes, charges, assessments, premiums, and third-party administrator fees arising under the workers' compensation Insurance Policies in which they participate. The Debtors shall provide the Ad Hoc First Lien Group, the OCC, the UCC with quarterly reports regarding accrued liability of other workers' compensation claims.

10. The automatic stay of section 362 of the Bankruptcy Code, if and to the extent applicable, is hereby lifted without further order of this Court, to allow (a) Workers' Compensation Claims (whether arising prior to or subsequent to the Petition Date) to proceed in

the appropriate judicial or administrative forum under the applicable workers' compensation Insurance Policies; (b) the Debtors' workers' compensation Insurers and/or third-party administrators to handle, administer, defend, negotiate, settle, litigate and/or pay Workers' Compensation Claims and direct action claims, whether such claims arose before, on, or after the Petition Date.

11. Notwithstanding anything to the contrary contained herein, any payment to be made hereunder, and any authorization contained, hereunder herein, shall be subject to and in accordance with any interim and final orders, as applicable, approving the use of cash collateral (the "Cash Collateral Order") and any budget in connection with any such use of cash collateral. To the extent there is any inconsistency between the terms of the Cash Collateral Order and any action taken or proposed to be taken hereunder, the terms of the Cash Collateral Order shall control.

12. Nothing in this Final Order shall obligate The Hartford Fire Insurance Company and/or its affiliated sureties (collectively, "The Hartford") to issue and/or execute any surety bond or related instrument or to renew, alter, amend or increase the amount of any existing surety bond or related instruments that were issued and/or executed by The Hartford on behalf of any of the Debtors or their non-debtor affiliates prior to or after the entry of this Final Order. The Debtors are authorized to, post-petition, comply with all of their common law and/or contractual obligations to The Hartford. To the extent any post-petition obligations of the Debtors to The Hartford are unpaid, they shall be afforded administrative priority claim status; and all other rights of The Hartford and the Debtors are expressly reserved and not waived.

13. Nothing contained in the Motion or this Final Order, nor any payment made pursuant to the authority granted by this Final Order, shall constitute or be construed as (a) an implication or admission as to the validity of any claim against the Debtors, (b) a waiver of the

Debtors' or any other party-in-interest's rights to dispute the amount of, basis for, or validity of any claim against the Debtors, (c) a waiver of any claims or causes of action that may exist against any creditor or interest holder, (d) a promise to pay any claim, (e) a concession by the Debtors that any lien (contractual, common law, statutory or otherwise) satisfied pursuant to the Motion are valid (and all rights to contest the extent, validity or perfection or seek avoidance of all such liens are expressly reserved), (f) an approval, assumption, adoption, or rejection of any agreement, contract, program, policy, or lease between the Debtors and any third party under section 365 of the Bankruptcy Code, (g) a waiver of the obligation of any party in interest to file a proof of claim, or (h) otherwise affecting the Debtors' rights under section 365 of the Bankruptcy Code to assume or reject any executory contract or unexpired lease.

14. Nothing in the Motion or this Final Order, nor as a result of any payment made pursuant to this Final Order, shall be deemed or construed as a waiver of the right of the Debtors, or shall impair the ability of the Debtors, to contest the validity and amount of any payment made pursuant to this Final Order.

15. Nothing herein shall create, nor is intended to create, any rights in favor of or enhance the status of any claim held by any party.

16. Notwithstanding Bankruptcy Rule 6004(h), this Final Order shall be effective and enforceable immediately upon entry.

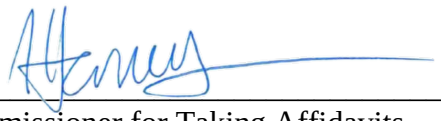
17. The Debtors are authorized and empowered to take all action necessary to effectuate the relief granted in this Final Order.

18. This Court shall retain jurisdiction with respect to all matters arising from or related to the implementation, interpretation, or enforcement of this Final Order.

Dated: September 30, 2022
New York, New York

/s/ *James L. Garrity, Jr.*
THE HONORABLE JAMES L. GARRITY, JR.
UNITED STATES BANKRUPTCY JUDGE

**THIS IS EXHIBIT "I"**
**TO THE SECOND AFFIDAVIT OF DANIEL VAS**
**SWORN BEFORE ME OVER VIDEOCONFERENCE**
**THIS 7TH DAY OF OCTOBER, 2022**



Commissioner for Taking Affidavits

**UNITED STATES BANKRUPTCY COURT**
**SOUTHERN DISTRICT OF NEW YORK**

| | |
|---|---|
| ***In re*** | **Chapter 11** |
| **ENDO INTERNATIONAL plc, *et al.*,** | **Case No. 22-22549 (JLG)** |
| **Debtors.**[1] | **(Jointly Administered)** |
| | **Related Docket Nos. 16 & 85** |

**FINAL ORDER (I) AUTHORIZING THE DEBTORS TO (A) CONTINUE USING EXISTING CASH MANAGEMENT SYSTEMS, BANK ACCOUNTS, AND BUSINESS FORMS AND (B) IMPLEMENT CHANGES TO THEIR CASH MANAGEMENT SYSTEM IN THE ORDINARY COURSE OF BUSINESS; (II) GRANTING ADMINISTRATIVE EXPENSE PRIORITY FOR POSTPETITION INTERCOMPANY CLAIMS; (III) GRANTING A WAIVER WITH RESPECT TO THE REQUIREMENTS OF 11 U.S.C. § 345(b); AND (IV) GRANTING RELATED RELIEF**

Upon the motion (the "Motion")[2] of the debtors and debtors in possession (collectively, the "Debtors" and, together with their non-debtor affiliates, the "Company") in the above-captioned chapter 11 cases (the "Chapter 11 Cases") for an interim order and a final order (this "Final Order" or "Order") (i) authorizing the Debtors to (a) continue using their Cash Management System, Bank Accounts, and Business Forms, (b) pay any prepetition and postpetition fees and expenses owed to the Banks, including the Bank Fees, to the extent due and owing pursuant to the prepetition agreements governing the Bank Accounts; (c) implement changes to their Cash Management System in the ordinary course of business, (d) continue Intercompany Transactions in the ordinary

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[1] The last four digits of Debtor Endo International plc's tax identification number are 3755. Due to the large number of debtors in these chapter 11 cases, a complete list of the debtor entities and the last four digits of their federal tax identification numbers is not provided herein. A complete list of such information may be obtained on the website of the Debtors' claims and noticing agent at https://restructuring.ra.kroll.com/Endo. The location of the Debtors' service address for purposes of these chapter 11 cases is: 1400 Atwater Drive, Malvern, PA 19355.

[2] Capitalized terms used but not defined herein shall have the meanings ascribed to such terms in the Motion.

course of business; (ii) granting administrative expense priority for claims arising from postpetition Intercompany Transactions; and (iii) granting related relief, all as more fully set forth in the Motion; and the Court having reviewed the Motion and the First Day Declaration and held a hearing to consider the relief requested in the Motion (the "Hearing"); and the Court having found that (a) the Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and the Amended Standing Order of Reference M-431, dated January 31, 2012 (Preska, C.J.); (b) this is a core proceeding pursuant to 28 U.S.C. § 157(a)-(b) and 1334(b); (c) venue is proper before the Court pursuant to 28 U.S.C. §§ 1408 and 1409; and (d) due and proper notice of the Motion has been provided to the notice parties and it appearing that no other or further notice need be provided; and the Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and it appearing that the relief requested in the Motion is necessary to avoid immediate and irreparable harm to the Debtors and their estates and is in the best interests of the Debtors, their estates, creditors, and other parties-in-interest after taking into account the priority scheme of the Bankruptcy Code; and upon all of the proceedings had before the Court and after due deliberation and sufficient cause appearing therefor;

**IT IS HEREBY ORDERED THAT**

1. The Motion is GRANTED on a final basis as set forth herein.

2. The Debtors are authorized, but not directed, in their sole discretion, to (a) continue operating the Cash Management System, including through Intercompany Transactions, and (b) make ordinary course changes to their Cash Management System; *provided that* the Debtors shall provide reasonable notice to counsel to the Ad Hoc First Lien Group, counsel to the Official Committee of Unsecured Creditors (the "UCC"), counsel to the Official Committee of Opioid Claimants (the "OCC"), counsel to the future claimants' representative (as proposed or

appointed in the Chapter 11 Cases (the "FCR")), and the U.S. Trustee prior to making any material change to the Cash Management System.

3. The Debtors are further authorized, but not directed, pursuant to the terms of this Final Order, to continue using any or all of their existing Bank Accounts in the names and with the account numbers existing immediately before the Petition Date.

4. The Debtors are authorized, on the terms set forth in this Final Order, to open any new bank accounts or close any existing Bank Accounts as they may deem necessary and appropriate; *provided that* in the event the Debtors open a new bank account they shall open one at an Authorized Depository and shall timely indicate the opening of such account on the Debtors' monthly operating report and shall provide five business days' notice to the U.S. Trustee, counsel to the Ad Hoc First Lien Group, counsel to the Ad Hoc Cross-Holder Group, counsel to the FCR, and the UCC of the opening of any new bank accounts at an Authorized Depository or closing of any Bank Account; *provided, further* that the Debtors shall consult with counsel to the Ad Hoc First Lien Group and the UCC (y) before closing any Bank Account that maintains a balance or (z) opening of any new bank account at an Authorized Depository. The Debtors are not authorized to open any new investment accounts, as these investment accounts do not comply with sections 345(a) or 345(b) of the Bankruptcy Code.

5. The Banks are authorized to continue to treat, service, and administer the Bank Accounts as accounts of the respective Debtor as a debtor in possession without interruption and in the usual and ordinary course and to receive, process and honor and pay any and all postpetition checks, drafts, book transfers, wires or automated clearinghouse transfers ("ACH Transfers") drawn on the Bank Accounts by the holders or makers thereof, as the case may be, to the extent the Debtors have good funds standing to their credit with such Bank.

6. Notwithstanding anything to the contrary in any other order of this Court, the Banks (a) are authorized to accept and honor all representations from the Debtors as to which checks, drafts, book transfers, wires, or ACH Transfers should be honored or dishonored, consistent with any order of this Court and governing law, whether such checks, drafts, book transfers, wires, or ACH Transfers are dated prior to, on or subsequent to the Petition Date, and whether the Banks believe the payment is or is not authorized by an order of this Court and (b) have no duty to inquire as to whether such payments are authorized by an order of this Court.

7. The Banks shall not be deemed in violation of this Order and shall have no liability to any party for (i) relying on such representations by the Debtors or (ii) honoring any disbursement that is subject to this Order, in the case of this clause (ii), either (a) at the direction of the Debtors to honor such prepetition disbursement, (b) in the good faith belief that this Court has authorized such prepetition disbursement, or (c) as a result of any operational processing errors or other mistakes which are the result of human error or made despite implementation of reasonable item handling procedures, including, without limitation, any inadvertent dishonoring of any payment or other disbursement directed to be made by the Debtors. To the extent that the Debtors direct that any disbursement be dishonored or the Banks inadvertently dishonor any disbursements, the Debtors may issue replacement disbursements consistent with the orders of this Court.

8. In accordance with current practice and the agreement governing the Bank Accounts, the Banks are authorized to "charge back" to the Debtors' accounts any amounts incurred by the Banks resulting from returned checks or other returned items. The Debtors are authorized without any further order of this Court to pay any fees and expenses owed to the Banks, including any Bank Fees or reasonable and documented legal expenses (to the extent due and

owing pursuant to the prepetition agreements governing the Bank Accounts), payable prepetition or postpetition (as administrative expenses), in each case regardless of whether such items were deposited prepetition or postpetition or relate to prepetition or postpetition items.

9. The Debtors are authorized to use their existing Business Forms and are not required to (a) obtain new stock reflecting their status as debtors in possession or (b) print "Debtor-in-Possession," the Debtors' Chapter 11 Case numbers, or any other information on any of their existing Business Forms or wire transfers; *provided* that once the Debtors' existing Business Forms have been used, the Debtors shall, when re-ordering or issuing new Business Forms during the pendency of these Chapter 11 Cases, include a legend referencing the Debtors as "Debtors-In-Possession" and the lead Debtor's bankruptcy case number on all new Business Forms; *provided, further*, that all electronic Business Forms, including without limitation correspondence and checks, shall immediately include the designation "Debtor in Possession" and the lead Debtor's bankruptcy case number.

10. Any payment from a Bank Account at the request of the Debtors made by a Bank prior to the Petition Date (including any ACH Transfers such Bank is or becomes obligated to settle), or any instruments issued by such Bank on behalf of any Debtor pursuant to a "midnight deadline" or otherwise, shall be deemed to be paid prepetition, whether or not actually debited from the Bank Account prepetition.

11. The Debtors are authorized, but not directed, subject to the terms of this Final Order, to (a) continue the Intercompany Transactions in the ordinary course of business, including with the Non-Debtor Affiliates, and (b) honor and make payments in respect of Intercompany Claims arising after the Petition Date in accordance with the Intercompany Transactions and past practice. Notwithstanding anything to the contrary herein, the Debtors shall

obtain either (1) consent from the UCC, the OCC, the FCR, and the Ad Hoc First Lien Group or (2) relief from the bankruptcy court before (i) effectuating Intercompany Transactions between a Debtor and a Non-Debtor Affiliate that is not an Indian Non-Debtor Affiliate or (ii) engaging in Intercompany Transactions between Debtors and Indian Non-Debtor Affiliates in excess of amounts set forth in the Approved Budget (as defined in the Cash Collateral Order). All Intercompany Claims arising after the Petition Date shall be granted a superpriority administrative expense claim pursuant to section 507(b) of the Bankruptcy Code, subject and junior to any claims, including adequate protection claims, granted in connection with the use of cash collateral in accordance with any interim and final orders, as applicable, approving the use of such cash collateral (the "Cash Collateral Order").

12. Notwithstanding anything to the contrary contained herein, any payment to be made hereunder, and any authorization contained, hereunder herein, shall be subject to the Cash Collateral Order and any budget in connection with any such use of cash collateral. To the extent there is any inconsistency between the terms of the Cash Collateral Order and any action taken or proposed to be taken hereunder, the terms of the Cash Collateral Order shall control.

13. The Debtors shall maintain records of all transfers within the Cash Management System, including the Intercompany Transactions, and all such transfers shall be documented in their books and records so that all prepetition and postpetition transactions may be traced and recorded to the same extent maintained by the Debtors before the Petition Date. Upon a reasonable request by the Ad Hoc First Lien Group, the UCC, or the OCC, the Debtors shall provide access to such books and records to advisors for such requesting party within ten (10) business days and the Debtors will use reasonable best efforts to provide such access within eight (8) business days of such request; *provided that* to the extent the Debtors provide written

information to the Ad Hoc First Lien Group, the UCC, or the OCC pursuant to this paragraph 13, the Debtors shall also provide such written information to the FCR. Additionally, the Debtors will provide, as available in the ordinary course and as soon as reasonably practicable, (i) reconciled intercompany accounts as of the Petition Date, (ii) all loan and operating agreements that generate and/or impact intercompany accounts and Intercompany Transactions, (iii) unreconciled intercompany accounts, (iv) bank account balances and financial statements of the Indian Non-Debtor Affiliates, and (v) other supporting documentation as reasonably requested. Nothing in this Final Order shall modify or impair the ability of any party in interest, to the extent such party (x) has standing or (y) is conferred standing to do so by an order of the Court, to contest the validity, amount, payment or other treatment or priority of any Intercompany Transaction arising postpetition; *provided that* to the extent the UCC, OCC, or FCR have standing to do so, the UCC, OCC, and FCR each reserve any rights it may have to challenge Intercompany Transactions that setoff prepetition Intercompany Transactions with postpetition Intercompany Transactions, and, for the avoidance of doubt, the respective rights of the Debtors and any party in interest to object to or contest any such challenge or contest described in this paragraph are reserved in all respects; *provided further* that solely for purposes of establishing or determining the entitlements to distributions (if any) of holders of claims against and interests in the applicable Debtor and for no other purpose, no settlements, setoffs, or payments made after the Petition Date on account of prepetition Intercompany Transactions shall increase or reduce the amount of any prepetition Intercompany Claims against any Debtor.

14. The Debtors are not authorized to invest and deposit funds in any type of investment accounts, except as provided for in paragraph 15.

15. (1) The Debtors will notify the U.S. Trustee within two (2) business days of the following ("Event of Default"): (i) the cash amount in the E*Trade account (the "Cash Reserve") exceeds $150,000 at the end of a consecutive three (3) business day period; (ii) at any time the Cash Reserve is not subject to the Extended Insurance Sweep Deposit Account ("ESDA") Program; and (iii) at any time holdings in the E*Trade account include anything other than Cash Reserves held pursuant to the ESDA Program and (2) within two (2) business days of an Event of Default, the Debtors shall bond 115% of all holdings in the E*Trade account until the Effective Date.

16. To the extent that a Debtor receives cash from the sale or monetization of any Agreed Unencumbered Assets (as defined below) in the ordinary course of business or otherwise, such cash proceeds, or an amount equal thereto deemed to be on account of such proceeds (such proceeds, the "Cash"), shall be deposited into a separate segregated account not subject to the control or liens of any party once it is determined that such Cash constitutes Agreed Unencumbered Assets. As used herein, "Agreed Unencumbered Assets" shall mean any assets of the Debtors that are not Prepetition Collateral (as defined in Cash Collateral Order) as (a) mutually agreed by the Debtors, the Committees, the Ad Hoc First Lien Group, and the agents for the Prepetition Secured Parties (as defined in the Cash Collateral Order), or (b) determined by a final order of this Court. Nothing in this paragraph 16 shall impact the Debtors' right to use the Cash in the ordinary course of business.

17. Nothing in this Order shall limit the ability of any party in interest with standing to challenge the amount, characterization, or enforceability of any Intercompany Claim against any Debtor.

18. Notwithstanding the Debtors' use of a consolidated cash management system, the Debtors shall calculate quarterly fees payable under 28 U.S.C. § 1930(a)(6), together with interest, if any, under 31 U.S.C. § 3171, based on the disbursements actually made by each Debtor.

19. Nothing contained in the Motion or this Order, nor any payment made pursuant to the authority granted by this Order, shall constitute or be construed as (a) an admission as to the validity of any claim against the Debtors, (b) a waiver of the Debtors', the UCC's, OCC's, or FCR's rights to dispute the amount of, basis for, or validity of any claim against the Debtors, (c) a waiver of any claims or causes of action that may exist against any creditor or interest holder, (d) a promise to pay any claim, (e) an approval, assumption, adoption, or rejection of any agreement, contract, program, policy, or lease between the Debtors and any third party under section 365 of the Bankruptcy Code, or (f) otherwise affecting the Debtors' rights under section 365 of the Bankruptcy Code to assume or reject any executory contract or unexpired lease.

20. Nothing in the Motion or this Order, nor as a result of any payment made pursuant to this Order, shall be deemed or construed as a waiver of the right of the Debtors, or shall impair the ability of the Debtors, to contest the validity and amount of any payment made pursuant to this Order.

21. Nothing herein shall create, nor is intended to create, any rights in favor of or enhance the status of any claim held by any party.

22. Notwithstanding Bankruptcy Rule 6004(h), this Order shall be effective and enforceable immediately upon entry.

23. The Debtors are authorized and empowered to take all action necessary to effectuate the relief granted in this Order.

24. This Court shall retain jurisdiction with respect to all matters arising from or related to the implementation, interpretation, or enforcement of this Order.

Dated: October 3, 2022
New York, New York

/s/ *James L. Garrity, Jr.*
THE HONORABLE JAMES L. GARRITY, JR.
UNITED STATES BANKRUPTCY JUDGE

Court File No. CV-22-00685631-00CL

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

AND IN THE MATTER OF PALADIN LABS CANADIAN HOLDING INC. AND PALADIN LABS INC.

APPLICATION OF PALADIN LABS INC. UNDER SECTION 46 OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED

Applicant

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

Proceeding commenced at Toronto

**AFFIDAVIT OF DANIEL VAS**
**(Sworn October 7, 2022)**

**GOODMANS LLP**
Barristers & Solicitors
333 Bay Street, Suite 3400
Toronto, ON M5H 2S7

**Robert J. Chadwick LSO#: 35165K**
rchadwick@goodmans.ca

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**Andrew Harmes LSO#: 73221A**
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Tel: 416.979.2211
Fax: 416.979.1234

Lawyers for the Applicant

Court File No. CV-22-00685631-00CL

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

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

**AND IN THE MATTER OF PALADIN LABS CANADIAN HOLDING INC. AND PALADIN LABS INC.**

**APPLICATION OF PALADIN LABS INC. UNDER SECTION 46 OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED**

Applicant

**AFFIDAVIT OF ANDREW HARMES**
(Sworn October 7, 2022)

I, Andrew Harmes, of the City of Toronto, in the Province of Ontario, MAKE OATH AND SAY:

1. I am lawyer with the law firm Goodmans LLP, counsel to Paladin Labs Inc. ("**Paladin**") and Paladin Labs Canadian Holding Inc. (together with Paladin, the "**Canadian Debtors**") in the above noted proceedings. As such, I have knowledge of the matters deposed to herein. Capitalized terms used and not defined in this affidavit have the meanings given to them in the Second Affidavit of Daniel Vas sworn October , 2022.

2. On August 16, 2022 (the "**Petition Date**"), Endo International plc and certain of its affiliates, including the Canadian Debtors (collectively, the "**Debtors**") commenced cases (the "**Chapter 11 Cases**") under chapter 11 of the United States Code by filing voluntary petitions in

the United States Bankruptcy Court for the Southern District of New York (the "**Bankruptcy Court**").

3. This affidavit is filed in support of a motion made by Paladin, in its capacity as the foreign representative of the Chapter 11 Cases, for a Second Supplemental Order recognizing and enforcing certain orders (the "**Second Day Orders**") entered by the Bankruptcy Court in the Chapter 11 Cases following a hearing held on September 28, 2022, and granting certain related relief.

4. The Affidavit of Nargis Fazli sworn August 18, 2022, attaches eight motions filed by the Debtors in the Chapter 11 Cases in respect the Second Day Orders.

5. Attached to this affidavit are the following two motions filed by the Debtors in the Chapter 11 Cases in respect of Second Day Orders:

(a) *Motion of the Debtors for entry of an Order (I) Appointing Roger Frankel as Future Claimants' Representative, Effective as of the Petition Date; and (II) Granting Related Relief*, attached as Exhibit "A" hereto; and

(b) *Notice of Hearing and Motion of the Debtors for an Order (I) Authorizing and Approving Procedures For (A) The Use, Sale, Transfer, or Abandonment of De Minimis Assets Free and Clear of Liens, Claims, Interests, and Encumbrances Without Further Order of Court and (B) The Acquisition of De Minimis Assets; (II) Authorizing Payment of Related Fees and Expenses; and (III) Granting Related Relief*, attached as Exhibit "B" hereto.

SWORN BEFORE ME over videoconference by Andrew Harmes stated as being located in the City of Toronto in the Province of Ontario, before me at the City of Toronto in the Province of Ontario, on October 7, 2022, in accordance with O. Reg 431/20 Administering Oath or Declaration Remotely.

Erik Axell

Commissioner for Taking Affidavits
(or as may be)

Erik Axell
85345O

ANDREW HARMES

**THIS IS EXHIBIT "A"**
**TO THE AFFIDAVIT OF ANDREW HARMES**
**SWORN BEFORE ME OVER VIDEOCONFERENCE**
**THIS 7th DAY OF OCTOBER, 2022**

Erik Axell

_____

Commissioner for Taking Affidavits

SKADDEN, ARPS, SLATE, MEAGHER & FLOM LLP
Paul D. Leake
Lisa Laukitis
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*Proposed Counsel to Debtors and Debtors in Possession*

**UNITED STATES BANKRUPTCY COURT**
**SOUTHERN DISTRICT OF NEW YORK**

| | |
|---|---|
| ***In re*** | **Chapter 11** |
| **ENDO INTERNATIONAL plc*, et al.*,** | **Case No. 22-22549 (___)** |
| **Debtors.**[1] | **(Joint Administration Pending)** |

**MOTION OF THE DEBTORS FOR ENTRY OF AN ORDER (I) APPOINTING ROGER FRANKEL AS FUTURE CLAIMANTS' REPRESENTATIVE, EFFECTIVE AS OF THE PETITION DATE; AND (II) GRANTING RELATED RELIEF**

Endo International plc and its debtor affiliates, as debtors and debtors in possession (collectively, the "Debtors" and, together with their non-debtor affiliates, the "Company") in the above-captioned chapter 11 cases (the "Chapter 11 Cases"), respectfully represent in support of this motion (this "Motion") as follows:

[1] The last four digits of Debtor Endo International plc's tax identification number are 3755. Due to the large number of debtors in these chapter 11 cases, a complete list of the debtor entities and the last four digits of their federal tax identification numbers is not provided herein. A complete list of such information may be obtained on the website of the Debtors' claims and noticing agent at https://restructuring.ra.kroll.com/Endo. The location of the Debtors' service address for purposes of these chapter 11 cases is: 1400 Atwater Dr, Malvern PA 19355.

## RELIEF REQUESTED

1. By this Motion, and pursuant to sections 105(a) and 1109(b) of title 11 of the United States Code (the "Bankruptcy Code"), the Debtors request entry of an order, substantially in the form attached hereto as **Exhibit A** (the "Proposed Order"), authorizing the appointment of a legal representative for Future Claimants (as defined below) in the Chapter 11 Cases (such representative, the "FCR") and appointing Roger Frankel as the FCR.

2. The Debtors request that the FCR be appointed to represent and protect the rights of any individual: (a) who, after the effective date of the Debtors' plan of reorganization or liquidation, or after such other date as this Court may order (the "Effective Date"), asserts one or more personal injury claims against a Debtor or successor of the Debtors' businesses based on the Debtors' conduct either: (i) before the Effective Date (as it relates to opioid products); or (ii) before the Petition Date (as defined below) (as it relates to transvaginal mesh and ranitidine products);[2] (b) whose claims arise from opioid products, transvaginal mesh products, or ranitidine products; and (c) who could not assert such claims in the Chapter 11 Cases because, among other reasons, the claimant: (i) was unaware of the injury as of the Effective Date; (ii) has a latent manifestation of the injury after the Effective Date; or (iii) as of the Effective Date, was otherwise unable or incapable of asserting the claims based on the injury (such individuals, the "Future Claimants" and their claims, the "Future Claims"). In support of this Application, the Debtors submit the *Declaration of Roger Frankel in Support of the Motion of the Debtors for Entry of an Order (I) Appointing Roger Frankel as Future Claimants' Representative, Effective as of the Petition Date; and (II) Granting Related Relief* attached hereto as **Exhibit B** (the "Frankel Declaration").

[2] The Debtors have not sold transvaginal mesh or ranitidine products since 2016, so the threshold date for Debtor activity will be measured as of the Petition Date rather than the Confirmation Date.

3. The Debtors request that the FCR have the following rights in the Chapter 11 Cases:

(a) Standing. The FCR shall have standing under section 1109(b) of the Bankruptcy Code to be heard as a party-in-interest in all matters relating to the Chapter 11 Cases and shall have such powers and duties of a committee, as set forth in section 1103 of the Bankruptcy Code, as are appropriate for an FCR.

(b) Right to Receive Notices. The FCR and professionals retained by the FCR and approved by this Court shall have the right to receive all notices and pleadings that are required to be served upon any statutory committee and its counsel pursuant to applicable law or an order of this Court.

(c) Engagement of Professionals. The FCR may, with prior approval from this Court pursuant to sections 105(a) and 1103 of the Bankruptcy Code and consistent with the treatment afforded other professionals in the Chapter 11 Cases, retain attorneys and other professionals.

(d) Compensation. The FCR shall apply for compensation in accordance with the Bankruptcy Code, the Local Bankruptcy Rules for the Southern District of New York (the "Local Rules"), and any order entered by this Court establishing procedures for interim compensation and reimbursement of expenses of professionals. Subject to Court approval, the FCR shall be compensated at an hourly rate of $1,160, subject to periodic adjustment, plus reimbursement of reasonable and documented expenses.

(e) Limitation of Liability. The FCR will not be liable for any damages or have any obligations other than as prescribed by order of this Court; *provided*, *however*, that the FCR may be liable for damages caused by willful misconduct or gross negligence. The FCR will not be liable to any person as a result of any action or omission taken or made in good faith.

(f) Indemnification. The Debtors will indemnify, defend, and hold harmless the FCR and his partners, associates, principals, employees, advisors, and professionals (collectively, the "Indemnified Parties" and each, individually, an "Indemnified Party") from and against any losses, claims, damages, or liabilities (or actions in respect thereof) to which any Indemnified Party may become subject as a result of or in connection with the FCR's rendering of services in his capacity as the FCR, unless and until it is finally judicially determined that such losses, claims, damages, or

liabilities were caused by gross negligence, willful misconduct, or bad faith on the part of one or more of the Indemnified Parties in performing their obligations. The foregoing entitlement of the FCR shall include, without limitation, (i) the right to be indemnified against any liability related or resulting from any information provided by the FCR that is inaccurate in any respect as a result of misrepresentation, omission, failure to update, or otherwise, unless the FCR actually knew of such inaccuracy at the time of the misrepresentation, omission, failure to update, or other occurrence in such action or proceeding, whether such action is concluded, ongoing, or threatened, and (ii) the right to be indemnified for any expenses, including reasonable attorney's fees, that the FCR may incur in enforcing this indemnification provision. Any such indemnification will be an allowed administrative expense under section 503(b) of the Bankruptcy Code. For the avoidance of doubt, gross negligence, willful misconduct, or bad faith on the part of one Indemnified Party will not preclude indemnification for the other Indemnified Parties. If, before the earlier of (i) the effective date of a plan confirmed in the Chapter 11 Cases, and (ii) the entry of an order closing the Chapter 11 Cases, an Indemnified Party believes that he, she, or it is entitled to payment of any amount by the Debtors on account of the Debtors' obligations to indemnify, defend, and hold harmless as set forth herein, including, without limitation, the advancement of defense costs, the Indemnified Party must file an application for such amounts with this Court, and the Debtors may not pay any such amounts to the Indemnified Party before the entry of an order by this Court authorizing such payments. The preceding sentence is intended to specify the period of time during which this Court has jurisdiction over the Debtors' obligations to indemnify, defend, and hold harmless as set forth herein, and is not a limitation on the duration of the Debtors' obligation to indemnify any Indemnified Party. In the event that a cause of action is asserted against any Indemnified Party as a result of or in connection with the FCR's rendering services in his capacity as the FCR, the Indemnified Party shall have the right to choose his, her, or its own counsel.

## JURISDICTION AND VENUE

4. This Court has jurisdiction to consider this matter pursuant to 28 U.S.C. §§ 157 and 1334, and the Amended Standing Order of Reference M-431, dated January 31, 2012 (Preska, C.J.). This is a core proceeding pursuant to 28 U.S.C. § 157(b).

5. Venue of the Chapter 11 Cases and this Motion is proper in this District under 28 U.S.C. §§ 1408 and 1409.

## BACKGROUND

### I. General Background

6. On August 16, 2022 (the "Petition Date"), the Debtors each commenced a case by filing a petition for relief under chapter 11 of the Bankruptcy Code. The Chapter 11 Cases are jointly administered.

7. The Debtors are authorized to continue to operate their businesses and manage their properties as debtors and debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

8. No trustee, examiner, or statutory committee of creditors has been appointed in the Chapter 11 Cases.

9. Additional information regarding the Debtors, including their business operations, their corporate and capital structures, and the events leading to the commencement of the Chapter 11 Cases is set forth in the *Declaration of Mark Bradley in Support of Chapter 11 Petitions and First Day Papers* (the "First Day Declaration") filed contemporaneously herewith and incorporated herein by reference.

### II. The Future Claimants' Representative

10. The Debtors, with the assistance of counsel, evaluated several potential candidates to serve as the FCR before the commencement of these Chapter 11 Cases. In considering the potential candidates, the Debtors were acutely focused on identifying a candidate who had significant experience in the field, a stellar reputation, and who did not present any conflicts of interest in taking on the role. Following careful consideration of the potential candidates, and the interviews of three candidates by the Strategic Planning Committee of the

Debtors' Board of Directors, on July 28, 2022, the Debtors negotiated and entered into an engagement letter (the "Prepetition FCRA") with Roger Frankel to represent the interests of Future Claimants in connection with discussions and negotiations regarding the Debtors' potential restructuring. Critical to this decision was Mr. Frankel's appointment as FCR in the chapter 11 cases of Mallinckrodt plc, a large pharmaceutical company with substantial opioid liabilities. More generally, and as discussed further below, the Debtors selected Mr. Frankel based on his prior experience serving as a fiduciary with respect to future claimants in similar complex mass tort cases under chapter 11 of the Bankruptcy Code. A true and correct copy of the Prepetition FCRA is attached hereto as **Exhibit C**. The Prepetition FCRA terminated in accordance with its terms upon the filing of the Chapter 11 Cases.

11. Mr. Frankel retained his law firm, Frankel Wyron LLP ("FW"), and Young Conaway Stargatt & Taylor, LLP ("YCST") as legal counsel (together, "FCR Counsel"), and FCR Counsel retained Ducera Partners LLC as financial advisor and investment banker and National Economic Research Associates, Inc. as economic and claims estimation consultant (collectively, the "FCR Advisors") to provide advice in connection with such prepetition representation. Prior to the Prepetition FCRA, except as set forth in the Frankel Declaration, Mr. Frankel did not have any association or relationship with, or other connection to, the Debtors.[3]

## BASIS FOR RELIEF

### I. Appointing an FCR is Necessary in the Chapter 11 Cases

12. The Bankruptcy Code defines a "claim" as "(a) right to payment, whether or not such right is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured,

[3] Each FCR Advisor has advised Mr. Frankel that, except as otherwise disclosed in its application to be employed in the Chapter 11 Cases, it has no association or relationship with, or other connection to, the Debtors prior to entering into its pre-petition agreement to advise or consult with the FCR or his counsel.

unmatured, disputed, undisputed, legal, equitable, secured or unsecured; or (b) right to an equitable remedy for breach of performance if such breach gives rise to a right of payment, whether or not such right to an equitable remedy is reduced to judgment, fixed, contingent, matured, unmatured, disputed, undisputed, secured or unsecured." 11 U.S.C. § 101(5). In essence, a claim is "(a) a right to payment (b) that arose before the filing of the petition." *Elliott v. General Motors LLC* (*In re Motors Liquidation Co.*), 829 F.3d 135, 156 (2d Cir. 2016). The Debtors' restructuring will ultimately address any personal injury claims against the Debtor based upon the Debtors' prepetition conduct, including, but not limited to, opioid-, mesh-, and ranitidine-related claims.

13. The Debtors plan to implement robust noticing procedures to provide notice of the deadline for objecting to entry of a sale order to known and unknown holders of personal injury claims. The Debtors recognize however, that there are potential Future Claimants who, given the nature of their claims, may be unable to assert their claims and protect their interests in the Chapter 11 Cases. As a result, the Debtors request that this Court appoint the FCR to represent the interests of any Future Claimants in connection with the Chapter 11 Cases.

14. Under section 1109(b) of the Bankruptcy Code, this Court may appoint a representative to protect the interests of the Future Claimants as "parties in interest." *In re Johns-Manville Corp.*, 36 B.R. 743, 749 (Bankr. S.D.N.Y. 1984) ("Future claimants are undeniably parties in interest to these reorganization proceedings pursuant to the broad, flexible definition of that term. . . . The drafting of 'party in interest' as an elastic concept was designed for just this kind of situation."); *see also Jones v. Chemetron Corp.*, 212 F.3d 199, 209–10 (3d Cir. 2000) (recognizing that future claimants "may require some voice" in the reorganization process and therefore qualify as "parties in interest" under section 1109(b) of the Bankruptcy Code). "[D]ue

process considerations are often addressed by the appointment of a representative to receive notice for and represent the interests of a group of unknown creditors." *Id.* at 209.

15. Without the FCR in the Chapter 11 Cases, a future court may find that, because a Future Claimant did not receive adequate notice to be afforded due process, the claim could not have been discharged through the confirmation of any chapter 11 plan containing a discharge or could otherwise ride through any "free and clear" sale and be asserted against a purchaser. *See DPWN Holdings (USA), Inc. v. United Air Lines, Inc*., 747 F.3d 145, 150 (2d Cir. 2014) ("The discharge of [preconfirmation] claims serves the bankruptcy policy of providing debtors with a fresh start to permit their continued operation free of pre-bankruptcy debts. However, a claim cannot be discharged if the claimant is denied due process because of lack of adequate notice." (internal citations omitted)).

## II. Appointing an FCR Is Appropriate in the Chapter 11 Cases

16. A future claimants' representative is appropriate when: (a) the injury is such that either (i) there is a potential latency period between the exposure and manifestation of an alleged harm or (ii) the nature of the injury itself may make the injured party unable to identify or otherwise incapable of understanding the extent of harm and rights associated; and (b) no current party in the relevant bankruptcy proceeding adequately represents the future claimants' interests. When such circumstances arise, even if the facts fall outside of the narrow framework provided in section 524(g) of the Bankruptcy Code, courts in this District and other districts have approved the appointment of a future claimants' representative to advocate on behalf of future claimants. *See e.g.*, *In re Mallinckrodt plc*, Case No. 20-12522 (JTD) (Bankr. D. Del. June 11, 2021) [Docket No. 2813] (granting the debtors' motion for appointment of an FCR to represent future opioid claimants); *In re Roman Catholic Diocese of Rockville Centre, New York*, Case No. 20-12345 (SCC) (Bankr. S.D.N.Y. Oct. 27, 2021) [Docket No. 799] (appointing a future claimants'

representative for victims of sexual abuse); *In re TK Holdings Inc.*, Case No. 17-11375 (BLS) (Bankr. D. Del. Sept. 6, 2017) [Docket No. 703] (granting the debtors' motion to appoint an FCR for future airbag inflator-related personal injury claimants); *In re Motors Liquidation Company*, Case No. 09-50026 (REG) (Bankr. S.D.N.Y. Apr. 8, 2010) [Docket No. 5509] (granting, pursuant to sections 105(a) and 1109 of the Bankruptcy Code, the debtors' motion to appoint a representative for future asbestos claims pursuant to a sale of substantially all assets under section 363 of the Bankruptcy Code).

17. As described in more detail in the First Day Declaration, the Debtors face thousands of litigation cases surrounding certain products that were manufactured, distributed, or sold by the Debtors. First Day Decl. ¶¶ 49-64. The Debtors commenced the Chapter 11 Cases, among other things, to obtain a comprehensive and permanent resolution of their personal injury related liability.

18. While the Debtors cannot anticipate the complete universe of potential claims by Future Claimants, illustrative examples[4] may include:

(a) With respect to opioid-related claims:

(i) Future Claimants using opioids pursuant to a valid prescription as of the Effective Date who have not been recognized as having, or diagnosed with, an opioid abuse disorder, but such disorder develops or becomes realized after the Effective Date;

(ii) Future Claimants suffering from an opioid abuse disorder as of the Effective Date, but who, as a result of such disorder, are unable to reasonably understand a bankruptcy court notice or their rights as a claimant; and

(iii) Children born after the Effective Date and diagnosed with neonatal abstinence syndrome or similar medical conditions resulting from intrauterine exposure to opioids, but whose

[4] The examples provided are not intended to be an exhaustive list.

mothers were first exposed to opioids before the Effective Date;

(b) Future Claimants who received transvaginal mesh implants manufactured or sold by the Debtors or their predecessors before the Petition Date, but who do not experience symptoms until after the Effective Date; and

(c) Future Claimants using ranitidine manufactured or sold by the Debtors before the Petition Date who are diagnosed with esophageal, bladder, gastric, liver, colorectal, or other cancers from an alleged carcinogen known as NDMA after the Effective Date.

19. For the avoidance of doubt, the examples provided herein are not intended to be an exhaustive list. The Debtors and the FCR further reserve the right to file a motion seeking entry of an order modifying the definition of Future Claimants as described in the Proposed Order without prejudice.

20. The Debtors recognize that, in seeking a comprehensive resolution to personal injury claims, the interests of the Future Claimants would be benefitted by representation by a disinterested party. Current claimants do not provide adequate representation because potential conflicts exist between the interests of current claimants and the Future Claimants (*i.e.*, the desire of current claimants to receive the maximum satisfaction of their current claims now versus the preference of the Future Claimants to preserve a portion of the Debtors' assets in order to satisfy their future personal injury claims). *See In re Johns-Manville Corp.*, 552 B.R. 221, 245 (Bankr. S.D.N.Y. 2016) (finding that a future claimants' representative was appointed to avoid "a conflict of interest between the future asbestos claimants and the present asbestos claimants"). It is therefore necessary and appropriate for this Court to appoint a future claimants' representative to represent the interests of Future Claimants in connection with these chapter 11 proceedings, including negotiations regarding any plan of reorganization or liquidation, the terms of a channeling injunction, and the structure and terms of any compensation trust.

## III. The Appointment of Mr. Frankel as FCR is in the Best Interests of the Future Claimants and the Debtors' Estates

### A. The Initial Engagement of Mr. Frankel as the Prepetition FCR

21. On July 28, 2022, the Debtors entered into the Prepetition FCRA with Mr. Frankel. Subsequent to his engagement, Mr. Frankel retained his law firm, FW, and YCST to advise and represent him in connection with his prepetition work. FCR Counsel retained the FCR Advisors to assist FCR Counsel in providing legal advice to Mr. Frankel. Prior to the Prepetition FCRA, except as otherwise disclosed in the Frankel Declaration, Mr. Frankel did not have any association or relationship with, or other connection to, the Debtors.

22. The Prepetition FCRA expressly provided that Mr. Frankel's sole responsibility and loyalty is to the rights of Future Claimants. *See* **Exhibit C**. The Prepetition FCRA further provided that the Debtors have no right to control or influence how Mr. Frankel or his professionals carry out such duties. *Id*. The Prepetition FCRA terminated in accordance with its terms upon the filing of the Chapter 11 Cases. *Id*.

23. The primary work conducted under the Prepetition FCRA by Mr. Frankel and the FCR Advisors was due diligence and analysis into the Debtors' assets and liabilities, with a special focus on liabilities related to opioid-related personal injury claims. The Debtors and their advisors have worked constructively with Mr. Frankel and his advisors since Mr. Frankel was engaged, including by providing diligence, holding telephonic diligence meetings, and granting access to a data room prior to the Petition Date. Mr. Frankel became familiar with the Debtors' assets, liabilities, and the issues that will need to be addressed and resolved in the Chapter 11 Cases. It is critically important that the Chapter 11 Cases proceed expeditiously to maximize the value of the Debtors' estates for the benefit of all stakeholders, including the Future Claimants. The appointment of Mr. Frankel as FCR avoids the unnecessary expense, delay, and duplication

that would occur if a new future claimants' representative were to be appointed and would have to begin due diligence anew.

### B. Mr. Frankel has the Proper Expertise and Knowledge Surrounding Mass-Tort Bankruptcies

24. Mr. Frankel's many years of experience and involvement with mass tort-related bankruptcy cases and, specifically, his experience as a fiduciary representing future claimants, makes him well qualified to competently and effectively represent the interests of the Future Claimants as a zealous and efficient advocate in the Chapter 11 Cases.

25. As set forth in the Frankel Declaration, Mr. Frankel has more than 20 years of experience in the field of mass tort bankruptcy matters. Since 1972, Mr. Frankel has practiced in the areas of business reorganization and creditors' rights, and he has served as FCR in other chapter 11 cases and as counsel to other future claimants' representatives.

26. Mr. Frankel has previously been found to possess the experience and qualifications necessary to serve as a future claimants' representative. Mr. Frankel's experience in connection with representing future claimants and serving as a future claimants' representative includes, but is not limited to, the following:

(a) Served as FCR for future opioid claims both pre-petition and post-filing in *In re Mallinckrodt plc*, Case No. 20-12522 (JTD) (Bankr. D. Del. 2020) and now serves as the legal representative for future claimants with respect to the opioid personal injury trust established pursuant to the confirmed plan;

(b) Served as FCR in *In re TK Holdings Inc.*, Case No. 17-11375 (BLS) (Bankr. D. Del. 2017) and now serves as the legal representative for future claimants with respect to the personal injury trust established pursuant to the confirmed plan;

(c) Served as counsel to the FCR during the bankruptcy proceedings in *In re Combustion Engineering*, Case No. 03-10495 (Bankr. D. Del. 2003) and now serves as the legal representative for future claimants with respect to the trust established pursuant to the confirmed plan;

(d) Served as FCR during the bankruptcy proceedings in *In re W.R. Grace & Co.*, Case No. 01-01139 (Bankr. D. Del. 2001) and now serves as the legal representative for future claimants with respect to the trust established pursuant to the confirmed plan;[5] and

(e) Presently serves as FCR in *In re Cyprus Mines Corp.*, Case No. 21-10398 (LSS) (Bankr. D. Del. 2021).

27. Mr. Frankel's many years of experience and involvement with mass tort related bankruptcy cases, as well as his experience directly related to the representation of the interests of future claimants, makes him well qualified to competently and effectively represent the interests of the Future Claimants in the Chapter 11 Cases.

**C. Appointing an Experienced FCR is in the Best Interests of Future Claimants**

28. Bankruptcy courts have consistently held that a future claimants' representative's experience is a key and pivotal consideration in the FCR's appointment. *See, e.g.*, *In re Fairbanks Co.*, 601 B.R. 831, 842-43 (Bankr. N.D. Ga. 2019) (finding that an important factor in appointing a future claimants' representative includes "significant experience in mass tort bankruptcy cases," enabling a future claimants' representative to "expedite and prioritize issues in order to minimize costs and maximize returns"); *In re Imerys Talc America, Inc.*, Case No. 19-10289 (LSS), (Bankr. D. Del. May 8, 2019) [Docket No. 503 at 10] (holding that the nominee's "knowledge, experience, and expertise to be the legal representative for [future claimants]" proved he was "up to the task"); *In re Duro Dyne*, Case No. 18-27963 (Bankr. D.N.J. Oct. 16, 2018), [Docket No. 189 at 17:16-19] (observing that the only way to measure an applicant's "effectiveness at the early stage of the proceeding," is to "look to the applicant's experience and knowledge").

[5] David Austern, the original FCR appointed in *W.R. Grace & Co.*, died during the pendency of the case, and the court appointed Mr. Frankel as the successor FCR.

29. Appointing an experienced FCR is critical to ensure that the interests of Future Claimants will be properly represented in negotiations and that the Future Claimants have a zealous advocate in, among other things, negotiating the terms of a chapter 11 plan or any settlement involving Future Claimants, and establishing and negotiating appropriate trust distribution procedures and related documentation that will govern any trust created. Appointment of an experienced FCR also minimizes the potential for missteps that could prolong the Debtors' reorganization process, delay payments to claimants, and result in substantially increased professional fees and other bankruptcy-related expenses.

### D. Appointment of the Proposed FCR is in the Best Interests of the Debtors' Estates

30. The appointment of Mr. Frankel as the FCR will best serve the interests of the Debtors' estates, their creditors, and Future Claimants in the Chapter 11 Cases. Courts have held that appointing an FCR who was engaged prepetition enables a more efficient administration of a debtor's estate thereby retaining valuable assets for distribution to current and future claimants while simultaneously preventing any due process concerns by affording future claimants a seat at the table as prepetition diligence and negotiations are conducted. *See In re Maremont Corp.*, Case No. 19-10118 (KJC) (Bankr. D. Del. March 11, 2019) [Docket No. 126 at 102:6-10] ("Much money and time has already been spent by [the future claimants' representative] as his role, in his role as prepetition [future claimants' representative] and it seems under these circumstances counterintuitive to want to pay someone new to spend time and money getting caught up."); *see also In re Duro Dyne*, Case No. 18-27963 (MBK) (Bankr. D.N.J. Oct. 16, 2018) [Docket No. 189 at 21:5-22:9] ("The pre-petition selection of, negotiations with and payment to any pre-petition FCR is critical for a successful pre-negotiated case. . . . This Court will not however imperil this company's reorganization, add layers of additional administrative expenses, place at risk the jobs

of hundreds of employees, or unnecessarily jeopardize the recoveries for present and future claimants by delaying this reorganization through the appointment of a new future rep.").

31. Further, Mr. Frankel and the FCR Advisors have already begun familiarizing themselves with the Debtors' assets, liabilities, personal injury-related claims, and the issues that will need to be addressed and resolved in the Chapter 11 Cases. On or around July 31, 2022, Mr. Frankel and the FCR Advisors were given access to a virtual data room containing approximately 200 documents for purposes of conducting due diligence and analysis with respect to the Debtors' assets and liabilities, insurance and other business affairs, focusing specifically on personal injury-related claims. The Debtors spent significant time reviewing information to determine what could appropriately be shared with Mr. Frankel and the FCR Advisors prior to the commencement of these Chapter 11 Cases. Since giving Mr. Frankel and the FCR Advisors access to the virtual data room, the Debtors have received additional diligence requests from the FCR Advisors and continue to provide additional documents and respond to additional diligence requests on a rolling basis.

32. Appointing a different legal representative to serve as the FCR would not only create inefficiencies as a result of the requisite duplicative work that would need to be performed by the new legal representative to learn about the Debtors and their opioid, transvaginal mesh, and ranitidine liabilities, but it would also require the Debtors' estates to incur costs they would otherwise not have to incur.

33. The time and costs that the Debtors' estates would expend if a new FCR was appointed would unnecessarily deplete estate assets, ultimately reduce the amount of estate funds potentially available to fund a trust that would pay out claims to current claimants and the Future Claimants and delay meaningful discussions between the Debtors and representatives of

Future Claimants at the start of the Chapter 11 Cases, which are critical to reaching a conclusion of the Chapter 11 Cases.

34. It is critically important that the Chapter 11 Cases proceed expeditiously in order to maximize the value of the Debtors' estates for the benefit of Future Claimants and other stakeholders. The appointment of Mr. Frankel as the FCR avoids the unnecessary expense, delay, and duplication that would occur if a new representative were to be appointed and would have to begin due diligence and the process of retaining any additional advisors anew. As such, it makes practical economic and good business sense for the Debtors, the Future Claimants and other stakeholders to retain Mr. Frankel as the FCR in the Chapter 11 Cases and benefit from the knowledge and experience he gained prepetition.

**IV. Mr. Frankel Meets the Standard to Be Appointed as FCR.**

35. The applicable standard for appointing a future claimants' representative has evolved in recent years. Early cases appointing future claimants' representatives required the appointee to be independent, but left open the precise legal standard. *See, e.g., In re Johns-Manville Corp.*, 36 B.R. 743, 758 (Bankr. S.D.N.Y. 1984), aff'd 52 B.R. 940 (S.D.N.Y. 1985). Courts now apply either a disinterestedness standard under section 105(14) of the Bankruptcy Code or the *guardian ad litem* standard. Mr. Frankel meets both standards.

36. This Court and other courts have determined that the applicable standard for assessing the proposed appointment of a future claimants' representative is that of "disinterestedness" under section 101(14) of the Bankruptcy Code. *See, e.g., In re The Roman Catholic Diocese of Rockville Centre, New York*, Case No. 20-12345 (SCC) (Bankr. S.D.N.Y. Oct. 27, 2021) [Docket No. 799] (order appointing FCR based on disinterestedness standard); *Vara v. Duro Dyne Nat'l Corp. (In re Duro Dyne Nat'l Corp)*, 2019 WL 4745879, at *9 (D.N.J. Sep. 30, 2019) (affirming *In re Duro Dyne*, Case No. 18-27963 (MBK) (Bankr. D.N.J. Oct. 16, 2018)

[Docket No. 191]) ("Without explicit direction from Congress, the legislative history and structure of the Bankruptcy Code show the most appropriate standard by which to evaluate the appointment of a future claimants' representative is the disinterested person standard under 11 U.S.C. § 101(14)"); *In re Maremont Corp.*, Case No. 19-10118 (KJC) (Bankr. D. Del. March 11, 2019) [Docket No. 126 at 98:4-8] (recognizing that "the majority of recent decisions by bankruptcy courts have determined the appropriate [standard] for assessing the proposed appointment of a [future claimants' representative is that of disinterestedness"). Under the disinterestedness standard, the appointee must (a) not be a creditor, an equity security holder, or an insider; (b) not have been a director, officer, or employee of the debtor within two years of the filing of the petition for bankruptcy; and (c) not have a materially adverse interest to the estate, any class of creditors, or any equity security holders "by reason of any direct or indirect relationship to, connection with, or interest in, the debtor, or for any other reason." 11 U.S.C. § 101(14).

37. Other courts have found the *guardian ad litem* standard more appropriate. *See, e.g.*, *In re Cyprus Mines Corporation*, Case No. 21-10398 (LSS) (Bankr. D. Del.); *In re Imerys Talc America, Inc.*, Case No. 19-10289 (LSS), (Bankr. D. Del. May 8, 2019) [Docket No. 503 at 10] (concluding that the legal representative is "much more like a *guardian ad litem* than those persons in the Code subject to the disinterestedness standard"), aff'd 38 F.4th 361, 374 (3d Cir. 2022) ("agree[ing] with the Bankruptcy Court. . . . that the FCR standard requires more than disinterestedness"); *In re Fairbanks Co.*, 601 B.R. 831 (Bankr. N.D. Ga. Apr. 17, 2019) (relying on the guardian ad litem standard in appointing a legal representative for future asbestos claimants). Under the *guardian ad litem* standard, the future claimants' representative must "not only be disinterested and qualified" but also "capable of acting as an objective, independent, and

effective advocate for the best interests of the future claimants." *Id.* at 841. Further, the future claimants' representative's "loyalties must lie with the demand holders for whom he acts as a fiduciary, that is—the future claimants." *In re Imerys Talc America*, Case No. 19-10289 (LSS), (Bankr. D. Del. 2019) [Docket No. 503 at 10].

38. In reliance on the Frankel Declaration, the Debtors believe that Mr. Frankel meets both the disinterested person standard and the *guardian ad litem* standard. Mr. Frankel (a) is not a creditor, equity security holder, or insider of the Debtors, (b) has not been employed or appointed as a director for the debtors in the past two years, and (c) does not have an interest materially adverse to any party, including the Future Claimants.

39. Moreover, the Prepetition FCRA explicitly states that (a) the express purpose of Mr. Frankel serving as prepetition FCR is to protect the rights of Future Claimants, (b) Mr. Frankel's sole responsibility and loyalty is to the Future Claimants, (c) Mr. Frankel is not an employee, agent, counsel, or advisor to the Debtor, and (d) the Debtors have no right to control or influence how either Mr. Frankel or the FCR Advisors carry out their duties. The Prepetition FCRA additionally contains an explicit acknowledgement by the Debtors that Mr. Frankel's service as the FCR could be adverse to the interests of the Debtors. Finally, as set forth in the Frankel Declaration, not only has Mr. Frankel reviewed the parties-in-interest list provided by the Debtors and confirmed he does not have any conflicts of interests, but Mr. Frankel also represented in the Prepetition FCRA that his legal counsel reviewed the Debtors' list of potential parties-in-interest and confirmed they did not represent the Debtors, any known affiliate thereof or any party in connection with the Debtors' negotiations regarding a proposed restructuring. Accordingly, Mr. Frankel meets both the disinterested and *guardian ad litem* standards.

40. For these reasons, the Debtors believe that the appointment of Mr. Frankel as the FCR will be in the best interests of the Future Claimants as well as in the best interests of the Debtors' estates. The Debtors respectfully request that this Court enter the Proposed Order appointing Mr. Frankel to serve as the FCR.

## RESERVATION OF RIGHTS

41. Nothing contained herein is or should be construed as: (a) an admission as to the validity of any claim against the Debtors, (b) a waiver of the Debtors' rights to dispute the amount of, basis for, or validity of any claim against the Debtors, (c) a waiver of any claims or causes of action that may exist against any creditor or interest holder, (d) a promise to pay any claim, (e) an approval, assumption, adoption, or rejection of any agreement, contract, program, policy, or lease between the Debtors and any third party under section 365 of the Bankruptcy Code, or (f) otherwise affecting the Debtors' rights under section 365 of the Bankruptcy Code to assume or reject any executory contract or unexpired lease. If this Court grants the relief sought herein, any payment made pursuant to this Court's order is not intended to be and should not be construed as an admission to the validity of any claim or a waiver of the Debtors' rights to subsequently dispute such claim.

## NOTICE

42. Notice of this Motion shall be given to (a) the Office of the United States Trustee for the Southern District of New York; (b) counsel to the administrative agent under the Debtors' prepetition credit agreement; (c) counsel to the indenture trustee under each of the Debtors' outstanding bond issuances; (d) counsel to the ad hoc committee of certain lenders under the Debtors' prepetition credit agreement and first and second lien holders of the Debtors' outstanding bond issuances; (e) counsel to the ad hoc committee of certain lenders under the Debtors' prepetition credit agreement and first lien, second lien, and unsecured holders of the

Debtors' outstanding bond issuances; (f) the U.S. Attorney for the Southern District of New York; (g) the attorneys general for all 50 states and the District of Columbia; (h) the Debtors' 50 largest unsecured creditors on a consolidated basis; (i) the Internal Revenue Service; (j) the Securities and Exchange Commission; (k) the proposed future claimants representative in the Chapter 11 Cases; (l) any party that has requested notice pursuant to Bankruptcy Rule 2002; and (m) any other party entitled to notice pursuant to Local Rule 9013-1(b). The Debtors submit that no other or further notice need be provided.

**NO PRIOR REQUEST**

43. No prior request for the relief sought herein has been made to this Court or any other court.

**[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]**

## CONCLUSION

WHEREFORE the Debtors respectfully request that this Court (a) enter the Proposed Order in substantially the form attached hereto as **Exhibit A** and (b) grant such other and further relief as may be just and proper.

Dated: August 16, 2022
New York, New York

SKADDEN, ARPS, SLATE, MEAGHER & FLOM LLP

By: */s/ Paul D. Leake*

Paul D. Leake
Lisa Laukitis
Shana A. Elberg
Evan A. Hill
One Manhattan West
New York, New York 10001
Telephone: (212) 735-3000
Fax: (212) 735-2000

*Proposed Counsel for the Debtors and Debtors in Possession*

**Exhibit A**

**Proposed Order**

**UNITED STATES BANKRUPTCY COURT**
**SOUTHERN DISTRICT OF NEW YORK**

| | |
|---|---|
| ***In re*** | **Chapter 11** |
| **ENDO INTERNATIONAL plc*, et al.*,** | **Case No. 22-22549 (___)** |
| **Debtors.**[1] | **(Joint Administration Pending)** |

**ORDER (I) APPOINTING ROGER FRANKEL AS FUTURE CLAIMANTS' REPRESENTATIVE, EFFECTIVE AS OF THE PETITION DATE; AND (II) GRANTING RELATED RELIEF**

Upon the motion (the "Motion")[2] of the debtors and debtors in possession (collectively, the "Debtors" and together with their non-debtor affiliates, the "Company") in the above-captioned cases (the "Chapter 11 Cases") for an order (this "Order") appointing Roger Frankel as future claimants' representative in the Chapter 11 Cases (the "FCR"), effective as of the Petition Date, all as more fully set forth in the Motion and the *Declaration of Roger Frankel Order (I) Appointing Roger Frankel as Future Claimants' Representative, Effective as of the Petition Date; and (II) Granting Related Relief* attached hereto as **Exhibit 1** (the "Frankel Declaration"); and this Court having reviewed the Motion and the Frankel Declaration, and having heard the statements of counsel regarding the relief requested in the Motion at a hearing before this Court, if any (the "Hearing"); and this Court having found that (a) this Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157(a) - (b) and 1334(b) and the Amended Standing Order of

[1] The last four digits of Debtor Endo International plc's tax identification number are 3755. Due to the large number of debtors in these chapter 11 cases, a complete list of the debtor entities and the last four digits of their federal tax identification numbers is not provided herein. A complete list of such information may be obtained on the website of the Debtors' claims and noticing agent at https://restructuring.ra.kroll.com/endo/. The location of the Debtors' service address for purposes of these chapter 11 cases is: 1400 Atwater Dr, Malvern PA 19355.

[2] Capitalized terms used but not defined herein shall have the meanings ascribed to such terms in the Motion.

Reference M-431, dated January 31, 2012 (Preska, C.J.); (b) this is a core proceeding pursuant to 28 U.S.C. §§ 157(a) - (b) and 1334(b); (c) venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and (d) due and proper notice of the Motion and the Hearing was sufficient under the circumstances; and this Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and it appearing that the relief requested in the Motion is in the best interests of the Debtors, their estates, creditors, and other parties-in-interest; and upon all of the proceedings had before this Court and after due deliberation and sufficient cause appearing therefore;

**IT IS HEREBY ORDERED THAT:**

1. The Motion is GRANTED as set forth herein.

2. All objections to the entry of this Order, to the extent not withdrawn or settled, are overruled.

3. Roger Frankel is hereby appointed as the FCR, effective as of the Petition Date.

4. The FCR is hereby appointed to protect the rights of any individual (such individuals, the "Future Claimants"):

(a) who asserts one or more personal injury claims against a Debtor or a successor of the Debtors' businesses based on a Debtor's conduct either (i) before the Effective Date (as it relates to opioid products); or (ii) before the Petition Date (as it relates to transvaginal mesh and ranitidine products);

(b) whose claims relate to opioid products, transvaginal mesh products, ranitidine products; and

(c) who could not assert such claims in the Chapter 11 Cases because, among other reasons, the claimant: (i) was unaware of the injury as of the Effective Date; (ii) has a latent manifestation of the injury after the Effective Date; or (iii) as of the Effective Date, was otherwise unable or incapable of asserting the claims based on the injury.

5. The definition of Future Claimants is without prejudice to the right of the Debtors or the FCR to file a motion seeking entry of an order modifying the definition of Future Claimants, or of this Court to modify such definition in connection with confirmation of any chapter 11 plan containing a discharge or approving the sale of substantially all assets "free and clear" of liabilities.

6. The FCR is appointed subject to the following terms and conditions:

(a) Standing. The FCR shall have standing under section 1109(b) of the Bankruptcy Code to be heard as a party-in-interest in all matters relating to the Chapter 11 Cases and shall have such powers and duties of a committee, as set forth in section 1103 of the Bankruptcy Code, as are appropriate for an FCR.

(b) Right to Receive Notices. The FCR and professionals retained by the FCR and approved by this Court shall have the right to receive all notices and pleadings that are required to be served upon any statutory committee and its counsel pursuant to applicable law or an order of this Court.

(c) Engagement of Professionals. The FCR may, with prior approval from this Court pursuant to sections 105(a) and 1103 of the Bankruptcy Code and consistent with the treatment afforded other professionals in the Chapter 11 Cases, retain attorneys and other professionals.

(d) Compensation. The FCR shall apply for compensation in accordance with the Bankruptcy Code, the Local Bankruptcy Rules for the Southern District of New York, and any order entered by this Court establishing procedures for interim compensation and reimbursement of expenses of professionals. Subject to Court approval, the FCR shall be compensated at an hourly rate of $1,160, subject to periodic adjustment, plus reimbursement of reasonable and documented expenses.

(e) Limitation of Liability. The FCR will not be liable for any damages or have any obligations other than as prescribed by order of this Court; *provided*, *however*, that the FCR may be liable for damages caused by willful misconduct or gross negligence. The FCR will not be liable to any person as a result of any action or omission taken or made in good faith.

(f) Indemnification. The Debtors will indemnify, defend, and hold harmless the FCR and his partners, associates, principals, employees, advisors, and professionals (collectively, the "Indemnified Parties" and each, individually, an "Indemnified Party") from and against any losses, claims, damages, or liabilities (or actions in respect thereof) to which any Indemnified Party may become subject as a result of or in connection with the FCR's rendering of services in his capacity as the FCR, unless and until it is finally judicially determined that such losses, claims, damages, or liabilities were caused by gross negligence, willful misconduct, or bad faith on the part of one or more of the Indemnified Parties in performing their obligations. The foregoing entitlement of the FCR shall include, without limitation, (i) the right to be indemnified against any liability related or resulting from any information provided by the FCR that is inaccurate in any respect as a result of misrepresentation, omission, failure to update, or otherwise, unless the FCR actually knew of such inaccuracy at the time of the misrepresentation, omission, failure to update, or other occurrence in such action or proceeding, whether such action is concluded, ongoing, or threatened, and (ii) the right to be indemnified for any expenses, including reasonable attorney's fees, that the FCR may incur in enforcing this indemnification provision. Any such indemnification will be an allowed administrative expense under section 503(b) of the Bankruptcy Code. For the avoidance of doubt, gross negligence, willful misconduct, or bad faith on the part of one Indemnified Party will not preclude indemnification for the other Indemnified Parties. If, before the earlier of (i) the effective date of a plan confirmed in the Chapter 11 Cases, and (ii) the entry of an order closing the Chapter 11 Cases, an Indemnified Party believes that he, she, or it is entitled to payment of any amount by the Debtors on account of the Debtors obligations to indemnify, defend, and hold harmless as set forth herein, including, without limitation, the advancement of defense costs, the Indemnified Party must file an application for such amounts with this Court, and the Debtors may not pay any such amounts to the Indemnified Party before the entry of an order by this Court authorizing such payments. The preceding sentence is intended to specify the period of time during which this Court has jurisdiction over the Debtors' obligations to indemnify, defend, and hold harmless as set forth herein, and is not a limitation on the duration of the Debtors' obligation to indemnify any Indemnified Party. In the event that a cause of action is asserted against any Indemnified Party as a result of or in connection with the FCR's rendering services in his capacity as the FCR, the Indemnified Party shall have the right to choose his, her, or its own counsel.

7. The Debtors are authorized to take all actions necessary to effectuate the relief granted in this Order in accordance with the Motion.

8. This Court retains exclusive jurisdiction with respect to all matters arising from or related to the implementation, interpretation, and enforcement of this Order.

Dated: [●], 2022
[ ], New York

THE HONORABLE [____]
UNITED STATES BANKRUPTCY JUDGE

**Exhibit B**

**Frankel Declaration**

**UNITED STATES BANKRUPTCY COURT**
**SOUTHERN DISTRICT OF NEW YORK**

| | |
|---|---|
| ***In re*** | **Chapter 11** |
| **ENDO INTERNATIONAL plc, *et al.*,** | **Case No. 22-22549 (___)** |
| **Debtors.**[1] | **(Joint Administration Pending)** |

**DECLARATION OF**
**ROGER FRANKEL IN SUPPORT**
**OF THE DEBTOR'S MOTION FOR ENTRY**
**OF AN ORDER (I) APPOINTING ROGER FRANKEL AS**
**FUTURE CLAIMANTS' REPRESENTATIVE, EFFECTIVE AS**
**OF THE PETITION DATE; AND (II) GRANTING RELATED RELIEF**

I, Roger Frankel, under penalty of perjury, declare as follows:

1. I am a partner in the law firm Frankel Wyron LLP ("FW,") which maintains offices at 2101 L Street, N.W. Washington, DC 20037. Except as otherwise noted, I have personal knowledge of the matters set forth herein, and if called and sworn as a witness, I could and would testify competently thereto.

2. This declaration (this "Declaration") is made in support of the above-captioned debtors' (collectively, the "Debtors" and together with their non-debtor affiliates, the "Company") *Motion for Entry of an Order (I) Appointing Roger Frankel as Future Claimants' Representative, Effective as of the Petition Date; and (II) Granting Related Relief* (the "Motion"),[2] which was filed contemporaneously herewith.

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[1] The last four digits of Debtor Endo International plc's tax identification number are 3755. Due to the large number of debtors in these chapter 11 cases, a complete list of the debtor entities and the last four digits of their federal tax identification numbers is not provided herein. A complete list of such information may be obtained on the website of the Debtors' claims and noticing agent at https://restructuring.ra.kroll.com/Endo. The location of the Debtors' service address for purposes of these chapter 11 cases is: 1400 Atwater Drive, Malvern, PA 19355.

[2] Capitalized terms used but not defined herein shall have the meanings ascribed to such terms in the Motion.

## QUALIFICATIONS

3. I am a member of the District of Columbia bar and am duly admitted to practice in the courts of the District of Columbia, the United States Bankruptcy Court, and the United States District Court for the District of Columbia.

4. I have practiced in the areas of business reorganization and creditors' rights since 1972. Prior to founding FW in 2014, I was a partner and co-chair of the Global Restructuring Group at Orrick, Herrington & Sutcliffe LLP.

5. My practice includes significant experience in complex bankruptcy and restructuring matters. For over 20 years, I have both counseled clients and been appointed to fiduciary positions in complex mass tort bankruptcy cases involving the rights of future claimants. Examples of my mass tort bankruptcy engagements and appointments, in addition to my prepetition service as the legal representative for the debtors' future claimants, are set forth below:

(a) I served as the court-appointed FCR in *In re Mallinckrodt plc Inc.*, Case No. 20-12522 (JTD) (Bankr. D. Del. 2021). The plan of reorganization in those cases, which was confirmed on March 2, 2022, and became effective on June 16, 2022, established a qualified settlement fund with over $140 million in cash and deferred payment obligations plus additional assets. I continue to serve as FCR in connection with the opioid personal injury trust established under the confirmed plan in the Mallinckrodt cases.

(b) I served as the court-appointed FCR in *In re TK Holdings Inc.*, Case No. 17-11375 (BLS) (Bankr. D. Del. 2017). The plan of reorganization in those cases, which was confirmed and became effective in April 2018, established a qualified settlement fund with over $125 million in cash plus additional assets in trust for the benefit of present and future personal injury claimants injured by defective Takata airbag inflators. I continue to serve as FCR in connection with the trust established under the confirmed plan in the Takata cases.

(c) I represented David Austern as the FCR in *In re W.R. Grace & Co.*, Case No. 01-01139 (Bankr. D. Del. 2001) from the time of Mr. Austern's appointment in 2004 until his death in 2013. Following Mr. Austern's death, I was appointed as the successor FCR in the

*W.R. Grace* cases by the Bankruptcy Court for the District of Delaware. The plan of reorganization in those cases, which was confirmed and became effective in February 2014, established a qualified settlement fund with over $3 billion in assets in trust for the benefit of present and future asbestos personal injury claimants. I continue to serve as FCR in connection with the trust established under the confirmed plan in *W.R. Grace*.

(d) I also represented Mr. Austern in the chapter 11 cases of *Combustion Engineering*, Case No. 03-10495 (Bankr. D. Del. 2003) in connection with the negotiation and successful confirmation of Combustion Engineering's plan of reorganization, which resulted in the establishment of a qualified settlement fund with more than $1 billion in assets in trust for the benefit of present and future asbestos personal injury claimants. Following Mr. Austern's death, I was appointed to serve as FCR in connection with the trust established under Combustion Engineering's confirmed plan and continue to serve in that capacity today.

(e) I represent R. Scott Williams as the court-appointed FCR in the chapter 11 cases of *Congoleum Corporation*, Case No. 03-51524 (Bankr. D.N.J. 2005). The plan of reorganization confirmed in those cases established a qualified settlement fund of over $200 million in trust for the benefit of present and future asbestos personal injury claimants. I continue to represent Mr. Williams as FCR in connection with the trust established under Congoleum's confirmed plan.

(f) I represented the debtors in *Shook & Fletcher Insulation Company*, Case No. 02-2771 (Bankr. N.D. Ala. 2002), in one of the first successful pre-packaged section 524(g) bankruptcy cases. In 2002, under its confirmed plan, Shook & Fletcher established a trust with over $100 million for the benefit of present and future asbestos personal injury claimants. I represented the trust until May 2020, when, following the death of the original trustee, I was appointed to serve as the successor trustee.

(g) I presently serve as the court-appointed FCR in *In re Cyprus Mines Corporation*, Case No. 21-10398 (LSS) (Bankr. D. Del. 2021).

6. Accordingly, I believe I am qualified to serve as FCR in the Chapter 11 Cases.

**PROFESSIONAL COMPENSATION**

7. On July 28, 2022, the Debtors and I entered into the Prepetition FCRA attached to the Motion as Exhibit C. Among other things, the Prepetition FCRA expressly provides that (a) the express purpose of my serving as prepetition FCR is to protect the rights of Future Claimants, (b) my sole responsibility and loyalty is to Future Claimants, (c) I am not an employee, agent, counsel, or advisor to the Debtors, and (d) the Debtors have no right to control or influence how I or my professionals carry out our duties. The Prepetition FCRA additionally contained an explicit acknowledgement by the Debtors that my services as FCR could be adverse to the interests of the Debtors and further states that my legal counsel reviewed the Parties in Interest List (as defined below) and confirmed they did not currently represent the Debtors, any known affiliate thereof, or any party in connection with the Debtors' negotiations regarding a proposed restructuring.

8. Pursuant to the Prepetition FCRA, the Debtors agreed to compensate me and my professionals at our regular hourly rates for services rendered and to reimburse reasonable and necessary expenses. The Debtors also agreed to post a retainer (as supplemented, the "Retainer") in the amount of $400,000 with FW as security for the payment of my fees and expenses, and the fees and expenses of FW, incurred in connection with our respective work during the prepetition period.

9. Under the Prepetition FCRA, FW and I each submit separate invoices to the Debtors for fees and expenses incurred. Pursuant to the Prepetition FCRA, after submission of an invoice, I may draw from the Retainer to pay my invoices and FW's invoices. After receiving our invoices, the Debtors are to promptly replenish the Retainer in an amount equal to the amount of such invoices.

10. Except as set forth in the applicable invoices, neither I nor FW have received compensation in the Chapter 11 Cases, nor has an agreement been made as to compensation to be paid. No agreement or understanding exists between me and any other person (other than between me and FW) for the sharing of compensation received or to be received for services rendered by me in connection with the Chapter 11 Cases.

11. I have agreed to charge a rate of $1,160 per hour for my incurred time, subject to periodic adjustment, plus reimbursement of actual and necessary out-of-pocket expenses.

12. I will review any order entered by this Court establishing procedures for interim compensation and reimbursement of expenses of professionals, and I agree to comply with the provisions thereof to the best of my ability.

13. I understand that my service as FCR in connection with the Chapter 11 Cases, subject to approval by this Court, would be on the following terms:

(a) Standing. The FCR shall have standing under section 1109(b) of the Bankruptcy Code to be heard as a party-in-interest in all matters relating to the Chapter 11 Cases and shall have such powers and duties of a committee, as set forth in section 1103 of the Bankruptcy Code, as are appropriate for an FCR.

(b) Right to Receive Notices. The FCR and professionals retained by the FCR and approved by this Court shall have the right to receive all notices and pleadings that are required to be served upon any statutory committee and its counsel pursuant to applicable law or an order of this Court.

(c) Engagement of Professionals. The FCR may, with prior approval from this Court pursuant to sections 105(a) and 1103 of the Bankruptcy Code and consistent with the treatment afforded other professionals in the Chapter 11 Cases, retain attorneys and other professionals.

(d) Compensation. The FCR shall apply for compensation in accordance with the Bankruptcy Code, the Local Bankruptcy Rules for the Southern District of New York, and any order entered by this

Court establishing procedures for interim compensation and reimbursement of expenses of professionals. Subject to Court approval, the FCR shall be compensated at an hourly rate of $1,160, subject to periodic adjustment, plus reimbursement of reasonable and documented expenses.

**DISINTERESTEDNESS**

14. The Debtors have provided me with various lists of names (collectively, the "Parties in Interest List") of individuals or institutions that are potentially interested parties (the "Parties in Interest") in the Chapter 11 Cases.

15. I have reviewed the Parties in Interest List and conducted a search of my records and those of FW for connections to the Parties in Interest. Unless otherwise indicated, this Declaration discloses connections to persons identified as Parties in Interest in matters in FW's records that are currently active or were active within the past two years.

(a) As more fully described in the Motion, I served as prepetition FCR to represent the interests of the Future Claimants prepetition.

(b) In connection with my prepetition work, I retained FW and YCST as counsel. In addition, FW and YCST retained National Economic Research Associates, Inc. ("NERA") and Ducera Partners LLC ("Ducera") to assist them in connection with their legal advice to me with respect to my prepetition work. I expect to seek approval from this Court to retain these professionals during the Chapter 11 Cases.

(c) Mallinckrodt, Mallinckrodt Pharmaceuticals, and Sucampo Pharma Americas LLC are listed as parties in interest. As noted above, I served as the FCR during Mallinckrodt's Chapter 11 proceedings, and YCST, FW, Ducera, and NERA served as my advisors. I continue to serve as FCR, and YCST and FW continue to represent me in that capacity, in connection with the Mallinckrodt opioid personal injury trust.

(d) NERA presently serves as an advisor to two personal injury compensation trusts in connection with which I serve as the FCR. YCST, FW, Ducera, and NERA may represent me or serve as advisors to me in other matters in the future.

(e) I serve as the Trustee of the Shook & Fletcher Asbestos Settlement Trust. Wilmington Trust, NA serves as Delaware Trustee for the

Trust; FW represents the Trust; Keating, Muething & Klekamp PLL is litigation counsel for the Trust; and Ankura Consulting Group serves as the trust administrator and claims estimation expert for the Trust.

(f) Ankura Consulting Group serves as an expert in connection with other asbestos victim compensation trusts in which FW and I also have roles. Ankura serves as the claims estimation expert for me in my capacity as FCR for a trust. Ankura and I have potentially adverse roles in connection with a trust for which Ankura serves as the claims estimation expert for the trust and I serve as FCR. FW represents me as trustee or FCR in these matters. In addition, Ankura serves as the claims estimation expert for a client of FW who serves as FCR to another asbestos settlement trust. Ankura may serve as an expert or advisor to me in other matters in the future.

(g) In connection with my role as FCR in *In re Cyprus Mines Corporation*, Case No. 21-10398 (LSS) (Bankr. D. Del. 2021), Togut, Segal & Segal LLP and FW represent me as FCR, and Archer & Greiner, P.C. serves as my New Jersey counsel in *In re LTL Management LLC*, Case No. 21-30589 (MBK) (Bankr. D.N.J. 2021). In the related case of *In re Imerys Talc America, Inc. et al.*, Case No. 19-01289 (LSS) (Bankr. D. Del. 2019), James L. Patton, Jr. serves as the FCR, YCST serves as his counsel, and Ankura Consulting Group and Ducera serve as his advisors.

(h) I served as a mediator in a matter in which W. Mark Lanier and the Lanier Law Firm represented a party to the mediation. FW provided advice to me in that matter. That matter has now concluded.

(i) I served as a mediator in a matter in which Comcast was a party to the mediation. That matter has now concluded. FW provided advice to me in that matter.

16. All of the matters discussed in clauses (c) through (i) of the above paragraph are wholly unrelated to the Chapter 11 Cases.

17. To the best of my knowledge, insofar as I have been able to ascertain after reasonable inquiry based on the Parties in Interest List, and except as set forth in this Declaration, I do not represent, and have not represented, any entity in matters related to the Chapter 11 Cases.

18. I am a "disinterested person" under section 101(14) of the Bankruptcy Code, in that:

(a) Other than in connection with my prepetition engagement under the Prepetition FCRA, based upon the Parties in Interest List, and except as disclosed herein, I have no connection with the Debtors, their respective professionals, their creditors, the Office of the United States Trustee for the Southern District of New York (the "U.S. Trustee"), any person employed in the Office of the U.S. Trustee, or any other party with an actual or potential interest in the Chapter 11 Cases;

(b) I am not a creditor, equity security holder, or insider of the Debtors;

(c) I am not and was not, within two years of the Petition Date, a director, officer, or employee of the Debtors; and

(d) I do not have an interest materially adverse to the Debtors, their estates, or any class of creditors or equity security holders, or the Future Claimants, by reason of any direct or indirect relationship to, connection with, or interest in the Debtors, or for any other reason.

19. FW and I have in the past and/or currently work with and/or against a number of professionals involved in the Chapter 11 Cases in connection with matters wholly unrelated to the Chapter 11 Cases.

20. Based on the foregoing disclosures, I believe that (a) I am independent of the Debtors and the Parties in Interest; (b) none of the matters disclosed in this Declaration has had or will have an adverse effect on my ability to carry out my duties as FCR to loyally and effectively represent the interests of the Future Claimants; and (c) pursuant to section 101(14) of the Bankruptcy Code, I am a "disinterested person" and do not have any interest that is materially adverse to the interests of the Future Claimants.

21. If any new relevant facts or relationships bearing on the disclosures in this Declaration are discovered or arise, I will use reasonable efforts to identify such further developments and will promptly file a further supplemental declaration.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct to the best of my information, knowledge and belief.

Executed: August 16, 2022
Washington, DC

By: */s/ Roger Frankel*
Roger Frankel
Proposed Future Claimants Representative
2101 L Street, N.W.
Washington, DC 20037

**Exhibit C**

**Prepetition FCRA**

ROGER FRANKEL
FRANKEL WYRON LLP
2101 L STREET, NW
SUITE 800
WASHINGTON, DC 20037

July 28, 2022

Matthew J. Maletta
Executive Vice President, Chief Legal Officer, and Secretary
c/o Endo International plc
1400 Atwater Drive
Malvern, PA 19355

Re: Endo International plc

Dear Mr. Maletta

You have asked me to serve as the legal representative for certain future personal injury claimants (the "**FCR**") in conjunction with discussions and negotiations regarding a potential restructuring, the effectuation of which would be sought in a potential filing for relief under Chapter 11 of Title 11 of the United States Code by Endo International plc and one or more of its affiliates (collectively, the "**Company**"). The express purpose of this representation is to protect the rights of persons who might assert claims or demands against the Company in the future based on alleged injuries relating to opioid products, vaginal mesh products, ranitidine products, and any additional products as determined by the FCR and the Company in the future, for which the Company may be alleged to be liable (collectively, "**Future Claimants**"). In particular, I have been asked to review and familiarize myself with the Company's business affairs, their assets and liabilities, the relationship between the Company and its shareholders and affiliated companies, insurance issues, estimates of present and future liabilities, and any other due diligence items I may reasonably determine to review and familiarize myself in the exercise of my duties as FCR, and thereafter to participate in negotiations regarding a potential restructuring on behalf of Future Claimants.

I agree to undertake this representation upon the terms and conditions set forth in this letter. The Company's agreement to these terms and conditions constitutes a material inducement to me in entering into this agreement and agreeing to undertake this representation as the FCR

1. The Company shall be fully liable for all reasonable and documented fees and expenses incurred by me and the FCR Professionals (as defined herein) in connection with my role as FCR prior to the filing of any chapter 11 petition for relief, including all reasonable and documented fees and expenses I incur prior to and during negotiations regarding a potential restructuring. My time will be billed at my standard hourly rate as established from time to time by my firm, Frankel Wyron LLP ("**FW**"). At present, my rate is $1,160 per hour.

2. I have selected FW, a law firm in which I am a partner, to serve as my counsel. I intend to select and hire Young Conaway Stargatt & Taylor, LLP, Ducera Partners LLC, and National Economic Research Associates, Inc. as additional legal counsel and advisors (collectively with FW, the "**FCR Professionals**") to assist me in my role as FCR. The Company acknowledges

that: (a) I will require assistance from the FCR Professionals in the course of my engagement; and (b) the Company will be required to compensate the FCR Professionals in a timely manner on my behalf for their reasonable and documented fees and expenses, including payment of agreed-upon advance retainers. I will not retain counsel or advisors other than the FCR Professionals without the consent of the Company.

3. Notwithstanding the obligations of the Company to pay my reasonable and documented fees and costs and those of the FCR Professionals in accordance with this agreement, the parties understand and acknowledge that my sole responsibility and loyalty is to the Future Claimants for whom I serve hereunder as FCR. My service as FCR is not intended to render me, and shall not be construed as rendering me, an employee or agent of the Company, or to render me counsel or an advisor to the Company, and the Company shall not have any right to control or influence how the FCR Professionals or I carry out our duties. The Company further understands that my service as the FCR could be adverse to the interests of the Company. The Company, therefore, hereby waives, after consultation with its counsel, any conflicts that could arise during the course of this engagement.

4. I intend to provide the Company a monthly bill reflecting my reasonable and documented fees and expenses incurred each month, as well as bills I receive from the FCR Professionals for reasonable and documented fees and expenses. Permissible expenses include, without limitation, reasonable and documented expert fees, photocopying, postage and delivery costs, travel, and other customary charges. I reserve the right to submit bills for time and expenses I incur, and those incurred by the FCR Professionals, more frequently than once a month, and to require at any time the replenishment of the Retainer as described in the next paragraph.

5. In light of the nature of the engagement currently contemplated, as a condition to my engagement, I and FW require from the Company a retainer (the "**Retainer**") at this time of $400,000. The FW wiring instructions are attached to this letter as **Exhibit A**. FW will hold the Retainer in FW's escrow account as security for my unpaid fees and expenses and those of FW. The Retainer will not accrue interest for the benefit of the Company. The Retainer is fully refundable to the Company to the extent not earned. Upon submitting each bill to the Company, I and FW will apply the funds from the Retainer to pay each such bill in full, and the Company will promptly replenish the Retainer to the $400,000 level and will pay any amount due with respect to each such bill in excess of the funds applied to each such bill from the Retainer to the extent funds from the Retainer did not pay each such bill in full. At the time of the final billing, I and FW will apply the appropriate amounts from funds remaining in the Retainer and return any balance to the Company. The Company agrees that, in the event bankruptcy petitions are filed by or against any affiliates of the Company, any amounts remaining in the Retainer will continue to be held by FW as security for all of my and FW's fees and expenses incurred in connection with this engagement.

6. In the event that the Company or any affiliate of the Company files bankruptcy petitions, my service as FCR under this agreement will terminate immediately, and thereafter approval of the bankruptcy court having jurisdiction over the bankruptcy case of the filing entity or entities (the "**Bankruptcy Court**") will be required for my engagement to represent Future Claimants in the bankruptcy case. I reserve the right, on seven days' advance written notice to the Company, to terminate my service as the FCR and the retention of the FCR Professionals at any time prior to the filing of any bankruptcy proceedings if, in my sole judgment, I determine that the

Company is in breach of this agreement or the negotiations in a bankruptcy are not progressing reasonably. The Company reserves the right, on seven days' advance written notice to me, to terminate my engagement (and that of the FCR Professionals) hereunder for cause, which cause shall be described in the written notice and include a decision by the Company, in its sole discretion, to cease any further discussions or negotiations with the FCR. Any termination by me or the Company will not affect (i) the Company's obligation to pay any reasonable and documented fees earned and expenses incurred by me or by any of the FCR Professionals prior to the notice of termination, (ii) the Company's obligations under Paragraph 8 below (except as expressly provided therein), (iii) the confidentiality obligations described in Paragraph 9 below, or (iv) the obligations set forth in Paragraph 11 below. All of my unpaid fees and expenses and those of the FCR Professionals shall be paid prior to the filing of a bankruptcy petition, and the Company agrees that the FCR Professionals and I have the right to draw on funds on hand from the Company (including the Retainer) for that purpose or for the payment of any reasonable and documented fees and expenses which have been incurred as of the date of any such filing but have not yet been billed.

7. In the event the Company or any of the Company's affiliates files a bankruptcy petition, the Company presently anticipates (but is not obligated, and does not hereby undertake) that the filing entity or entities would ask the Bankruptcy Court to appoint me to represent Future Claimants as their FCR during the bankruptcy case. The parties understand that if the Bankruptcy Court approves my continued service as the representative of Future Claimants, my fees and costs and those of the FCR Professionals incurred following the filing of a bankruptcy case will require Bankruptcy Court approval before they may be paid out of the debtor's or debtors' bankruptcy estate(s) in accordance with procedures established by the Bankruptcy Court.

8. The Company hereby indemnifies and agrees to defend and hold harmless me and the FCR Professionals (for purposes of this Paragraph 8, collectively, the "**Indemnified Parties**" and individually, an "**Indemnified Party**"), to the fullest extent authorized by applicable law, from and against any losses, claims, damages, or liabilities (or actions in respect thereof, including without limitation any action or proceeding seeking discovery from any Indemnified Party of information relating to my work under this agreement or the work of any of the FCR Professionals) to which any Indemnified Party may become subject as a result of or in connection with my rendering services hereunder or an Indemnified Party rendering services to the FCR. The foregoing entitlement of the Indemnified Parties shall include, without limitation, (i) the right to be indemnified against any liability related to or resulting from any information provided to the Indemnified Parties by the Company or any of its advisors that is inaccurate in any respect as a result of misrepresentation, omission, failure to update, or otherwise, unless I or the applicable Indemnified Party actually knew of such inaccuracy at the time of the misrepresentation, omission, failure to update, or other occurrence; (ii) the right to bring an action against the Company to compel it to perform its obligations under this Paragraph 8 if such obligations have not been performed in full within twenty (20) days after receipt by the Company of a written claim by an Indemnified Party for indemnification and/or defense of an action or proceeding covered by this Paragraph 8 and/or payment of any defense expenses covered by this Paragraph 8, including reasonable and documented attorneys' fees incurred by an Indemnified Party in such action or proceeding, whether such action is concluded, ongoing, or threatened; and (iii) the right to be indemnified for any expenses, including reasonable and documented attorney's fees, that an Indemnified Party may incur in enforcing this Paragraph 8. In any such enforcement action or

proceeding, the burden of proving that an Indemnified Party is not entitled to indemnification, defense, or other rights provided by this Paragraph 8 shall be on the Company. If it is finally judicially determined that such losses, claims, damages, or liabilities were caused by fraud, willful misconduct, bad faith, or gross negligence on the part of an Indemnified Party in performing its obligations set forth under the terms and conditions of this agreement, then the Company's obligations to defend, hold harmless and indemnify such Indemnified Party shall terminate. The termination of the Company's obligations under the preceding sentence to an Indemnified Party shall not in any way limit or affect the Company's obligations to each other Indemnified Party. The rights provided by this Paragraph 8 shall not be exclusive of any other right that any Indemnified Party may have or hereafter acquire under any statute, provision of the Company's certificate of incorporation, bylaw, agreement, vote of stockholders or disinterested directors, court order or otherwise. In the event that full indemnification as contemplated by the foregoing provisions is not available to the Indemnified Parties as a matter of law, then, to the extent permitted by applicable law, each Indemnified Party's aggregate liability shall be limited to the total fees it collected for the services rendered and, in any event, shall be limited by a final adjudication of its relative degree of fault and benefit received. The Company's obligations under this Paragraph shall survive termination of this agreement. I reserve the right, in my sole discretion, to waive, but only by express written notice to such effect (and not by any other action or by inaction), any rights to indemnification that I may otherwise have under this Paragraph; provided, however, if I am appointed as the FCR by a final order of the Bankruptcy Court in the bankruptcy case of the Company or any of the Company's affiliates, these indemnification provisions shall automatically terminate without any further action required by the Company or me.

9. The terms of that certain Confidentiality Disclosure Agreement, dated as of July 25, 2022, by and between me, Roger Frankel, and Endo Health Solutions, Inc. (the "**CDA**") are hereby incorporated herein by reference and shall continue in full force and effect in all respects. In the event that any conflict or inconsistency exists between the terms hereof and the terms set forth in the CDA, the terms of the CDA shall prevail. Upon any expiration or termination of this agreement, the CDA shall continue in full force without any modification thereto.

10. I serve as the future claimants' representative in other matters and expect that I will agree or will be appointed to serve as a future claimants' representative or other fiduciary in other matters in the future. In addition, FW represents, and may represent in the future, clients holding positions or engaged to serve as future claimants' representatives in connection with matters including pending bankruptcy cases and post-bankruptcy victim compensation trusts. Additionally, FW may represent, and may represent in the future, clients seeking financial restructuring advice, or in connection with other representations not limited to financial restructuring advice, and these clients may owe debts or may otherwise hold and assert interests adverse to the Company. The Company has provided us with a list of potential parties in interest in connection with a restructuring of the Company or one or more of its affiliates. FW has reviewed its records and has confirmed that it does not currently represent the Company, any known affiliate thereof, or any party in connection with the Company's negotiations regarding a proposed restructuring. By countersigning this agreement below, you waive on behalf of the Company any and all actual conflicts that exist or may arise on account of the FCR Professionals' and my present and future representations in matters unrelated to the Company's bankruptcy of entities holding interests adverse to the Company.

11. Upon the termination of this agreement, upon your request, FW will promptly return to the Company all records related to this matter or certify that it has securely destroyed all such records in accordance with the relevant terms of the CDA.

12. This agreement shall become effective upon my receipt from the Company of the Retainer and a signed counterpart of this agreement, and shall apply to all work performed, and all fees and expenses I and FW have incurred, since the date we began work on this matter.

13. Any modification of this agreement shall be effective only if in writing and signed by the parties hereto.

14. This agreement shall be governed by the laws of the State of New York.

**[REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]**

***

Please execute this letter in the space provided below in order to indicate the Company's agreement to the terms set forth herein and return an executed copy of this letter to me.

Very truly yours,

Roger Frankel

AGREED:

ENDO INTERNATIONAL PLC

BY: _____

Name: Matthew J. Maletta

Title: EVP, Chief Legal Officer, and Company Secretary

**THIS IS EXHIBIT "B"**
**TO THE AFFIDAVIT OF ANDREW HARMES**
**SWORN BEFORE ME OVER VIDEOCONFERENCE**
**THIS 7th DAY OF OCTOBER, 2022**

Erik Axell

Commissioner for Taking Affidavits

**Hearing Date: September 21, 2022 at 11:00 a.m. (Prevailing Eastern Time)**
**Objection Deadline: September 16, 2022 at 4:00 p.m. (Prevailing Eastern Time)**

SKADDEN, ARPS, SLATE, MEAGHER & FLOM LLP
Paul D. Leake
Lisa Laukitis
Shana A. Elberg
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*Proposed Counsel to Debtors and Debtors in Possession*

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*Proposed Co-Counsel for Debtors and Debtors in Possession*

**UNITED STATES BANKRUPTCY COURT**
**SOUTHERN DISTRICT OF NEW YORK**

| | |
|---|---|
| ***In re*** | **Chapter 11** |
| **ENDO INTERNATIONAL plc, *et al.*,** | **Case No. 22-22549 (JLG)** |
| **Debtors.**[1] | **(Jointly Administered)** |

**NOTICE OF HEARING OF MOTION OF THE DEBTORS FOR AN ORDER (I) AUTHORIZING AND APPROVING PROCEDURES FOR (A) THE USE, SALE, TRANSFER, OR ABANDONMENT OF DE MINIMIS ASSETS FREE AND CLEAR OF LIENS, CLAIMS, INTERESTS, AND ENCUMBRANCES WITHOUT FURTHER ORDER OF COURT AND (B) THE ACQUISITION OF DE MINIMIS ASSETS; (II) AUTHORIZING PAYMENT OF RELATED FEES AND EXPENSES; AND (III) GRANTING RELATED RELIEF**

**PLEASE TAKE NOTICE** that the debtors and debtors-in-possession in the above-captioned jointly administered bankruptcy cases (collectively, the "Debtors") hereby file the *Debtors' Motion for an Order (I) Authorizing and Approving Procedures for (A) the Use, Sale, Transfer, or Abandonment of De Minimis Assets Free and Clear of Liens, Claims, Interests, and Encumbrances without further Order of Court and (B) the Acquisition Of*

[1] The last four digits of Debtor Endo International plc's tax identification number are 3755. Due to the large number of debtors in these chapter 11 cases, a complete list of the debtor entities and the last four digits of their federal tax identification numbers is not provided herein. A complete list of such information may be obtained on the website of the Debtors' claims and noticing agent at https://restructuring.ra.kroll.com/Endo. The location of the Debtors' service address for purposes of these chapter 11 cases is: 1400 Atwater Drive, Malvern, PA 19355.

*De Minimis Assets; (II) Authorizing Payment of Related Fees and Expenses; and (III) Granting Related Relief* (the "Motion").[2]

**PLEASE TAKE FURTHER NOTICE** that the hearing (the "Hearing") on the Motion will be held on **September 21, 2022, at 11:00 a.m. (Prevailing Eastern Time)** before the Honorable James L. Garrity, Jr., United States Bankruptcy Judge for the Southern District of New York, in the United States Bankruptcy Court for the Southern District of New York (the "Bankruptcy Court"), Courtroom 723, One Bowling Green, New York, NY 10004-1408.

**PLEASE TAKE FURTHER NOTICE** that the Hearing will be conducted both in person and "live" via Zoom for Government. Parties wishing to participate in person or via a "live" or "listen only" line must make an electronic appearance through the "eCourtAppearances" tab on the Court's website: https://www.nysb.uscourts.gov/ecourt-appearances, no later than **September 19, 2022, at 11:00 a.m. (Prevailing Eastern Time)** (the "Appearance Deadline"). Following the Appearance Deadline, the Court will circulate by e-mail the Zoom link to those parties who have made an electronic appearance. Parties wishing to appear in person at the Hearing must submit an electronic appearance through the Court's website by the Appearance Deadline and not by emailing or otherwise contacting the Court.

**PLEASE TAKE FURTHER NOTICE** that objections, if any, to the Application or the relief requested therein must be made in writing, filed with the Bankruptcy Court, One Bowling Green, New York, NY 10004-1408, and served so as to

[2] Capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Motion.

be received by the following parties no later than **September 16, 2022, at 4:00 p.m. (Prevailing Eastern Time)**:

(i) the Honorable James L. Garrity. Jr., United States Bankruptcy Judge for the Southern District of New York, United States Bankruptcy Court for the Southern District of New York One Bowling Green, Courtroom 723, New York, NY 10004-1408;

(ii) proposed counsel for the Debtors, Skadden, Arps, Slate, Meagher & Flom LLP, One Manhattan West, New York, NY 10001, Attn: Paul D. Leake, Esq. (paul.leake@skadden.com); and Lisa Laukitis, Esq. (lisa.laukitis@skadden.com);

(iii) proposed co-counsel for the Debtors, Togut, Segal & Segal LLP, One Penn Plaza, Suite 3335, New York, NY 10119, Attn: Albert Togut, Esq. (altogut@teamtogut.com) and Kyle J. Ortiz, Esq. (kortiz@teamtogut.com); and

(iv) the Office of the United States Trustee for the Southern District of New York (the "United States Trustee"), 201 Varick Street, Suite 1006, New York, NY 10014, Attn: Paul Schwartzberg, Esq. (Paul.Schwartzberg@usdoj.gov) and Susan Arbeit, Esq. (Susan.Arbeit@usdoj.gov);

**PLEASE TAKE FURTHER NOTICE** that a copy of the Motion along with its underlying exhibits thereto can be viewed and/or obtained by: (i) accessing the Court's website a www.nysb.uscourts.gov, (ii) contacting the Office of the Clerk of the Court at United States Bankruptcy Court, for the Southern District of New York, or (iii) on the website of the Debtors' claims and noticing agent, Kroll Restructuring Administration LLC, at https://restructuring.ra.kroll.com/Endo; or by contacting Kroll directly at (877) 542-1878 (toll free for callers within the United States and Canada) and (929) 284-1688 (for international callers).

**PLEASE TAKE FURTHER NOTICE** that if no Objections to the approval of the Motion are timely filed and received in accordance with the above procedures, the Order may be entered granting the relief requested in the Motion without further notice of a hearing.

***[Concluded on the following page]***

Dated: New York, New York
September 2, 2022

ENDO INTERNATIONAL PLC, *et al.*
*Debtors and Debtors-in-Possession*
By their Proposed Co-Counsel
TOGUT, SEGAL & SEGAL LLP
By:

*/s/Kyle J. Ortiz*
ALBERT TOGUT
FRANK A. OSWALD
KYLE J. ORTIZ
One Penn Plaza, Suite 3335
New York, New York 10119
Telephone: (212) 594-5000

And

SKADDEN, ARPS, SLATE, MEAGHER & FLOM LLP
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New York, New York 10001
Telephone: (212) 735-3000
Fax: (212) 735-2000
PAUL D. LEAKE
LISA LAUKITIS
SHANA A. ELBERG
EVAN A. HILL

**Hearing Date: September 21, 2022 at 11:00 a.m. (ET)**
**Objection Deadline: September 16, 2022 at 4:00 p.m. (ET)**

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*Proposed Counsel to Debtors and Debtors in Possession*

**UNITED STATES BANKRUPTCY COURT**
**SOUTHERN DISTRICT OF NEW YORK**

| | |
|---|---|
| ***In re*** | **Chapter 11** |
| **ENDO INTERNATIONAL plc, *et al.*,** | **Case No. 22-22549 (JLG)** |
| **Debtors.**[1] | **(Jointly Administered)** |

**MOTION OF THE DEBTORS FOR AN ORDER (I) AUTHORIZING AND APPROVING PROCEDURES FOR (A) THE USE, SALE, TRANSFER, OR ABANDONMENT OF DE MINIMIS ASSETS FREE AND CLEAR OF LIENS, CLAIMS, INTERESTS, AND ENCUMBRANCES WITHOUT FURTHER ORDER OF COURT AND (B) THE ACQUISITION OF DE MINIMIS ASSETS; (II) AUTHORIZING PAYMENT OF RELATED FEES AND EXPENSES; AND (III) GRANTING RELATED RELIEF**

Endo International plc and its debtor affiliates, as debtors and debtors in possession (collectively, the "Debtors" and, together with their non-debtor affiliates, the "Company") in the above-captioned chapter 11 cases (the "Chapter 11 Cases"), respectfully represent in support of this motion (this "Motion") as follows:

[1] The last four digits of Debtor Endo International plc's tax identification number are 3755. Due to the large number of debtors in these chapter 11 cases, a complete list of the debtor entities and the last four digits of their federal tax identification numbers is not provided herein. A complete list of such information may be obtained on the website of the Debtors' claims and noticing agent at https://restructuring.ra.kroll.com/Endo. The location of the Debtors' service address for purposes of these chapter 11 cases is: 1400 Atwater Drive, Malvern, PA 19355.

## RELIEF REQUESTED

1. By this Motion, and pursuant to sections 105(a), 363, and 554 of title 11 of the United States Code (the "Bankruptcy Code"), Rule 2002 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules") and Local Rules 6006-1, 6007-1, and 9013-1 of the Local Bankruptcy Rules for the Southern District of New York (the "Local Rules"), the Debtors seek entry of an order, substantially in the form attached hereto as **Exhibit A** (the "Proposed Order") (a) authorizing and approving procedures to use (*e.g.*, to license), sell, invest, or transfer certain assets, collections of assets, or business lines, including any rights or interests therein, of *de minimis* value of the Debtors that are not included in the Stalking Horse Bid (as defined below) (the "De Minimis Assets") in any individual transaction or series of related transactions (each, a "De Minimis Asset Transaction") to a single party or group of related parties with an aggregate sale price equal to or less than $2 million as calculated within the Debtors' good faith judgment, free and clear of liens, claims, and interests (collectively, the "Liens"), without the need for further Court approval and with Liens attaching to the proceeds of such use, sale, or transfer with the same validity, extent, and priority as had attached to the De Minimis Assets immediately prior to the use, sale, or transfer; (b) acquire certain De Minimis Assets in any individual transaction or series of related transactions from a single seller or a group of related sellers with an aggregate sale price equal to or less than $2 million as calculated within the Debtors' good faith judgment without the need for further Court approval; (c) abandon a De Minimis Asset to the extent that a sale thereof cannot be consummated at a value greater than the cost of liquidating such De Minimis Asset and; (d) to pay those reasonable and necessary fees and expenses (if any) incurred in connection with the use, sale, transfer, or acquisition of De Minimis Assets, including, but not limited to, commission fees to agents, brokers, auctioneers, and liquidators, with the amount of proposed

commission fees to be paid to be disclosed in the Transaction Notice (as defined herein);[2] and (e) granting related relief.

## JURISDICTION AND VENUE

2. This Court has jurisdiction to consider this matter pursuant to 28 U.S.C. §§ 157 and 1334, and the Amended Standing Order of Reference M-431, dated January 31, 2012 (Preska, C.J.). This is a core proceeding pursuant to 28 U.S.C. § 157(b).

3. Venue of the Chapter 11 Cases and this Motion is proper in this district under 28 U.S.C. §§ 1408 and 1409.

## BACKGROUND

### I. General Background.

4. On the date hereof (the "Petition Date"), the Debtors each commenced a case by filing a petition for relief under chapter 11 of the Bankruptcy Code. The Debtors have requested that the Chapter 11 Cases be jointly administered.

5. The Debtors are authorized to continue to operate their businesses and manage their properties as debtors and debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

6. On September 2, 2022, the United States Trustee for Region 2 appointed an official committee of unsecured creditors [Docket No. 161] and an official committee of opioid claimants [Docket No. 163] in the Chapter 11 Cases. No trustee or examiner has been appointed in the Chapter 11 Cases.

[2] The Debtors will not pay fees and expenses of estate-retained professionals in connection with such use, sale, transfer, or acquisition, however, other than in accordance with the *Order Establishing Procedures for Interim Compensation and Reimbursement of Expenses for Professionals* filed substantially contemporaneously herewith.

7. Additional information regarding the Debtors, including their business operations, their corporate and capital structure, and the events leading to the commencement of the Chapter 11 Cases is set forth in the *Declaration of Mark Bradley in Support of Chapter 11 Petitions and First Day Papers* [Docket No. 38] (the "First Day Declaration")[3] filed with this Court on the Petition Date and incorporated herein by reference.

## II. The RSA and the Stalking Horse Bid

8. The Debtors and the Ad Hoc First Lien Group are party to a Restructuring Support Agreement dated as of August 16, 2022 (the "RSA"). *See* Docket No. 20. The centerpiece of the RSA is a stalking horse bid (the "Stalking Horse Bid") to be provided by one or more entities formed in a manner acceptable to the Ad Hoc First Lien Group (the "Stalking Horse Bidder") to purchase substantially all of the Company's assets. The Stalking Horse Bid will provide a value "floor" to entice further bidding.

9. The Debtors determined that moving forward with the Stalking Horse Bid represents the best available path to address the Debtors' challenges. The Stalking Horse Bid, if consummated, would ensure that the Debtors' business continues as a going concern, save over a thousand jobs, and enable the Purchaser to fund over time hundreds of millions of dollars of consideration to be placed in trusts for Opioid Plaintiffs who elect to voluntarily participate in such trusts.

10. The Stalking Horse Bid includes an offer to purchase substantially all of the Debtors' assets for an aggregate purchase price composed of (a) a credit bid in full satisfaction of the Prepetition First Lien Indebtedness (approximately $6 billion), (b) $5 million in cash on account of certain unencumbered Transferred Assets (as defined in the RSA), (c) $122 million to

[3] Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the First Day Declaration.

wind down the Debtors' operations following the sale closing date, (d) pre-closing professional fees, and (e) the assumption of certain liabilities.

11. This Motion relates solely to procedures concerning the De Minimis Assets, which are not included in the Stalking Horse Bid.

**III. De Minimis Asset Transactions**

12. The Debtors seek approval of certain procedures that will authorize the Debtors to use, sell, acquire, invest, or transfer certain assets outside the ordinary course of business with a transaction value equal to or less than $2 million. In addition, the Debtors seek approval of certain procedures that would govern abandonment of certain assets of little or no use to the Debtors' estates.

13. In certain circumstances, the Debtors have a limited window of time in which they may enter into or take advantage of opportunities to sell, transfer, acquire, or otherwise monetize De Minimis Assets. The cost, delay, and publicity associated with seeking individual Court approval of each De Minimis Asset transaction could eliminate or substantially diminish the economic benefits of the transactions. Thus, the Debtors propose the De Minimis Asset Transaction Procedures (defined below) and the De Minimis Asset Abandonment Procedures (as defined below) to permit the Debtors to dispose of or acquire De Minimis Assets in a cost-efficient manner and to allow more expeditious and cost-effective review of certain De Minimis Asset Transactions by interested parties, while at the same time protecting the rights of creditors and other parties in interest.

14. In the normal course of their operations, the Debtors come into possession of certain assets that are obsolete, excessive, burdensome, no longer required for the operation of their business, or, after accounting for holding and maintenance costs, are of marginal or no value to their estates. Such De Minimis Assets include certain assets and equipment the Debtors utilize

to operate their pharmaceutical business. The De Minimis Assets also include certain intellectual property, such as patents, patent applications, trademarks, data, and marketing authorizations, including, but not limited to, registrations, applications, licenses, or other authorizations therefor, in jurisdictions across the globe. Importantly, the De Minimis Assets addressed by this motion consist only of assets that are not included in the Stalking Horse Bid.

15. The Debtors typically conduct between three and nine asset sale transactions per year, with a dollar value ranging from approximately $250,000 to $12 million. The Debtors also typically enter into two to five in-licensing transactions per year, with a dollar value ranging from approximately $475,000 to $200 million. By this Motion, the Debtors are only seeking approval to consummate transactions up to $2 million, which account for approximately 59% of the asset sales and 50% of in-licensing transactions over the past five years.

16. From time to time, the Debtors determine that prosecuting or maintaining certain intellectual property will cause the Debtors to continue to incur fees and expenses that outweigh their corresponding benefit to the estates. In these circumstances, the Debtors may decide to discontinue efforts to seek approval of or maintain such intellectual property. For example, the Debtors may allow a patent application to lapse because it would not add any meaningful term to an existing patent "family" (a collection of patents and/or patent applications covering the same or similar technical content), or such patent application does not cover a material current or anticipated product or process of the Debtors, and therefore would not provide any meaningful further protection.

17. The Debtors are currently negotiating the sale of at least three De Minimis Assets: (i) a brand name for one of their products, (ii) certain marketing authorizations for products in a jurisdiction the Debtors no longer plan to operate in, and (iii) certain abbreviated new drug

applications (ANDAs). The Debtors are also negotiating at least three in-licensing agreements pursuant to which the Debtors would pay royalties and milestone payments to license and distribute products from counterparties that fit well within the Debtors' existing product portfolio. In addition, the Debtors have identified patents in various jurisdictions that they intend to abandon in the near term.

**THE DE MINIMIS ASSET TRANSACTION PROCEDURES**

18. The Debtors propose to use, sell, acquire, invest, or transfer each of the De Minimis Assets for the highest and best offer received, taking into consideration the exigencies and circumstances of each such sale or transfer, under the following procedures (the "De Minimis Asset Transaction Procedures"):[4]

a. *Transaction Value Less Than or Equal to USD $500,000*. With regard to uses, sales, acquisitions, investments, or transfers of the De Minimis Assets in any individual transaction or series of related transactions to a single party or group of related parties with a total transaction value as calculated within the Debtors' good faith judgment of less than or equal to $500,000, the Debtors are authorized to consummate such transaction(s) if the Debtors determine in the exercise of their reasonable business judgment that such transactions are in the best interest of the estates, without further order of the Court, with notice to be provided as follows:

i. The Debtors shall, at least seven days in advance of the proposed transaction, provide written notice (email shall suffice) to Gibson, Dunn & Crutcher LLP, 200 Park Avenue, New York, NY 10166 Attn: Scott J. Greenberg (sgreenberg@gibsondunn.com), Michael J. Cohen (mcohen@gibsondunn.com), and Joshua K. Brody (jbrody@gibsondunn.com), counsel to the Ad Hoc First Lien Group (as defined in the First Day Declaration), which notice shall: (a) identify the De Minimis Assets being used, sold, acquired, or transferred, (b) identify the transaction counterparty, (c) state the transaction amount, (d) identify any known Liens on De Minimis Assets to be sold, and (e) state the significant terms of the transaction documents, including, but not limited to, any payments to be made

[4] The summary contained herein is subject in its entirety to the terms and provisions in the Proposed Order, and in the event of any inconsistency between this summary and the terms and provisions in the Proposed Order, the terms and provisions in the Proposed Order shall control.

by the Debtors on account of commission fees to agents, brokers, auctioneers, and liquidators.

b. *Transaction Value Greater Than USD $500,000 but Less Than or Equal to USD $2 Million*. With regard to uses, sales, acquisitions, investments, or transfers of the De Minimis Assets in any individual transaction or series of related transactions to a single party or group of related parties with a total transaction value as calculated within the Debtors' good faith judgment of greater than $500,000 and up to or equal to $2 million:

i. The Debtors are authorized to consummate such transaction(s) if the Debtors determine, in the exercise of their business judgment and in consultation with the Ad Hoc First Lien Group, that such transaction(s) are in the best interests of the estates, subject to the procedures set forth in the Order;

ii. The Debtors shall give written notice by first class mail (or email, where applicable) of each such transaction, substantially in the form attached to the Proposed Order as **Exhibit 1** (the "Transaction Notice"), to: (a) the U.S. Trustee, U.S. Federal Office Building, 201 Varick Street, Suite 1006, New York, NY 10014, Attn: Paul Schwartzberg, Susan Arbeit, Andy Velez-Rivera, and Tara Tiantian; (b) counsel to any statutory committee appointed in the Chapter 11 Cases; (c) counsel to the administrative agent under the Debtors' prepetition credit agreement; (d) counsel to the indenture trustee under each of the Debtors' outstanding bond issuances; (e) Gibson, Dunn & Crutcher LLP, 200 Park Avenue, New York, NY 10166 Attn: Scott J. Greenberg (sgreenberg@gibsondunn.com), Michael J. Cohen (mcohen@gibsondunn.com), and Joshua K. Brody (jbrody@gibsondunn.com), attorneys for the Ad Hoc First Lien Group; (f) Paul, Weiss, Rifkind, Wharton & Garrison LLP, 1285 Avenue of the Americas, New York, NY 10019 Attn: Andrew N. Rosenberg (arosenberg@paulweiss.com), Alice B. Eaton (aeton@paullweiss.com), Andrew Parlen (aparlen@paulweiss.com), and Alexander Woolverton (awoolverton@paulweiss.com), attorneys for the Ad Hoc Cross-Holder Group (as defined in the First Day Declaration); (g) the Proposed FCR; (h) any other party as required by applicable law; and (i) any known affected creditor asserting a Lien on the De Minimis Asset subject to sale (collectively, the "Notice Parties");

iii. The Transaction Notice shall (a) identify of the De Minimis Assets being used, sold, acquired, or transferred, (b) identify the transaction counterparty, (c) state the transaction amount, (d) identify any known Liens on De Minimis Assets to be sold, and (e) state the significant terms of the transaction documents, including, but not

limited to, any payments to be made by the Debtors on account of commission fees to agents, brokers, auctioneers, and liquidators;

iv. The Debtors shall take any additional actions that may be required under applicable laws and regulations to consummate the transaction.

v. If no written objections from any of the Notice Parties are filed with the Court and served on (a) proposed counsel to the Debtors, Skadden, Arps, Slate, Meagher & Flom LLP, One Manhattan West, New York, New York 10001 Attn: Evan A. Hill (Evan.Hill@skadden.com) and 500 Boylston Street, Boston, Massachusetts 02116 Attn: Liz Downing (Elizabeth.Downing@skadden.com) and (b) proposed co-counsel to the Debtors, Togut, Segal & Segal LLP, One Penn Plaza, Suite 3335, New York, New York 10119 Attn: Kyle J. Ortiz (kortiz@teamtogut.com) and Amy M. Oden (aoden@teamtogut.com) within seven (7) days after service of such Transaction Notice, then the Debtors are authorized to immediately consummate such sale or transfer; and

vi. If any Notice Party files and serves on counsel to the Debtors a written objection to any such transaction with the Court within seven (7) days after service of such Transaction Notice, then the relevant De Minimis Asset transaction shall only be consummated upon submission of a consensual form of order resolving the objection as between the Debtors and the objecting party or further order of the Court after notice and a hearing.

c. Pursuant to Bankruptcy Code section 363(f), all sales of De Minimis Assets pursuant to the Order shall be free and clear of all Liens, if any, with any and all such valid and perfected Liens to attach to proceeds of the sales with the same validity, priority, force, and effect such Liens had on the property immediately prior to the sale, subject to the rights, claims, defenses, and obligations, if any, of the Debtors and all interested parties with respect to any such asserted Liens.

d. Each purchaser of a De Minimis Asset will be afforded the protections of section 363(m) of the Bankruptcy Code as a good faith purchaser.

e. *Transaction Value Greater Than USD $2 Million*. With regard to uses, sales, acquisitions, investments, or transfers of the De Minimis Assets in any individual transaction or series of related transactions to a single party or group of related parties with a total transaction value as calculated within the Debtors' good faith judgment of greater than USD $2 million, these De Minimis Asset Transaction Procedures shall not apply, and the Debtors

shall file an appropriate motion with the Court requesting approval of the transaction.

19. To the extent the Debtors determine in their good faith judgment, and in consultation with the Ad Hoc First Lien Group, that De Minimis Assets cannot be sold at a price greater than the cost of liquidating such assets, the Debtors seek authority to abandon such De Minimis Assets in accordance with the following procedures (the "De Minimis Asset Abandonment Procedures," and, together with the De Minimis Asset Transaction Procedures, the "Procedures"):

a. The Debtors shall, after consultation with the Ad Hoc First Lien Group, give written notice of the abandonment, substantially in the form attached to the Proposed Order as **Exhibit 2** (the "Abandonment Notice"), to the Notice Parties;

b. The Abandonment Notice shall contain a (i) reasonably detailed description of the De Minimis Assets to be abandoned, (ii) the Debtors' reasons for such abandonment, and (iii) any payments to be made by the Debtors in connection with such abandonment including, but not limited to, commission fees to agents, brokers, auctioneers, and liquidators;

c. If no written objections from any of the Notice Parties are filed with the Court and served on counsel to the Debtors within seven (7) days after the date of service of such Abandonment Notice, then the Debtors are authorized to immediately proceed with the abandonment; and

d. If a written objection from any Notice Party is filed with the Court and served on counsel to the Debtors within seven (7) days after service of such Abandonment Notice, then the relevant De Minimis Assets shall only be abandoned upon either the consensual resolution of the objection by the parties in question or further order of the Court after notice and a hearing.

20. Additionally, during the Chapter 11 Cases, the Debtors will provide a written report, within 30 days after each calendar quarter (to the extent any transactions of De Minimis Assets were consummated or effectuated or any De Minimis Assets were abandoned pursuant to the Proposed Order for the relevant quarter) concerning any such transactions or abandonments made pursuant to the relief requested herein (including the names of the transaction

parties and the types and amounts of the transactions) to the Notice Parties and those parties requesting notice pursuant to Bankruptcy Rule 2002; *provided, however,* that the Debtors shall file a report pursuant to the Proposed Order thirty (30) days after confirmation of a chapter 11 plan of reorganization or liquidation, and following such filing, the Debtors shall have no additional or further reporting obligations with respect to De Minimis Asset transactions or abandonments.

21. The Debtors submit that the establishment of the foregoing procedures is desirable and in the best interests of the Debtors' estates, their creditors, and other parties in interest in these chapter 11 cases. The purchase, use, sale, or acquisition of the De Minimis Assets will generate additional value and help preserve existing value for the benefit of the Debtors' estates and all parties in interest. These procedures will promote an efficient administration of these chapter 11 cases, make De Minimis Asset Transactions cost effective, and expedite the use, sale, acquisition, or transfer of more valuable assets in a manner that will provide the most benefit to the Debtors' estates and creditors.

## APPLICABLE AUTHORITY

### I. The De Minimis Asset Transaction Procedures Are Appropriate Under Section 363(b) of the Bankruptcy Code.

22. Section 363(b)(1) of the Bankruptcy Code provides that "[t]he trustee, after notice and a hearing, may use, sell or lease, other than in the ordinary course of business, property of the estate." 11 U.S.C. § 363(b)(1). Although section 363 of the Bankruptcy Code does not specify a standard for determining when it is appropriate for a court to authorize the use, sale, or lease of property of the estate, bankruptcy courts routinely authorize sales of a debtor's assets if such sale is based upon the sound business judgment of the debtor. *See In re Chateaugay Corp.*, 973 F.2d 141 (2d Cir.1992) (approval of section 363(b) sale is appropriate if good business reasons exist for such sale); *see also In re Lionel Corp.*, 722 F.2d 1063, 1071 (2d Cir. 1983); *Meyers v.*

*Martin (In re Martin)*, 91 F.3d 389, 395 (3d Cir. 1996); *In re Montgomery Ward Holding Corp.*, 242 B.R. 147, 153 (Bankr. D. Del. 1999); *In re Delaware & Hudson Ry. Co.*, 124 B.R. 169, 176 (Bankr. D. Del. 1991); *In re Trans World Airlines, Inc*., Case No. 01-00056, 2001 Bankr. LEXIS 980, at *29 (Bankr. D. Del. Apr. 2, 2001).

23. The Debtors submit that the De Minimis Asset Transaction Procedures reflect an exercise of their business judgment. Courts generally will accord significant deference to a debtor's business judgment to use or sell assets outside the ordinary course of business. *See In re W.A. Mallory Co., Inc.*, 214 B.R. 834, 836–37 (Bankr. E.D. Va. 1997) ("[G]reat deference is given to a business in determining its own best interests."); *see also In re Global Crossing, Ltd.*, 295 B.R. 726, 744 n.58 (Bankr. S.D.N.Y. 2003) ("[T]he Court does not believe that it is appropriate for a bankruptcy court to substitute its own business judgment for that of the [d]ebtors and their advisors, so long as they have satisfied the requirements articulated in the case law."). Requiring the Debtors to file a motion with the Court each time the Debtors seek to (a) dispose of relatively insignificant, non-core assets or (b) acquire strategic, useful assets would distract from their restructuring efforts and force the Debtors to incur unnecessary costs that would reduce whatever value might be realized from the sale or acquisition of De Minimis Assets. In addition, the De Minimis Asset Transaction Procedures afford those creditors with an interest in the De Minimis Assets the opportunity to object to their use, sale, transfer, or acquisition and obtain a hearing if necessary, and the relief requested will not apply to sales of De Minimis Assets to "insiders," as that term is described in section 101(31) of the Bankruptcy Code.

**II. Shortened Notice of the De Minimis Asset Transactions Is Appropriate.**

24. Generally, Bankruptcy Rules 2002(a)(2) and 2002(i) require that a minimum of 21 days' notice of proposed uses or sales of property outside the ordinary course of business be provided by mail to "the debtor, the trustee, all creditors and indenture trustee" and

any committee appointed under section 1102 of the Bankruptcy Code. Ultimately, however, the notice and hearing requirements contained in section 363(b)(1) of the Bankruptcy Code are satisfied if appropriate notice and an opportunity for hearing are given in light of the particular circumstances. *See* 11 U.S.C. § 102(1)(A) (defining "after notice and a hearing" to mean such notice and an opportunity for hearing "as is appropriate in the particular circumstances").

25. Accordingly, courts are authorized to shorten the 21-day notice period generally applicable to asset sales and other transactions, or direct another method of giving notice, upon a showing of "cause." *See* Fed. R. Bankr. P. 2002(a)(2). Requiring 21 days' notice and a hearing before each De Minimis Asset transaction (a) would impose unnecessary costs and administrative burdens that may undermine or eliminate the economic benefits of the underlying transactions; and (b) in some instances, may hinder the Debtors' ability to take advantage of transaction opportunities that are available only for a limited time. The Debtors, therefore, propose to streamline the process and shorten the applicable notice periods as described herein to maximize the net value realized from De Minimis Asset transactions.

**III. The Court Should Approve the De Minimis Asset Sales Free and Clear of Liens.**

26. Section 363(f) of the Bankruptcy Code permits debtors to sell property free and clear of another party's interest in the property if: (a) applicable non-bankruptcy law permits such a "free and clear" sale; (b) the holder of the interest consents; (c) the interest is a lien and the sales price of the property exceeds the value of all liens on the property; (d) the interest is in bona fide dispute; or (e) the holder of the interest could be compelled in a legal or equitable proceeding to accept a monetary satisfaction of its interest.

27. The Debtors propose to sell or transfer the De Minimis Assets in a commercially reasonable manner in an effort to obtain the highest consideration for such assets, and expect that the value of the proceeds from such sales or transfers will fairly reflect the value

of the property sold. The Debtors further propose that any party with a Lien on a De Minimis Asset sold or transferred pursuant to this Motion shall have a corresponding security interest in the proceeds of such sale or transfer. Moreover, the Debtors propose that the failure to object to the entry of the order approving this Motion along with failure to file a timely objection to a Transaction Notice where applicable, shall be deemed "consent" to any sales or transfers pursuant to the order within the meaning of section 363(f)(2) of the Bankruptcy Code. As such, the requirements of section 363(f) of the Bankruptcy Code would be satisfied for any proposed sales or transfers free and clear of liens, claims, interests, and encumbrances.

## IV. Sales of De Minimis Assets Will Be Entitled to the Protections of Section 363(m) of the Bankruptcy Code.

28. Bankruptcy Code section 363(m) provides in relevant part that the reversal or modification on appeal of an authorization under section 363(b) of a sale or lease of property does not affect the validity of a sale or lease under such authorization to a purchaser who bought or leased such property in good faith, whether or not such entity knew of the pendency of the appeal, unless such authorization and such sale or lease were stayed pending appeal. *See* 11 U.S.C. § 363(m). Although the Bankruptcy Code does not define "good faith," the Second Circuit Court of Appeals, in *In re Gucci*, held that the: "[g]ood faith of a purchaser is shown by the integrity of his conduct during the course of the sale proceedings; where there is a lack of such integrity, a good faith finding may not be made. A purchaser's good faith is lost by 'fraud, collusion between the purchaser and other bidders or the trustee, or an attempt to take grossly unfair advantage of other bidders.'" 126 F.3d 380, 390 (2d Cir. 1997) (quoting *In re Rock Indus. Mach. Corp.*, 572 F.2d 1195, 1198 (7th Cir. 1978)) (interpreting Bankruptcy Rule 805, the precursor of section 363(m) of the Bankruptcy Code). The Debtors expect that any agreement that results in the sale of De Minimis Assets will be an arm's-length transaction entitled to the protections of section

363(m), and the Debtors ask that section 363(m) be deemed to apply to each sale of De Minimis Assets in accordance with the De Minimis Asset Transaction Procedures.

## V. The De Minimis Asset Abandonment Procedures Are Appropriate Under Section 554(a) of the Bankruptcy Code.

29. Section 554(a) of the Bankruptcy Code provides that "[a]fter notice and a hearing, the trustee may abandon any property of the estate that is burdensome to the estate or that is of inconsequential value and benefit to the estate." 11 U.S.C. § 554(a). The Debtors will take reasonable steps to sell De Minimis Assets not needed in their operations. The costs associated with sales of certain De Minimis Assets, however, may exceed any possible proceeds thereof. The inability to consummate a commercially reasonable sale of De Minimis Assets would indicate that these assets have no meaningful monetary value to the Debtors' estates. Further, the costs of storing or maintaining such De Minimis Assets may burden the Debtors' estates and weigh in favor of abandoning such assets. Accordingly, the Debtors contend that, in such circumstances, the abandonment of De Minimis Assets pursuant to the De Minimis Asset Abandonment Procedures is in the best interest of the Debtors' estates.

## VI. Courts in This Circuit Have Approved Similar Procedures.

30. In light of the demonstrable benefits of streamlined procedures to use, sell, transfer, invest, or abandon De Minimis Assets, courts in this district have approved similar procedures in other chapter 11 cases. *See*, *e.g.*, *In re LATAM Airlines Grp. S.A.*, Case No. 20-11254 (JLG) (Bankr. S.D.N.Y. Dec. 20, 2020) [Docket No. 1517] (approving procedures for selling or transferring *de minimis* assets up to $15 million); *In re The McClatchy Co.*, Case No. 20-10418 (MEW) (Bankr. S.D.N.Y. May 18, 2020) [Docket No. 459] (approving procedures for selling or transferring *de minimis* assets up to $750,000); *In re Windstream Holdings, Inc.*, Case No. 19-22312 (RDD) (Bankr. S.D.N.Y. Apr. 22, 2019) [Docket No. 389] (approving procedures

for using, selling, transferring, investing, or abandoning *de minimis* assets up to $10 million); *In re Westinghouse Electric Co. LLC*, Case No. 17-10751 (MEW) (Bankr. S.D.N.Y. Jan. 25, 2018) [Docket No. 2274] (approving procedures for selling or transferring *de minimis* assets up to $5 million); *In re SunEdison, Inc.*, Case No. 16-10992 (SMB) (Bankr. S.D.N.Y. July 14, 2016) [Docket No. 781] (approving procedures for selling or transferring *de minimis* assets up to $15 million). For the foregoing reasons, the Debtors believe that granting the relief requested herein is appropriate and in the best interests of its estate and creditors.

## RESERVATION OF RIGHTS

31. Nothing contained herein is or should be construed as: (a) an admission as to the validity of any claim against the Debtors, (b) a waiver of the Debtors' rights to dispute the amount of, basis for, or validity of any claim against the Debtors, (c) a waiver of any claims or causes of action that may exist against any creditor or interest holder, (d) a promise to pay any claim, (e) an approval, assumption, adoption, or rejection of any agreement, contract, program, policy, or lease between the Debtors and any third party under section 365 of the Bankruptcy Code, or (f) otherwise affecting the Debtors' rights under section 365 of the Bankruptcy Code to assume or reject any executory contract or unexpired lease. If this Court grants the relief sought herein, any payment made pursuant to this Court's order is not intended to be and should not be construed as an admission to the validity of any claim or a waiver of the Debtors' rights to subsequently dispute such claim.

## WAIVER OF STAY UNDER BANKRUPTCY RULE 6004(H)

32. The Debtors also request that this Court waive the stay imposed by Bankruptcy Rule 6004(h), which provides that "[a]n order authorizing the use, sale, or lease of property other than cash collateral is stayed until the expiration of 14 days after entry of the order, unless the court orders otherwise." Fed. R. Bankr. P. 6004(h). As described above, the relief that

the Debtors seek in this Motion is necessary for the Debtors to operate without interruption and to preserve value for their estates. Accordingly, the Debtors respectfully request that this Court waive the 14-day stay imposed by Bankruptcy Rule 6004(h), to the extent applicable, as the exigent nature of the relief sought herein justifies immediate relief.

**NOTICE**

33. Notice of this Motion shall be given to (a) the Office of the United States Trustee for the Southern District of New York; (b) counsel to the administrative agent under the Debtors' prepetition credit agreement; (c) counsel to the indenture trustee under each of the Debtors' outstanding bond issuances; (d) Gibson, Dunn & Crutcher LLP, 200 Park Avenue, New York, NY 10166 Attn: Scott J. Greenberg (sgreenberg@gibsondunn.com), Michael J. Cohen (mcohen@gibsondunn.com), and Joshua K. Brody (jbrody@gibsondunn.com), attorneys for the Ad Hoc First Lien Group; (e) Paul, Weiss, Rifkind, Wharton & Garrison LLP, 1285 Avenue of the Americas, New York, NY 10019 Attn: Andrew N. Rosenberg (arosenberg@paulweiss.com), Alice B. Eaton (aeton@paullweiss.com), Andrew Parlen (aparlen@paulweiss.com), and Alexander Woolverton (awoolverton@paulweiss.com), attorneys for the Ad Hoc Cross-Holder Group; (f) the U.S. Attorney for the Southern District of New York; (g) the attorneys general for all 50 states and the District of Columbia; (h) the Debtors' 50 largest unsecured creditors on a consolidated basis; (i) the Internal Revenue Service; (j) the Securities and Exchange Commission; (k) the proposed future claimants representative in the Chapter 11 Cases; (l) the U.S. Food and Drug Administration; (m) any party that has requested notice pursuant to Bankruptcy Rule 2002; and (n) any other party entitled to notice pursuant to Local Rule 9013-1(b). The Debtors submit that no other or further notice need be provided.

## NO PRIOR REQUEST

34. No prior request for the relief sought herein has been made to this or any other court.

## CONCLUSION

**WHEREFORE** the Debtors respectfully request that this Court (a) enter the Proposed Order in substantially the form attached hereto as **Exhibit A** and (b) grant such other and further relief as may be just and proper.

Dated: September 2, 2022
New York, New York

*/s/ Kyle J. Ortiz*
TOGUT, SEGAL & SEGAL LLP
Albert Togut
Frank A. Oswald
Kyle J. Ortiz
One Penn Plaza, Suite 3335
New York, New York 10119
Telephone: (212) 594-5000
Fax: (212) 967-4258

*Proposed Co-Counsel for the Debtors*
*and Debtors in Possession*

# Exhibit A

## Proposed Order

**UNITED STATES BANKRUPTCY COURT**
**SOUTHERN DISTRICT OF NEW YORK**

| | |
|---|---|
| ***In re*** | **Chapter 11** |
| **ENDO INTERNATIONAL plc, *et al.*,** | **Case No. 22-22549 (JLG)** |
| **Debtors.**[1] | **(Jointly Administered)** |
| | **Related Docket No. ___** |

**ORDER (I) AUTHORIZING AND APPROVING PROCEDURES FOR (A) THE USE, SALE, TRANSFER, OR ABANDONMENT OF DE MINIMIS ASSETS FREE AND CLEAR OF LIENS, CLAIMS, INTERESTS, AND ENCUMBRANCES WITHOUT FURTHER ORDER OF COURT AND (B) THE ACQUISITION OF DE MINIMIS ASSETS; (II) AUTHORIZING PAYMENT OF RELATED FEES AND EXPENSES; AND (III) GRANTING RELATED RELIEF**

Upon the motion (the "Motion")[2] of the debtors and debtors in possession (collectively, the "Debtors") in the above-captioned cases (the "Chapter 11 Cases") for an order (a) authorizing and approving procedures to use, sell, invest, or transfer certain assets, collections of assets, or business lines, including any rights or interests therein, of *de minimis* value of the Debtors that are not included in the Stalking Horse Bid (as defined in the Motion) (the "De Minimis Assets") in any individual transaction or series of related transactions (each, a "De Minimis Asset Transaction") to a single party or group of related parties with an aggregate sale price equal to or less than $2 million as calculated within the Debtors' good faith judgment, free and clear of liens, claims, and interests (collectively, the "Liens"), without the need for further

[1] The last four digits of Debtor Endo International plc's tax identification number are 3755. Due to the large number of debtors in these chapter 11 cases, a complete list of the debtor entities and the last four digits of their federal tax identification numbers is not provided herein. A complete list of such information may be obtained on the website of the Debtors' claims and noticing agent at https://restructuring.ra.kroll.com/Endo. The location of the Debtors' service address for purposes of these chapter 11 cases is: 1400 Atwater Drive, Malvern, PA 19355.

[2] Capitalized terms used but not defined herein shall have the meanings ascribed to such terms in the Motion.

Court approval and with Liens attaching to the proceeds of such use, sale, or transfer with the same validity, extent, and priority as had attached to the De Minimis Assets immediately prior to the use, sale, or transfer; (b) acquire certain De Minimis Assets in any individual transaction or series of related transactions from a single seller or a group of related sellers with an aggregate sale price equal to or less than $2 million as calculated within the Debtors' good faith judgment without the need for further Court approval; (c) abandon a De Minimis Asset to the extent that a sale thereof cannot be consummated at a value greater than the cost of liquidating such De Minimis Asset and; (d) to pay those reasonable and necessary fees and expenses (if any) incurred in connection with the use, sale, transfer, or acquisition of De Minimis Assets, including, but not limited to, commission fees to agents, brokers, auctioneers, and liquidators, with the amount of proposed commission fees to be paid to be disclosed in the Transaction Notice; and (e) granting related relief, all as more fully set forth in the Motion; and the Court having reviewed the Motion and having heard the statements of counsel regarding the relief requested in the Motion at a hearing before the Court (the "Hearing"); and the Court having found that (i) the Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157(a)–(b) and 1334(b) and the Amended Standing Order of Reference M-431, dated January 31, 2012 (Preska, C.J.); (ii) this is a core proceeding pursuant to 28 U.S.C. §§ 157 (b) and 1334(b); (iii) venue is proper before the Court pursuant to 28 U.S.C. §§ 1408 and 1409; and (iv) due and proper notice of the Motion and the Hearing was sufficient under the circumstances; and the Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and it appearing that the relief requested in the Motion is in the best interests of the Debtors, their estates, creditors, and all other parties-in-interest; and upon all of the proceedings had before the Court and after due deliberation and sufficient cause appearing therefor; it is hereby,

**IT IS HEREBY ORDERED THAT:**

1. The Motion is GRANTED solely to the extent set forth herein.

2. Pursuant to section 363(b) of the Bankruptcy Code, the Debtors are authorized to use, sell, acquire, invest, or transfer De Minimis Assets in accordance with the following procedures (the "De Minimis Asset Transaction Procedures"):

a. *Transaction Value Less Than or Equal to USD $500,000*. With regard to uses, sales, acquisitions, investments, or transfers of the De Minimis Assets in any individual transaction or series of related transactions to a single party or group of related parties with a total transaction value as calculated within the Debtors' good faith judgment of less than or equal to $500,000, the Debtors are authorized to consummate such transaction(s) if the Debtors determine in the exercise of their business judgment that such transactions are in the best interest of the estates, without further order of the Court, with notice to be provided as follows:

i. The Debtors shall, at least seven days in advance of the proposed transaction, provide written notice (email shall suffice) to Gibson, Dunn & Crutcher LLP, 200 Park Avenue, New York, NY 10166 Attn: Scott J. Greenberg (sgreenberg@gibsondunn.com), Michael J. Cohen (mcohen@gibsondunn.com), and Joshua K. Brody (jbrody@gibsondunn.com), counsel to the Ad Hoc First Lien Group (as defined in the First Day Declaration), which notice shall: (a) identify the De Minimis Assets being used, sold, acquired, or transferred, (b) identify the transaction counterparty, (c) state the transaction amount, (d) identify any known Liens on De Minimis Assets to be sold, and (e) state the significant terms of the transaction documents, including, but not limited to, any payments to be made by the Debtors on account of commission fees to agents, brokers, auctioneers, and liquidators.

b. *Transaction Value Greater Than USD $500,000 but Less Than or Equal to USD $2 Million*. With regard to uses, sales, acquisitions, investments, or transfers of the De Minimis Assets in any individual transaction or series of related transactions to a single party or group of related parties with a total transaction value as calculated within the Debtors' good faith judgment of greater than $500,000 and up to or equal to $2 million:

i. The Debtors are authorized to consummate such transaction(s) if the Debtors determine, in the exercise of their business judgment and in consultation with the Ad Hoc First Lien Group, that such transaction(s) are in the best interests of the estates, subject to the procedures set forth in the Order;

ii. The Debtors shall give written notice by first class mail (or email, where applicable) of each such transaction, substantially in the form attached to the Proposed Order as **Exhibit 1** (the "Transaction Notice"), to: (a) the U.S. Trustee, U.S. Federal Office Building, 201 Varick Street, Suite 1006, New York, NY 10014, Attn: Paul Schwartzberg, Susan Arbeit, Andy Velez-Rivera, and Tara Tiantian; (b) counsel to any statutory committee appointed in the Chapter 11 Cases; (c) counsel to the administrative agent under the Debtors' prepetition credit agreement; (d) counsel to the indenture trustee under each of the Debtors' outstanding bond issuances; (e) Gibson, Dunn & Crutcher LLP, 200 Park Avenue, New York, NY 10166 Attn: Scott J. Greenberg (sgreenberg@gibsondunn.com), Michael J. Cohen (mcohen@gibsondunn.com), and Joshua K. Brody (jbrody@gibsondunn.com), attorneys for the Ad Hoc First Lien Group; (f) Paul, Weiss, Rifkind, Wharton & Garrison LLP, 1285 Avenue of the Americas, New York, NY 10019 Attn: Andrew N. Rosenberg (arosenberg@paulweiss.com), Alice B. Eaton (aeton@paullweiss.com), Andrew Parlen (aparlen@paulweiss.com), and Alexander Woolverton (awoolverton@paulweiss.com), attorneys for the Ad Hoc Cross-Holder Group (as defined in the First Day Declaration); (g) the Proposed FCR; (h) any other party as required by applicable law; and (i) any known affected creditor asserting a Lien on the De Minimis Asset subject to sale (collectively, the "Notice Parties");

iii. The Transaction Notice shall (a) identify of the De Minimis Assets being used, sold, acquired, or transferred, (b) identify the transaction counterparty, (c) state the transaction amount, (d) identify any known Liens on De Minimis Assets to be sold, and (e) state the significant terms of the transaction documents, including, but not limited to, any payments to be made by the Debtors on account of commission fees to agents, brokers, auctioneers, and liquidators;

iv. The Debtors shall take any additional actions that may be required under applicable laws and regulations to consummate the transaction.

v. If no written objections from any of the Notice Parties are filed with the Court and served on (a) proposed counsel to the Debtors, Skadden, Arps, Slate, Meagher & Flom LLP, One Manhattan West, New York, New York 10001 Attn: Evan A. Hill (Evan.Hill@skadden.com) and 500 Boylston Street, Boston, Massachusetts 02116 Attn: Liz Downing (Elizabeth.Downing@skadden.com) and (b) proposed co-counsel to the Debtors, Togut, Segal & Segal LLP, One Penn Plaza, Suite 3335, New York, New York 10119 Attn: Kyle J. Ortiz (kortiz@teamtogut.com) and Amy M. Oden

(aoden@teamtogut.com) within seven (7) days after service of such Transaction Notice, then the Debtors are authorized to immediately consummate such sale or transfer; and

vi. If any Notice Party files and serves on counsel to the Debtors a written objection to any such transaction with the Court within seven (7) days after service of such Transaction Notice, then the relevant De Minimis Asset transaction shall only be consummated upon submission of a consensual form of order resolving the objection as between the Debtors and the objecting party or further order of the Court after notice and a hearing.

c. Pursuant to Bankruptcy Code section 363(f), all sales of De Minimis Assets pursuant to the Order shall be free and clear of all Liens, if any, with any and all such valid and perfected Liens to attach to proceeds of the sales with the same validity, priority, force, and effect such Liens had on the property immediately prior to the sale, subject to the rights, claims, defenses, and obligations, if any, of the Debtors and all interested parties with respect to any such asserted Liens.

d. Each purchaser of a De Minimis Asset will be afforded the protections of section 363(m) of the Bankruptcy Code as a good faith purchaser.

e. *Transaction Value Greater Than USD $2 Million*. With regard to uses, sales, acquisitions, investments, or transfers of the De Minimis Assets in any individual transaction or series of related transactions to a single party or group of related parties with a total transaction value as calculated within the Debtors' good faith judgment of greater than USD $2 million, these De Minimis Asset Transaction Procedures shall not apply, and the Debtors shall file an appropriate motion with the Court requesting approval of the transaction.

3. Pursuant to section 554(a) of the Bankruptcy Code, the Debtors are authorized to abandon De Minimis Assets which the Debtors determine, in their good faith judgment and in consultation with the Ad Hoc First Lien Group, cannot be sold at a price greater than the cost of liquidating such assets, in accordance with the following procedures (the "De Minimis Asset Abandonment Procedures"):

a. The Debtors shall, after consultation with the Ad Hoc First Lien Group, give written notice of the abandonment, substantially in the form attached to the Proposed Order as **Exhibit 2** (the "Abandonment Notice"), to the Notice Parties;

b. The Abandonment Notice shall contain a (i) reasonably detailed description of the De Minimis Assets to be abandoned, (ii) the Debtors' reasons for such abandonment, and (iii) any payments to be made by the Debtors in connection with such abandonment including, but not limited to, commission fees to agents, brokers, auctioneers, and liquidators;

c. If no written objections from any of the Notice Parties are filed with the Court and served on counsel to the Debtors within seven (7) days after the date of service of such Abandonment Notice, then the Debtors are authorized to immediately proceed with the abandonment; and

d. If a written objection from any Notice Party is filed with the Court and served on counsel to the Debtors within seven (7) days after service of such Abandonment Notice, then the relevant De Minimis Assets shall only be abandoned upon either the consensual resolution of the objection by the parties in question or further order of the Court after notice and a hearing.

4. Local Rules 6004-1 and 6005-1 are hereby waived with respect to any transaction undertaken pursuant to the De Minimis Asset Transaction Procedures.

5. The De Minimis Asset Transaction Procedures satisfy section 363(f) of the Bankruptcy Code.

6. Sales, uses, acquisitions, investments, or transfers to "insiders," as that term is defined in section 101(31) of the Bankruptcy Code, are excluded from this Order.

7. No objection to the relief requested in the Motion combined with no timely objection to the sale or transfer of De Minimis Assets in accordance with the terms of this Order shall be determined to be "consent" to such use, sale, or transfer within the meaning of section 363(f)(2) of the Bankruptcy Code.

8. Sales and transfers of De Minimis Assets are, without need for any action by any party, free and clear of all Liens, with such Liens attaching to the proceeds of such sale or transfer with the same validity, extent, and priority and subject to the same defenses as had attached to such De Minimis Assets immediately prior to such sale or transfer. The holder of any valid lien, claim, encumbrance, or interest on such De Minimis Assets shall, as of the effective date of such

sale or transfer, be deemed to have waived and released such lien, claim, encumbrance, or interest, without regard to whether such holder has executed or filed any applicable release, and such lien, claim, encumbrance, or interest shall automatically, and with no further action by any party, attach to the proceeds of such sale.

9. Purchasers and transferees of De Minimis Assets are entitled to the protections afforded to good-faith purchasers under section 363(m) of the Bankruptcy Code.

10. During the Chapter 11 Cases, the Debtors will provide a written report, within 30 days after each calendar quarter (to the extent any transactions of De Minimis Assets were consummated or effectuated or any De Minimis Assets were abandoned pursuant to this Order for the relevant quarter) concerning any such transactions or abandonments made pursuant to the relief requested herein (including the names of the transaction parties and the types and amounts of the transactions) to the Notice Parties and those parties requesting notice pursuant to Bankruptcy Rule 2002; *provided, however,* that the Debtors shall file a report thirty (30) days after confirmation of a chapter 11 plan of reorganization or liquidation, and following such filing, the Debtors shall have no additional or further reporting obligations with respect to De Minimis Asset transactions or abandonments.

11. Service of the Transaction Notice is sufficient notice of the use, sale, or transfer of such De Minimis Assets.

12. With respect to all sale transactions consummated pursuant to this Order, this Order shall be sole and sufficient evidence of the transfer of title to any particular buyer, and the sale transactions consummated pursuant to this Order shall be binding upon and shall govern the acts of all persons and entities who may be required by operation of law, the duties of their office, or contract to accept, file, register, or otherwise record or release any documents or

instruments, or who may be required to report or insure any title or state of title in or to any of the property sold pursuant to this Order, including, without limitation, all filing agents, filing officers, title agents, title companies, recorders of mortgages, recorders of deeds, administrative agencies, governmental departments, secretaries of state, and federal, state, and local officials, and each of such persons and entities is hereby directed to accept this Order as sole and sufficient evidence of such transfer of title and shall rely upon this Order in consummating the transactions contemplated hereby.

13. The Debtors are authorized to pay those reasonable and necessary fees and expenses incurred in the use, sale, transfer, or acquisition of De Minimis Assets, including commission fees to agents, brokers, auctioneers, and liquidators.[3]

14. Nothing contained herein shall prejudice the rights of the Debtors to seek authorization for the use, sale, acquisition, or transfer of any asset under 11 U.S.C. § 363.

15. Notwithstanding the relief granted in this Order and any actions taken pursuant to such relief, nothing in this Order shall be deemed: (a) an admission as to the validity of any prepetition claim against a Debtor entity; (b) a waiver of the rights of the Debtors or any statutory committee appointed in the Chapter 11 Cases, to dispute any prepetition claim on any grounds; (c) a promise or requirement to pay any prepetition claim; (d) an implication or admission that any particular claim is of a type specified or defined in this Order or the Motion; (e) a request or authorization to assume any prepetition agreement, contract, or lease pursuant to section 365 of the Bankruptcy Code; (f) a waiver or limitation of the Debtors' rights or the rights of any other person under the Bankruptcy Code or any other applicable law; or (g) a concession by the Debtors

[3] The Debtors will not pay fees and expenses of estate-retained professionals in connection with such use, sale, transfer, or acquisition, however, other than in accordance with the *Order Establishing Procedures for Interim Compensation and Reimbursement of Expenses for Professionals* dated _____, 2022 [Docket No. ___].

that any liens (contractual, common law, statutory, or otherwise) satisfied pursuant to the Motion are valid, and the Debtors expressly reserve their rights to contest the extent, validity, or perfection or seek avoidance of all such liens.

16. Notwithstanding anything to the contrary in this Order or the De Minimis Asset Transaction Procedures, none of the Debtors' insurance policies and/or any related agreements shall be sold, assigned, or otherwise transferred pursuant to any De Minimis Asset Transaction except in compliance with the terms of such insurance policies, any related agreements, and/or applicable nonbankruptcy law.

17. Notwithstanding anything to the contrary contained herein, any payment to be made or authorization contained hereunder shall be subject to the requirements imposed on the Debtors under any order regarding the use of cash collateral, or budget in connection therewith, approved by the Court in these Chapter 11 Cases.

18. Nothing in this Order shall be deemed to allow the Debtors to abandon real or personal property in violation of applicable state or federal laws or regulations, including, but not limited to, environmental laws and regulations.

19. The De Minimis Asset Transaction Procedures and the De Minimis Asset Abandonment Procedures satisfy Bankruptcy Rules 2002 and 6007 and Local Rule 6007-1.

20. Notice of the Motion satisfies the requirements of Bankruptcy Rule 6004(a).

21. Notwithstanding Bankruptcy Rule 6004(h), the terms and conditions of this Order are immediately effective and enforceable upon its entry.

22. The Debtors are authorized and empowered to take all actions necessary and appropriate to implement the relief granted in this Order, including, without limitation, entering into sale agreements, executing all other appropriate sale related documents, paying fees

and expenses incurred in the sale or transfer of De Minimis Assets, and taking any and all steps necessary to effectuate any approved sale or abandonment.

23. The Court retains jurisdiction with respect to all matters arising from or related to the implementation, interpretation, and enforcement of this Order.

Dated:_____, 2022
New York, New York

THE HONORABLE JAMES L. GARRITY, JR.,
UNITED STATES BANKRUPTCY JUDGE

# Exhibit 1

## Transaction Notice

SKADDEN, ARPS, SLATE, MEAGHER & FLOM LLP
Paul D. Leake
Lisa Laukitis
Shana A. Elberg
Evan A. Hill
One Manhattan West
New York, New York 10001
Telephone: (212) 735-3000
Fax: (212) 735-2000

TOGUT, SEGAL & SEGAL LLP
Albert Togut
Frank A. Oswald
Kyle J. Ortiz
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New York, New York 10119
Telephone: (212) 594-5000
Fax: (212) 967-4258

*[Proposed] Counsel to Debtors and Debtors in Possession*

**UNITED STATES BANKRUPTCY COURT**
**SOUTHERN DISTRICT OF NEW YORK**

| | |
|---|---|
| ***In re*** | **Chapter 11** |
| **ENDO INTERNATIONAL plc, *et al.*,** | **Case No. 22-22549 (JLG)** |
| **Debtors.**[1] | **(Jointly Administered)** |

**LIMITED NOTICE OF [___] WITH [___]
IN ACCORDANCE WITH THE ORDER (I) AUTHORIZING AND APPROVING PROCEDURES FOR (A) THE USE, SALE, TRANSFER, OR ABANDONMENT OF DE MINIMIS ASSETS FREE AND CLEAR OF LIENS, CLAIMS, INTERESTS, AND ENCUMBRANCES WITHOUT FURTHER ORDER OF COURT AND (B) THE ACQUISITION OF DE MINIMIS ASSETS; (II) AUTHORIZING PAYMENT OF RELATED FEES AND EXPENSES; AND (III) GRANTING RELATED RELIEF**

**PLEASE TAKE NOTICE** that, on [__], 2022, the United States Bankruptcy Court for the Southern District of New York (the "Court") entered the order [Docket No. ___] (the "Order") granting the motion (the "Motion")[2] of the Debtors for an order, pursuant to

[1] The last four digits of Debtor Endo International plc's tax identification number are 3755. Due to the large number of debtors in these chapter 11 cases, a complete list of the debtor entities and the last four digits of their federal tax identification numbers is not provided herein. A complete list of such information may be obtained on the website of the Debtors' claims and noticing agent at https://restructuring.ra.kroll.com/Endo. The location of the Debtors' service address for purposes of these chapter 11 cases is: 1400 Atwater Drive, Malvern, PA 19355.

[2] Capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Motion.

sections 105(a), 363, and 554 of the Bankruptcy Code, Bankruptcy Rule 2002, and Local Rules 6006-1, 6007-1, and 9013-1 (a) authorizing and approving procedures to use, sell, invest, or transfer certain assets, collections of assets, or business lines, including any rights or interests therein, of *de minimis* value of the Debtors that are not included in the Stalking Horse Bid (the "De Minimis Assets") in any individual transaction or series of related transactions to a single party or group of related parties with an aggregate sale price equal to or less than $2 million as calculated within the Debtors' good faith judgment, free and clear of liens, claims, and interests (collectively, the "Liens"), without the need for further Court approval and with Liens attaching to the proceeds of such use, sale, or transfer with the same validity, extent, and priority as had attached to the De Minimis Assets immediately prior to the use, sale, or transfer; (b) acquire certain De Minimis Assets in any individual transaction or series of related transactions from a single seller or a group of related sellers with an aggregate sale price equal to or less than $2 million as calculated within the Debtors' good faith judgment without the need for further Court approval; (c) abandon a De Minimis Asset to the extent that a sale thereof cannot be consummated at a value greater than the cost of liquidating such De Minimis Asset and; (d) to pay those reasonable and necessary fees and expenses (if any) incurred in connection with the use, sale, transfer, or acquisition of De Minimis Assets, including, but not limited to, commission fees to agents, brokers, auctioneers, and liquidators; and (e) granting related relief.

**PLEASE TAKE FURTHER NOTICE** that, pursuant to the terms of the Order and by this written limited notice of transaction (this "Transaction Notice"), the Debtors propose to enter into the transaction (the "Limited Notice Transaction") described below, which involves the [use / sale / transfer / acquisition] of De Minimis Assets to a single party or group of related parties with a gross selling price between $500,000 and $2 million in the aggregate.

(1) **Identification of the property being used, sold, acquired, or transferred**: The Debtors intend to [__]. This De Minimis Asset is located at [__].

(2) **Identification of the transaction counterparty**: The counterparty is [__], a third party.

(3) **Identification of any parties known to the Debtors as holding Liens on the property being sold and a statement indicating whether (i) all such Liens are capable of monetary satisfaction, or (ii) the holders of such Liens have consented to the sale**: [__].

(4) **Transaction amount**: The Debtors intend to [__] for $[__].

(5) **Any other significant terms of the transaction**: [There are no other significant terms of the transaction.] / [__].

(6) **Date and time within which objections must be filed and served on the Debtors**: Parties seeking to object to the De Minimis Asset Transaction described in this Transaction Notice must file and serve a written objection, so that such objection is filed with the Court and is ***actually received*** no later than seven (7) calendar days after the date that the Debtors served this Transaction Notice, upon (a) proposed counsel to the Debtors, Skadden, Arps, Slate, Meagher & Flom LLP, One Manhattan West, New York, New York 10001 Attn: Evan A. Hill (Evan.Hill@skadden.com) and 500 Boylston Street, Boston, Massachusetts 02116 Attn: Liz Downing (Elizabeth.Downing@skadden.com) and (b) proposed co-counsel to the Debtors, Togut, Segal & Segal LLP, One Penn Plaza, Suite 3335, New York, New York 10119 Attn: Kyle J. Ortiz (kortiz@teamtogut.com) and Amy M. Oden (aoden@teamtogut.com).

**PLEASE TAKE FURTHER NOTICE** that, absent an objection to this Transaction Notice being timely filed, the Debtors are authorized to immediately consummate the Limited Notice Transaction as described herein without further notice, hearing, or order of this Court.

**PLEASE TAKE FURTHER NOTICE** that, if an objection to this Transaction Notice is timely filed and not withdrawn or resolved, the Debtors shall file a notice of hearing to consider the unresolved objection.

**PLEASE TAKE FURTHER NOTICE** that, any objection may be resolved without a hearing by an order of the Court submitted on a consensual basis by the Debtors and the objecting party.

Dated: _____
New York, New York

_____
TOGUT, SEGAL & SEGAL LLP
Albert Togut
Frank A. Oswald
Kyle J. Ortiz
One Penn Plaza, Suite 3335
New York, New York 10119
Telephone: (212) 594-5000
Fax: (212) 967-4258

*[Proposed] Co-Counsel for the Debtors and Debtors in Possession*

**Exhibit 2**

**Abandonment Notice**

SKADDEN, ARPS, SLATE, MEAGHER & FLOM LLP
Paul D. Leake
Lisa Laukitis
Shana A. Elberg
Evan A. Hill
One Manhattan West
New York, New York 10001
Telephone: (212) 735-3000
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New York, New York 10119
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Fax: (212) 967-4258

*[Proposed] Counsel to Debtors and Debtors in Possession*

**UNITED STATES BANKRUPTCY COURT**
**SOUTHERN DISTRICT OF NEW YORK**

| | |
|---|---|
| ***In re*** | **Chapter 11** |
| **ENDO INTERNATIONAL plc, *et al.*,** | **Case No. 22-22549 (JLG)** |
| **Debtors.**[1] | **(Jointly Administered)** |

**LIMITED NOTICE OF ABANDONMENT OF DE MINIMIS ASSETS LOCATED AT [__] IN ACCORDANCE WITH THE ORDER (I) AUTHORIZING AND APPROVING PROCEDURES FOR (A) THE USE, SALE, TRANSFER, OR ABANDONMENT OF DE MINIMIS ASSETS FREE AND CLEAR OF LIENS, CLAIMS, INTERESTS, AND ENCUMBRANCES WITHOUT FURTHER ORDER OF COURT AND (B) THE ACQUISITION OF DE MINIMIS ASSETS; (II) AUTHORIZING PAYMENT OF RELATED FEES AND EXPENSES; AND (III) GRANTING RELATED RELIEF**

**PLEASE TAKE NOTICE** that, on [__], 2022, the United States Bankruptcy Court for the Southern District of New York (the "Court") entered the order [Docket No. ___] (the "Order") granting the motion (the "Motion")[2] of the Debtors for an order, pursuant to

[1] The last four digits of Debtor Endo International plc's tax identification number are 3755. Due to the large number of debtors in these chapter 11 cases, a complete list of the debtor entities and the last four digits of their federal tax identification numbers is not provided herein. A complete list of such information may be obtained on the website of the Debtors' claims and noticing agent at https://restructuring.ra.kroll.com/Endo. The location of the Debtors' service address for purposes of these chapter 11 cases is: 1400 Atwater Drive, Malvern, PA 19355.

[2] Capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Motion.

sections 105(a), 363, and 554 of the Bankruptcy Code, Bankruptcy Rule 2002, and Local Rules 6006-1, 6007-1, and 9013-1 (a) authorizing and approving procedures to use, sell, invest, or transfer certain assets, collections of assets, or business lines, including any rights or interests therein, of *de minimis* value of the Debtors that are not included in the Stalking Horse Bid (the "De Minimis Assets") in any individual transaction or series of related transactions to a single party or group of related parties with an aggregate sale price equal to or less than $2 million as calculated within the Debtors' good faith judgment, free and clear of liens, claims, and interests (collectively, the "Liens"), without the need for further Court approval and with Liens attaching to the proceeds of such use, sale, or transfer with the same validity, extent, and priority as had attached to the De Minimis Assets immediately prior to the use, sale, or transfer; (b) acquire certain De Minimis Assets in any individual transaction or series of related transactions from a single seller or a group of related sellers with an aggregate sale price equal to or less than $2 million as calculated within the Debtors' good faith judgment without the need for further Court approval; (c) abandon a De Minimis Asset to the extent that a sale thereof cannot be consummated at a value greater than the cost of liquidating such De Minimis Asset and; (d) to pay those reasonable and necessary fees and expenses (if any) incurred in connection with the use, sale, transfer, or acquisition of De Minimis Assets, including, but not limited to, commission fees to agents, brokers, auctioneers, and liquidators; and (e) granting related relief.

**PLEASE TAKE FURTHER NOTICE** that, pursuant to the terms of the Order and by this written limited notice of abandonment (this "Abandonment Notice"), the Debtors propose to abandon certain De Minimis Assets as described below (the "Limited Notice Abandonment"), for which the Debtors determine in their good faith judgment, and in

consultation with the Ad Hoc First Lien Group, that such De Minimis Assets cannot be sold at a price greater than the cost of liquidating such assets.

(1) **Description of the De Minimis Assets to be abandoned**: The Debtors intend to abandon [__]. This De Minimis Assets are located at [__].

(2) **Reasons for abandonment**: [__].

(3) **Any payments to be made by the Debtors in connection with such abandonment including**: [There are no payments to be made by the Debtors in connection with such abandonment.] / [__].

(4) **Date and time within which objections must be filed and served on the Debtors**: Parties seeking to object to the Debtors' abandonment of the De Minimis Asset described in this Transaction Notice must file and serve a written objection, so that such objection is filed with the Court and is ***actually received*** no later than seven (7) calendar days after the date that the Debtors served this Transaction Notice, upon (a) proposed counsel to the Debtors, Skadden, Arps, Slate, Meagher & Flom LLP, One Manhattan West, New York, New York 10001 Attn: Evan A. Hill (Evan.Hill@skadden.com) and 500 Boylston Street, Boston, Massachusetts 02116 Attn: Liz Downing (Elizabeth.Downing@skadden.com) and (b) proposed co-counsel to the Debtors, Togut, Segal & Segal LLP, One Penn Plaza, Suite 3335, New York, New York 10119 Attn: Kyle J. Ortiz (kortiz@teamtogut.com) and Amy M. Oden (aoden@teamtogut.com).

**PLEASE TAKE FURTHER NOTICE** that, absent an objection to this Abandonment Notice being timely filed, the Debtors are authorized to immediately consummate the Limited Notice Abandonment as described herein without further notice, hearing, or order of this Court.

**PLEASE TAKE FURTHER NOTICE** that, if an objection to this Abandonment Notice is timely filed and not withdrawn or resolved, the Debtors shall file a notice of hearing to consider the unresolved objection.

**PLEASE TAKE FURTHER NOTICE** that, any objection may be resolved without a hearing by an order of the Court submitted on a consensual basis by the Debtors and the objecting party.

Dated: _____
New York, New York

_____
TOGUT, SEGAL & SEGAL LLP
Albert Togut
Frank A. Oswald
Kyle J. Ortiz
One Penn Plaza, Suite 3335
New York, New York 10119
Telephone: (212) 594-5000
Fax: (212) 967-4258

*[Proposed] Co-Counsel for the Debtors and Debtors in Possession*

Court File No. CV-22-00685631-00CL

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

AND IN THE MATTER OF PALADIN LABS CANADIAN HOLDING INC. AND PALADIN LABS INC.

APPLICATION OF PALADIN LABS INC. UNDER SECTION 46 OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED

Applicant

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

Proceeding commenced at Toronto

**AFFIDAVIT OF ANDREW HARMES**
**(Sworn October 7, 2022)**

**GOODMANS LLP**
Barristers & Solicitors
333 Bay Street, Suite 3400
Toronto, ON M5H 2S7

**Robert J. Chadwick LSO#: 35165K**
rchadwick@goodmans.ca

**Bradley Wiffen LSO#: 64279L**
bwiffen@goodmans.ca

**Andrew Harmes LSO#: 73221A**
aharmes@goodmans.ca

Tel: 416.979.2211
Fax: 416.979.1234

Lawyers for the Applicant

Court File No. CV-22-00685631-00CL

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

| | | |
|---|---|---|
| THE HONOURABLE CHIEF | ) | THURSDAY, THE 13TH |
| | ) | |
| JUSTICE MORAWETZ | ) | 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 PALADIN LABS CANADIAN HOLDING INC. AND PALADIN LABS INC.**

**APPLICATION OF PALADIN LABS INC. UNDER SECTION 46 OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED**

Applicant

**SECOND SUPPLEMENTAL ORDER**

**THIS MOTION**, made pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**") by Paladin Labs Inc. in its capacity as the foreign representative (the "**Foreign Representative**") of the proceedings commenced by Endo International plc and certain of its affiliates on August 16, 2022 in the United States Bankruptcy Court for the Southern District of New York (the "**Bankruptcy Court**") pursuant to chapter 11 of title 11 of the United States Code (the "**Foreign Proceeding**"), for an Order, among other things, recognizing certain orders made in the Foreign Proceeding, was heard this day by videoconference.

**ON READING** the Notice of Motion, the affidavit of Daniel Vas sworn October 7, 2022, the affidavit of Andrew Harmes sworn October 7, 2022, and the first report of KSV Restructuring Inc., in its capacity as information officer (the "**Information Officer**"), dated October ●, 2022, filed,

**AND UPON HEARING** the submissions of counsel for the Foreign Representative, counsel for the Information Officer, and counsel for such other parties as were present and wished to be heard:

**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 and not otherwise defined herein shall have the meanings given to them in the Supplemental Order (Foreign Main Proceeding) of this Court dated August 19, 2022.

**RECOGNITION OF FOREIGN ORDERS**

3. **THIS COURT ORDERS** that the following orders (collectively, the "**Foreign Orders**") of the Bankruptcy Court made in the Foreign Proceeding are hereby recognized and given full force and effect in all provinces and territories of Canada pursuant to section 49 of the CCAA:

(a) *Order (I) Appointing Roger Frankel as Future Claimants' Representative, Effective as of the Petition Date; and (II) Granting Related Relief* (the "**Future Claimants Representative Order**") (a copy of which is attached as Schedule A hereto);

(b) *Second Interim Order (I) Authorizing Debtors to (A) Pay Prepetition Wages, Salaries, Employee Benefits and Other Compensation and (B) Continue Employee Benefit Programs and Pay Related Administrative Obligations; (II) Authorizing Financial Institutions to Honor and Process Related Checks and Transfers; and (III) Granting Related Relief* (the "**Second Interim Wages Order**") (a copy of which is attached as Schedule B hereto);

(c) *Final Order (I) Authorizing Debtors to Honor Prepetition Obligations to Customers and Related Third Parties and to Otherwise Continue Customer Programs; (II) Granting Relief from Stay to Permit Setoff in Connection with*

*Customer Programs; (III) Authorizing Financial Institutions to Honor and Process Related Checks and Transfers; and (IV) Granting Related Relief* (the "**Final Customer Programs Order**") (a copy of which is attached as Schedule C hereto);

(d) *Final Order (I) Authorizing Payment of Certain Prepetition Specified Trade Claims; (II) Authorizing Financial Institutions to Honor and Process Related Checks and Transfers; and (III) Granting Related Relief* (the "**Final Vendor Order**") (a copy of which is attached as Schedule D hereto);

(e) *Final Order Authorizing (I) Debtors to Pay Certain Prepetition Taxes, Governmental Assessments, and Fees; and (II) Financial Institutions to Honor and Process Related Checks and Transfers* (the "**Final Taxes Order**") (a copy of which is attached as Schedule E hereto);

(f) *Final Order Authorizing (I) the Debtors to Continue and Renew Their Insurance Programs and Honour all Obligations in Respect Thereof; (II) Financial Institutions to Honor and Process Related Checks and Transfers; and (III) the Debtors to Modify the Automatic Stay With Respect to Workers' Compensation Claims* (the "**Final Insurance Order**") (a copy of which is attached as Schedule F hereto);

(g) *Final Order (I) Authorizing the Debtors to (A) Continue Using Existing Cash Management Systems, Bank Accounts, and Business Forms and (B) Implement Changes to Their Cash Management System in the Ordinary Course of Business; (II) Granting Administrative Expense Priority for Postpetition Intercompany Claims; (III) Granting a Waiver With Respect to the Requirements of 11 U.S.C. § 345(b); and (IV) Granting Related Relief* (the "**Final Cash Management Order**") (a copy of which is attached as Schedule G hereto); and

(h) *Order (I) Prohibiting Utilities from Altering, Refusing, or Discontinuing Service; (II) Deeming Utilities Adequately Assured of Future Performance; and (III) Establishing Procedures for Determining Requests for Additional Adequate*

*Insurance* (the "**Utilities Order**") (a copy of which is attached as Schedule H hereto),

provided, however, that in the event of any conflict between the terms of the Foreign Orders and the Orders of this Court made in the within proceedings, the Orders of this Court shall govern with respect to Property in Canada.

**RECOGNITION OF DE MINIMIS ASSETS ORDER**

4. **THIS COURT ORDERS** that the *Order (I) Authorizing and Approving Procedures For (A) The Use, Sale, Transfer, or Abandonment of De Minimis Assets Free and Clear of Liens, Claims, Interests, and Encumbrances Without Further Order of Court, and (B) The Acquisition of De Minimis Assets; (II) Authorizing Payment of Related Fees and Expenses; and (III) Granting Related Relief* (the "**De Minimis Assets Order**"), a copy of which is attached as Schedule I hereto, of the Bankruptcy Court made in the Foreign Proceeding is hereby recognized and given full force and effect in all provinces and territories of Canada pursuant to section 49 of the CCAA.

5. **THIS COURT ORDERS** that Paladin Labs Inc. and Paladin Labs Canadian Holding Inc. (each a "**Canadian Debtor**") are authorized, notwithstanding paragraph 5 of the Initial Recognition Order (Foreign Main Proceedings) of this Court granted August 19, 2022, to use, sell, acquire, invest, transfer or abandon their Property in accordance with the De Minimis Assets Order, provided that a Canadian Debtor shall provide not less than seven (7) days' advance notice to the Information Officer prior to taking any action with respect to its Property pursuant to the De Minimis Assets Order.

**GENERAL**

6. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, or regulatory or administrative body having jurisdiction in Canada, the United States of America or any other foreign jurisdiction, to give effect to this Order and to assist the Canadian Debtors, the Foreign Representative, the Information Officer, and their respective counsel and agents in carrying out the terms of this Order. All courts, tribunals, and regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to

the Canadian Debtors, the Foreign Representative and the Information Officer, the latter as an officer of this Court, as may be necessary or desirable to give effect to this Order, or to assist the Canadian Debtors, the Foreign Representative, the Information Officer, and their respective counsel and agents in carrying out the terms of this Order.

7. **THIS COURT ORDERS** that each of the Canadian Debtors, the Foreign Representative and the Information Officer be at liberty and is hereby authorized and empowered to apply to any court, tribunal, or regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order.

8. **THIS COURT ORDERS** that this Order shall be effective as of 12:01 a.m. (Toronto time) on the date of this Order without the need for entry or filing of this Order.

Chief Justice G.B. Morawetz

# SCHEDULE A
# FUTURE CLAIMANTS REPRESENTATIVE ORDER

**[Attached]**

**SCHEDULE B**
**SECOND INTERIM WAGES ORDER**

**[Attached]**

# SCHEDULE C
# FINAL CUSTOMER PROGRAMS ORDER

**[Attached]**

# SCHEDULE D
# FINAL VENDOR ORDER

**[Attached]**

# SCHEDULE E
# FINAL TAXES ORDER

**[Attached]**

# SCHEDULE F
# FINAL INSURANCE ORDER

**[Attached]**

# SCHEDULE G
# FINAL CASH MANAGEMENT ORDER

**[Attached]**

# SCHEDULE H
# UTILITIES ORDER

**[Attached]**

# SCHEDULE I
# DE MINIMIS ASSETS ORDER

**[Attached]**

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

AND IN THE MATTER OF PALADIN LABS CANADIAN HOLDING INC. AND PALADIN LABS INC.

APPLICATION OF PALADIN LABS INC. UNDER SECTION 46 OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED

Applicant

**ONTARIO**
**SUPERIOR COURT OF JUSTICE**
**(COMMERCIAL LIST)**
Proceeding commenced at Toronto

**SECOND SUPPLEMENTAL ORDER**

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Court File No. CV-22-00685631-00CL

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

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Applicant

**ONTARIO**
**SUPERIOR COURT OF JUSTICE**
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Proceeding commenced at Toronto

**MOTION RECORD**
**(Returnable October 13, 2022)**

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