



**Affidavit**"), and the Second Report of KSV Restructuring Inc., in its capacity as the Court-appointed monitor of the Applicants (in such capacity, the "**Monitor**") dated January 4, 2023 (the "**Second Report**"), and on hearing the submissions of counsel for the Applicants, counsel for the Monitor, counsel for Cortland Credit Lending Corporation, as agent for and on behalf of certain lenders (the "**DIP Lender**"), and such other counsel that were present, no one else appearing although duly served as appears from the affidavit of service of Joshua Foster, filed:

### **SERVICE AND DEFINITIONS**

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

2. **THIS COURT ORDERS** that capitalized terms used in this Order and not otherwise defined herein shall have the meanings ascribed to them under the Sale and Investment Solicitation Process attached hereto as Schedule "A", including without limitation, the Bidding Procedures and Auction Procedures set out therein (the "**SISP**"), or the Amended and Restated Initial Order of the Honourable Madam Justice Conway dated November 17, 2022 (the "**Amended and Restated Initial Order**"), as applicable.

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

3. **THIS COURT ORDERS** that the Stay Period be and is hereby extended until and including March 10, 2023.

### **APPROVAL OF THE SISP ADVISOR'S ENGAGEMENT**

4. **THIS COURT ORDERS** that the letter agreement dated November 7, 2022, among the Applicants and Stoic Advisory Inc. (the "**SISP Advisor**") attached as Exhibit "F" to the Ruscetta Affidavit (the "**SISP Advisor Engagement Agreement**"), is hereby approved and the Applicants are hereby authorized, *nunc pro tunc*, to pay all amounts due pursuant to the SISP Advisor Engagement Agreement in accordance with its terms.

## APPROVAL OF THE SISP

5. **THIS COURT ORDERS** that the SISP (subject to any amendments thereto that may be made in accordance therewith and with the terms of this Order) be and is hereby approved and the Applicants, the SISP Advisor and the Monitor, are authorized and directed to carry out the SISP in accordance with its terms and the terms of this Order, and are hereby authorized and directed to take such steps as they consider necessary or desirable in carrying out each of their obligations thereunder, subject to prior approval of this Court being obtained before completion of any transaction(s) under the SISP.

6. **THIS COURT ORDERS** that the Applicants, the SISP Advisor and the Monitor and their respective Assistants, affiliates, partners, directors, employees, advisors, agents and controlling persons shall have no liability with respect to any and all losses, claims, damages or liability of any nature or kind to any person in connection with or as a result of performing their duties under the SISP, except to the extent of such losses, claims, damages or liabilities arising or resulting from the gross negligence or wilful misconduct of the Applicants, the SISP Advisor or the Monitor, as applicable, as determined by this Court.

7. **THIS COURT ORDERS** that, notwithstanding anything contained in this Order or in the SISP, neither the SISP Advisor nor the Monitor shall take Possession of the Business or the Property or be deemed to take Possession of the Business or the Property, including pursuant to any provision of the Cannabis Legislation or the Environmental Legislation.

## PIPEDA

8. **THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the *Canada Personal Information Protection and Electronic Documents Act* and any similar legislation in any other applicable jurisdictions, the Applicants, the SISP Advisor, the Monitor and each of their respective Assistants are hereby authorized and permitted to disclose and transfer to each Qualified Bidder personal information of identifiable individuals but only to the extent desirable or required to negotiate or attempt to complete a transaction pursuant to the SISP (each a "**Transaction**"). Each Qualified Bidder to whom such personal information is disclosed shall maintain and protect the privacy of such information and limit the use of such information to its evaluation for the purpose of effecting a Transaction, and if it does not complete a Transaction,

shall return all such information to the Applicants, the SISP Advisor or the Monitor, as applicable, or in the alternative destroy all such information and provide confirmation of its destruction if requested by the Applicants, the SISP Advisor or the Monitor. The Successful Bidder(s) shall maintain and protect the privacy of such information and, upon closing of the Transaction(s) contemplated in the Successful Bid(s), shall be entitled to use the personal information provided to it that is related to the Business and/or the Property acquired pursuant to the SISP in a manner that is in all material respects identical to the prior use of such information by the Applicants, and shall return all other personal information to the Applicants, the SISP Advisor or the Monitor or ensure that all other personal information is destroyed and provide confirmation of its destruction if requested by the Applicants, the SISP Advisor or the Monitor.

#### **APPROVAL OF THE STALKING HORSE SPA**

9. **THIS COURT ORDERS** that the Applicants' execution of the stalking horse share purchase agreement among L5 Capital Inc. (the "**Stalking Horse Bidder**") and the Applicants dated December 12, 2022 and attached to the Ruscetta Affidavit as Exhibit "G" (the "**Stalking Horse SPA**"), is hereby authorized and approved, *nunc pro tunc*, with such minor amendments as the Applicants, with the consent of the Monitor, and the Stalking Horse Bidder may agree to in writing, and the bid made by the Stalking Horse Bidder pursuant to the Stalking Horse SPA is hereby approved as the Stalking Horse Bid; provided that, nothing herein approves the sale and vesting of the Purchased Shares (as defined in the Stalking Horse SPA) to the Stalking Horse Bidder pursuant to the Stalking Horse SPA and that the approval of the sale and vesting of such Purchased Shares shall be considered by this Court on a subsequent motion made to this Court following completion of the SISP if the Stalking Horse Bid is the Successful Bid.

10. **THIS COURT ORDERS** that the Expense Reimbursement is hereby approved and Trichome is hereby authorized to pay the Expense Reimbursement subject to and in accordance with the terms of the Stalking Horse SPA.

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

11. **THIS COURT ORDERS** that the Pre-Filing Report of the Monitor dated November 7, 2022 (the "**Pre-Filing Report**"), the First Report of the Monitor dated November 14, 2022 (the "**First Report**"), and the Second Report, and the activities of the Monitor referred to therein be

and are hereby approved; provided, however, that only the Monitor, in its personal capacity and only with respect to its own personal liability, shall be entitled to rely upon or utilize in any way such approval.

12. **THIS COURT ORDERS** that the fees and disbursements of the Monitor and its counsel, as set out in the Second Report, be and are hereby approved.

### **DIP AMENDMENTS**

13. **THIS COURT ORDERS** that the Applicants' execution of the first amending agreement dated December 14, 2022 and the second amending agreement dated January 6, 2023, each among the Applicants and the DIP Lender, and attached to the Ruscetta Affidavit as Exhibit "H" and the Supplemental Ruscetta Affidavit as Exhibit "A" (together the "**DIP Amendments**"), respectively, is hereby authorized and approved, *nunc pro tunc*.

14. **THIS COURT ORDERS** that paragraphs 32 to 37 of the Amended and Restated Initial Order shall apply to the DIP Agreement as amended by the DIP Amendments and all references to the DIP Agreement contained in the Amended and Restated Initial Order shall be deemed to be references to the DIP Agreement as amended by the DIP Amendments.

### **GENERAL**

15. **THIS COURT ORDERS** that the Applicants or the Monitor may apply to this Court to amend, vary or supplement this Order or for advice and directions with respect to the SISF at any time.

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

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

18. **THIS COURT ORDERS** that this Order and all of its provisions are effective as of 12:01 a.m. (Eastern Time) on the date of this Order without the need for entry or filing.



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**SCHEDULE "A"**

**SISP**

**IN THE MATTER OF TRICHOME FINANCIAL CORP., TRICHOME JWC  
ACQUISITION CORP., MYM NUTRACEUTICALS INC., TRICHOME RETAIL  
CORP., MYM INTERNATIONAL BRANDS INC. AND HIGHLAND GROW INC.**

**SALE AND INVESTMENT SOLICITATION PROCESS**

On November 7, 2022, Trichome Financial Corp. ("**Trichome**"), Trichome JWC Acquisition Corp., MYM Nutraceuticals Inc., Trichome Retail Corp., MYM International Brands Inc. and Highland Grow Inc. (collectively with Trichome, the "**Vendors**") obtained an initial order (as amended and restated on November 17, 2022, and as may be further amended and restated from time to time, the "**Initial Order**") under the *Companies' Creditors Arrangement Act*, R.S.C. 1985. c. C-36, as amended (the "**CCAA**") from the Ontario Superior Court of Justice (Commercial List) (the "**Court**"). Pursuant to the Initial Order, KSV Restructuring Inc. was appointed as the Monitor in the Applicants' CCAA proceedings (in such capacity, the "**Monitor**").

On January 9, 2023, the Court granted an order (the "**Stalking Horse and SISP Approval Order**") under the CCAA, among other things: approving a sale and investment solicitation process (the "**SISP**") and corresponding Bidding Procedures and Auction Procedures (each as defined below); approving the letter agreement dated November 7, 2022 between the Vendors and Stoic Advisory Inc. (the "**SISP Advisor**"); authorizing the SISP Advisor and the Vendors to implement the SISP, with the oversight of the Monitor; approving and accepting solely for the purposes of conducting the SISP, the stalking horse share purchase agreement dated December 12, 2022 (the "**Stalking Horse Bid**") among the Vendors and L5 Capital Inc. (the "**Stalking Horse Bidder**"); and approving the payment of an expense reimbursement (the "**Expense Reimbursement**") by Trichome to the Stalking Horse Bidder in accordance with the provisions of the Stalking Horse Bid.

Set forth below are the bidding procedures ("**Bidding Procedures**") to be employed with respect to the sale of the Vendors' Assets (as defined below) pursuant to the Court-approved SISP.

Subject to Court availability and the terms hereof, the Vendors shall bring a motion (the "**Approval and Vesting Order Motion**") on or before March 3, 2023, seeking an order (the "**Approval and Vesting Order**") by the Court authorizing the Vendors to proceed with the sale of the Vendors' Assets to the Qualified Bidder making the Successful Bid (each as defined below) (the "**Successful Bidder**").

## BIDDING PROCEDURES

### Key Dates

January 3, 2023	Delivery of the Teaser Letter (as defined below) and sales packages
January 3, 2023	Confidential data site to be established
February 6, 2023 at 5:00 p.m. (Eastern Time)	Bid Deadline (as defined below) - due date for bids and deposits
February 14, 2023	Monitor to provide the Stalking Horse Bidder and each Qualified Bidder a schedule setting forth either or both (i) the highest or otherwise best fully binding offer for all of the Vendors' Assets and (ii) the highest or otherwise best fully binding offer(s) for all or any combination of the Vendors' Assets
February 17, 2023 at 10:00 a.m. (Eastern Time)	Auction (as defined below), if any
February 21, 2023 (Eastern Time) (pending the Court's availability)	Approval and Vesting Order Motion (if no Auction)
March 3, 2023 (Eastern Time) (pending the Court's availability)	Approval and Vesting Order Motion (if Auction)

### Solicitation of Interest: Notice of the SISP and Bidding Procedures

As soon as reasonably practicable, but in any event no later than January 3, 2023:

- (i) the SISP Advisor, with the assistance of the Vendors and the Monitor, will prepare (a) a list of potential bidders who may be interested in acquiring the Vendors' Assets in whole or in part (each a "**Known Potential Bidder**"), and (b) a process summary (the "**Teaser Letter**") describing the Vendors' Assets, outlining these Bidding Procedures and inviting recipients of the Teaser Letter to express their interest pursuant to these Bidding Procedures; and

- (ii) the Vendors, with the assistance of the SISP Advisor and the Monitor, will prepare a non-disclosure agreement (an "NDA") to be provided to Potential Bidders (as defined below).

The SISP Advisor will send the Teaser Letter and an NDA to each Known Potential Bidder by no later than January 3, 2023, and to any other party who requests a copy of the Teaser Letter and NDA or who is identified by the Vendors or the Monitor as a potential bidder as soon as reasonably practicable after such request or identification, as applicable.

### **Assets to Be Sold En Bloc or Piecemeal**

The Vendors are offering for sale all of the Vendors' right, title and interest in and to all of the Vendors' assets or all of the shares in the capital of the Vendors by way of a share sale through a reverse vesting transaction (collectively, the "**Vendors' Assets**"). The Vendors will consider (i) a bid for all of the Vendors' Assets (an "**En Bloc Bid**") or (ii) separate bids to acquire some but not all of the Vendors' Assets ("**Piecemeal Bids**"), provided that the Vendors will only consider Piecemeal Bids if a combination of one or more Piecemeal Bids in the aggregate meet the requirements to be a Qualified Bid (as defined below). The Vendors' preferred transaction structure is an En Bloc Bid.

Although the Vendors are seeking bids to purchase some or all of the Vendors' Assets, the Vendors will also consider a bid that contemplates a plan of reorganization, recapitalization or other form of reorganization of the business and affairs of the Vendors (a "**Plan Bid**") provided that such Plan Bid will only be a Qualified Bid if it: (i) provides for the indefeasible payment in full of the Expense Reimbursement and, unless otherwise consented to by the Agent (as defined below) and the DIP Lender (as defined in the Initial Order), all amounts owing to Cortland Credit Lending Corporation ("**Cortland**"), including without limitation, the secured indebtedness owing to Cortland, as agent for and on behalf of the Vendors' senior secured lenders (in such capacity, the "**Agent**") and the indebtedness owing to Cortland as the DIP Lender under the DIP Agreement (as defined in the Initial Order), on or before the Outside Date (as defined in the Stalking Horse Bid) regardless of the timeline for such Plan Bid; (ii) has conditions that, in the reasonable opinion of the Vendors and the Monitor, are likely to be satisfied; and (iii) includes a fully-funded commitment to provide any additional interim financing required by the Vendors to complete all of the steps necessary to implement such Plan Bid, such financing to be subordinate to the existing Administration Charge, the Directors' Charge and the DIP Lender's Charge (each as defined in the Initial Order).

### **The Bidding Process and the Auction**

The SISP Advisor, under the supervision of the Vendors and the Monitor, shall be responsible for the marketing and sale of the Vendors' Assets pursuant to the Stalking Horse and SISP Approval Order, the SISP and these Bidding Procedures on behalf of the Vendors (the "**Bidding Process**"). The Monitor, with the consent of the Vendors, shall have the right to adopt such other rules for the Bidding Process (including rules that may depart from those set forth herein) that in its reasonable business judgment will better promote the goals of the Bidding Process, *provided, however*, that the adoption of any rule that materially deviates from these Bidding Procedures shall require the prior written consent of the Stalking Horse Bidder or a further Order of the Court.

The Monitor will be responsible for conducting an auction (the "**Auction**"), if required in accordance with the terms of these Bidding Procedures, on behalf of the Vendors.

### **Participation Requirements**

Any interested party that wishes to participate in the Bidding Process (each a "**Potential Bidder**") must provide to the Vendors:

- (i) an NDA executed by it, which shall enure to the benefit of any purchaser of the Vendors' Assets, or any portion thereof; and
- (ii) a letter setting forth the identity of the Potential Bidder, and the contact information for such Potential Bidder.

To be a "**Qualified Bidder**", a Potential Bidder must satisfy the Required Bid Terms and Materials (as defined below).

### **Bid Deadline**

A Potential Bidder that desires to make a bid shall deliver written copies of its bid and the Required Bid Terms and Materials to the Monitor no later than 5:00 p.m. (Eastern Time) on February 6, 2023 (the "**Bid Deadline**"). Written copies of bids and the Required Bid Terms and Materials shall be delivered by the Bid Deadline by email to the Monitor at the following address:

KSV Restructuring Inc. 150 King Street West, Suite 2308  
Toronto, Ontario, M5H 1J9  
Attention: Murtaza Tallat  
Email: [mtallat@ksvadvisory.com](mailto:mtallat@ksvadvisory.com)

The Monitor shall forthwith provide copies of any bids received to the Vendors.

### **Bid Requirements**

All bids (other than the Stalking Horse Bid) must include or conform with the following requirements (collectively, the "**Required Bid Terms and Materials**"):

- (i) the identity of each entity or person and representatives thereof who are authorized to appear and act on behalf of the Potential Bidder for all purposes regarding the transaction;
- (ii) aggregate consideration of CAD\$6,600,000, which shall include cash consideration in an amount of at least CAD\$5,300,000, being (x) the amount payable under the Stalking Horse Bid (CAD\$5,000,000), plus (y) the Expense Reimbursement (CAD\$200,000) and (z) a CAD\$100,000 minimum bid increment;
- (iii) a description of the Vendors' Assets to be included in the transaction, and an allocation of the purchase price to such Vendors' Assets;

- (iv) a provision stating that the Potential Bidder's offer is irrevocably open for acceptance until the earlier of (a) the date that the Vendors' Assets have been sold pursuant to the closing of the transaction(s) approved by the Court; and (b) the Outside Date;
- (v) there shall be no provision making the Potential Bidder's offer conditional on obtaining financing or any internal approval or on the outcome of unperformed due diligence or any other contingencies more burdensome than those set forth in the Stalking Horse Bid;
- (vi) a duly authorized and executed copy of a proposed purchase agreement and a redline of the Potential Bidder's proposed purchase agreement reflecting variations from the form of purchase agreement uploaded to the data site (the "**Modified Purchase Agreement**");
- (vii) there shall be no provision within the Modified Purchase Agreement requesting or entitling the Potential Bidder to any termination or break-up fee, expense reimbursement or similar type of payment;
- (viii) evidence of a firm, irrevocable commitment for financing or other evidence of ability to consummate the proposed transaction, that will allow the Monitor and the Vendors to make a determination as to the Potential Bidder's financial and other capabilities to consummate the proposed transaction;
- (ix) an assumption of liabilities and other economic terms pursuant to the Modified Purchase Agreement that are at least as favorable in the aggregate as those in the Stalking Horse Bid, including with respect to the Closing Date Purchased Entity Receivables and the Closing Date Purchased Entity Inventory (each as defined in the Stalking Horse Bid); and
- (x) a cash deposit in the amount of not less than five percent (5%) of the amount of the purchase price ("**Bid Deposit**"), in immediately available funds in the form of a wire transfer, bank draft or such other form acceptable to the Monitor, acting reasonably, which shall be held by the Monitor in trust (the "**Escrow Funds**"). The Escrow Funds shall be disbursed only as follows: (a) if the Qualified Bidder is the Successful Bidder, its Bid Deposit will be disbursed in accordance with its binding transaction agreement; and (b) if the Qualified Bidder is not the Successful Bidder, then its Bid Deposit shall be returned to it, without interest, forthwith following the expiration of its offer (which in the case of the Back-Up Bid (as defined below) shall be following closing of the sale to the Successful Bidder).

A bid from a Potential Bidder that includes all of the Required Bid Terms and Materials and is received by the Bid Deadline is a "**Qualified Bid**". The Monitor shall notify each Potential Bidder with respect to whether it has submitted a Qualified Bid as soon as practicable after the Bid Deadline. In consultation with the Vendors, the Monitor may waive compliance with any one or more of the Required Bid Terms and Materials and deem such non-compliant bid to be a Qualified Bid.

The Vendors and the Monitor shall review the Qualified Bids to determine which Qualified Bid is the best offer. The Vendors, with the consent of the Monitor, reserve the right to determine the value of any Qualified Bid, and which Qualified Bid constitutes the best offer (the "**Lead Bid**"). A copy of the Lead Bid will be provided by the Monitor to all Qualified Bidders after the Bid Deadline and no later than 5:00 p.m. (Eastern Time) three (3) days before the date scheduled for the Auction.

Notwithstanding the Required Bid Terms and Materials detailed above, the Stalking Horse Bid shall be deemed to be a Qualified Bid and the Stalking Horse Bidder shall be deemed to be a Qualified Bidder.

If no Qualified Bids are submitted by the Bid Deadline other than the Stalking Horse Bid, the Stalking Horse Bid shall be deemed to be the Successful Bid, and the SISP shall not proceed to an Auction.

### **The Sale and Auction Process**

If one or more Qualified Bids (other than that submitted by the Stalking Horse Bidder) have been received by the Monitor on or before the Bid Deadline, the Monitor shall advise all Qualified Bidders of the Lead Bid and invite all Qualified Bidders (including the Stalking Horse Bidder) to participate in the Auction to be conducted by the Monitor in accordance with the Auction Procedures attached hereto as Schedule "A" (the "**Auction Procedures**"). The Auction will be conducted by video conference and/or in person at the discretion of the Monitor.

Determination of the Highest and/or Best Bid: The Vendors and the Monitor shall determine after each round of offers in the Auction, in their reasonable business judgment, the best bid to be designated as the Lead Bid for the following round in the Auction. In making such determination, the Vendors and the Monitor may consider, without limitation: (i) the amount and nature of the consideration; (ii) the proposed assumption of liabilities, if any, and the related implied impact on recoveries for creditors; (iii) the ability of the applicable Qualified Bidder to close the proposed transaction; (iv) the proposed closing date and the likelihood, extent and impact of any potential delays in closing; (v) any purchase price adjustment; (vi) the net economic effect of any changes made to the Stalking Horse Bid; and (vii) such other considerations as the Vendors or the Monitor deem relevant in their reasonable business judgment. At the end of each round of offers, the Monitor shall advise the Qualified Bidders of the material terms of the then highest and/or best bid, and the basis for calculating the total consideration offered in such bid. If at the end of any round of bidding a Qualified Bidder has elected not to submit a further bid meeting the criteria set out herein (including the Minimum Bid Increment (as defined in the Auction Procedures)), then such Qualified Bidder shall not be entitled to continue to participate in the next round of offers or in any subsequent round.

If only one Qualified Bid is submitted after a round of offers then that Qualified Bid shall be the Successful Bidder. The next highest offer, as determined by the Vendors and the Monitor (the "**Back-Up Bid**"), shall be required to keep its offer open and available for acceptance until the closing of the Court-approved sale of the Vendors' Assets to the Successful Bidder.

### **Highest Versus Best Offer**

In determining the Lead Bid, the highest and/or best sale offer during each round of offers, and the Successful Bid, the Vendors and the Monitor are not required to select the offer with the highest purchase price and may, exercising their reasonable business judgment, select another offer on the basis that it is the best offer even though not the highest purchase price. Without limiting the foregoing, the Vendors and the Monitor may give such weight to the non-monetary considerations as they determine, exercising their reasonable business judgment, is appropriate and reasonable, including those considerations described above under "Determination of the Highest and/or Best Bid".

### **Expense Reimbursement**

To provide an incentive and to compensate the Stalking Horse Bidder for performing the due diligence and incurring the expenses necessary in entering into the Stalking Horse Bid with the knowledge and risk that arises from participating in the SISP and the Bidding Process, Trichome has agreed to pay the Stalking Horse Bidder, under the conditions outlined herein and in the Stalking Horse Bid, the Expense Reimbursement on account of its reasonable and documented out of pocket fees and expenses, up to a maximum of CAD\$200,000 inclusive of HST, in the event that the Stalking Horse Bidder is not the Successful Bidder.

The Expense Reimbursement is a material inducement for, and a condition of, the Stalking Horse Bidder's entry into the Stalking Horse Bid. The Expense Reimbursement, if payable under the Stalking Horse Bid, shall be paid in accordance with the Stalking Horse Bid and the Stalking Horse and SISP Approval Order.

### **Acceptance of Qualified Bids**

The sale of the Vendors' Assets to any Successful Bidder by the Vendors is expressly conditional upon the approval of such bid (the "**Successful Bid**") by the Court at the Approval and Vesting Order Motion. The presentation of the Successful Bid to the Court for approval does not obligate the Vendors to close the transaction contemplated by such Successful Bid unless and until the Court approves the Successful Bid. The Vendors will be deemed to have accepted a bid only when the bid has been approved by the Court at the Approval and Vesting Order Motion.

### **"As Is, Where Is, With All Faults"**

The sale of the Vendors' Assets or any portion thereof shall be on an "as is, where is" and "with all faults" basis and without representations, warranties, or guarantees, express, implied or statutory, written or oral, of any kind, nature, or description by the SISP Advisor, the Monitor or the Vendors or their respective agents, representatives, partners or employees, or any of the other parties participating in the Bidding Process, except as may otherwise be provided in a definitive purchase agreement with the Vendors. By submitting a bid, each Qualified Bidder shall be deemed to acknowledge and represent that it has had an opportunity to conduct any and all due diligence regarding the Vendors' Assets prior to making its bid, that it has relied solely upon its own independent review, investigation and/or inspection of any documents and/or the Vendors' Assets in making its bid, and that it did not rely upon any written or oral statements, representations, warranties, or guarantees, express, implied, statutory or otherwise, regarding the Vendors' Assets,

the financial performance of the Vendors' Assets or the physical condition or location of the Vendors' Assets, or the completeness of any information provided in connection therewith, the SISP or the Auction, except as expressly stated in these Bidding Procedures or as set forth in a definitive purchase agreement with the Vendors.

### **Free of Any and All Liens**

Except as otherwise provided in the Stalking Horse Bid or another Successful Bidder's purchase agreement, and subject to any permitted encumbrances therein (in each case, the "**Permitted Encumbrances**"), all of the Vendors' right, title and interest in and to the Vendors' Assets shall be sold free and clear of all liens and encumbrances pursuant to the Approval and Vesting Order except for the Permitted Encumbrances, if any.

### **Approval and Vesting Order Motion Hearing**

The Approval and Vesting Order Motion shall, subject to the Court's availability, take place on or before March 3, 2023 (or, if there is no Auction, on or before February 21, 2023). The Vendors, with the consent of the Monitor, reserve their right to the extent consistent with the Stalking Horse Bid to change the date of the hearing of the Approval and Vesting Order Motion in order to achieve the maximum value for the Vendors' Assets.

### **Miscellaneous**

The SISP, the Bidding Process and these Bidding Procedures are solely for the benefit of the Vendors and nothing contained in the Stalking Horse and SISP Approval Order or these Bidding Procedures shall create any rights in any other person (including, without limitation, any bidder or Qualified Bidder, and any rights as third party beneficiaries or otherwise) other than the rights expressly granted to a Successful Bidder under the Stalking Horse and SISP Approval Order. The Expense Reimbursement incorporated in these Bidding Procedures is solely for the benefit of the Stalking Horse Bidder.

Participants in the SISP and the Bidding Process, are responsible for all costs, expenses and liabilities incurred by them in connection with the submission of any Qualified Bid, due diligence activities, and any further negotiations or other actions whether or not they lead to the consummation of a transaction, including, without limitation, any actions pursuant to these Bidding Procedures or within the Auction, except, for greater certainty, the Expense Reimbursement if payable under the Stalking Horse Bid.

Except as provided in the Stalking Horse and SISP Approval Order and these Bidding Procedures, the Court shall retain jurisdiction to hear and determine all matters arising from or relating to the implementation of the Stalking Horse and SISP Approval Order, the SISP, the Bidding Process and these Bidding Procedures.

The Monitor may provide general updates and information in respect of the SISP to the Agent and the DIP Lender throughout the SISP on a confidential basis, upon irrevocable confirmation in writing from Cortland, that it will not submit any bid in the SISP, including without limitation, in its capacity as the Agent or the DIP Lender.

## SCHEDULE "A"

### AUCTION PROCEDURES

#### Auction

1. If an Auction is to be conducted pursuant to the Bidding Procedures to which these Auction Procedures are appended, the Monitor will notify the Qualified Bidders. The Auction will be convened by the Monitor and conducted by video conference and/or in person (at the discretion of the Monitor) at 10:00 a.m. (Eastern Time) on February 17, 2023, or such other time as the Monitor may advise. Capitalized terms used but not defined have the meaning ascribed to them in the Bidding Procedures. The Auction shall be conducted in accordance with the following procedures:
  - a) Participation at the Auction. Only a Qualified Bidder is eligible to participate in the Auction. The Monitor shall provide all Qualified Bidders with the amount of the Lead Bid by 5:00 p.m. (Eastern Time) three (3) days before the date scheduled for the Auction. Each Qualified Bidder must inform the Monitor whether it intends to participate in the Auction no later than 12:00 p.m. (Eastern Time) on the business day prior to the Auction. Only the authorized representatives of each of the Qualified Bidders, the Monitor, the Vendors, the Agent and the DIP Lender and their respective counsel and other advisors shall be permitted to attend the Auction.
  - b) No Collusion. Each Qualified Bidder participating at the Auction shall be required to confirm on the record at the Auction that: (i) it has not engaged in any collusion with respect to the Auction and the Bidding Process; and (ii) its bid is a good-faith *bona fide* offer and it intends to consummate the proposed transaction if selected as the Successful Bid or the Back-Up Bid.
  - c) Bidding at the Auction. Bidding at the Auction shall be conducted in rounds. The Lead Bid shall constitute the "**Opening Bid**" for the first round and the highest Overbid (as defined below) at the end of each round shall constitute the "Opening Bid" for the following round. In each round, a Qualified Bidder may submit no more than one Overbid. Any Qualified Bidder who bids in a round (including the Qualified Bidder that submitted the Opening Bid for such round) shall be entitled to participate in the next round of bidding at the Auction.
  - d) Monitor Shall Conduct the Auction. The Monitor and its advisors shall direct and preside over the Auction. At the start of each round of the Auction, the Monitor shall provide a copy of the Opening Bid to all participating Qualified Bidders at the Auction. The determination of which Qualified Bid constitutes the Opening Bid for each round shall take into account any factors that the Monitor and the Vendors reasonably deem relevant to the value of the Qualified Bid, including, among other things, the following: (i) the amount and nature of the consideration; (ii) the proposed assumption of any liabilities and the related implied impact on recoveries for creditors; (iii) the Monitor's and the Vendors' assessment of the certainty of the Qualified Bidder to close the proposed transaction on or before the Outside Date;

(iv) the likelihood, extent and impact of any potential delays in closing; (v) any purchase price adjustment; (vi) the net economic effect of any changes from the Opening Bid of the previous round; and (vii) such other considerations as the Monitor or the Vendors deem relevant in their reasonable business judgment (collectively, the "**Bid Assessment Criteria**"). All bids made after the Opening Bid shall be Overbids, and shall be made and received on an open basis, and all material terms of the highest and best Overbid shall be fully disclosed to all other Qualified Bidders that are participating in the Auction. The Monitor shall maintain a record of the Opening Bid and all Overbids made and announced at the Auction.

e) Terms of Overbids. An "**Overbid**" is any bid made at the Auction subsequent to the Monitor's announcement of the Opening Bid. To submit an Overbid, in any round of the Auction, a Qualified Bidder must comply with the following conditions:

- (i) *Minimum Overbid Increment*: Any Overbid shall be made in minimum cash purchase price increments of CAD\$100,000 above the Opening Bid, or such increments as the Monitor, in consultation with the Vendors, may determine in order to facilitate the Auction (the "**Minimum Overbid Increment**"). The amount of the cash purchase price consideration or value of any Overbid shall not be less than the cash purchase price consideration or value of the Opening Bid, plus the Minimum Overbid Increment(s) at that time, plus any additional Minimum Overbid Increments.
- (ii) *Bid Requirements same as for Qualified Bids*: An Overbid must comply with the Required Bid Terms and Materials (except as modified in accordance with the terms of these Auction Procedures), provided, however, that the Bid Deadline shall not apply. Any Overbid made by a Qualified Bidder must provide that it remains irrevocable and binding on the Qualified Bidder and open for acceptance as a Back-Up Bid until the closing of the Successful Bid.
- (iii) *Announcing Overbids*: At the end of each round of bidding, the Monitor shall announce the identity of the Qualified Bidder and the material terms of the then highest and/or best Overbid, including the nature of the transaction, the assets proposed to be acquired, the liabilities proposed to be assumed, if any, and the basis for calculating the total consideration offered in such Overbid based on, among other things, the Bid Assessment Criteria.
- (iv) *Consideration of Overbids*: The Monitor, in consultation with the Vendors, reserves the right to make one or more adjournments in the Auction in durations set by the Monitor to, among other things: (A) allow individual Qualified Bidders to consider how they wish to proceed; (B) consider and determine the current highest and/or best Overbid at any given time during the Auction; and (C) give Qualified Bidders the opportunity to provide the Monitor or the Vendors with such additional evidence as they may require that the Qualified Bidder has obtained all necessary internal approvals, has

sufficient internal resources, or has received sufficient non-contingent debt and/or equity funding commitments, to consummate the proposed transaction at the prevailing Overbid amount. The Monitor and the Vendors may have clarifying discussions with a Qualified Bidder, and the Monitor and the Vendors may allow a Qualified Bidder to make technical clarifying changes to its Overbid following such discussions. BIDDERS MUST OBTAIN ALL NECESSARY APPROVALS AND FUNDING COMMITMENTS IN ADVANCE OF THE AUCTION.

- (v) *Failure to Bid*: If at the end of any round of bidding a Qualified Bidder (other than the Qualified Bidder that submitted the then highest and/or best Overbid or Opening Bid, as applicable) fails to submit an Overbid, then such Qualified Bidder shall not be entitled to continue to participate in the next round of the Auction.
  
- f) Additional Procedures. The Monitor, in consultation with the Vendors, may adopt additional or alternative rules for the Auction at or prior to the Auction that will better promote the goals of the Auction, including rules pertaining to the structure of the Auction and the order of bidding, provided that they are not inconsistent with any of the provisions of the Bidding Procedures and provided further that no such rules may change the requirement that all material terms of the then highest and/or best Overbid at the end of each round of bidding will be fully disclosed to all other Qualified Bidders.
  
- g) Closing the Auction. The Auction shall be closed once the Vendors, after considering the Monitor's recommendation, have: (i) reviewed the final Overbid of each Qualified Bidder on the basis of financial and contractual terms and the Bid Assessment Criteria; and (ii) identified the Successful Bid and the Back-Up Bid and the Monitor has advised the Qualified Bidders participating in the Auction of such determination.
  
- h) Finalizing Documentation. Promptly following a bid of a Qualified Bidder being declared the Successful Bid or the Back-Up Bid, the Qualified Bidder shall execute and deliver such revised and updated definitive transaction agreement(s) as may be required to reflect and evidence the Successful Bid or Back-Up Bid, as applicable. For greater certainty, every bid made at the Auction is deemed to be a signed and binding bid based on the bidder's original Qualified Bid.

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

Court File No.: CV-22-00689857-00CL

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT  
OF TRICHOME FINANCIAL CORP., TRICHOME JWC ACQUISITION  
CORP., MYM NUTRACEUTICALS INC., TRICHOME RETAIL CORP., MYM  
INTERNATIONAL BRANDS INC., AND HIGHLAND GROW INC.**

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

Proceeding commenced at Toronto

**STALKING HORSE AND SISP APPROVAL  
ORDER**

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