



February 22, 2023

**Third Report of  
KSV Restructuring Inc.  
as CCAA Monitor of  
Trichome Financial Corp., Trichome  
JWC Acquisition Corp., MYM  
Nutraceuticals Inc., Trichome Retail  
Corp., MYM International Brands  
Inc., and Highland Grow Inc.**

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

ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)

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

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

THIRD REPORT OF KSV RESTRUCTURING INC. AS  
MONITOR

FEBRUARY 22, 2023

## 1.0 Introduction

1. Pursuant to an order of the Ontario Superior Court of Justice (Commercial List) (the "Court") made on November 7, 2022 (the "Initial Order"), Trichome Financial Corp. ("Trichome"), Trichome JWC Acquisition Corp. ("TJAC"), MYM Nutraceuticals Inc. ("MYM"), Trichome Retail Corp. ("TRC"), MYM International Brands Inc. ("MYMB") and Highland Grow Inc. ("Highland", and collectively with Trichome, TJAC, MYM, TRC and MYMB, the "Applicants") were granted protection under the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "CCAA") and KSV Restructuring Inc. ("KSV") was appointed monitor of the Applicants (in such capacity, the "Monitor").
2. Pursuant to the terms of the Initial Order, among other things, the Court:
  - a) granted a stay of proceedings in favour of the Applicants to and including November 17, 2022 (the "Stay Period");
  - b) approved the terms of a debtor-in-possession loan facility (the "DIP Facility") in the maximum principal amount of \$4.875 million to be made available by Cortland Credit Lending Corporation ("Cortland"), in its capacity as agent for and on behalf of certain lenders (the "DIP Lender"), pursuant to the terms of a DIP Facility Agreement dated November 6, 2022 (the "DIP Facility Agreement");

- c) granted a charge:
    - i. in the amount of \$750,000 on all of the Applicants' current and future assets, property and undertaking (collectively, the "Property") to secure the fees and disbursements of the Monitor, its legal counsel and the Applicants' legal counsel (the "Administration Charge");
    - ii. in the amount of \$967,000 on the Property in favour of the directors and officers of the Applicants (the "Directors' Charge"); and
    - iii. up to the maximum amount of \$1.825 million on the Property in favour of the DIP Lender (the "DIP Lender's Charge", and collectively with the Administration Charge and the Directors' Charge, the "Charges") to secure the DIP Lender's advances to the Applicants under the DIP Facility until November 17, 2022, being the date of the comeback motion (the "Comeback Motion"); and
  - d) granted the Applicants permission to pay certain pre-filing obligations to essential suppliers, subject to, among other things, the consent of the Monitor and the DIP Lender.
3. At the Comeback Motion, the Court issued an Amended and Restated Initial Order (the "ARIO") pursuant to which, among other things:
- a) the Stay Period was extended to February 3, 2023;
  - b) the amount of the Directors' Charge was increased to \$2.922 million; and
  - c) the DIP Lender's Charge was increased to \$4.875 million.
4. Pursuant to the ARIO, the Charges have the following priority:
- a) first, the Administration Charge;
  - b) second, the Directors' Charge; and
  - c) third, the DIP Lender's Charge.
5. At a motion on January 9, 2023, the Court issued an order (the "SISP Order"), among other things:
- a) approving a sale and investment solicitation process (the "SISP");
  - b) approving the Applicants' retention of Stoic Advisory Inc. ("Stoic") pursuant to a letter agreement dated November 7, 2022, and authorizing Stoic and the Applicants to implement the SISP;
  - c) authorizing and approving the Applicants' execution of the share purchase agreement dated December 12, 2022 (the "Stalking Horse Agreement") among the Applicants and L5 Capital Inc. ("L5"), solely for the purposes of acting as the stalking horse bid in the SISP (the "Stalking Horse Bid"); and
  - d) extending the Stay Period to March 10, 2023.

## 1.1 Purposes of this Report

1. The Monitor files this third report (the “Third Report”) pursuant to Section 23(1)(d)(i) of the CCAA to advise the Court and the Applicants’ stakeholders of certain recent material adverse changes in the Applicants’ financial circumstances, including that:
  - a) notwithstanding having been selected as the successful bid in the SISP in accordance with its terms, on February 13, 2023, L5:
    - i. formally and irrevocably advised that it will not complete the transaction contemplated by the Stalking Horse Agreement;
    - ii. acknowledged that, under the terms of the Stalking Horse Agreement, the deposit it paid (\$250,000) would be forfeited; and
    - iii. advised that it does not intend to dispute the forfeiture of the deposit;
  - b) the Applicants do not have the liquidity under the DIP Facility or otherwise to pay all post-filing operating expenses, and accordingly, certain post-filing operating expenses, including amounts owing to CRA for excise taxes and HST (totaling approximately \$900,000) and suppliers (totaling approximately \$600,000) have not been paid (the “Outstanding Post-Filing Amounts”). Notwithstanding the foregoing, since the commencement of the CCAA proceedings, the Applicants have paid approximately \$1.7 million<sup>1</sup> to CRA, comprised of \$1.4 million in excise taxes and \$312,000 of HST, which exceeds the amount of post-filing excise taxes and HST that were due and payable as of the date of this Report (approximately \$900,000).<sup>2</sup> As disclosed in the budget attached to the DIP Facility Agreement most of these payments were paid in respect of the Applicants’ pre-filing excise tax and HST obligations;
  - c) the Applicants and the DIP Lender are in discussions regarding the DIP Facility Agreement and the Applicants’ cash flow, necessary to conduct an orderly wind-down of their business. However, as of the date of this Report, the terms of a DIP amendment have not been finalized and it is not anticipated that additional funds will be made available by the DIP Lender to fund all of the Outstanding Post-Filing Amounts;
  - d) the Applicants are working with the Monitor to assess which post-filing expenses are required to be paid as part of a limited operating budget for purposes of winding-down the business of the Applicants; and
  - e) in this regard, the Applicants have advised the Monitor that they will not repay any amounts owing under the DIP Facility or incur or pay any other obligations which are not critical to winding-down their business until a more fulsome wind-down plan can be agreed upon and put into place.

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<sup>1</sup> Of the \$1.7 million, the Applicants paid approximately \$1.3 million of pre-filing amounts and approximately \$410,000 of post-filing amounts.

<sup>2</sup> As noted, while the total liability is actually higher, it is not presently payable.

## 1.2 Restrictions

1. In preparing this Report, the Monitor has relied upon the Applicants' unaudited financial information, books and records and discussions with the Applicants' management and legal counsel.
2. The Monitor has not audited or otherwise attempted to verify the accuracy or completeness of the financial information relied on to prepare this Report in a manner that complies with Canadian Auditing Standards ("CAS") pursuant to the Chartered Professional Accountants of Canada Handbook and, accordingly, the Monitor expresses no opinion or other form of assurance contemplated under the CAS in respect of such information. The Monitor does not accept any responsibility to any third party for any reliance they may place on the Applicants' financial information herein.

## 1.3 Currency

1. Unless otherwise noted, all currency references in this Report are in Canadian dollars.

## 2.0 Background

1. Prior to the JWC Transaction (as defined below), Trichome was a specialty finance company, providing capital solutions to businesses in the Canadian cannabis market. One of Trichome's loans was to the James E. Wagner Cultivation Corporation and several related entities (collectively, the "JWC Group"), which operated a vertically integrated premium cannabis company focused on producing and selling cannabis.
2. In April 2020, the JWC Group was granted protection under the CCAA and KSV was appointed CCAA monitor. In addition to being the JWC Group's senior ranking lender, Trichome was the debtor-in-possession lender in the CCAA proceedings (the "JWC DIP"). Pursuant to an order issued on June 2, 2020, the Court approved a transaction (the "JWC Transaction") for the sale of substantially all of the JWC Group's assets pursuant to an Asset Purchase Agreement dated March 31, 2020 between the JWC Group and Trichome, as amended (the "JWC APA"). In accordance with the JWC APA, Trichome directed that title to the assets be vested in TJAC.
3. Each of the Applicants is a direct or indirect subsidiary of IM Cannabis Corp. ("IMCC"). IMCC is not an Applicant in these CCAA proceedings.
4. Collectively, the Applicants cultivate, process and sell premium and ultra-premium cannabis for the adult-use market in Canada. There are six Applicants in these proceedings. The Applicants' corporate chart is attached as Appendix "A".
5. The Applicants' cannabis operations are conducted through TJAC and Highland. At the outset of these proceedings, the Applicants' "WAGNERS" and "Highland Grow" brands were market leaders, by sales, in the premium and ultra-premium dried flower and pre-roll segments in Canada.

6. The Affidavit of Michael Ruscetta, the former Chief Executive Officer of Trichome<sup>3</sup> and a current director of each of the Applicants, sworn November 7, 2022 in support of the CCAA application (the “Ruscetta Affidavit”), and the Pre-Filing Report of the Monitor dated November 7, 2022 (the “Pre-Filing Report”), each provide further background information with respect to the Applicants’ business and operations, as well as the reasons the Applicants filed for CCAA protection. The Ruscetta Affidavit, the Pre-Filing Report and the Monitor’s subsequent reports are available on the Monitor’s website at the following link: <https://www.ksvadvisory.com/experience/case/trichome>.

## **3.0 Creditors**

### **3.1 Secured Creditors**

#### **3.1.1 Cortland**

1. Cortland is a secured lender to the Applicants through an asset-based lending agreement dated May 14, 2021, as amended by amending agreements dated August 27, 2021, and March 31, 2022 (collectively, the “ABL Agreement”). TJAC is the borrower under the ABL Agreement, and each of the other Applicants is a guarantor.
2. The ABL Agreement provides for a revolving credit facility in the maximum principal amount of \$15 million (the “Maximum Amount”). The total advances under the revolving credit facility cannot exceed the lesser of: (i) the Borrowing Base Amount (as defined in the ABL Agreement); and (ii) the Maximum Amount.
3. As of February 17, 2023, the amount outstanding under the ABL Agreement is approximately \$4.1 million, with interest and costs continuing to accrue.
4. Cortland is also the lender to the Applicants under the DIP Facility. As of February 17, 2023, the amount owing under the DIP Facility was approximately \$2.5 million. Accordingly, the total amount owing to Cortland as of February 17, 2023 is approximately \$6.6 million (with interest and costs continuing to accrue).

#### **3.1.2 Trichome**

1. Upon closing the JWC Transaction, approximately \$7 million of the JWC DIP facility was assumed by TJAC in the form of a secured convertible debenture dated August 28, 2020, as amended by a first amendment to secured convertible debenture dated July 20, 2022 (as amended, the “Secured Debenture”). The balance of the JWC DIP, plus TJAC’s anticipated future funding requirements were funded by way of a secured promissory note dated August 28, 2020 issued by TJAC in favour of Trichome (the “Secured Promissory Note”).

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<sup>3</sup> Mr. Ruscetta resigned as CEO (but not as a director) effective February 19, 2023.

- As of September 30, 2022, approximately \$20.6 million (inclusive of accrued interest) and approximately \$7.1 million (inclusive of accrued interest) was owing to Trichome under the Secured Promissory Note and the Secured Debenture, respectively. Interest and fees continue to accrue on both facilities. The secured amounts owing to Trichome are subordinate to Cortland's pre-filing debt and the DIP Facility.

### 3.1.3 CRA

- As of January 31, 2023,<sup>4</sup> the Applicants' books and records reflect the following pre- and post-filing amounts owing to Canada Revenue Agency ("CRA").

(\$000s; unaudited)	TJAC	Highland	MYM	TFC	Total
<b><i>Pre-filing</i></b>					
Source Deductions	-	-	-	5,300 <sup>5</sup>	5,300
HST	-	-	11	67	78
Excise Taxes	485	583	-	-	1,068
<b>Total Pre-filing</b>	<b>485</b>	<b>583</b>	<b>11</b>	<b>5,367</b>	<b>6,446</b>
<b><i>Post-filing</i></b>					
Source Deductions	-	-	-	118	118
HST	30	(59)	6	48	25
Excise Taxes	742	259	-	-	1,001
<b>Total Post-Filing</b>	<b>772</b>	<b>201</b>	<b>6</b>	<b>166</b>	<b>1,144</b>
<b>Grand Total</b>	<b>1,257</b>	<b>784</b>	<b>17</b>	<b>5,533</b>	<b>7,590</b>

- Since the commencement of the CCAA proceedings, the Applicants, in accordance with the terms of the ARIO, have paid approximately \$1.28 million to CRA in respect of its pre-filing obligations, including approximately \$1 million of excise tax arrears and approximately \$280,000 of GST/HST arrears. The payments of pre-filing obligations to CRA were included in the budget attached to the DIP Facility Agreement. This is discussed further in Section 4.2 below.
- The table above excludes approximately \$833,000 held by CRA as cash collateral and surety bonds to secure the Applicants' excise tax obligations. The Applicants' current exposure to CRA for excise taxes is approximately \$1.236 million (being \$1.068 million of pre-filing unpaid excise taxes, plus \$1.001 million of post-filing unpaid excise taxes, less \$833,000 of cash collateral and surety bonds).

## 4.0 Update on CCAA Proceedings

### 4.1 SISP

- The SISP was conducted by the Applicants and Stoic, under the supervision of the Monitor, in accordance with its terms.

<sup>4</sup> Represents the last date the Applicants filed most of their monthly tax returns.

<sup>5</sup> TFC has commenced discussions with CRA in respect of this amount, including the quantum.



2. A copy of the Stalking Horse Agreement is attached as Appendix “B”. The Stalking Horse Agreement was intended to establish an appropriate, valuable and competitive floor for bids submitted in the SISP. The Stalking Horse Agreement contemplated a reverse vesting transaction, pursuant to which L5 would acquire all of the issued and outstanding shares in the capital of TJAC and MYM owned by Trichome. L5 is controlled by Marc Lustig, a director of Trichome and the Chair of IMCC.
3. Pursuant to the SISP Order, the bid deadline was February 6, 2023. No qualified bids were submitted by the Bid Deadline.
4. On February 7, 2023, Bennett Jones LLP (“Bennett Jones”), counsel to the Applicants, wrote a letter to Blakes Cassels & Graydon LLP (“Blakes”), counsel to L5, notifying L5, among other things, that the Stalking Horse Bid was deemed to be the successful bidder in the SISP. A copy of this letter is attached as Appendix “C”.
5. On February 13, 2023, Blakes responded in a letter to Bennett Jones, advising that L5 would not be completing the transaction, would not dispute the forfeiture of the deposit it paid under the Stalking Horse Agreement (\$250,000) to the Applicants, and would not dispute the Applicants’ termination of the Stalking Horse Agreement in accordance with Section 9.1(e) under the circumstances.<sup>6</sup> A copy of this letter is attached as Appendix “D”.
6. On February 16, 2023, Bennett Jones wrote a further letter to Blakes advising, among other things, that the Applicants were terminating the Stalking Horse Agreement pursuant to Section 9.1(e) and that L5’s deposit constitutes property of the Applicants in accordance with the terms of the Stalking Horse Agreement. A copy of this letter is attached as Appendix “E”.
7. Despite the termination of the Stalking Horse Agreement, the Applicants, the Monitor and Stoic continue to market the Applicants’ business and assets for sale, including the brands and other intellectual property owned by the Applicants (the “IP”). As of the date of this Report, certain parties have expressed an interest in the IP.
8. If consummated, the transaction contemplated by the Staking Horse Agreement was projected to repay Cortland in full, make partial distributions to Trichome in respect of its advances to certain Applicants and to make partial distributions to certain of the Applicants’ unsecured creditors. As discussed below, the termination of the Stalking Horse Agreement is now projected to result in a shortfall to Cortland. However, a sale of the IP could significantly reduce or eliminate Cortland’s projected loss.

## 4.2 Post-Filing Payables

1. A copy of the DIP Facility Agreement, together with the first amendment to the DIP Facility Agreement dated December 14, 2022 and the second amendment to the DIP Facility Agreement dated January 6, 2023 (together, the “DIP Amendments”), is attached as Appendix “F”.

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<sup>6</sup> Section 9.1(e) of the Stalking Horse Agreement provides as follows: “This Agreement may be terminated on or prior to the Closing Date: [...] (e) by the Vendor and the Purchased Entities (with the consent of the Monitor), if there has been a material violation or breach by the Purchaser of any agreement, covenant, representation or warranty of the Purchaser in this Agreement which would prevent the satisfaction of, or compliance with, any condition set forth in Section 8.2, as applicable, by the Outside Date and such violation or breach has not been waived by the Vendor and the Purchased Entities or cured by the Purchaser within five (5) Business Days of the Vendor providing notice to the Purchaser of such breach, unless the Vendor is in material breach of its obligations under this Agreement at such time”.

2. As set out in the Second Report, the Applicants were forecasted to have sufficient liquidity to operate until March 10, 2023. A budget-to-actual comparison of the Applicants' cash flow forecast for the period from January 1, 2023 to February 10, 2023 (the "Period") is presented in the table below.

(\$000s; unaudited)	January 1, 2023 to February 10, 2023		
	Actual	Forecast	Variance (\$)
Accounts receivable collections	2,898	5,918	(3,025)
Operating Disbursements	1,927	4,430	2,503
<i>Net Cash Flow Before the Undernoted</i>	966	1,488	(522)
Restructuring Costs	180	468	288
DIP Interest and Fees	-	87	87
<i>Net Cash Flow</i>	786	933	(147)
<i>Opening Cash Balance</i>	6	6	-
Net Cash Flow	786	933	(147)
DIP Draw/(Repayment)	(781)	(911)	129
<i>Closing Cash Balance</i>	10	28	(18)
<i>Opening DIP Loan Balance</i>	2,858	2,858	-
Draw/(Repayment)	(781)	(911)	(129)
<i>Closing DIP Loan Balance</i>	2,076	1,947	(129)

3. The Applicants' cash flow reflects that accounts receivable collections have been approximately \$3 million less than projected, primarily as a result of lower than projected sales during the Period. As a result, the Applicants do not have the availability under the DIP Facility to pay all operating expenses, and accordingly, certain operating expenses, including amounts owing to CRA for excise taxes and HST (totaling approximately \$900,000<sup>7</sup>) and post-filing suppliers (totaling approximately \$600,000) have not been paid.
4. The termination of the Stalking Horse Agreement, together with the lack of availability under the DIP Facility resulting from the lower than projected sales collection of accounts receivable and no Back-up Bid (as defined in the SISP) identified in the SISP, resulted in Cortland advising the Applicants that it would only fund expenses required for a wind-down of the Applicants' business. As such, the Applicants will not have the ability to pay any post-filing arrears owing to suppliers that are not required to be paid in connection with the wind-down.
5. On the same day that L5 advised that it would not be closing the Stalking Horse Agreement, the Applicants advised that they would not purchase any additional goods or services without the prior consent of the Monitor.
6. The Applicants are working with the Monitor to assess which post-filing expenses are required to be paid as part of a limited operating budget for purposes of winding-down the business of the Applicants.

<sup>7</sup> Total post filing CRA liabilities for excise taxes and HST total approximately \$1million, although the amounts due for the month of January 2023 are not due until the end of February 2023.

7. The Applicants have advised the Monitor that they will not repay any amounts owing under the DIP Facility or incur or pay any other obligations which are not critical to winding-down their business until a more fulsome wind-down plan can be agreed upon and put into place.
8. The Monitor understands that the Applicants intend to return to Court prior to March 10, 2023 and the Monitor will further report to the Court regarding cash flow and projected wind-down costs prior to that hearing.

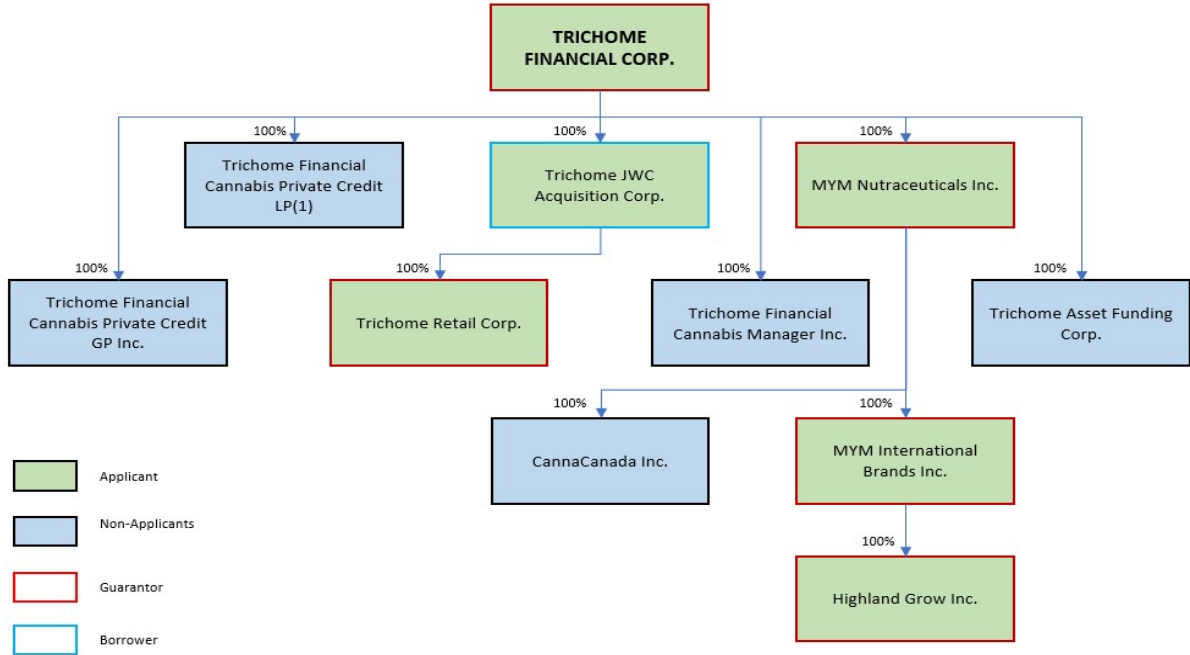
\* \* \*

All of which is respectfully submitted,

*KSV Restructuring Inc.*

**KSV RESTRUCTURING INC.,  
IN ITS CAPACITY AS MONITOR OF  
TRICHOME FINANCIAL CORP., TRICHOME JWC ACQUISITION CORP., MYM  
NUTRACEUTICALS INC., TRICHOME RETAIL CORP., MYM INTERNATIONAL BRANDS  
INC., AND HIGHLAND GROW INC.  
AND NOT IN ITS PERSONAL CAPACITY**

## **Appendix “A”**



(1) Trichome Financial Cannabis Private Credit LP is considered a 100% owned subsidiary of Trichome Financial Corp. based on the requirements of IFRS 10 *Consolidated Financial Statements*. Trichome Financial Corp. does not own any equity in Trichome Financial Cannabis Private Credit LP.

## **Appendix “B”**

**TRICHOME FINANCIAL CORP.**

**- AND -**

**TRICHOME JWC ACQUISITION CORP.**

**- AND -**

**TRICHOME RETAIL CORP.**

**- AND -**

**MYM NUTRACEUTICALS INC.**

**- AND -**

**MYM INTERNATIONAL BRANDS INC.**

**- AND -**

**HIGHLAND GROW INC.**

**- AND -**

**L5 CAPITAL INC.**

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**STALKING HORSE SHARE PURCHASE AGREEMENT**

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**DATED DECEMBER 12, 2022**

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## STALKING HORSE SHARE PURCHASE AGREEMENT

**THIS STALKING HORSE SHARE PURCHASE AGREEMENT** dated December 12, 2022 is made by and between **TRICHOME FINANCIAL CORP.**, a corporation incorporated under the laws of Ontario ("**Trichome**" or the "**Vendor**"), **TRICHOME JWC ACQUISITION CORP.**, a corporation incorporated under the laws of Ontario ("**TJAC**"), **TRICHOME RETAIL CORP.**, a corporation incorporated under the laws of Ontario ("**TRC**"), **MYM NUTRACEUTICALS INC.**, a corporation continued under the laws of Ontario ("**MYM**"), **MYM INTERNATIONAL BRANDS INC.**, a corporation continued under the laws of Ontario ("**MYMB**") **HIGHLAND GROW INC.**, a corporation incorporated under the laws of Nova Scotia ("**Highland**") and **L5 CAPITAL INC.**, a corporation incorporated under the laws of British Columbia (the "**Purchaser**").

### RECITALS:

**WHEREAS** pursuant to an order of the Ontario Superior Court of Justice (Commercial List) (the "**Court**") dated November 7, 2022 (as amended and restated on November 17, 2022, and as may be further amended, restated or varied from time to time, the "**Initial Order**"), Trichome, TJAC, TRC, MYM, MYMB and Highland (collectively, the "**CCAA Applicants**") obtained relief under the *Companies' Creditors Arrangement Act* (Canada) (the "**CCAA**") and KSV Restructuring Inc. was appointed as monitor (the "**Monitor**");

**AND WHEREAS** Trichome is the sole shareholder of TJAC and MYM, TJAC is the sole shareholder of TRC, MYM is the sole shareholder of MYMB and MYMB is the sole shareholder of Highland;

**AND WHEREAS** the CCAA Applicants intend to bring a motion before the Court on or before January 13, 2023 (subject to the Court's availability) for the Stalking Horse and SISP Approval Order (as defined below), among other things, approving a sale and investment solicitation process, in form and substance as attached hereto as Schedule "A" (the "**SISP**");

**AND WHEREAS** the Purchaser has agreed to act as the "stalking horse bidder" in connection with the SISP, on the terms of this stalking horse share purchase agreement (this "**Agreement**"), meaning that, in the absence of one or more of the CCAA Applicants accepting one or more bids for the Purchased Shares and/or Retained Assets (each as defined below) made in accordance with the SISP that is superior to this Agreement (as determined by the CCAA Applicants, in consultation with the Monitor, in accordance with the SISP), the Vendor has agreed to sell, and the Purchaser has agreed to purchase, the Purchased Shares on the terms and subject to the conditions set forth in this Agreement, in accordance with the SISP and the Stalking Horse and SISP Approval Order and subject to obtaining the Approval and Vesting Order (as defined below);

**NOW THEREFORE** in consideration of the covenants and mutual promises set forth in this Agreement (including the recitals hereof) and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties (as defined below) hereby agree as follows:

## ARTICLE 1 INTERPRETATION

### 1.1 Definitions.

In this Agreement, in addition to the terms defined in the preamble and the recitals, above, the following terms shall have the following meanings:

**"30-Day Inventory"** means, in respect of a Purchased Entity, the cannabis inventory expected to be held by the Purchased Entity at Closing set out in Schedule "I" hereto, which inventory is subject to change based on, among other things, market availability; provided, however, that in no circumstance will the aggregate cost of the 30-Day Inventory of all of the Purchased Entities exceed \$1,300,000.

**"Action"** means any claim, action, demand, lawsuit, arbitration, inquiry, audit, notice of violation, proceeding, litigation, citation, summons, subpoena or investigation of any nature, civil, criminal, administrative, regulatory or otherwise, whether at law or in equity and by or before a Governmental Authority.

**"Affiliate"** means, with respect to any Person, any other Person who directly or indirectly controls, is controlled by, or is under direct or indirect common control with, such Person, and includes any Person in like relation to an Affiliate. A Person shall be deemed to "control" another Person if such Person possesses, directly or indirectly, the power to direct or cause the direction of the management and policies of such other Person, whether through the ownership of voting securities, by contract or otherwise; and the term "controlled" shall have a similar meaning.

**"Applicable Law"** means, with respect to any Person, property, transaction, event or other matter, any foreign or domestic constitution, treaty, law, statute, regulation, code, ordinance, principle of common law or equity, rule, municipal by-law, Order (including any securities laws or requirements of stock exchanges and any consent decree or administrative Order) or other requirement having the force of law ("**Law**"), in each case relating or applicable to such Person, property, transaction, event or other matter and also includes, where appropriate, any interpretation of Law (or any part thereof) by any Person having jurisdiction over it, or charged with its administration or interpretation.

**"Approval and Vesting Order"** means an order of the Court in form and substance satisfactory to the Parties and the Monitor, each acting reasonably, among other things, approving this Agreement and the Transactions contemplated hereby, adding the Residual Cos. as applicants in the CCAA Proceedings, terminating the CCAA Proceedings in respect of the Purchased Entities, and vesting in and to the Residual Cos. the Excluded Assets, Excluded Contracts and the Excluded Liabilities.

**"Assumed Liabilities"** means: (a) Liabilities specifically and expressly designated by the Purchaser as assumed Liabilities in Schedule "G" (which, subject to Section 4.3, may be amended by the Purchaser by submitting an amended list no later than ten (10) Business Days before the Target Closing Date, provided that such amended list shall in any event include those Liabilities listed under the Statement of Trade Payables); (b) Liabilities which relate to the Business or the Retained Assets, including Liabilities under any Contracts, Permits and Licenses or Permitted Encumbrances (in each case, to the extent forming part of the Retained Assets) arising out of events or circumstances that occur after the Closing; (c) Liabilities of the Purchased Entities which are to be performed after the Closing (including for the avoidance of doubt, Transaction Taxes) that are not specifically identified as Excluded Liabilities; (d) the Excluded Liability Promissory Notes (provided that such Liabilities shall be paid in accordance with Section 7.2(e), and any further or additional Liability under the Excluded Liability Promissory Notes shall be an Excluded

Liability); and (e) Liabilities for wages, vacation pay and Benefit Plans owing by any Purchased Entity to any Employee accruing to and after the Closing Time.

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

"**Back-Up Bid**" has the meaning ascribed to it in the SISP.

"**Benefit Plans**" means all plans with respect to the Employees or former Employees to which any of the Purchased Entities is a party to or bound by or to which any of the Purchased Entities has an obligation to contribute relating to retirement savings, pensions, bonuses, profit sharing, deferred compensation, share purchase or share option, share appreciation, phantom stock, incentive compensation, life or accident insurance, hospitalization, health, medical or dental treatment or expenses, disability, unemployment insurance benefits, employee loans, vacation pay, severance or termination pay or other benefit plan.

"**Books and Records**" means all books, records, files, papers, books of account and other financial data including Tax Returns related to the Retained Assets in the possession, custody or control of the Vendor, including sales and advertising materials, sales and purchase data, trade association files, research and development records, lists of present and former customers and suppliers, personnel, employment and other records, and all records, data and information stored electronically, digitally or on computer-related media.

"**Business**" means the business and operations carried on by each Purchased Entity as at the date of this Agreement and as at the date of Closing pertaining to the sale, processing and cultivation of cannabis.

"**Business Day**" means any day except Saturday, Sunday or any day on which banks are generally not open for business in the Province of Ontario.

"**Cannabis Act and Cannabis Regulations**" means the *Cannabis Act* (Canada), all regulations in force thereunder from time to time, and any provincial laws or regulations governing the cultivation, manufacture, production, storage, marketing or sale of cannabis that may be in effect from time to time.

"**Cannabis Licenses**" means all Authorizations related to cannabis and issued by Health Canada to the Purchased Entities, including Authorizations to plant, grow, cultivate, extract, produce, process, store, destroy, sell, provide, ship, deliver, transport and/or distribute cannabis under Applicable Law.

"**Cash Payment**" has the meaning set out in Section 2.2(b).

"**CCAA Proceedings**" means the proceedings commenced by the CCAA Applicants under the CCAA.

"**Charges**" has the meaning ascribed to it in the Initial Order.

"**Closing**" means the completion of the Transactions in accordance with the Closing Sequence and the other provisions of this Agreement.

"**Closing Date**" means the date on which Closing occurs.

"**Closing Date Purchased Entity Inventory**" has the meaning set out in Section 4.4.

**"Closing Date Purchased Entity Receivables"** has the meaning set out in Section 4.4.

**"Closing Sequence"** has the meaning set out in Section 7.2.

**"Closing Time"** means the time on the Closing Date at which Closing occurs, as evidenced by the Monitor's Certificate.

**"Conditions Certificates"** has the meaning set out in Section 8.3.

**"Contracts"** means all written contracts, agreements, leases, understandings and arrangements that are Related to the Business to which any Purchased Entity is a party or by which any Purchased Entity is bound or in which any Purchased Entity has, or will at Closing have, any rights, including, the Trillium Lease and any Contracts in respect of Employees, in each case excluding Excluded Assets and Excluded Contracts.

**"Deferred Consideration"** has the meaning set out in Section 4.4.

**"Deferred Consideration Note"** has the meaning set out in Section 4.4.

**"Deferred Consideration Note Amount"** means, in respect of a Deferred Consideration Note issued by a Purchased Entity, (i) the total amount owing to the Purchased Entity pursuant to the Closing Date Purchased Entity Receivables, plus (ii) the cost of the 30-Day Inventory of the Purchased Entity, plus (iii) the book value of the Closing Date Purchased Entity Inventory of the Purchased Entity.

**"Deposit"** has the meaning set out in Section 2.2.

**"Direct Purchased Entities"** means, collectively, TJAC and MYM, and **"Direct Purchased Entity"** means any one of them.

**"Discharged"** means, in relation to any Encumbrance against any Person or upon any asset, undertaking or property, including all proceeds thereof, the full, final, complete and permanent waiver, release, discharge, cancellation, termination and extinguishment of such Encumbrance against such Person or upon such asset, undertaking or property and all proceeds thereof.

**"Disclaimers"** means collectively, the (a) Manitou Disclaimer, (b) MYM Disclaimer and (c) TJAC Disclaimer.

**"Employees"** means all individuals who, as of the Closing Time, are employed or engaged as an independent contractor by a Purchased Entity, whether on a full-time or part-time basis, whether unionized or non-unionized, including all individuals who are on an approved and unexpired leave of absence and all individuals who have been placed on temporary lay-off which has not expired, but, for certainty, excludes any employees or independent contractors who are to be terminated pursuant to Section 8.1(g), and **"Employee"** means any one of them.

**"Encumbrances"** means all claims, Liabilities (direct, indirect, absolute or contingent), obligations, prior claims, rights of retention, liens, security interests, charges, hypothecs, trusts, deemed trusts (statutory or otherwise), judgments, writs of seizure or execution, notices of sale, contractual rights (including purchase options, rights of first refusal, rights of first offer or any other pre-emptive contractual rights) and encumbrances, whether or not they have been registered, published or filed and whether secured, unsecured or otherwise.

**"Encumbrances To Be Discharged"** means all Encumbrances on the Purchased Shares and Retained Assets, including without limitation the Encumbrances listed in Schedule "F", and excluding only the Permitted Encumbrances, which, Schedule may be amended by the Purchaser by submitting an amended list no later than ten (10) days before the granting of the Approval and Vesting Order.

**"Excluded Assets"** means those assets of each Purchased Entity listed in Schedule "C", an amended list of which, subject to Section 4.3, may be delivered by the Purchaser to the Vendor no later than ten (10) Business Days before the Target Closing Date.

**"Excluded Assets Bill of Sale"** has the meaning set out in Section 4.2.

**"Excluded Contracts"** means those Contracts of each Purchased Entity that relate to any Excluded Assets and/or are listed in Schedule "D", an amended list of which, subject to Section 4.3, may be delivered by the Purchaser to the Vendor no later than ten (10) Business Days before the Target Closing Date.

**"Excluded Liabilities"** means all debts, obligations, Liabilities, Encumbrances, indebtedness, contracts, leases, agreements, undertakings, claims, rights and entitlements of any kind or nature whatsoever (whether direct or indirect, known or unknown, absolute or contingent, accrued or unaccrued, liquidated or unliquidated, matured or unmatured or due or not yet due, in law or in equity and whether based in statute or otherwise) of or against any Purchased Entity or relating to any Excluded Assets and Excluded Contracts as at the Closing Time, other than the Assumed Liabilities, including, *inter alia*, the non-exhaustive list of those certain Liabilities set forth in Schedule "E" (which, subject to Section 4.3, may be revised by the Purchaser at any time prior to ten (10) Business Days before the Target Closing Date), any and all Liability relating to any change of control provision that may arise in connection with the change of control contemplated by the Transactions and to which any Purchased Entity may be bound as at the Closing Time, all Liabilities relating to or under the Excluded Contracts and Excluded Assets, Liabilities for Employees whose employment with any Purchased Entity or its Affiliates is terminated on or before Closing and all Liabilities to or in respect of any Purchased Entity's Affiliates.

**"Excluded Liability Assumption Agreement"** has the meaning set out in Section 4.1.

**"Excluded Liability Price"** has the meaning set out in Section 4.1.

**"Excluded Liability Promissory Note"** has the meaning set out in Section 4.1.

**"Filing Date"** means November 7, 2022.

**"Goodwill"** means the goodwill of the Business and relating to the Retained Assets, and information and documents relevant thereto including lists of customers and suppliers, credit information, telephone and facsimile numbers, email addresses, internet addresses and domain names used in connection with the Business, research materials, research and development files and the exclusive right of each of the Purchased Entities to represent itself as carrying on the Business and to all rights in respect of the names "WAGNERS" and "Highland Grow" and any variations of such names.

**"Governmental Authority"** means the government of Canada, or any other nation, or of any political subdivision thereof, whether state, provincial, territorial, municipal or local, and any agency, authority, instrumentality, regulatory body, court, arbitrator or arbitrators, tribunal, central bank or other entity exercising executive, legislative, judicial or arbitral, taxing, regulatory or administrative powers or functions (including any applicable stock exchange).

**"Highland Residual Co."** means a corporation to be incorporated as a wholly owned subsidiary of MYMB, to which any Excluded Assets and Excluded Liabilities of Highland will be transferred as part of the Closing Sequence.

**"HST"** means the goods and services tax and harmonized sales tax imposed under Part IX of the *Excise Tax Act* (Canada).

**"Indirect Purchased Entities"** means, collectively, TRC, MYMB and Highland, and **"Indirect Purchased Entity"** means any one of them.

**"Intellectual Property"** means all intellectual property and industrial property used by the Vendor or any Purchased Entity, throughout the world, whether or not registrable, patentable or otherwise formally protectable, and whether or not registered, patented, otherwise formally protected or the subject of a pending application for registration, patent or any other formal protection, including all rights, titles, interests, and benefits in and to (a) trade-marks, service marks, trade dress, corporate, partnership and business names, fictitious names and other trade names, (b) inventions, patent rights, arts, processes, machines, manufactures, compositions of matter, (c) works, copyrights, neighbouring rights, moral rights, software and databases, (d) designs and industrial designs, (e) know-how, trade secrets, proprietary information, formulae, recipes, systems, methods and techniques and related documentation, customer and supplier information, and market and survey information, (f) telephone numbers, domain names and social media identities, and all derivatives, modifications and improvements of the foregoing.

**"Interim Period"** means the period from the date that this Agreement is entered into by the Parties to the Closing Time.

**"Investment Canada Act"** means the *Investment Canada Act* (Canada).

**"Legal Proceeding"** means any litigation, Action, application, suit, investigation, hearing, claim, complaint, deemed complaint, grievance, civil, administrative, regulatory or criminal, arbitration proceeding or other similar proceeding, before or by any court or other tribunal or Governmental Authority and includes any appeal or review thereof and any application for leave for appeal or review.

**"Liabilities"** means, with respect to any Person, all costs, expenses, charges, debts, liabilities, commitments or obligations of such Person of any kind, character or description, whether known or unknown, absolute or contingent, accrued or unaccrued, disputed or undisputed, liquidated or unliquidated, secured or unsecured, joint or several, due or to become due, vested or unvested, executory, determined, determinable or otherwise, and whether or not the same is required to be accrued on the financial statements of such Person.

**"Material Adverse Effect"** means any change, event, development, occurrence, facts, condition or effect (each, an "Effect") that is, or would reasonably be expected to be, individually or in the aggregate with all other Effects, materially adverse to the Business, provided that (a) an epidemic, pandemic or disease outbreak (and any public health measures enacted in response to a pandemic, including travel restrictions or lockdowns), including without limitation COVID-19, (b) a change in sales or forecasted sales, (c) a change in general economic, business, political or market conditions, or a development in the financial, banking, credit, debt, currency, capital or securities markets in general, including changes in interest rates; or (d) any loss or threatened loss of, or adverse change or threatened adverse change in, the relationship of the Vendor or other CCAA Applicants with any third party, including any of the CCAA Applicants' customers, employees, shareholders, financing sources, vendors, distributors, partners or suppliers as a direct result of the execution, announcement or performance of this Agreement, shall not qualify as a Material Adverse Effect.

"**Manitou Disclaimer**" means the disclaimer of the Manitou Lease by TJAC pursuant to and in accordance with section 32 of the CCAA, which is currently set to become effective on December 23, 2022.

"**Manitou Lease**" means the Amended and Restated Lease Agreement dated February 1, 2018, between Homer Land Corp., as landlord, and James E. Wagner Cultivation Ltd., as tenant, in respect of certain leased premises situated on lands known municipally as 530 Manitou Drive, Kitchener, Ontario, as assigned by James E. Wagner Cultivation Ltd. to TJAC pursuant to a Lease Assignment Agreement dated July 28, 2020 and Consent to Assignment dated July 23, 2020, among James E. Wagner Cultivation Ltd., TJAC and Homer Land Corp.

"**Monitor's Certificate**" means the certificate, substantially in the form to be attached as Schedule "B" to the Approval and Vesting Order, to be delivered by the Monitor to the Vendor, the Purchased Entities and the Purchaser in accordance with Section 8.3, and thereafter filed by the Monitor with the Court.

"**MYM Disclaimer**" means the disclaimer of the MYM Office Lease by MYM pursuant to and in accordance with section 32 of the CCAA, which is currently set to become effective on December 17, 2022.

"**MYM Office Lease**" means the Lease dated April 13, 2018, between The Manufacturers Life Insurance Company, as landlord, and MYM, as tenant, in respect of certain leased premises located in a building having a municipal address of 1095 West Pender Street in the City of Vancouver, British Columbia and known as Manulife Place.

"**MYM Residual Co.**" means a corporation to be incorporated as a wholly owned subsidiary of Trichome, to which any Excluded Assets and Excluded Liabilities of MYM will be transferred as part of the Closing Sequence.

"**MYMB Residual Co.**" means a corporation to be incorporated as a wholly owned subsidiary of MYM, to which any Excluded Assets and Excluded Liabilities of MYMB will be transferred as part of the Closing Sequence.

"**Order**" means any order, directive, judgment, decree, injunction, decision, ruling, award or writ of any Governmental Authority.

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

"**Outside Date**" means April 30, 2023, or such other date as the Vendor and each Purchased Entity (with the consent of the Monitor) and the Purchaser may agree to in writing.

"**Party**" means a party to this Agreement and any reference to a Party includes its successors and permitted assigns and "**Parties**" means more than one of them.

"**Permits and Licenses**" means the permits, licenses, Authorizations, approvals or other evidence of authority Related to the Business, including: (a) the permits, licenses, Authorizations, approvals or other evidence of authority Related to the Business and issued to, granted to, conferred upon, or otherwise created for, any Purchased Entity; and (b) the Cannabis Licenses.



**"Permitted Encumbrances"** means the Encumbrances related to the Retained Assets listed in Schedule "H", an amended list of which may be agreed to by the Purchaser, the Vendor, the Purchased Entities and the Monitor prior to the granting of the Approval and Vesting Order.

**"Person"** is to be broadly interpreted and includes an individual, a corporation, a partnership, a trust, an unincorporated organization, a Governmental Authority, and the executors, administrators or other legal representatives of an individual in such capacity.

**"Personal Property"** means all machinery, equipment, furniture, motor vehicles and other personal property that is Related to the Business, wherever located (including those in possession of suppliers, customers and other third parties).

**"Personal Property Lease"** means a lease, equipment lease, financing lease, conditional sales contract and other similar agreement relating to Personal Property to which any Purchased Entity is a party or under which it has rights to use Personal Property.

**"Pre-Closing Loan"** has the meaning set out in Section 7.2(a).

**"Professional Costs"** means amounts owing to professional advisors in connection with the CCAA Proceedings, including, without limitation, the CCAA Applicants' counsel, the Monitor and the Monitor's counsel and any other financial advisor retained by the CCAA Applicants or the Monitor.

**"Purchased Entities"** means, collectively, the Direct Purchased Entities and the Indirect Purchased Entities, and **"Purchased Entity"** means any one of them.

**"Purchased Shares"** means, collectively, (a) all of the issued and outstanding shares in the capital of TJAC owned by Trichome, and (b) all of the issued and outstanding shares in the capital of MYM owned by Trichome (for greater certainty, including any shares issued to Trichome as part of the Closing Sequence).

**"Purchase Price"** has the meaning set out in Section 2.2.

**"Qualified Bid"** has the meaning ascribed to it in the SISP.

**"Related to the Business"** means primarily (a) used in, (b) arising from or (c) otherwise related to the Business or any part thereof.

**"Representative"** when used with respect to a Person means each director, officer, employee, consultant, financial adviser, legal counsel, accountant and other agent, adviser or representative of that Person.

**"Residual Cos."** means, collectively, TJAC Residual Co., TRC Residual Co., MYM Residual Co., MYMB Residual Co. and Highland Residual Co., and **"Residual Co."** means any one of them.

**"Retained Assets"** has the meaning set out in Section 4.2.

**"Secured Debenture"** means the Secured Convertible Debenture dated August 28, 2020 issued by TJAC in favour of Trichome, as amended by a First Amendment to Secured Convertible Debenture dated July 20, 2022.

**"Stalking Horse and SISP Approval Order"** means an order of the Court in form and substance attached hereto as Schedule "B", with such amendments as are acceptable to the Vendor, the Purchased Entities, the

Purchaser and the Monitor, among other things, approving (a) the SISP, (b) this Agreement solely for the purposes of acting as the "stalking horse bid" in the SISP, and (c) the Expense Reimbursement.

"**Subsidiary Shares**" means collectively, (a) all of the issued and outstanding shares in the capital of TRC owned by TJAC, (b) all of the issued and outstanding shares in the capital of the MYMB owned by MYM, and (c) all of the issued and outstanding shares in the capital of Highland owned by MYMB.

"**Successful Bid**" has the meaning ascribed to it in the SISP.

"**Straddle Period Tax Returns**" has the meaning set out in Section 10.1.

"**Statement of Trade Payables**" means a statement from the Vendor, certified by an officer of each Purchased Entity and acceptable to the Monitor, setting out (a) a list of vendors that have provided goods and/or services to each Purchased Entity in the ordinary course of business from and after the Filing Date but have not been paid for such goods and services as at the Closing Time, and (b) the corresponding amounts owing to each such vendor.

"**Target Closing Date**" means the date that is five (5) Business Days from the date on which the Approval and Vesting Order is granted, or such other date as the Vendor (with the consent of the Monitor) and the Purchaser may agree to in writing.

"**Tax Act**" means the *Income Tax Act* (Canada).

"**Tax Returns**" means all returns, reports, declarations, designations, forms, elections, notices, filings, information returns, and statements in respect of Taxes that are filed or required to be filed with any applicable Governmental Authority, including all amendments, schedules, attachments or supplements thereto and whether in tangible or electronic form.

"**Taxes**" or "**Tax**" means, with respect to any Person, all supranational, national, federal, provincial, state, local or other taxes, including income taxes, mining taxes, branch taxes, profits taxes, capital gains taxes, gross receipts taxes, windfall profits taxes, value added taxes, severance taxes, ad valorem taxes, property taxes, capital taxes, net worth taxes, production taxes, sales taxes, use taxes, license taxes, excise taxes, franchise taxes, environmental taxes, transfer taxes, withholding or similar taxes, payroll taxes, employment taxes, employer health taxes, pension plan premiums and contributions, social security premiums, workers' compensation premiums, employment insurance or compensation premiums, stamp taxes, occupation taxes, premium taxes, alternative or add-on minimum taxes, HST, customs duties or other taxes of any kind whatsoever imposed or charged by any Governmental Authority, together with any interest, penalties, or additions with respect thereto and any interest in respect of such additions or penalties and any liability for the payment of any amounts of the type described in this paragraph as a result any express or implied obligation to indemnify any other Person or as a result of being a transferee or successor in interest to any Person.

"**Terminated Employees**" means those individuals employed or engaged as independent contractors by a Purchased Entity whose employment or engagement, as applicable, will be terminated prior to Closing, as listed in a terminated employee/independent contractor list to be sent by the Purchaser to the Vendor and the Purchased Entities no later than ten (10) Business Days before the Target Closing Date.

"**Transaction Taxes**" means all documentary, stamp, transfer, sales and transfer taxes, registration charges and transfer fees, including HST, use, value added, and excise taxes and all filing and recording fees (and any penalties and interest associated with such taxes and fees) or any other Tax consequences arising from, or relating to, or in respect of the consummation of the Transactions.

**"Transactions"** means all of the transactions contemplated by this Agreement.

**"TJAC Disclaimer"** means the disclaimer of the TJAC Lease by TJAC pursuant to and in accordance with section 32 of the CCAA, which is currently set to become effective on December 23, 2022.

**"TJAC Lease"** means the Lease Agreement 20006383 between TJAC, as lessee, and Bennington Financial Corp., as lessor, executed by such parties on March 21, 2022 and March 25, 2022, respectively, in connection with a 2021 Hangcha Forklift having serial number R5BJ00068 and model number CPD25-XD2-C.

**"TJAC Residual Co."** means a corporation to be incorporated as a wholly owned subsidiary of Trichome, to which any Excluded Assets and Excluded Liabilities of TJAC will be transferred as part of the Closing Sequence.

**"TRC Residual Co."** means a corporation to be incorporated as a wholly owned subsidiary of TJAC, to which any Excluded Assets and Excluded Liabilities of TRC will be transferred as part of the Closing Sequence.

**"Trillium Lease"** means the lease agreement between James E. Wagner Cultivation Ltd. and Blue Top Properties (855 Trillium) Inc. dated December 13, 2013 in respect of a 15,000 sq. ft. processing and packaging facility located at 855 Trillium Drive, Unit B, Kitchener, Ontario, N2R 1J9, as assigned to TJAC pursuant to a Lease Assignment Agreement dated July 28, 2020, and as amended pursuant to a Renewal Agreement of Lease dated November 25, 2020.

## **1.2 Actions on Non-Business Days**

If any payment is required to be made or other action (including the giving of notice) is required to be taken pursuant to this Agreement on a day which is not a Business Day, then such payment or action shall be considered to have been made or taken in compliance with this Agreement if made or taken on the next succeeding Business Day.

## **1.3 Currency and Payment Obligations**

Except as otherwise expressly provided in this Agreement, all dollar amounts referred to in this Agreement are stated in the lawful currency of Canada.

## **1.4 Calculation of Time**

In this Agreement, a period of days shall be deemed to begin on the first day after the event which began the period and to end at 5:00 p.m. Eastern Time on the last day of the period. If any period of time is to expire hereunder on any day that is not a Business Day, the period shall be deemed to expire at 5:00 p.m. Eastern Time on the next succeeding Business Day.

## **1.5 Additional Rules of Interpretation**

- (a) *Consents, Agreements, Approval, Confirmations and Notice to be Written.* Any consent, agreement, approval or confirmations from, or notice to, any party permitted or required by this Agreement shall be written consent, agreement, approval, confirmation, or notice, and email shall be sufficient.

- (b) *Gender and Number.* In this Agreement, unless the context requires otherwise, words in one gender include all genders and words in the singular include the plural and vice versa.
- (c) *Headings and Table of Contents.* The inclusion in this Agreement of headings of Articles and Sections and the provision of a table of contents are for convenience of reference only and are not intended to be full or precise descriptions of the text to which they refer.
- (d) *Section References.* Unless the context requires otherwise, references in this Agreement to Articles, Sections or Schedules are to Articles or Sections of this Agreement, and Schedules to this Agreement.
- (e) *Words of Inclusion.* Wherever the words "include", "includes" or "including" are used in this Agreement, they shall be deemed to be followed by the words "without limitation" and the words following "include", "includes" or "including" shall not be considered to set forth an exhaustive list.
- (f) *References to this Agreement.* The words "hereof", "herein", "hereto", "hereunder", "hereby" and similar expressions shall be construed as referring to this Agreement in its entirety and not to any particular Section or portion of it.
- (g) *Statute References.* Unless otherwise indicated, all references in this Agreement to any statute include the regulations thereunder, in each case as amended, re-enacted, consolidated or replaced from time to time and in the case of any such amendment, re-enactment, consolidation or replacement, reference herein to a particular provision shall be read as referring to such amended, re-enacted, consolidated or replaced provision and also include, unless the context otherwise requires, all applicable guidelines, bulletins or policies made in connection therewith.
- (h) *Document References.* All references herein to any agreement (including this Agreement), document or instrument mean such agreement, document or instrument as amended, supplemented, modified, varied, restated or replaced from time to time in accordance with the terms thereof and, unless otherwise specified therein, includes all schedules attached thereto.
- (i) *No Strict Construction.* The language used in this Agreement is the language chosen by the Parties to express their mutual intent, and no rule of strict construction shall be applied against any Party, including, without limitation, the doctrine of *contra proferentum*.

## 1.6 Exhibits and Schedules

- (a) The following are the Schedules attached to and incorporated in this Agreement by reference and deemed to be a part hereof:

### SCHEDULES

- Schedule "A" - SISP
- Schedule "B" - Stalking Horse and SISP Approval Order
- Schedule "C" - Excluded Assets
- Schedule "D" - Excluded Contracts

- Schedule "E" - Excluded Liabilities
- Schedule "F" - Encumbrances to be Discharged
- Schedule "G" - Assumed Liabilities
- Schedule "H" - Permitted Encumbrances
- Schedule "I" - 30-Day Inventory

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

## ARTICLE 2 PURCHASE & ALLOCATION OF PURCHASE PRICE

### 2.1 Purchase and Sale of the Purchased Shares

Subject to the terms and conditions of this Agreement, on the Closing Date in accordance with the Closing Sequence, the Vendor shall sell, transfer, convey and assign the Purchased Shares to the Purchaser, and the Purchaser shall purchase the Purchased Shares from the Vendor, free and clear of all Encumbrances (other than the Permitted Encumbrances), and in consideration thereof, the Purchaser shall satisfy the Purchase Price as set out in Section 2.2.

### 2.2 Purchase Price

The purchase price (the "**Purchase Price**") for the Purchased Shares shall be \$5,000,000, to be paid and satisfied as follows, subject to the Closing Sequence:

- (a) Deposit. The Purchaser shall pay \$250,000 (the "**Deposit**") to the Monitor, by wire transfer of immediately available funds, on the second Business Day after execution by the Parties of this Agreement, and the Deposit shall be held in escrow by the Monitor, to be distributed in accordance with Section 2.3 or credited to the Vendor in accordance with Section 2.2(c) and the Closing Sequence.
- (b) Cash Payment. The Purchaser shall pay the sum of \$4,750,000 to the Monitor on the Closing Date (the "**Cash Payment**") by wire transfer of immediately available funds, which Cash Payment shall be held in escrow by the Monitor in accordance with the Closing Sequence.
- (c) Full Purchase Price. The Purchase Price shall be fully and indefeasibly satisfied, on the Closing Date, by (i) the crediting of the Deposit to the Vendor, and (ii) the repayment of the Pre-Closing Loan (such loan to be advanced by payment of the Cash Payment) in accordance with the Closing Sequence.

### 2.3 Treatment of Deposit

If the Closing does not occur for any reason other than the Agreement having been terminated by the Vendor pursuant to Section 9.1(e), the Deposit will be forthwith refunded in full to the Purchaser (without interest,

offset or deduction). If the Agreement is terminated by the Vendor pursuant to Section 9.1(e), the full amount of the Deposit shall become the property of, and shall be transferred to, the Vendor as liquidated damages (and not as a penalty) to compensate the Vendor for the expenses incurred and opportunities foregone as a result of the failure to close the Transactions; the retention of the Deposit in accordance with this Section 2.3 shall be the sole and exclusive remedy of the Vendor for a breach of this Agreement by the Purchaser.

### **ARTICLE 3 PROCEDURE**

#### **3.1 Motion for Stalking Horse and SISP Approval Order**

The Vendor shall, together with the other CCAA Applicants, file with the Court, as soon as practicable following the execution and delivery of this Agreement, a motion seeking the Court's issuance of the Stalking Horse and SISP Approval Order. The Purchaser shall cooperate with the CCAA Applicants in their efforts to obtain the issuance and entry of the Stalking Horse and SISP Approval Order. The Purchaser, at its own expense, will promptly provide to the CCAA Applicants all such information within its possession or under its control as the CCAA Applicants or the Monitor may reasonably request to assist in obtaining the Stalking Horse and SISP Approval Order. The Vendor and the other CCAA Applicants shall serve their motion record seeking the Stalking Horse and SISP Approval Order on not less than seven (7) days' notice, and shall serve any party or parties as the Purchaser may reasonably request.

#### **3.2 Motion for Approval and Vesting Order**

If this Agreement is determined to be the Successful Bid in accordance with the SISP, the Vendor shall, together with the other CCAA Applicants, file with the Court in accordance with the SISP a motion seeking the Court's issuance of the Approval and Vesting Order. The Purchaser shall cooperate with the CCAA Applicants in their efforts to obtain the issuance and entry of the Approval and Vesting Order. The Purchaser, at its own expense, will promptly provide to the CCAA Applicants all such information within its possession or under its control as the CCAA Applicants or the Monitor may reasonably request to assist in obtaining the Approval and Vesting Order. The Vendor and the other CCAA Applicants shall serve their motion record seeking the Approval and Vesting Order on not less than seven (7) days' notice, and shall serve any party or parties as the Purchaser may reasonably request.

#### **3.3 One or More Qualified Bids**

If one or more Qualified Bids (other than this Agreement) are received pursuant to the SISP, the CCAA Applicants, in consultation with the Monitor, shall pursue such bid(s) in accordance with the SISP, provided that nothing in this Section 3.3 will prevent this Agreement from constituting the Back-Up Bid in accordance with the SISP.

#### **3.4 Expense Reimbursement**

If this Agreement is terminated pursuant to Section 9.1(b) herein and the Purchased Shares, shares of any Indirect Purchased Entity, or Retained Assets are sold pursuant to either the Successful Bid or the Back-Up Bid, or by the Purchaser pursuant to Sections 9.1(c), 9.1(d) or 9.1(f), the Purchaser shall be entitled to an expense reimbursement for 100% of its actual documented out-of-pocket reasonable costs and expenses incurred in connection with negotiating, preparing and executing this Agreement, in the aggregate total amount not to exceed \$200,000, inclusive of HST, from the proceeds of such sale (the "**Expense Reimbursement**"). The Expense Reimbursement, if payable, will, in addition to the return of the Deposit pursuant to Section 2.3, be the sole and exclusive remedy as liquidated damages of the Purchaser, whether

at Law or in equity, for any breach by the Vendor or any of the Purchased Entities of the terms and conditions of this Agreement. For greater certainty, the Vendor's obligation to pay the Expense Reimbursement pursuant to this Section 3.4 is expressly subject to the Court's approval and the granting of the Stalking Horse and SISP Approval Order.

## ARTICLE 4 TRANSFER OF CERTAIN ASSETS AND LIABILITIES

### 4.1 Transfer of Excluded Liabilities to Residual Cos.

On the Closing Date, the Excluded Liabilities of each Purchased Entity shall be assumed by the Residual Co. corresponding to that Purchased Entity, and each Purchased Entity shall, in consideration for the applicable Residual Co. assuming the Excluded Liabilities of such Purchased Entity, issue to its corresponding Residual Co. (a) an interest-free promissory note (each, an "**Excluded Liability Promissory Note**") in an amount to be agreed by the Vendor, the applicable Purchased Entity, the Purchaser and the Monitor (each, an "**Excluded Liability Price**"), and (b) if applicable, a Deferred Consideration Note in accordance with Section 4.4. The Excluded Liabilities shall be assumed in accordance with the Closing Sequence, pursuant to the Approval and Vesting Order and evidenced by one or more assignment and assumption agreements in form and substance acceptable to the Purchaser, the applicable Purchased Entity, the Vendor and the Monitor (each, an "**Excluded Liability Assumption Agreement**"). Notwithstanding any other provision of this Agreement, neither the Purchaser nor any Purchased Entity shall assume or have any Liability for any of the Excluded Liabilities, and all Excluded Liabilities shall be Discharged from each Purchased Entity and its assets, undertaking, business and properties as at and from and after the Closing Time, pursuant to the Approval and Vesting Order. For greater certainty, each Purchased Entity shall be solely liable for all Tax Liabilities and Transaction Taxes, if any, of the Purchased Entity arising in connection with the assignment of the Excluded Liabilities to its corresponding Residual Co. and the assumption by such Residual Co. of same.

### 4.2 Transfer of Excluded Assets and Excluded Contracts to Residual Cos.

On the Closing Date, each Purchased Entity shall retain all of the assets owned by it immediately prior to Closing, including its Contracts, Permits, Goodwill, Intellectual Property, Licences, Subsidiary Shares and Books and Records (the "**Retained Assets**"), except for inventory sold in the ordinary course of business in the Interim Period, and the Excluded Assets and Excluded Contracts (if any), and shall remain liable in respect of the Assumed Liabilities in accordance with the terms of this Agreement. Each Purchased Entity shall transfer its respective Excluded Assets and Excluded Contracts, if any, to its corresponding Residual Co., in accordance with the Closing Sequence, on the Closing Date and same shall be vested in such Residual Co. pursuant to the Approval and Vesting Order as evidenced by one or more bills of sale and assignments of contracts, in form and substance satisfactory to the Purchaser, Vendor, Purchased Entity and the Monitor (each, an "**Excluded Assets Bill of Sale**").

### 4.3 Selection of Excluded Assets, Excluded Contracts, Excluded Liabilities and Assumed Liabilities

For the avoidance of doubt, the Purchaser shall be entitled, without the consent of the Vendor, any Purchased Entity or the Monitor, to revise the list of Excluded Assets, Excluded Contracts, Excluded Liabilities and Assumed Liabilities set out in Schedule "C", Schedule "D", Schedule "E" and Schedule "G", respectively, by adding or deleting assets, contracts or liabilities, at any time that is not later than ten (10) Business Days before the Target Closing Date, subject to the Permitted Encumbrances and Encumbrances to be Discharged and provided that:

- (a) any addition or deletion of any Excluded Asset, Excluded Contract, Excluded Liability or Assumed Liability shall not affect the Purchase Price;
- (b) the Purchaser shall not be permitted to revise the list of Excluded Liabilities so as to include those Liabilities listed under the Statement of Trade Payables or Liabilities described under paragraphs (b), (c), (d) or (e) of the definition of "Assumed Liabilities";
- (c) the Purchaser shall not be permitted to revise the list of Excluded Assets so as to include the 30-Day Inventory, the Closing Date Purchased Entity Inventory or the Closing Date Purchased Entity Receivables; and
- (d) if applicable, the Purchaser shall (i) advise the Vendor and TJAC of its decision to revise the list of Excluded Contracts set out in Schedule "D" so as to include the Trillium Lease by no later than thirty (30) days' before the Target Closing Date and (ii) deliver a list of contracts to disclaim to the Vendor and the Purchased Entity that is the counterparty to such contract no later than thirty (30) days before the Target Closing Date.

#### 4.4 Deferred Consideration

Each Purchased Entity shall, as partial consideration for the assumption by the corresponding Residual Co. of its Excluded Liabilities, pay deferred consideration (each, "**Deferred Consideration**") in an amount equal to 100% of (a) all actual receipts obtained by the Purchased Entity after the Closing Date on account of any receivables due and owing to such Purchased Entity on the Closing Date (the "**Closing Date Purchased Entity Receivables**"), (b) the costs of the 30-Day Inventory of such Purchased Entity set out in Schedule "I" hereto (which, for greater certainty, may be adjusted lower in accordance with the definition of "30-Day Inventory"), and (c) all actual receipts obtained by the Purchased Entity after the Closing Date on account of the sale of any inventory owned by such Purchased Entity on the Closing Date other than 30-Day Inventory (the "**Closing Date Purchased Entity Inventory**"). Each Purchased Entity shall satisfy the Deferred Consideration by delivering to the Monitor on behalf of the corresponding Residual Co., on Closing, an interest-free, limited recourse promissory note in the principal face amount of the Deferred Consideration Note Amount, in favour of such Residual Co., which shall be secured by such Purchased Entity's Closing Date Purchased Entity Receivables, 30-Day Inventory and Closing Date Purchased Entity Inventory, and shall provide that the Residual Co.'s recourse for all obligations under the note shall be limited to such Purchased Entity's (a) Closing Date Purchased Entity Receivables, (b) 30-Day Inventory, (c) Closing Date Purchased Entity Inventory, and (d) any proceeds thereof, and for the avoidance of doubt neither the Purchaser nor the Purchased Entity shall have any liability under the note other than as explicitly limited by the terms of the note (each such note, a "**Deferred Consideration Note**").

## ARTICLE 5 REPRESENTATIONS AND WARRANTIES

### 5.1 Representations and Warranties as to the Vendor

Subject to the issuance of the Approval and Vesting Order, the Vendor represents and warrants to the Purchaser as follows and acknowledges and agrees that the Purchaser is relying upon such representations and warranties in connection with the purchase by the Purchaser of the Purchased Shares:

- (a) Incorporation and Status. The Vendor is a corporation incorporated and existing under the laws of the Province of Ontario, is in good standing under such act and has the power and authority to enter into, deliver and perform its obligations under this Agreement.



- (b) Corporate Authorization. The execution, delivery and performance by the Vendor of this Agreement has been authorized by all necessary corporate actions on the part of the Vendor.
- (c) No Conflict. The execution, delivery and performance by the Vendor of this Agreement does not or would not with the giving of notice, the lapse of time, or both, or the happening of any other event or condition) result in a breach or a violation of, or conflict with, or allow any other Person to exercise any rights under, any terms or provisions of the Organizational Documents of the Vendor.
- (d) Execution and Binding Obligation. This Agreement has been duly executed and delivered by the Vendor and constitutes a legal, valid and binding obligation of the Vendor, enforceable against it in accordance with its terms subject only to the issuance of the Stalking Horse and SISP Approval Order and the Approval and Vesting Order.
- (e) Title to Purchased Shares. The Vendor is the registered and beneficial owner of the Purchased Shares.
- (f) No Other Agreements to Purchase. Except for the Purchaser's rights under this Agreement, no Person has any contractual right, option or privilege for the purchase or acquisition from the Vendor of any of the Purchased Shares or the Retained Assets.
- (g) No Commissions. There are no claims for brokerage commissions, finders' fees or similar compensation in connection with the Transactions based on any arrangement or agreement.
- (h) Proceedings. There are no Legal Proceedings pending against the Vendor or, to the knowledge of the Vendor, threatened, with respect to, or in any manner affecting, title to the Purchased Shares, or the Retained Assets or which would reasonably be expected to enjoin, delay, restrict or prohibit the transfer of all or any part of the Purchased Shares as contemplated by this Agreement or which would reasonably be expected to delay, restrict or prevent the Vendor from fulfilling any of its obligations set forth in this Agreement.
- (i) Residence of the Vendor. The Vendor is not a non-resident of Canada within the meaning of the Tax Act.

## **5.2 Representations and Warranties as to the Purchased Entities**

Subject to the issuance of the Approval and Vesting Order, each Purchased Entity represents and warrants to the Purchaser as follows and acknowledges and agrees that the Purchaser is relying upon such representations and warranties in connection with the purchase by the Purchaser of the Purchased Shares:

- (a) Incorporation and Status. Each Purchased Entity is a corporation incorporated and existing under the laws of the province of its incorporation, in good standing under such act and has the power and authority to enter into, deliver and perform its obligations under this Agreement.
- (b) Corporate Authorization. The execution, delivery and performance by each Purchased Entity of this Agreement, including the transfer of the Purchased Shares, has been authorized by all necessary corporate action on the part of each Purchased Entity.

- (c) No Conflict. The execution, delivery and performance by each Purchased Entity of this Agreement does not or would not with the giving of notice, the lapse of time, or both, or the happening of any other event or condition) result in a breach or a violation of, or conflict with, or allow any other Person to exercise any rights under, any terms or provisions of the Organizational Documents of any Purchased Entity.
- (d) Execution and Binding Obligation. This Agreement has been duly executed and delivered by each Purchased Entity and constitutes a legal, valid and binding obligation of such Purchased Entity, enforceable against it in accordance with its terms subject only to the issuance of the Stalking Horse and SISP Approval Order and the Approval and Vesting Order.
- (e) Authorized and Issued Capital.
  - (i) The authorized capital of TJAC consists of an unlimited number of common shares.
  - (ii) The authorized capital of TRC consists of an unlimited number of common shares.
  - (iii) The authorized capital of MYM consists of an unlimited number of common shares.
  - (iv) The authorized capital of MYMB consists of an unlimited number of common shares.
  - (v) The authorized capital of Highland consists of an unlimited number of common shares.

There are no issued and outstanding common shares or other securities of the Direct Purchased Entities other than the Purchased Shares, there are no issued and outstanding common shares or other securities of the Indirect Purchased Entities other than the shares owned by the Direct Purchased Entities (or, in the case of Highland, the shares owned by MYMB), nor are there any securities convertible into or options, equity-based awards or other rights, agreements or commitments that are held by any Person and which are convertible into or exchangeable for common shares or any other securities of any Purchased Entity other than the Secured Debenture.

- (f) No Other Agreements to Purchase. Except for the Purchaser's rights under this Agreement, no Person has any contractual right, option or privilege for the purchase or acquisition from any Purchased Entity of any of the Retained Assets.
- (g) Proceedings. To the knowledge of each Purchased Entity, there are no Legal Proceedings pending against any Purchased Entity or threatened, with respect to, or in any manner affecting, title to the Purchased Shares or the Retained Assets, or which would reasonably be expected to enjoin, delay, restrict or prohibit the transfer of all or any part of the Purchased Shares or the Closing of the Transactions, as contemplated by this Agreement, or which would reasonably be expected to delay, restrict or prevent any Purchased Entity from fulfilling any of their obligations set forth in this Agreement.
- (h) Cannabis Licenses. The Cannabis Licenses are in full force and effect. Except for the Purchaser's rights under this Agreement, no Person has any contractual right, option or

privilege for the purchase or acquisition of any interest in, or the creation of any Encumbrance in respect of, the Cannabis Licenses.

- (i) Tax. All Taxes shown as due and owing on the Tax Returns and any related notices of assessment for each Purchased Entity for all Tax periods ending on or prior to the Closing Date have been duly and timely paid. Each Purchased Entity has withheld and has duly and timely remitted, or shall duly and timely remit, to the appropriate Governmental Authority all Taxes required by law to be withheld or deducted.

### **5.3 Representations and Warranties as to the Purchaser**

The Purchaser represents and warrants to and in favour of the Vendor and each Purchased Entity as follows and acknowledges and agrees that the Vendor and each Purchased Entity are relying upon such representations and warranties in connection with the sale by the Vendor of the Purchased Shares:

- (a) Incorporation and Status. The Purchaser is incorporated and existing under the Laws of the Province of British Columbia and has the corporate power and authority to enter into, deliver and perform its obligations under, this Agreement.
- (b) Corporate Authorization. The execution, delivery and performance by the Purchaser of this Agreement has been authorized by all necessary corporate action on the part of the Purchaser.
- (c) No Conflict. The execution, delivery and performance by the Purchaser of this Agreement and the completion of the Transactions contemplated by this Agreement does not (or would not with the giving of notice, the lapse of time, or both, or the happening of any other event or condition) result in a breach or a violation of, or conflict with, or allow any other Person to exercise any rights under, any terms or provisions of the Organizational Documents of the Purchaser.
- (d) Execution and Binding Obligation. This Agreement has been duly executed and delivered by the Purchaser and this Agreement constitutes a legal, valid and binding obligation of the Purchaser, enforceable against it in accordance with its terms subject only to the Approval and Vesting Order.
- (e) No Commissions. There are no claims for brokerage commissions, finders' fees or similar compensation in connection with the transactions contemplated by this Agreement based on any arrangement or agreement.
- (f) Litigation. There are no Legal Proceedings pending, or to the knowledge of the Purchaser, threatened against the Purchaser before any Governmental Authority, which would: (i) prevent the Purchaser from paying the Purchase Price to the Vendor; (ii) prohibit or seek to enjoin, restrict or prohibit the Transactions contemplated by this Agreement; or (iii) which would reasonably be expected to delay, restrict or prevent the Purchaser from fulfilling any of its obligations set forth in this Agreement.
- (g) Security Clearances. Each officer, director, or any other Person that may exercise, or is in a position to exercise, direct control over either holder of the Cannabis Licenses or of the Purchaser, namely Marc Lustig, have obtained security clearances as required to maintain the Cannabis Licenses under Applicable Law.

- (h) Investment Canada Act. The Purchaser is a "Canadian" or a "WTO Investor" within the meaning of the Investment Canada Act, and the regulations thereunder.
- (i) Consents. Except for: (i) the issuance of the Approval and Vesting Order; and (ii) any regulatory approvals required to be obtained pursuant to this Agreement, no Authorization, consent or approval of, or filing with or notice to, any Governmental Authority, court or other Person is required in connection with the execution, delivery or performance of this Agreement by the Purchaser, and each of the agreements to be executed and delivered by the Purchaser hereunder, the purchase of the Purchased Shares.
- (j) Residence of Purchaser. The Purchaser is not a non-resident of Canada within the meaning of the Tax Act.
- (k) Financial Ability. The Purchaser will have, as of the Closing Date, (i) sufficient funds available for purposes of satisfying the Purchase Price and (ii) the resources and capabilities (financial or otherwise) to perform its obligations under this Agreement, including the Assumed Liabilities. The Purchaser has not, as of the date hereof, and will not have, as of the Closing Time, incurred any liability that would materially impair or adversely affect such resources and capabilities.

#### **5.4 As is, Where is**

The Purchased Shares (together with all assets held by each Purchased Entity at Closing, including the Retained Assets) shall be sold and delivered to the Purchaser on an "as is, where is" basis, subject to the representations and warranties contained in Sections 5.1 and 5.2. Other than those representations and warranties contained herein, the Purchaser acknowledges and agrees that (a) no representation, warranty or condition is expressed or can be implied as to title, encumbrances, description, fitness for purpose, merchantability, condition or quality or in respect of any other matter or thing whatsoever, including with respect to the Purchased Shares or the Retained Assets, and (b) the Monitor has not provided any representations and warranties in respect of any matter or thing whatsoever in connection with the Transactions contemplated hereby, including with respect to the Purchased Shares or the Retained Assets. The disclaimer in this Section 5.4 is made notwithstanding the delivery or disclosure to the Purchaser or its directors, officers, employees, agents or representatives of any documentation or other information (including financial projections or supplemental data not included in this Agreement). Without limiting the generality of the foregoing and unless and solely to the extent expressly set forth in this Agreement or in any documents required to be delivered pursuant to this Agreement, any and all conditions, warranties or representations, expressed or implied, pursuant to Applicable Law do not apply hereto and are hereby expressly waived by the Purchaser.

Without limiting the generality of the foregoing, except as may be expressly set out in this Agreement, no representations or warranties have been given by any Party with respect to the Liability any Party has with respect to Taxes in connection with entering into this Agreement, the issuance of the Approval and Vesting Order, the consummation of the Transactions or for any other reason. Each Party is to rely on its own investigations in respect of any Liability for Taxes payable, collectible or required to be remitted by any Purchased Entity or any other Party on or after Closing and the quantum of such Liability, if any, and the Purchaser acknowledges and agrees that it has been provided adequate access to the personnel, properties, assets, premises, Books and Records, and other documents and data of the Vendor and the Purchased Entities in order to make an independent analysis of same. For certainty, the Vendor shall have no Liability for any Taxes payable, collectible or required to be remitted on or after Closing by any Purchased Entity in connection with (a) the Vendor or such Purchased Entity entering into this Agreement, (b) the issuance of the Approval and Vesting Order or (c) the consummation of the Transactions.

## **ARTICLE 6 COVENANTS**

### **6.1 Target Closing Date**

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

### **6.2 Interim Period**

During the Interim Period and except as contemplated or permitted by this Agreement (including the Disclaimers), the Approval and Vesting Order or the SISF, as necessary in connection with the CCAA Proceedings, as otherwise required by Applicable Law or provided in the Initial Order and any other orders of the Court prior to the Closing Time, or as consented to by the Purchaser, such consent not to be unreasonably withheld, conditioned or delayed, the Vendor and each Purchased Entity shall:

- (a) continue to maintain its business and operations in substantially the same manner as conducted on the date of this Agreement;
- (b) other than the Excluded Assets and each Purchased Entity's cannabis inventory to be sold in the ordinary course pursuant to purchase orders from third parties, not transport, remove or dispose of, any of its assets out of their current locations;
- (c) not incur any incremental costs and expenses, or make disbursements, out of the ordinary course of business, unless expressly agreed to by the Vendor, the Purchaser and the Monitor; and
- (d) not enter into any non-arms' length transactions involving any Purchased Entity or its assets or the Business without the prior approval of the Purchaser.

### **6.3 Access During Interim Period**

During the Interim Period, the Vendor and each Purchased Entity shall give, or cause to be given, to the Purchaser, and its Representatives, reasonable access during normal business hours to the Retained Assets, including the Books and Records, to conduct such investigations, inspections, surveys or tests thereof and of the financial and legal condition of the Business, the Retained Assets as the Purchaser reasonably deems necessary or desirable to further familiarize themselves with the Business and the Retained Assets. Without limiting the generality of the foregoing: (a) the Purchaser and its Representatives shall be permitted reasonable access during normal business hours to all documents relating to information scheduled or required to be disclosed under this Agreement and to the Employees; (b) any invasive testing, including with respect to any real property, shall require the prior consent of the Vendor; and (c) subject to the ongoing reasonable oversight and participation of the Vendor, any applicable Purchased Entity and the Monitor, and with prior notice to the Monitor, the Purchaser and its Representatives shall be permitted to contact and discuss the transactions contemplated herein with Governmental Authorities and the Vendor's and each Purchased Entity's customers and contractual counterparties. Such investigations, inspections, surveys and tests shall be carried out at the Purchaser's sole and exclusive risk and cost, during normal business hours, and without undue interference with any Purchased Entity's operations, and the Vendor and each Purchased Entity shall co-operate reasonably in facilitating such investigations, inspections, surveys and tests and shall furnish copies of all such documents and materials relating to such matters as may be reasonably requested by or on behalf of the Purchaser.

#### **6.4 Regulatory Approvals and Consents**

- (a) Each of the Parties shall use its commercially reasonable efforts to: (i) take, or cause to be taken, all appropriate action, and do, or cause to be done, all things necessary, proper or advisable under any Applicable Law or otherwise to consummate and make effective the Transactions; (ii) obtain any consents, approvals or orders required to be obtained or made in connection with the authorization, execution and delivery of this Agreement and the consummation of the Transactions; and (iii) make all filings and give any notice, and thereafter make any other submissions either required or reasonably deemed appropriate by each of the Parties, with respect to this Agreement and the Transactions required under any Applicable Law. Without limiting the generality of the foregoing, the Purchaser shall, within the period of time prescribed by Applicable Law, notify the relevant Governmental Authority of the change in any individual requiring security clearance as mandated by the Cannabis Act and Cannabis Regulations.
- (b) The Parties shall use reasonable efforts to cooperate and consult with each other in connection with the making of any such filings and notices, including providing copies of all such documents to the non-filing Party and its advisors within a reasonable period of time prior to filing or the giving of notice. Each Party shall pay for its own filing fees and other charges arising out of the actions taken under this Section 6.4.

#### **6.5 Insurance Matters**

Until the Closing, the Vendor and each Purchased Entity shall keep in full force and effect all of their applicable existing insurance policies and give any notice or present any claim under any such insurance policies consistent with the respective past practices of the Vendor and each Purchased Entity in the ordinary course of business.

#### **6.6 Books and Records**

The Purchaser shall cause each Purchased Entity to preserve and keep the Books and Records acquired by it pursuant to this Agreement for a period of two (2) years after Closing, or for any longer periods as may be required by any Laws applicable to such Books and Records. The Purchaser shall make such Books and Records, as well as electronic copies of such Books and Records (to the extent such electronic copies exist), available to the Monitor, the Vendor and each Residual Co., their successors, and any trustee in bankruptcy or receiver of the Vendor and each Residual Co., and shall, at such party's sole expense, permit any of the foregoing persons to take copies of such Books and Records as they may reasonably require. As soon as practicable following the Closing and in any event no later than forty-five (45) days following the Closing, the Vendor shall deliver, at the cost of the Purchaser: (a) any and all Books and Records reasonably requested by the Purchaser; and (b) an electronic copy of all of the materials relating to the Retained Assets established in connection with the Transactions, and such materials available on such electronic copy shall be unlocked, unprotected and fully available to the Purchaser. Until such electronic copy is provided to the Purchaser, the Vendor shall permit access to such materials in such data room.

#### **6.7 Collection of Closing Date Purchased Entity Receivables and Sale of Closing Date Purchased Entity Inventory**

The Purchaser shall, and shall cause the Purchased Entities after the Closing to, use commercially reasonable efforts to collect all Closing Date Purchased Entity Receivables and to sell all Closing Date Purchased Entity Inventory, in the same manner that a prudent cannabis vendor would use to collect its own

receivables and sell its own inventory, and to cause the Purchased Entities to use the proceeds thereof to repay the Deferred Consideration Notes. This covenant shall survive the Closing.

## **6.8 Filing of Tax Election**

The Purchaser shall, unless otherwise agreed to by the Vendor and the Purchaser in writing, cause each Purchased Entity to make an election pursuant to subsection 256(9) of the Tax Act in respect of the taxation year ending as a result of the acquisition of control of it by the Purchaser.

## **ARTICLE 7 CLOSING ARRANGEMENTS**

### **7.1 Closing**

The Closing shall take place virtually by exchange of documents in PDF format on the Closing Date, in accordance with the Closing Sequence, and shall be subject to such escrow document release arrangements as the Parties may agree.

### **7.2 Closing Sequence**

On the Closing Date, Closing shall take place in accordance with the Approval and Vesting Order, in the following sequence (the "**Closing Sequence**"), provided that, subject to the Approval and Vesting Order, the Closing Sequence may be amended at any time and from time to time prior to the Closing Date with the prior written consent of the Monitor, the Vendor and the Purchaser (which consent may not be unreasonably withheld or delayed):

- (a) first, the Purchaser shall advance a super-priority interest-free loan to the Vendor in the amount of \$4,750,000 (the "**Pre-Closing Loan**") (which, pursuant to the Approval and Vesting Order, shall rank in priority to all other security interests, trusts, deemed trusts, liens, charges and encumbrances, and claims of secured creditors, statutory or otherwise other than the Charges, in favour of any Person notwithstanding the order of perfection or attachment) by paying the Cash Payment to be held in escrow by the Monitor, on behalf of the Vendor, to be released in accordance with this Closing Sequence, and shall permit the Deposit to be transferred to, and held by the Monitor on behalf of, the Purchased Entities solely in accordance with this Closing Sequence;
- (b) second, each Residual Co. shall, and the Vendor and the Purchased Entities shall cause each Residual Co. to, assume and acquire the Excluded Liabilities and Excluded Assets of its corresponding Purchased Entity, if any, pursuant to the Approval and Vesting Order and the Excluded Liabilities Assumption Agreement, and each applicable Purchased Entity shall issue an Excluded Liability Promissory Note to the applicable Residual Co.;
- (c) third, the following share subscriptions shall occur in the following sequence:
  - (i) the Vendor shall subscribe for additional common shares in the capital of TJAC for an aggregate subscription price equal to the aggregate amount owing by TJAC and TRC under the applicable Excluded Liability Promissory Notes, and hereby irrevocably directs the Monitor to cause such payment to be made from the funds held by the Monitor on its behalf, although such amount shall continue to be held by the Monitor on behalf of TJAC;

- (ii) TJAC shall subscribe for additional common shares in the capital of TRC for an aggregate subscription price equal to the aggregate amount owing by TRC under the applicable Excluded Liability Promissory Note, and hereby irrevocably directs the Monitor to cause such payment to be made from the funds held by the Monitor on its behalf, although such amount shall continue to be held by the Monitor on behalf of TRC;
  - (iii) the Vendor shall subscribe for additional common shares in the capital of MYM for an aggregate subscription price equal to the aggregate amount owing by MYM, MYMB and Highland under the applicable Excluded Liability Promissory Notes, and hereby irrevocably directs the Monitor to cause such payment to be made from the funds held by the Monitor on its behalf, although such amount shall continue to be held by the Monitor on behalf of MYM;
  - (iv) MYM shall subscribe for additional common shares in the capital of MYMB for an aggregate subscription price equal to the aggregate amount owing by MYMB and Highland under the applicable Excluded Liability Promissory Notes, and hereby irrevocably directs the Monitor to cause such payment to be made from the funds held by the Monitor on its behalf, although such amount shall continue to be held by the Monitor on behalf of MYMB; and
  - (v) MYMB shall subscribe for additional common shares in the capital of Highland for an aggregate subscription price equal to the aggregate amount owing by Highland under the applicable Excluded Liability Promissory Note, and hereby irrevocably directs the Monitor to cause such payment to be made from the funds held by the Monitor on its behalf, although such amount shall continue to be held by the Monitor on behalf of Highland;
- (d) fourth, the Purchaser shall acquire the Purchased Shares (including, for greater certainty, all shares issued to the Vendor pursuant to Section 7.2(c), the Vendor shall deliver the Purchased Shares, and the Purchase Price (including for greater certainty, the Deposit) shall be paid and satisfied as follows:
- (i) the Deposit shall be released and the Purchaser shall cease to have any claim to the return thereof; and
  - (ii) an amount equal to the amount of the Cash Payment shall be paid and satisfied by way of set-off against the Pre-Closing Loan, and the Pre-Closing Loan shall thereby be fully repaid and settled; and
- (e) fifth, each Purchased Entity shall satisfy the amount owing under any Excluded Liability Promissory Note issued by such Purchased Entity using the funds transferred to, and held by the Monitor on behalf of it pursuant to Section 7.2(c), and hereby irrevocably directs the Monitor to cause such payment to be made, although such amount shall continue to be held by the Monitor on behalf of the applicable Residual Co.

### **7.3 The Vendor's Closing Deliveries**

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



- (a) a true copy of the Stalking Horse and SISP Approval Order, as issued by the Court;
- (b) a true copy of the Approval and Vesting Order, as issued by the Court;
- (c) if applicable, share certificates representing the Purchased Shares duly endorsed in blank for transfer, or accompanied by irrevocable stock transfer powers duly executed in blank, in either case, by the holder of record;
- (d) the Statement of Trade Payables, reviewed by the Monitor;
- (e) a certificate of status, compliance, good standing or like certificate with respect to the Vendor issued by the appropriate government official of its jurisdiction of incorporation, to the extent such certificate exists in such jurisdiction;
- (f) a certificate dated as of the Closing Date and executed by an executive officer of the Vendor confirming and certifying that each of the conditions in Sections 8.1(d), 8.1(e) and 8.1(f) have been satisfied;
- (g) if required by the Purchaser, a copy of a transition services agreement, signed by the Vendor, in form and substance satisfactory to the Vendor, the Monitor and the Purchaser, each acting reasonably; and
- (h) such other agreements, documents and instruments as may be reasonably required by the Purchaser to complete the Transactions and the Closing Sequence provided for in this Agreement, all of which shall be in form and substance satisfactory to the Parties, acting reasonably.

#### **7.4 The Purchaser's Closing Deliveries**

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

- (a) a certificate of status, compliance, good standing or like certificate with respect to the Purchaser issued by the appropriate government official of its jurisdiction of formation;
- (b) a certificate dated as of the Closing Date and executed by an executive officer of the Purchaser confirming and certifying that each of the conditions in Sections 8.2(d) and 8.2(e) have been satisfied;
- (c) the Cash Payment, in accordance with Section 2.2(b);
- (d) if required by the Vendor, a copy of a transition services agreement, signed by the Purchaser, in form and substance satisfactory to the Vendor, the Monitor and the Purchaser, each acting reasonably; and
- (e) such other agreements, documents and instruments as may be reasonably required by the Vendor to complete the Transactions provided for in this Agreement, all of which shall be in form and substance satisfactory to the Parties, acting reasonably.

## 7.5 The Purchased Entities' Closing Deliveries

At or before the Closing (as applicable), each Purchased Entity shall deliver or cause to be delivered to the Purchaser, the following:

- (a) a certificate of status, compliance, good standing or like certificate with respect to the Purchased Entity issued by the appropriate government official of its jurisdiction of incorporation, to the extent such certificate exists in such jurisdiction;
- (b) a copy of an Excluded Liability Assumption Agreement, if any, signed by the applicable Purchased Entity and the applicable Residual Co.;
- (c) a copy of an Excluded Assets Bill of Sale, if any, signed by the applicable Purchased Entity and the applicable Residual Co.; and
- (d) copies of the Deferred Consideration Notes and related security documents, in accordance with Section 4.4 (originals of which shall remain with the Monitor on behalf of the Residual Cos.).

## ARTICLE 8 CONDITIONS OF CLOSING

### 8.1 The Purchaser's Conditions

The Purchaser shall not be obligated to complete the Transactions contemplated by this Agreement, unless, at or before the commencement of the first step in the Closing Sequence, each of the conditions listed below in this Section 8.1 have been satisfied, it being understood that the said conditions are included for the exclusive benefit of the Purchaser, and may be waived by the Purchaser in whole or in part, without prejudice to any of its rights of termination in the event of non-fulfillment of any other condition in whole or in part. Any such waiver shall be binding on the Purchaser only if made in writing; provided that, if the Purchaser does not waive a condition and completes the Closing, such condition(s) shall be deemed to have been waived by the Purchaser. The Vendor shall take, and cause each Purchased Entity to take, all such commercially reasonable actions, steps and proceedings as are reasonably within its control to ensure that the conditions listed below in this Section 8.1 are fulfilled at or before the Closing Time.

- (a) Court Approval. The following conditions have been met: (i) the Stalking Horse and SISP Approval Order and the Approval and Vesting Order shall have been issued by the Court; (ii) the Stalking Horse and SISP Approval Order and the Approval and Vesting Order shall not have been vacated, set aside or stayed; (iii) the applicable appeal periods to appeal the Approval and Vesting Order have expired; provided that if the Approval and Vesting Order shall not have been subject to any unresolved material objections at the hearing at which it was approved by the Court, the applicable appeal periods need not have expired, but no appeal or leave for appeal shall have been filed; and (iv) at least two (2) clear Business Days have elapsed since the Approval and Vesting Order was issued by the Court.
- (b) The Vendor's Deliverables. The Vendor shall have executed and delivered or caused to have been executed and delivered to the Purchaser at the Closing all the documents contemplated in Section 7.3.
- (c) No Violation of Orders or Law. During the Interim Period, no Governmental Authority shall have enacted, issued or promulgated any final or non-appealable Order or Law which

has the effect of: (i) making any of the Transactions illegal; (ii) otherwise prohibiting, preventing or restraining the consummation of any of the Transactions contemplated by this Agreement; or (iii) modifying or amending the Approval and Vesting Order without the consent of Purchaser.

- (d) No Material Adverse Effect. During the Interim Period, there shall have been no Material Adverse Effect.
- (e) No Breach of Representations and Warranties. Except as such representations and warranties may be affected by the occurrence of events or transactions specifically contemplated by this Agreement (including the Approval and Vesting Order), each of the representations and warranties contained in Sections 5.1 and 5.2 shall be true and correct in all material respects: (i) as of the Closing Date as if made on and as of such date; or (ii) if made as of a date specified therein, as of such date.
- (f) No Breach of Covenants. The Vendor and each Purchased Entity shall have performed in all material respects all covenants, obligations and agreements contained in this Agreement required to be performed by the Vendor or each Purchased Entity on or before the Closing.
- (g) The Purchased Entity Employees. Each Purchased Entity shall have terminated the employment or engagement, as applicable, of the Terminated Employees, as requested by the Purchaser in its sole discretion, and all Liabilities owing to any such Terminated Employees in respect of such terminations, including all amounts owing on account of statutory notice, termination payments, severance, vacation pay, benefits, bonuses or other compensation or entitlements, all of which Liabilities shall be Excluded Liabilities or shall be Discharged by the Approval and Vesting Order.
- (h) Residual Co. Pursuant to the Approval and Vesting Order: (i) all Excluded Assets and Excluded Liabilities shall have been transferred to the applicable Residual Cos., to another Affiliate of the Vendor that is not a Purchased Entity, or Discharged; and (ii) each Purchased Entity, its business and property shall have been released and forever Discharged of all claims and Encumbrances (other than Assumed Liabilities and the Permitted Encumbrances, if any); such that, from and after Closing the business and property of each Purchased Entity shall exclude the Excluded Assets and shall not be subject to any Excluded Liabilities.
- (i) CCAA Proceedings. Upon Closing, the CCAA Proceedings will have been terminated in respect of each Purchased Entity, its business and property, as set out in the Approval and Vesting Order.
- (j) Disclaim Contracts. Each Purchased Entity shall have sent notices of disclaimer for such contracts and other agreements as the Purchaser may require, as listed in a list of contracts to disclaim as sent by the Purchaser to the Vendor and the Purchased Entity that is the counterparty to such contract, and which shall be delivered by the Purchaser no later than thirty (30) days before the Target Closing Date.
- (k) Cannabis Licenses. The Cannabis Licenses shall be valid and in good standing at the Closing Time with no adverse conditions or restrictions, except for routine conditions or restrictions that do not result in a finding of non-compliance or suspension.

## 8.2 The Vendor's and Purchased Entities' Conditions

Neither the Vendor nor any Purchased Entity shall be obligated to complete the Transactions contemplated by this Agreement unless, at or before the commencement of the first step in the Closing Sequence, each of the conditions listed below in this Section 8.2 have been satisfied, it being understood that the said conditions are included for the exclusive benefit of the Vendor and the Purchased Entities, and may be waived by the Vendor and the Purchased Entities in whole or in part, without prejudice to any of their rights of termination in the event of nonfulfillment of any other condition in whole or in part. Any such waiver shall be binding on the Vendor and Purchased Entities only if made in writing. The Purchaser shall take all such actions, steps and proceedings as are reasonably within the Purchaser's control as may be necessary to ensure that the conditions listed below in this Section 8.2 are fulfilled at or before the Closing Time.

- (a) Court Approval. The following conditions have been met: (i) the Stalking Horse and SISP Approval Order and the Approval and Vesting Order shall have been issued by the Court; (ii) the Stalking Horse and SISP Approval Order and the Approval and Vesting Order shall not have been vacated, set aside or stayed; (iii) the applicable appeal periods to appeal the Approval and Vesting Order have expired; provided that if the Approval and Vesting Order shall not have been subject to any unresolved material objections at the hearing at which it was approved by the Court, the applicable appeal periods need not have expired, but no appeal or leave for appeal shall have been filed; and (iv) at least two (2) clear Business Days have elapsed since the Approval and Vesting Order was issued by the Court.
- (b) Purchaser's Deliverables. The Purchaser shall have executed and delivered or caused to have been executed and delivered to the Vendor at the Closing all the documents and payments contemplated in Section 7.4.
- (c) No Violation of Orders or Law. During the Interim Period, no Governmental Authority shall have enacted, issued or promulgated any final or non-appealable Order or Law which has the effect of: (i) making any of the Transactions contemplated by this Agreement illegal; (ii) otherwise prohibiting, preventing or restraining the consummation of any of the Transactions contemplated by this Agreement; or (iii) modifying or amending the Approval and Vesting Order without the consent of the Vendor.
- (d) No Breach of Representations and Warranties. Each of the representations and warranties contained in Section 5.3 shall be true and correct in all material respects: (i) as of the Closing Date as if made on and as of such date; or (ii) if made as of a date specified therein, as of such date.
- (e) No Breach of Covenants. The Purchaser shall have performed in all material respects all covenants, obligations and agreements contained in this Agreement required to be performed by the Purchaser on or before the Closing, except for the covenant to pay the Cash Payment, which shall have been performed in all respects.

## 8.3 Monitor's Certificate

When the conditions to Closing set out in Sections 8.1 and 8.2 have been satisfied and/or waived by the Vendor, Purchased Entities or the Purchaser, as applicable, the Vendor, the Purchased Entities, the Purchaser or their respective counsel will each deliver to the Monitor confirmation that such conditions of Closing, as applicable, have been satisfied and/or waived (the "**Conditions Certificates**"). Upon receipt of the Conditions Certificates, the Monitor shall: (a) issue forthwith its Monitor's Certificate concurrently to the Vendor, the Purchased Entities and the Purchaser, at which time the Closing Sequence will be deemed

to have commenced and be completed in the order set out in the Closing Sequence, and Closing will be deemed to have occurred; and (b) file as soon as practicable a copy of the Monitor's Certificate with the Court (and shall provide a true copy of such filed certificate to the Vendor, the Purchased Entities and the Purchaser). In the case of: (a) and (b) above, the Monitor will be relying exclusively on the basis of the Conditions Certificates without any obligation whatsoever to verify the satisfaction or waiver of the applicable conditions.

## **ARTICLE 9 TERMINATION**

### **9.1 Grounds for Termination**

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

- (a) by the mutual agreement of the Vendor (with the consent of the Monitor), the Purchased Entities (with the consent of the Monitor) and the Purchaser;
- (b) automatically and without any action or notice by either the Vendor and the Purchased Entities to the Purchaser or the Purchaser to the Vendor and the Purchased Entities, immediately (i) upon the selection by the Vendor and the Purchased Entities, in consultation with the Monitor, of a Successful Bid, if this Agreement is neither the Successful Bid nor the Back-Up Bid selected at such time, or (ii) upon the Closing of the Successful Bid(s) if this Agreement is the Back-Up Bid;
- (c) by the Purchaser, on the one hand, or the Vendor and the Purchased Entities (with the consent of the Monitor), on the other hand, at any time following the Outside Date, if Closing has not occurred on or prior to 11:59 p.m. (Eastern Time) on the Outside Date, provided that the reason for the Closing not having occurred is not due to any act or omission, or breach of this Agreement, by the Party proposing to terminate this Agreement;
- (d) by the Purchaser, on the one hand, or the Vendor and Purchased Entities (with the consent of the Monitor), on the other hand, upon notice to the other Parties if (i) the Approval and Vesting Order has not been obtained by the Target Closing Date or (ii) the Court declines at any time to grant the Approval and Vesting Order; in each case for reasons other than a breach of this Agreement by the Party proposing to terminate this Agreement;
- (e) by the Vendor and the Purchased Entities (with the consent of the Monitor), if there has been a material violation or breach by the Purchaser of any agreement, covenant, representation or warranty of the Purchaser in this Agreement which would prevent the satisfaction of, or compliance with, any condition set forth in Section 8.2, as applicable, by the Outside Date and such violation or breach has not been waived by the Vendor and the Purchased Entities or cured by the Purchaser within five (5) Business Days of the Vendor providing notice to the Purchaser of such breach, unless the Vendor is in material breach of its obligations under this Agreement at such time; or
- (f) by the Purchaser, if there has been a material violation or breach by the Vendor or any Purchased Entity of any agreement, covenant, representation or warranty which would prevent the satisfaction of, or compliance with, any condition set forth in Section 8.1, by the Outside Date and such violation or breach has not been waived by the Purchaser or cured by the Vendor or applicable Purchased Entity within five (5) Business Days of the Purchaser providing notice to the Vendor and applicable Purchased Entity of such breach,

unless the Purchaser is in material breach of its obligations under this Agreement at such time.

## **9.2 Effect of Termination**

If this Agreement is terminated pursuant to Section 9.1:

- (a) all further obligations of the Parties under this Agreement will terminate and no Party will have any Liability or further obligations hereunder, except as contemplated in Sections 2.3 (*Deposit*), 10.4 (*Public Announcements*), 10.5 (*Notices*), 10.9 (*Waiver and Amendment*), 10.12 (*Governing Law*), 10.13 (*Dispute Resolution*), 10.14 (*Attornment*), 10.15 (*Successors and Assigns*), 10.16 (*Assignment*), 10.17 (*No Liability*), 10.18 (*Damages*) and 10.21 (*Third Party Beneficiaries*), which shall survive such termination. For the avoidance of doubt, any Liability incurred by a Party prior to the termination of this Agreement shall survive such termination; and
- (b) if the Cash Payment has been paid to the Monitor pursuant to Section 7.2(a), and for any reason the Closing Sequence steps set out in Sections 7.2(b) through 7.2(e) have not occurred, the Monitor shall promptly return the Cash Payment to the Purchaser; provided, however, that this Section 9.2(b) shall be subject to Section 2.3 with respect to the Deposit.

## **ARTICLE 10 GENERAL**

### **10.1 Tax Returns**

The Purchaser shall: (a) prepare or cause to be prepared and file or cause to be filed all Tax Returns for each Purchased Entity for all Tax periods ending on or prior to the Closing Date and for which Tax Returns have not been filed as of such date; and (b) cause each Purchased Entity to duly and timely make or prepare all Tax Returns required to be made or prepared by them and to duly and timely file all Tax Returns required to be filed by them for periods beginning before and ending after the Closing Date. All such Tax Returns in clauses (a) and (b) of this Section 10.1 constitute the "**Straddle Period Tax Returns**". The Vendor, each Purchased Entity, the Monitor and the Purchaser shall co-operate reasonably with each other and make available to each other in a timely fashion such data and other information as may reasonably be required for the preparation of any Straddle Period Tax Return and the Purchaser shall preserve (or cause the applicable Purchased Entities to preserve) such data and other information until the expiration of any applicable limitation period under Applicable Law with respect to Taxes. The Purchaser will use commercially reasonable best efforts to provide drafts of all Straddle Period Tax Returns required to be prepared by the Purchaser or the Purchased Entities to the Vendor and the Monitor in advance of their filing with the relevant Governmental Authority. The Purchaser, the Vendor and the Monitor shall, subject only to Applicable Law, cooperate in considering any amendments to such Tax Returns as the Vendor or the Monitor may request.

### **10.2 Survival.**

Subject to Section 5.4, Section 6.7 and Section 10.1, all representations, warranties, covenants and agreements of the Vendor or the Purchaser made in this Agreement or any other agreement, certificate or instrument delivered pursuant to this Agreement will merge on and shall not survive the Closing except where, and only to the extent that, the terms of any such covenant or agreement expressly provide for rights, duties or obligations extending after the Closing, or as otherwise expressly provided in this Agreement.

### 10.3 Expenses

Except as otherwise agreed by the Parties, each Party shall be responsible for its own costs and expenses (including any Taxes imposed on such expenses) incurred in connection with the negotiation, preparation, execution, delivery and performance of this Agreement and the Transactions (including the fees and disbursements of legal counsel, bankers, agents, investment bankers, accountants, brokers and other advisers), provided that nothing in this Section 10.3 shall affect the payment of the Expense Reimbursement provided for in Section 3.4.

### 10.4 Public Announcements

The Vendor shall be entitled to disclose this Agreement to the Court and parties in interest in the CCAA Proceedings, and this Agreement may be posted on the Monitor's website maintained in connection with the CCAA Proceedings. Other than as provided in the preceding sentence or statements made in Court (or in pleadings filed therein) or where required to meet timely disclosure obligations of the CCAA Applicants or any of their Affiliates (including IM Cannabis Corp.) under Applicable Laws or stock exchange rules, the Vendor or the Purchaser shall not issue (prior to or after the Closing) any press release or make any public statement or public communication with respect to this Agreement or the Transactions contemplated hereby without the prior consent of the other Parties, which shall not be unreasonably withheld or delayed.

### 10.5 Notices

Any notice, consent or approval required or permitted to be given in connection with this Agreement shall be in writing and shall be sufficiently given if delivered (whether in person, by courier service or other personal method of delivery), or if transmitted by email as follows:

- (a) in the case of notice to the Vendor at:

**Trichome Financial Corp.**  
79 Wellington Street West, Suite 3000,  
Toronto, Ontario, M5K 1N2

Attention: Michael Ruscetta and Howard Steinberg  
Email: [mruscetta@trichomefinancial.com](mailto:mruscetta@trichomefinancial.com) and [hsteinberg@jwc.ca](mailto:hsteinberg@jwc.ca)

With a copy to:

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

Attention: Sean Zweig and Josh Foster  
Email: [zweigs@bennettjones.com](mailto:zweigs@bennettjones.com) and [fosterj@bennettjones.com](mailto:fosterj@bennettjones.com)

- (b) in the case of a notice to the Purchaser at:

**L5 Capital Inc.**  
2200 HSBC Building  
885 West Georgia Street  
Vancouver, British Columbia, V6C 3E8

Attention: Marc Lustig  
Email: [mlustig.15capital@gmail.com](mailto:mlustig.15capital@gmail.com)

With a copy to:

**Blake, Cassels & Graydon LLP**  
Commerce Court West  
199 Bay Street, Suite 4000  
Toronto, Ontario, M5L 1A9

Attention: Chris Burr  
Email: [chris.burr@blakes.com](mailto:chris.burr@blakes.com)

(c) in the case of all communications by any Party, the Monitor shall be copied at:

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

Attention: Noah Goldstein and Murtaza Tallat  
Email: [ngoldstein@ksvadvisory.com](mailto:ngoldstein@ksvadvisory.com) and [mtallat@ksvadvisory.com](mailto:mtallat@ksvadvisory.com)

With a copy to:

**Cassels Brock & Blackwell LLP**  
Suite 2100, Scotia Plaza  
40 King Street West  
Toronto, Ontario, M5H 3C2

Attention: Ryan Jacobs, Jane Dietrich and Jeremy Bornstein  
Email: [rjacobs@cassels.com](mailto:rjacobs@cassels.com), [jdietrich@cassels.com](mailto:jdietrich@cassels.com) and  
[jbornstein@cassels.com](mailto:jbornstein@cassels.com)

Any notice delivered or transmitted to a Party as provided above shall be deemed to have been given and received on the day it is delivered or transmitted, provided that it is delivered or transmitted on a Business Day prior to 5:00 p.m. local time in the place of delivery or receipt. However, if the notice is delivered or transmitted after 5:00 p.m. local time or if such day is not a Business Day then the notice shall be deemed to have been given and received on the next Business Day.

Any Party may, from time to time, change its address by giving notice to the other Party in accordance with the provisions of this Section 10.5.

## **10.6 Time of Essence**

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



### **10.7 Further Assurances**

The Vendor, each Purchased Entity and the Purchaser shall, at the sole expense of the requesting Party, from time to time promptly execute and deliver or cause to be executed and delivered all such further documents and instruments and shall do or cause to be done all such further acts and things in connection with this Agreement that the other Parties may reasonably require as being necessary or desirable in order to effectively carry out or better evidence or perfect the full intent and meaning of this Agreement or any provision hereof.

### **10.8 Entire Agreement**

This Agreement and the agreements and other documents required to be delivered by the Parties pursuant to this Agreement in connection with the Transactions contemplated herein constitute the entire agreement between the Parties or any of them pertaining to the subject matter of this Agreement and supersede all prior agreements, understandings, negotiations and discussions, whether oral or written, pre-contractual or otherwise. There are no covenants, promises, conditions, representations, warranties, obligations, understandings or other agreements between the Parties in connection with the subject matter of this Agreement (whether oral or written, express or implied, pre-contractual, statutory or otherwise) except as explicitly set out in this Agreement.

### **10.9 Waiver and Amendment**

Except as expressly provided in this Agreement, no amendment or waiver of this Agreement shall be binding unless: (a) executed in writing by the Vendor and Purchaser (including by way of email); and (b) the Monitor shall have provided its prior consent. No waiver of any provision of this Agreement shall constitute a waiver of any other provision nor shall any waiver of any provision of this Agreement constitute a continuing waiver unless otherwise expressly provided.

### **10.10 Severability**

Any provision of this Agreement which is prohibited or unenforceable in any jurisdiction will, as to that jurisdiction, be ineffective to the extent of such prohibition or unenforceability and will be severed from the balance of this Agreement, all without affecting the remaining provisions of this Agreement or affecting the validity or enforceability of such provision in any other jurisdiction.

### **10.11 Remedies Cumulative**

The rights, remedies, powers and privileges herein provided to a Party are cumulative and in addition to and not exclusive of or in substitution for any rights, remedies, powers and privileges otherwise available to that Party.

### **10.12 Governing Law**

This Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein.

### **10.13 Dispute Resolution**

If any dispute arises with respect to the interpretation or enforcement of this Agreement, including as to what constitutes a breach or material breach of this Agreement for the purposes of Article 9, such dispute

shall be determined by the Court within the CCAA Proceedings, or by such other Person or in such other manner as the Court may direct.

#### **10.14 Attornment**

Each Party agrees: (a) that any Legal Proceeding relating to this Agreement shall be brought in the Court, and for that purpose now irrevocably and unconditionally attorns and submits to the jurisdiction of the Court; (b) that it irrevocably waives any right to, and shall not, oppose any such Legal Proceeding in the Court on any jurisdictional basis, including *forum non conveniens*; and (c) not to oppose the enforcement against it in any other jurisdiction of any Order duly obtained from the Court as contemplated by this Section 10.14. Each Party agrees that service of process on such Party as provided in this Section 10.14 shall be deemed effective service of process on such Party.

#### **10.15 Successors and Assigns**

This Agreement shall enure to the benefit of, and be binding on, the Parties and their respective successors and permitted assigns.

#### **10.16 Assignment**

Prior to Closing, the Purchaser may assign, with the consent of the Vendor and the Monitor, all or any portion of its rights and obligations under this Agreement, including the rights of the Purchaser to purchase from the Vendor the Purchased Shares prior to the issuance of the Approval and Vesting Order; provided that no such assignment shall relieve the Purchaser of any of its obligations or Liabilities under this Agreement (including the obligation to pay the Cash Payment at Closing) and further provided that such assignee agrees to be bound by the terms of this Agreement to the extent of the assignment. Prior to Closing, neither the Vendor nor any Purchased Entity may assign or transfer, whether absolutely, by way of security or otherwise, all or any part of their rights or obligations under this Agreement. Following Closing, the Vendor shall have the authority to assign or transfer, whether absolutely, by way of security or otherwise, all or any part of its rights or obligations under this Agreement.

#### **10.17 No Liability**

The Purchaser acknowledges and agrees that the Monitor, acting in its capacity as the Monitor of the Vendor and the other CCAA Applicants, and the Monitor's Affiliates will have no Liability in connection with this Agreement whatsoever in their capacity as Monitor, in their personal capacity or otherwise.

#### **10.18 Damages**

Under no circumstance shall any of the Parties or their representatives be liable for any special, punitive, exemplary, consequential or indirect damages (including loss of profits) that may be alleged to result, in connection with, arising out of, or relating to this Agreement or the Transactions.

#### **10.19 Paramountcy**

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

### **10.20 Independent Legal Advice**

The Purchaser warrants that it has received independent legal advice in connection with this Agreement.

### **10.21 Third Party Beneficiaries**

Except with respect to the Monitor pursuant to Section 10.17, this Agreement is for the sole benefit of the Parties, and nothing in this Agreement, express or implied, is intended to or shall confer upon any other Person any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of this Agreement.

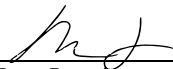
### **10.22 Counterparts**

This Agreement may be executed in counterparts, each of which shall be deemed to be an original and both of which taken together shall be deemed to constitute one and the same instrument. To evidence its execution of an original counterpart of this Agreement, a Party may send a copy of its original signature on the execution page hereof to the other Parties by email in PDF format or by other electronic transmission and such transmission shall constitute delivery of an executed copy of this Agreement to the receiving Party.


*[Remainder of page intentionally left blank. Signature page follows.]*

IN WITNESS WHEREOF the Parties have executed this Agreement as of the date first above written.

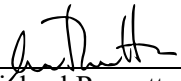
**L5 CAPITAL INC.**

By:   
Name: Marc Lustig  
Title: President

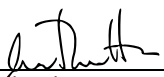
**TRICHOME FINANCIAL CORP.**

By:   
Name: Michael Ruscetta  
Title: Director

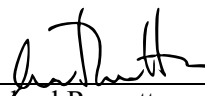
**TRICHOME JWC ACQUISITION CORP.**

By:   
Name: Michael Ruscetta  
Title: Director

**TRICHOME RETAIL CORP.**

By:   
Name: Michael Ruscetta  
Title: Director

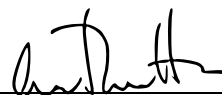
**MYM NUTRACEUTICALS INC.**

By:   
Name: Michael Ruscetta  
Title: Director

**MYM INTERNATIONAL BRANDS INC.**

By:   
Name: Michael Ruscetta  
Title: Director

**HIGHLAND GROW INC.**

By:   
Name: Michael Ruscetta  
Title: Director

**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 [●], 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 [●] 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 [●], 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

[●], 2023	Delivery of the Teaser Letter (as defined below) and sales packages
[●], 2023	Confidential data site to be established
At 5:00 p.m. (Eastern Time) on the date that is four weeks from the date on which the Stalking Horse and SISP Approval Order is granted	Bid Deadline (as defined below) - due date for bids and deposits
[●], 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
[●], 2023 at 10:00 a.m. (Eastern Time)	Auction (as defined below), if any
[●], 2023 (Eastern Time) (pending the Court's availability)	Approval and Vesting Order Motion (if no Auction)
[●], 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 [●], 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 [●], 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 the date that is four weeks from the date on which the Stalking Horse and SISP Approval Order is granted (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) a base cash purchase price equal to or greater than CAD\$5,300,000, being the amount payable under the Stalking Horse Bid (CAD\$5,000,000), plus the Expense Reimbursement (CAD\$200,000) and a CAD\$100,000 minimum bid increment (collectively, the "**Base Purchase Price**");
- (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 (i) the date that the Vendors' Assets have been sold pursuant to the closing of the transaction(s) approved by the Court; and (ii) 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; 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: (i) if the Qualified Bidder is the Successful Bidder, its Bid Deposit will be disbursed in accordance with its binding transaction agreement; and (ii) 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 SISF 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 [●], 2023 (or, if there is no Auction, on or before [●], 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 [●], 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.

**SCHEDULE "B"**

**FORM OF STALKING HORSE & SISP APPROVAL ORDER**

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

THE HONOURABLE ) [●], THE [●]<sup>TH</sup>  
 )  
JUSTICE [●] ) DAY OF JANUARY, 2023  
 )

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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR  
ARRANGEMENT OF TRICHOME FINANCIAL CORP.,  
TRICHOME JWC ACQUISITION CORP., MYM  
NUTRACEUTICALS INC., TRICHOME RETAIL CORP., MYM  
INTERNATIONAL BRANDS INC., AND HIGHLAND GROW  
INC. (collectively the "**Applicants**", and each an "**Applicant**")

**STALKING HORSE AND SISP APPROVAL ORDER**

**THIS MOTION**, made by the Applicants, pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**"), for an order, *inter alia*, extending the stay period and approving the (i) SISP (as defined below), (ii) Stalking Horse SPA (as defined below) solely for the purpose of acting as the stalking horse bid in the SISP (the "**Stalking Horse Bid**"), including the Expense Reimbursement (as defined in the Stalking Horse SPA) contained therein, (iii) SISP Advisor Engagement Agreement (as defined below), (iv) Pre-Filing Report, the First Report and the Second Report and the activities of the Monitor referred to therein (each as defined below), and (v) fees and disbursements of the Monitor and its counsel referred to in the Second Report, was heard this day by judicial videoconference via Zoom.

**ON READING** the Notice of Motion of the Applicants, the affidavit of Michael Ruscetta sworn [●] and the Exhibits thereto (the "**Ruscetta 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 [●] (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, 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, as applicable.

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

3. **THIS COURT ORDERS** that the Stay Period be and is hereby extended until and including [●], 2023.

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

4. **THIS COURT ORDERS** that the letter agreement dated [●], among the Applicants and Stoic Advisory Inc. (the "**SISP Advisor**") attached as Exhibit "●" 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 "●" (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.

**GENERAL**

13. **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 SISP at any time.

14. **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.

15. **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.

16. **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 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**

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

Sean Zweig (LSO# 57307I)  
Tel: (416) 777-6254  
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Joshua Foster (LSO# 79447K)  
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Email: [fosterj@bennettjones.com](mailto:fosterj@bennettjones.com)

Lawyers for the Applicants

## **SCHEDULE "C"**

### **EXCLUDED ASSETS**

1. TJAC Excluded Assets to be transferred to TJAC Residual Co.:
  - (a) 100% of the issued and outstanding shares in the capital of TRC Residual Co.
2. TRC Excluded Assets to be transferred to TRC Residual Co.:
  - (a)
3. MYM Excluded Assets to be transferred to MYM Residual Co.:
  - (a) 100% of the issued and outstanding shares in the capital of CannaCanada Inc.
  - (b) 100% of the issued and outstanding shares in the capital of MYMB Residual Co.
4. MYMB Excluded Assets to be transferred to MYMB Residual Co.:
  - (a) 100% of the issued and outstanding shares in the capital of Highland Residual Co.
5. Highland Excluded Assets to be transferred to Highland Residual Co.:
  - (a)

## **SCHEDULE "D"**

### **EXCLUDED CONTRACTS**

1. TJAC Excluded Contracts to be transferred to TJAC Residual Co.:
  
2. TRC Excluded Contracts to be transferred to TRC Residual Co.:
  
3. MYM Excluded Contracts to be transferred to MYM Residual Co.:
  - (a) Loan and Security Agreement between MYM, as lender, and Cultivator Catalyst Corp., as borrower, dated July 31, 2020; and
  - (b) Term Sheet Re: Settlement of Receivership Application and Loan Agreement among, MYM, Biome Grow Inc. and Cultivator Catalyst Corp dated September 9, 2022.
  
4. MYMB Excluded Contracts to be transferred to MYMB Residual Co.:
  
5. Highland Excluded Contracts to be transferred to Highland Residual Co.:

## **SCHEDULE "E"**

### **EXCLUDED LIABILITIES**

1. TJAC Excluded Liabilities to be transferred to TJAC Residual Co.:

- (a) Professional Costs.
- (b) Any amounts owing in respect of DIP financing obtained in connection with the CCAA Proceedings.
- (c) Any intercompany debt.
- (d) Any further or additional Liability under any Excluded Liability Promissory Note to the extent not fully funded in accordance with Section 7.2(e).

2. TRC Excluded Liabilities to be transferred to TRC Residual Co.:

- (a) Professional Costs.
- (b) Any amounts owing in respect of DIP financing obtained in connection with the CCAA Proceedings.
- (c) Any intercompany debt.
- (d) Any further or additional Liability under any Excluded Liability Promissory Note to the extent not fully funded in accordance with Section 7.2(e).

3. MYM Excluded Liabilities to be transferred to MYM Residual Co.:

- (a) Professional Costs.
- (b) Any amounts owing in respect of DIP financing obtained in connection with the CCAA Proceedings.
- (c) Any intercompany debt.
- (d) Any further or additional Liability under any Excluded Liability Promissory Note to the extent not fully funded in accordance with Section 7.2(e).

4. MYMB Excluded Liabilities to be transferred to MYMB Residual Co.:

- (a) Professional Costs.
- (b) Any amounts owing in respect of DIP financing obtained in connection with the CCAA Proceedings.
- (c) Any intercompany debt.
- (d) Any further or additional Liability under any Excluded Liability Promissory Note to the extent not fully funded in accordance with Section 7.2(e).

5. Highland Excluded Liabilities to be transferred to Highland Residual Co.:

- (a) Professional Costs.
- (b) Any amounts owing in respect of DIP financing obtained in connection with the CCAA Proceedings.
- (c) Any intercompany debt.
- (d) Any further or additional Liability under any Excluded Liability Promissory Note to the extent not fully funded in accordance with Section 7.2(e).

**SCHEDULE "F"**

**ENCUMBRANCES TO BE DISCHARGED**

<b>Jurisdiction</b>	<b>Registration Number</b>	<b>Date</b>	<b>Secured Party</b>	<b>Particulars</b>
<b><i>TJAC</i></b>				
Ontario	20200826 1340 1590 0316 765129519	August 26, 2020	Trichome Financial Corp.	Inventory Equipment Accounts Other Motor vehicle incl.
Ontario	20200826 1341 1590 0317 765129537	August 26, 2020	Trichome Financial Corp.	Inventory Equipment Accounts Other Motor vehicle incl.
Ontario	20210511 0938 1862 7712 772381629	May 11, 2021	Cortland Credit Lending Corporation, as agent	Inventory Equipment Accounts Other Motor vehicle incl.
Ontario	20220324 1335 1901 1970 781390161	March 24, 2022	Kempfenfelt, a division of Bennington Financial Corp.	Equipment Other
<b><i>TRC</i></b>				
Ontario	20210823 1353 1590 1796 775668366	August 23, 2021	Cortland Credit Lending Corporation, as agent	Inventory Equipment Accounts Other Motor vehicle incl.
<b><i>MYM</i></b>				
Ontario	20210823 1624 1590 1854 775673937	August 23, 2021	Cortland Credit Lending Corporation, as agent	Inventory Equipment Accounts Other Motor vehicle incl.
British Columbia	196579N	August 24, 2021	Cortland Credit Lending Corporation, as agent	All of the Debtor's present and after acquired personal property
<b><i>MYMB</i></b>				
Ontario	20210823 1623 1590 1853 775673937	August 23, 2021	Cortland Credit Lending Corporation, as agent	Inventory Equipment Accounts Other Motor vehicle incl.
British Columbia	196584N	August 24, 2021	Cortland Credit Lending Corporation, as agent	All of the Debtor's present and after

<b>Jurisdiction</b>	<b>Registration Number</b>	<b>Date</b>	<b>Secured Party</b>	<b>Particulars</b>
				acquired personal property
<i>Highland</i>				
Ontario	20210823 1626 1590 1855 775673982	August 23, 2021	Cortland Credit Lending Corporation, as agent	Inventory Equipment Accounts Other Motor vehicle incl.
Nova Scotia	35017565 SM004579.645	August 23, 2021	Cortland Credit Lending Corporation, as agent	A security interest is taken in all of the debtor's present and after acquired personal property

## **SCHEDULE "G"**

### **ASSUMED LIABILITIES**

In respect of each Purchased Entity, all trade payables and other liabilities incurred in the normal course of operations from the date of the Initial Order that remain outstanding as at the Closing Date (as such trade payables and liabilities are set out in the Statement of Trade Payables).



**SCHEDULE "H"**

**PERMITTED ENCUMBRANCES**

**SCHEDULE "I"**  
**30-DAY INVENTORY**

Estimated inventory needed for 30 days of sales post-close

Wagners	\$	810,137
Highland	\$	377,934
<b>Total</b>	<b>\$</b>	<b>1,188,071</b>

<b>WAGNERS</b>	<b>Mar-23</b>	<b>Value</b>	<b>Total</b>
Cherry Jam	98,350	\$1.25	\$122,937.50
Silverback #7	3,600	\$1.75	\$6,300.00
Pink Bubba	52,760	\$1.25	\$65,950.00
Blue Lime Pie	20,900	\$1.75	\$36,575.00
Golden Ghost OG	38,600	\$1.75	\$67,550.00
Tiki Rain	12,500	\$1.75	\$21,875.00
Purple Clementine	13,160	\$1.75	\$23,030.00
Forbidden RNTZ	46,940	\$1.75	\$82,145.00
Stone Sour	43,340	\$1.75	\$75,845.00
TRPY ZLRP	33,200	\$1.75	\$58,100.00
Gas Leak	29,840	\$1.75	\$52,220.00
Blue Kerosene	29,840	\$1.75	\$52,220.00
Purple Octane	12,500	\$1.75	\$21,875.00
Dark Helmet	21,840	\$1.25	\$27,300.00
Chemfire Kush	16,800	\$1.00	\$16,800.00
Macdaddy Purpz	16,800	\$1.00	\$16,800.00
Old School Pressed Hash	2,400	\$1.70	\$4,080.00
Soap Bar Hash	1,680	\$1.80	\$3,024.00
Soft Black Hash	9,040	\$1.80	\$16,272.00
Shatter	2,800	\$7.00	\$19,600.00
Live Resin	1,080	\$8.00	\$8,640.00
Diamonds	1,080	\$8.00	\$8,640.00
Bacio Mac	1800	\$1.31	\$2,358.00
	<b>Total</b>		<b>\$810,136.50</b>

Notes

Kief & Hash	FV of latest lots
CJ	Proxy for purchased market value
Pink Bubba	Proxy for purchased market value
Well Made (CFK & MDP)	Purchase Value
Concentrates	Mid Market Value - Estimate as Haven't Purchased Yet
Dark Helmet	Proxy for purchased market value

Highland	Mar-23	Value	Total
Gaelic Fire	3,480	\$1.25	\$4,350.00
Diamond Breath	7,260	\$2.75	\$19,965.00
Gas Tank	6,723	\$2.75	\$18,488.25
Sensi Wizard	6,030	\$2.75	\$16,582.50
White Lightning	9,054	\$2.75	\$24,898.50
Frostbite	8,875	\$2.75	\$24,406.25
The Leviathan	4,300	\$2.75	\$11,825.00
Fossil Fuel	22,925	\$2.75	\$63,043.75
Apple Mintz	16,550	\$2.75	\$45,512.50
Chemnesia	24,950	\$2.75	\$68,612.50
Pie Face	18,650	\$2.75	\$51,287.50
Black Velvet	5,350	\$2.75	\$14,712.50
Rainbow Shades	3,600	\$2.75	\$9,900.00
Cherry Burst	3,480	\$1.25	\$4,350.00
		<b>Total</b>	<b>\$377,934.25</b>

Estimated purchase price

## **Appendix “C”**



Bennett Jones

Bennett Jones LLP

3400 One First Canadian Place, PO Box 130

Toronto, Ontario, Canada M5X 1A4

Tel: 416.863.1200 Fax: 416.863.1716

**Sean H. Zweig**  
Partner  
Direct Line: 416.777.6254  
e-mail: [zweigs@bennettjones.com](mailto:zweigs@bennettjones.com)

February 7, 2023

**Via E-mail**

Blake, Cassels & Graydon LLP  
199 Bay Street  
Suite 4000, Commerce Court West  
Toronto, Ontario  
M5L 1A9

**Attention: Chris Burr**

Dear Sirs:

**Re: 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. (collectively, the "Applicants") – Court File No.: CV-22-00689857-00CL**

As you know, we are counsel to the Applicants in the above-captioned proceedings. We write in respect of the sale and investment solicitation process (the "**SISP**") and the stalking horse share purchase agreement dated December 12, 2022 (the "**Stalking Horse Bid**"), among the Applicants and L5 Capital Inc. (the "**Stalking Horse Bidder**"), approved for the purpose of acting as a "stalking horse" pursuant to an order granted by the Ontario Superior Court of Justice (Commercial List) (the "**Court**") dated January 9, 2023. All capitalized terms used and not otherwise defined herein have the meaning ascribed to them in the SISP or the Stalking Horse Bid, as applicable.

As you will recall, all Potential Bidders that wished to make a bid in the SISP were required to deliver written copies of their bids and the Required Bid Terms and Materials to the Monitor by no later than 5:00 p.m. (Eastern Time) on February 6, 2023 (the "**Bid Deadline**"). As you are aware, notwithstanding the Required Bid Terms and Materials, the Stalking Horse Bid is deemed to be a Qualified Bid and the Stalking Horse Bidder is deemed to be a Qualified Bidder for the purposes of the SISP.

We are pleased to inform you that, as no Qualified Bids were submitted by the Bid Deadline, the SISP will not proceed to an Auction and the Stalking Horse Bid has been deemed to be the Successful Bid in accordance with the SISP. As contemplated by the Stalking Horse Bid and the SISP, the Applicants will proceed to prepare motion materials seeking an order (the "**Approval and Vesting Order**"), among other things, approving the Stalking Horse Bid and the transactions thereunder. To that end,

February 7, 2023

Page 2

the Applicants will promptly canvass the Court's availability to hear the Approval and Vesting Order Motion on or before February 21, 2023.

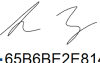
We look forward to receiving the Stalking Horse Bidder's cooperation in obtaining the Approval and Vesting Order and, thereafter, Closing, including with respect to, among other things, finalizing:

- (a) the form of Approval and Vesting Order; and
- (b) the lists of Excluded Assets, Excluded Contracts, Excluded Liabilities and Assumed Liabilities in accordance with the terms of the Stalking Horse Bid.

Please advise of any dates on which you are not available for the Approval and Vesting Order Motion on or before 5:00 p.m. (Eastern Time) on February 8, 2023. In addition, please let us know when you are available this week to discuss the outstanding items referred to above.

Yours truly,

**BENNETT JONES LLP**

DocuSigned by:  
  
65B6BE2E814144E...  
Sean H. Zweig

c: Joshua Foster (Bennett Jones LLP)  
Noah Goldstein and Murtaza Tallat (KSV Restructuring Inc.)  
Ryan Jacobs, Jane Dietrich and Jeremy Bornstein (Cassels Brock & Blackwell LLP)



## **Appendix “D”**



Blake, Cassels & Graydon LLP  
Barristers & Solicitors  
Patent & Trademark Agents  
199 Bay Street  
Suite 4000, Commerce Court West  
Toronto ON M5L 1A9 Canada  
Tel: 416-863-2400 Fax: 416-863-2653

**Chris Burr**

February 13, 2023

**Via Email**

Partner  
Dir: 416-863-3261  
chris.burr@blakes.com

Reference: 30846/1

Trichome Financial Corp.  
79 Wellington Street West, Suite 3000  
Toronto, ON M5K 1N2

Attention: Michael Ruscetta & Howard Steinberg

**Re: Notice of Termination**

As you are aware, we are counsel to L5 Capital Inc. (the “**Purchaser**”), in its capacity as purchaser under the stalking horse share purchase agreement dated December 12, 2022 among the Purchaser, Trichome JWC Acquisition Corp., Trichome Retail Corp., MYM Nutraceuticals Inc., MYM International Brands Inc. and Highland Grow Inc. (the “**Stalking Horse Agreement**”). Capitalized terms used but not otherwise defined in this letter shall have the meanings given to them in the Stalking Horse Agreement.

As you are also aware, by letter dated February 7, 2023, the Purchaser was notified that the Stalking Horse Agreement was the Successful Bid, following the culmination of the SISP by the Vendor.

This letter is to formally and irrevocably notify you that the Purchaser will not close the Transactions contemplated by the Stalking Horse Agreement. Rather than wait until the Outside Date, the Purchaser is notifying you now of its decision not to close, in order to give the Vendor time to seek alternative transactions. While the Stalking Horse Agreement does not enable the Purchaser to unilaterally terminate the Stalking Horse Agreement under these circumstances, we anticipate that the Vendor and the Purchased Entities will elect to terminate under Section 9.1(e). Should the Vendor do so, the Purchaser will not dispute the termination, and hereby waives the 5 Business Day cure period provided for in Section 9.1(e).

The Purchaser acknowledges that under the circumstances, the Deposit shall be forfeit to the Vendor. The Purchaser does not intend to dispute this forfeiture of the Deposit. We note, however, that pursuant to the last sentence of Section 2.3 of the Stalking Horse Agreement, the retention of the Deposit by the Vendor is the Vendor’s sole and exclusive remedy.

We are available to discuss the foregoing at your convenience.

\* \* \* \* \*

24638252.1

*Blakes*

Sincerely,



Chris Burr

Email Cc: Sean Zweig & Josh Foster, *Bennett Jones*  
Noah Goldstein & Murtaza Tallat, *Monitor*  
Ryan Jacobs, Jane Dietrich & Jeremy Bornstein, *Cassels Brock*

## **Appendix “E”**



Bennett Jones

Bennett Jones LLP

3400 One First Canadian Place, PO Box 130

Toronto, Ontario, Canada M5X 1A4

Tel: 416.863.1200 Fax: 416.863.1716

**Sean H. Zweig**  
Partner  
Direct Line: 416.777.6254  
e-mail: zweigs@bennettjones.com

February 16, 2023

**Via E-mail**

Blake, Cassels & Graydon LLP  
199 Bay Street  
Suite 4000, Commerce Court West  
Toronto, Ontario  
M5L 1A9

**Attention: Chris Burr**

Dear Sirs:

**Re: 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. (collectively, the "Applicants") – Court File No.: CV-22-00689857-00CL – L5 Capital Inc.'s (the "Purchaser") Notice of Termination**

As you know, we are counsel to the Applicants in the above-captioned proceedings. We write further to our February 7, 2023 letter in which we advised that the stalking horse share purchase agreement dated December 12, 2022 (the "**Stalking Horse Bid**"), among the Applicants and the Purchaser, was deemed to be the Successful Bid in the SISP. Capitalized terms used and not otherwise defined herein have the meaning ascribed to them in the Stalking Horse Bid.

We are in receipt of your letter dated February 13, 2023 (the "**Termination Letter**"), among other things:

- (a) providing formal and irrevocable notice that the Purchaser will not close the Transactions contemplated by the Stalking Horse Bid;
- (b) advising that the Purchaser (i) will not dispute the Vendor's and the Purchased Entities' election, if any, to terminate the Stalking Horse Bid pursuant to Section 9.1(e) thereof, and (ii) waives the cure period provided for therein in the event of such election (the "**Waiver**");
- (c) acknowledging that under the circumstances, the Deposit shall be forfeit to the Vendor; and
- (d) confirming that the Purchaser does not intend to dispute the forfeiture of the Deposit.



February 16, 2023

Page 2

Based on the content of the Termination Letter, it is clear that the conditions enumerated in Section 8.2 of the Stalking Horse bid, which are for the exclusive benefit of the Vendor and the Purchased Entities, will not be satisfied nor complied with, as applicable, by the Outside Date. For the avoidance of doubt, the Vendor and the Purchased Entities will not waive such conditions under the circumstances.


In light of the foregoing, and with the consent of the Monitor, whom is copied on this letter, we hereby formally advise the Purchaser of the Vendor's and the Purchased Entities' election to terminate the Stalking Horse Bid pursuant to, and in accordance with, Section 9.1(e) thereof. Due to the Waiver and the Vendor's continued compliance with its obligations under the Stalking Horse Bid, such termination is effective immediately.

As acknowledged in the Termination Letter and in accordance with the terms of the Stalking Horse Bid, including Section 2.3 thereof, the full amount of the Deposit constitutes the property of, and shall be transferred to, the Vendor as liquidated damages (and not as a penalty). Further, the Purchaser has no entitlement to receive the Expense Reimbursement.

The Applicants reserve all of their rights and remedies at law with respect to this matter and the Stalking Horse Bid, including, without limitation, the issues raised by and within the Termination Letter.

Yours truly,

**BENNETT JONES LLP**

DocuSigned by:  
  
65B6BE2E814144E...  
Sean H. Zweig

c: Joshua Foster (Bennett Jones LLP)  
Noah Goldstein and Murtaza Tallat (KSV Restructuring Inc.)  
Ryan Jacobs, Jane Dietrich and Jeremy Bornstein (Cassels Brock & Blackwell LLP)

## **Appendix “F”**

## DIP FACILITY AGREEMENT

THIS AGREEMENT is made this 6<sup>th</sup> day of November, 2022.

**A M O N G:**

**CORTLAND CREDIT LENDING CORPORATION, as Agent (the "Agent")  
for and on behalf of the lenders party hereto from time to time (the "Lenders")**

-and-

**TRICHOME JWC ACQUISITION CORP. (the "Borrower")**

-and-

**TRICHOME FINANCIAL CORP. ("TFC")**

-and-

**HIGHLAND GROW INC. ("HGI")**

-and-

**MYM INTERNATIONAL BRANDS INC. ("MYM International")**

-and-

**MYM NUTRACEUTICALS INC. ("MYM Nutraceuticals")**

-and-

**TRICHOME RETAIL CORP. ("Retail" and, together with TFC, HGI, MYM  
International and MYM Nutraceuticals, collectively, the "Guarantors" and the  
Guarantors, together with the Borrower, collectively, the "Credit Parties")**

**RECITALS:**

**WHEREAS** the Agent and the Credit Parties are parties to a Credit Agreement made as of May 14, 2021, as amended by an amending agreement no. 1 made as of August 27, 2021 and an amending agreement no. 2 made as of March 31, 2022 (as so amended, the "**Credit Agreement**");

**AND WHEREAS** to secure the Obligations of the Credit Parties to the Agent under the Credit Agreement and the other Transaction Documents, the Credit Parties granted the Security Agreements in favour of the Agent;

**AND WHEREAS** the Credit Parties have advised the Agent that they intend to commence proceedings (the "**CCAA Proceedings**") under the *Companies' Creditors Arrangement Act* (Canada) (the "**CCAA**") on a date to be set (the "**Filing Date**") by the Ontario Superior Court



of Justice (Commercial List) (the "**Court**") to seek, among other things, the granting of an initial order (the "**Initial Order**") and the appointment of a monitor (the "**Monitor**");

**AND WHEREAS** commencement of the CCAA Proceedings will constitute an Event of Default (as defined in the Credit Agreement) (the "**CCAA Event of Default**") under the Credit Agreement;

**AND WHEREAS** the Borrower has requested, and the Agent has agreed, to provide certain debtor-in-possession ("**DIP**") financing to the Borrower pursuant to a DIP facility (the "**DIP Facility**") during the CCAA Proceedings on the terms and conditions contained herein;

**AND WHEREAS** the Agent and the Credit Parties entered into an Acknowledgement dated November 6, 2022 (as amended, modified, supplemented, extended, renewed, restated, or replaced, the "**Acknowledgement**") whereby, among other things, the Credit Parties acknowledged and agreed that (a) the Obligations (including, without limitation, the outstanding Loan Advances) under the Credit Agreement were limited to the amount set out in the Acknowledgement, plus interest charged in accordance with the terms of the Credit Agreement (collectively, the "**Pre-Filing Obligations**"), (b) no further Loan Advances shall be made by the Agent to the Borrower under the Credit Agreement, and (c) the Pre-Filing Obligations and Post-Filing Obligations (as defined below) shall continue to be secured and guaranteed pursuant to the terms of the Security Documents;

**NOW THEREFORE** in consideration of the respective covenants of the parties hereto herein contained and other good and valuable consideration (the receipt and sufficiency of which are hereby acknowledged) the parties hereto agree as follows:

## **ARTICLE 1 INTERPRETATION**

### **1.1 Definitions**

In this Agreement, unless the context otherwise requires, all terms defined in the Credit Agreement and not otherwise defined herein shall have the respective meanings ascribed to them in the Credit Agreement. Any reference to "Events of Default" in the Credit Agreement or in this Agreement, shall be a reference to "Events of Default" as defined in this Agreement.

### **1.2 Gender and Number**

Words importing the singular include the plural and vice versa and importing gender include all genders.

### **1.3 Severability**

Each of the provisions contained in this Agreement is distinct and severable, and a declaration of invalidity, illegality or unenforceability of any such provision or part thereof by a court of competent jurisdiction shall not affect the validity or enforceability of any other provision of this Agreement.

#### **1.4 Headings**

The division of this Agreement into sections and the insertion of headings, articles, sections and clauses are for convenience of reference only and shall not affect the construction or interpretation of this Agreement.

#### **1.5 Entire Agreement**

Except for the Transaction Documents and the additional documents provided for herein, this Agreement constitutes the entire agreement of the parties and supersedes all prior agreements, representations, warranties, statements, promises, information, arrangements and understandings, whether oral or written, express or implied, relating to the subject matter hereof. This Agreement may not be amended or modified except by written consent executed by all of the parties hereto. No provision of this Agreement will be deemed waived by any course of conduct unless such waiver is in writing and signed by all of the parties hereto, specifically stating that it is intended to modify this Agreement.

#### **1.6 Governing Law**

This Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario and federal the laws of Canada applicable therein.

#### **1.7 Currency**

Unless otherwise stated, all dollar amounts referenced are in Canadian dollars.

#### **1.8 Attornment**

The parties hereto irrevocably submit and attorn to the non-exclusive jurisdiction of the courts of the Province of Ontario for all matters arising out of or in connection with this Agreement.

#### **1.9 Conflicts**

If there is any inconsistency or conflict between the terms of this Agreement and the terms of the Transaction Documents, the provisions of this Agreement shall prevail to the extent of the inconsistency, but the foregoing shall not apply to limit or restrict, in any way, the rights and remedies of the Agent under this Agreement, the Transaction Documents, the *Bankruptcy and Insolvency Act* (Canada) (the "**BIA**"), the PPSA, other applicable law, or otherwise, other than as may be specifically contemplated herein.

**ARTICLE 2**  
**REPRESENTATIONS AND WARRANTIES**

Each of the Credit Parties hereby represents and warrants to the Agent as follows:

- 2.1** The facts set out in the recitals to this Agreement are true and accurate in substance and in fact.
- 2.2** Each Credit Party is a corporation duly incorporated and validly existing under the laws of its jurisdiction of incorporation and is duly qualified, licensed or registered to carry on business under the laws applicable to it in all jurisdictions in which the nature of its assets or business makes such qualification necessary.
- 2.3** Each Credit Party has all requisite corporate power and authority to (i) own and operate its properties and assets and to develop, own and operate its business and (ii) enter into and perform its obligations under this Agreement and each other Transaction Document to which it is a party.
- 2.4** The execution and delivery by each Credit Party of this Agreement and each other Transaction Document to which it is a party and the performance by each of them of their respective obligations hereunder and thereunder have been duly authorized by all necessary corporate action and no authorization under any applicable law, and no registration, qualification, designation, declaration or filing with any governmental authority, is or was necessary therefor, other than filings which may be made to register or otherwise record the DIP Charge (as defined below).
- 2.5** This Agreement and each of the other Transaction Documents to which it is a party has been duly executed and delivered by it and constitutes a legal, valid and binding obligation of each Credit Party, enforceable against it in accordance with its terms, subject only to any limitation under applicable laws relating to (i) bankruptcy, insolvency, reorganization, moratorium or creditors' rights generally and (ii) the discretion that a court may exercise in the granting of equitable remedies.
- 2.6** The Collateral (i) is owned by or licensed to the Credit Parties and is only located at the locations disclosed in writing to the Agent, (ii) has not been sold, leased or otherwise disposed of other than inventory in the ordinary course of business and (iii) is not subject to any rights of any person or entity other than Permitted Encumbrances.
- 2.7** The execution and delivery by each Credit Party of this Agreement and the other Transaction Documents to which it is a party and the performance by each Credit Party of their respective obligations hereunder and thereunder and compliance with the terms, conditions and provisions hereof and thereof, will not conflict with or result in a breach of (i) its constating documents or by-laws; or (ii) any applicable law.
- 2.8** The business operations of each Credit Party has been and will continue to be conducted in compliance with all laws of each jurisdiction in which business has been or is being carried on.

- 2.9** Each Credit Party has obtained all licenses and permits required for the operation of its business, which licenses and permits remain in full force and effect. No proceedings have been commenced or, to the knowledge of the Credit Parties, threatened to revoke or amend any of such licenses or permits.
- 2.10** Except as set out in Schedule "C", the Collateral is not subject to any Lien except for the Permitted Encumbrances and each Credit Party has made all source deductions required by Applicable Law.
- 2.11** Except as set out in Schedule "C", each Credit Party has filed or caused to be filed all tax returns and reports which are required to have been filed and has paid or caused to be paid all taxes required to have been paid by it, except taxes that are being contested in good faith by appropriate proceedings and for which adequate cash reserves are being maintained.
- 2.12** Except as set out in Schedule "C", other than the CCAA Proceedings, there are no actions, suits or proceedings (including any tax-related matter) by or before any arbitrator or governmental authority or by any other person pending against or, to the knowledge of each Credit Party, threatened against or affecting any Credit Party.
- 2.13** (i) Each Credit Party is and has been in compliance with all applicable environmental laws, including obtaining, maintaining and complying with all permits required by any applicable environmental law, (ii) no Credit Party is party to, and no real property currently or previously owned, leased or otherwise occupied by or for any Credit Party is subject to or the subject of, any contractual obligation or any pending or, to the knowledge of the Credit Parties, threatened order, action, investigation, suit, proceeding, audit, claim, demand, dispute or notice of violation or of potential liability or similar notice under or pursuant to any environmental law which could reasonably be expected to result in a remedial obligation having a Material Adverse Change, (iii) no Lien in favour of any Governmental Authority securing, in whole or in part, environmental liabilities has attached to any property of the Credit Parties and no facts, circumstances or conditions exist that could reasonably be expected to result in any such Lien attaching to any such property, (iv) no Credit Party has caused or suffered to occur a release of any hazardous substances or conditions creating any potential for such a release at, to or from any real property other than in compliance with environmental laws and except when failure to do so could not reasonably be expected to result in a Material Adverse Change, (v) no Credit Party has engaged in operations that, and no facts, circumstances or conditions exist that, in the aggregate, would have a reasonable likelihood of resulting in material environmental liabilities, and (vi) each Credit Party has made available to the Agent copies of all existing environmental reports, reviews and audits and all documents pertaining to actual or potential environmental liabilities, in each case to the extent such reports, reviews, audits and documents are in its possession, custody or control.
- 2.14** Each Credit Party maintains insurance policies and coverage which (i) is sufficient for compliance with Applicable Law and all Material Agreements to which a Credit Party is a party and (ii) provide adequate insurance coverage in at least such amounts and against at least such risks as are usually insured against in the same general area by persons engaged in the same or similar business to the assets and operations of the Credit Parties.

- 2.15 All information provided by or on behalf of the Credit Parties to the Agent for the purposes of or in connection with this Agreement, the other Transaction Documents or any transaction contemplated herein is true and accurate in all material respects on the date as of which such information is dated or certified and remains true as of the date provided and is not incomplete by omitting to state any fact necessary to make such information (taken as a whole) not materially misleading at such time in light of the circumstances under which such information was provided.

### **ARTICLE 3 THE DIP FACILITY**

In reliance upon the Acknowledgement and the acknowledgements, representations, warranties, confirmations, covenants and agreements of the Credit Parties contained in this Agreement and subject to the terms and conditions of this Agreement and any documents executed in connection herewith, the Agent agrees to make the DIP Facility available to the Borrower during the CCAA Proceedings on the following terms and conditions.

#### **3.1 The DIP Facility**

Notwithstanding any other term or condition of the Credit Agreement, and subject to satisfaction of the terms and conditions of this Agreement, the Agent, on behalf of the Lenders, agrees to provide the Borrower with the DIP Facility as set forth in this section:

- (a) the maximum principal amount under the DIP Facility shall not, at any time, exceed the lesser of (i) \$4,875,000 (the “**Facility Limit**”), and (ii) the Borrowing Base Amount, as calculated in accordance with the terms of the Credit Agreement, minus the amount of the Pre-Filing Obligations, plus the Over-Advance Amount (as defined herein). The Borrower shall immediately repay any advances outstanding in excess of the amount calculated pursuant to the immediately preceding sentence;

The “**Over-Advance Amount**” shall be calculated as follows:

Week	Week Ended Date	Margin Surplus from Budget (Row 68 of "BB" Tab)	10%	Total Over Advance Available
<i>Week 1</i>	11-Nov	(1,621,230)	\$ (162,123)	\$ (1,783,353)
<i>Week 2</i>	18-Nov	(1,525,864)	\$ (152,586)	\$ (1,678,451)
<i>Week 3</i>	25-Nov	(2,204,025)	\$ (220,402)	\$ (2,424,427)
<i>Week 4</i>	2-Dec	(2,151,151)	\$ (215,115)	\$ (2,366,267)
<i>Week 5</i>	9-Dec	(1,379,776)	\$ (137,978)	\$ (1,517,754)
<i>Week 6</i>	16-Dec	(916,855)	\$ (91,686)	\$ (1,008,541)
<i>Week 7</i>	23-Dec	(1,230,191)	\$ (123,019)	\$ (1,353,210)
<i>Week 8</i>	30-Dec	(1,254,706)	\$ (125,471)	\$ (1,380,176)
<i>Week 9</i>	6-Jan	(1,825,428)	\$ (182,543)	\$ (2,007,971)
<i>Week 10</i>	13-Jan	(1,281,469)	\$ (128,147)	\$ (1,409,616)
<i>Week 11</i>	20-Jan	(2,022,088)	\$ (202,209)	\$ (2,224,297)
<i>Week 12</i>	27-Jan	(1,739,200)	\$ (173,920)	\$ (1,913,120)
<i>Week 13</i>	3-Feb	(1,675,914)	\$ (167,591)	\$ (1,843,505)

- (b) all amounts advanced by the Agent on behalf of the Lenders following the Filing Date shall be in respect of the DIP Facility and all repayments by the Borrower following the Filing Date will be applied against the Post-Filing Obligations of the Borrower to the Agent, for and on behalf of the Lenders, under the DIP Facility;
- (c) All amounts advanced under the DIP Facility shall be used by the Borrower to fund its working capital needs during the CCAA Proceedings; and
- (d) The Borrower may request advances from time to time under the DIP Facility by delivering an advance request certificate, in the form attached as Schedule "B", not less than one Business Day before the date of the requested advance; provided that the initial advance request certificate need not be required one Business Day before the date of the requested advance.

### 3.2 Interest Rate and Fees

- (a) The applicable Interest Rate on all amounts advanced under the DIP Facility shall be 14% per annum, and will be due and payable in cash on the first Business Day of each month covering interest accrued over the past calendar month. Unless otherwise provided for herein, interest on any amount due hereunder shall be calculated daily and not in advance on the basis of a 365-day year. For the purposes of the *Interest Act* (Canada) in the case of a leap year, the annual interest rate corresponding to the interest calculated on the basis of a 365-day year is equal to the interest rate thus calculated multiplied by 366 and divided by 365. Any amount of principal, interest commission, discount, or any other nature remaining unpaid at maturity, shall bear interest at the rate provided for herein, being understood that the said interest rate on arrears shall not exceed the maximum rate provided by law. Interest on arrears shall be compounded monthly and payable on demand.

- (b) The Borrower shall pay to the Agent a commitment fee equal to 2.0% of the Facility Limit, which fee shall be payable by the Borrower to the Agent upon issuance of the Initial Order. Such fee will be paid from the initial advance.
- (c) Any unutilized portion of the DIP Facility will bear a utilization fee at a rate of 2.4% per annum (“**Utilization Fee Rate**”), calculated daily using the calculations provided hereunder (“**Utilization Fee**”). The Unutilized Portion (as defined below) shall be calculated as the Facility Limit less the advanced and outstanding amount under the DIP Facility and less any amounts advanced and repaid under the DIP Facility (“**Unutilized Portion**”). The utilization fee shall be calculated daily as (i) the Unutilized Portion at the end of each Business Day, and in the case of a non-Business Day, the Unutilized Portion as of the immediately preceding Business Day, multiplied by (ii) the Utilization Fee Rate divided by 365. The Utilization Fee will be due and payable to the Agent in cash on the last day of each month.
- (d) The Borrower shall provide a \$100,000 deposit (the “**Expense Deposit**”) to the Agent to cover legal and other transaction expenses (field exam, inventory and real estate appraisals, etc.) and upon finalization of all transaction expenses, such deposit will be refunded to the Borrower after subtracting all transaction and other due diligence costs incurred by the Agent from the initial \$100,000 deposit amount. The Expense Deposit will be paid from the initial advance.

### **3.3 Mandatory Repayments**

Subject to the priority of the Administration Charge and the D&O Charge (each as defined below), if a Credit Party, (a) disposes, transfers or sells any Collateral outside the ordinary course of business, or (b) sells the shares/equity interests of any wholly owned or non-wholly owned subsidiary of a Credit Party, the proceeds of sale (net only of usual closing adjustments), up to the total amount of the Borrower's indebtedness to the Lenders under the DIP Facility, shall be paid to the Agent and applied by the Agent against the indebtedness owing to the Lenders under the DIP Facility. Any such repayment by the Borrower shall constitute a permanent reduction of the availability and commitment under the DIP Facility.

### **3.4 Conditions Precedent**

The obligation of the Lenders to make the DIP Facility available to the Borrower (the "**Effective Date**") and to fund each advance under the DIP Facility is subject to and conditional upon satisfaction (or waiver by the Agent) of the following conditions precedent:

- (a) the Agent shall have received a copy of this Agreement executed by each of the Credit Parties;
- (b) the Agent shall have received and be satisfied with the Budget, and all such other information (financial or otherwise) reasonably requested by the Agent;
- (c) no Event of Default (as defined herein) shall exist, and no event or circumstance which could reasonably be expected to result in a Material Adverse Change shall have occurred;

- (d) there shall not be pending any litigation or other proceeding, other than the CCAA Proceedings, the result of which, either individually or in the aggregate, could reasonably be expected to have a Material Adverse Change or form the basis for an appeal of the Initial Order;
- (e) all Court materials and documents prepared by the Credit Parties in connection with the CCAA Proceedings, including any service list shall be in form and substance satisfactory to the Agent;
- (f) the Initial Order shall be in form and substance satisfactory to the Agent;
- (g) the Initial Order approving the DIP Facility, the granting of the DIP Charge, and all related transactions shall have been entered and be in full force and effect and shall not have been reversed, vacated, or stayed, subject to appeal or modified or superseded or negatively impacted in any way without the Agent's prior written consent, and all necessary consents and approvals to the transaction contemplated in this Agreement and in the Initial Order shall have been obtained to the satisfaction of the Agent;
- (h) payment by the Borrowers to the Agent of all reasonable and documented expenses incurred by the Agent or the Lenders in connection with the DIP Facility (including the negotiation, ongoing monitoring and any costs of enforcement).
- (i) Receipt by the Agent of the Expense Deposit;
- (j) the Agent shall have received a Borrowing Base Certificate;
- (k) each of the representations and warranties made by the Credit Parties to the Agent in this Agreement shall be true and correct in all material respects; and
- (l) approval by the Agent of the Credit Parties' most recent cash flow forecast, prepared in the form of the Budget.

### **3.5 Terms of Initial Order**

The Initial Order shall be in form and substance satisfactory to the Agent, including provisions addressing (among other things) the following:

- (a) approval of the financing provided for in this Agreement (including the DIP Facility);
- (b) the continuation of the Credit Parties' existing cash management arrangements, excluding the application by the Agent of any Post-Filing Collections to repay the Pre-Filing Obligations;
- (c) authorization and direction for the Borrower to make all payments of principal, interest, fees, and expenses under this Agreement to the Agent for and on behalf of the Lenders;



- (d) the DIP Charge;
- (e) an administration charge in an amount not to exceed \$750,000 which ranks prior to the DIP Charge and the Agent's security pursuant to the Transaction Documents (the "**Administration Charge**");
- (f) a directors' and officers' charge in an amount not to exceed \$967,000 which ranks prior to the DIP Charge and the Agent's security pursuant to the Transaction Documents (the "**D&O Charge**"); and
- (g) that the Agent shall be treated as unaffected in any plan of arrangement or compromise filed by or in respect of the Borrower under the CCAA, or under any proposal filed by or in respect of the Borrower under the BIA, with respect to any Post-Filing Obligations.

### **3.6 Budget**

The Borrower shall provide the Agent with a thirteen (13) week cash flow (the "**Initial Budget**") reviewed by the Monitor. The Initial Budget shall reflect on a line item basis, among other things, a borrowing base calculation reflecting the amount of availability or an over-advance (calculated against receivables and inventory at existing advance rates), anticipated cash flow, cash receipts and disbursements, and sales. The Initial Budget and the proposed use of funds provided for therein shall be in substance satisfactory to the Agent. The Initial Budget and any subsequent Budget (as defined below) may only be amended and modified with the prior written consent of the Agent (the Initial Budget, as so amended and modified from time to time with the prior written consent of the Agent, is referred to herein as the "**Budget**"). The Initial Budget to February 3, 2023 is attached hereto as Schedule "A".

### **3.7 DIP Charge**

- (a) All advances made by the Lenders to the Borrower under the DIP Facility, and all obligations, indebtedness, fees (including professional fees), costs, and expenses of the Borrower under this Agreement and the DIP Facility (collectively, the "**Post-Filing Obligations**") shall constitute Obligations and shall be secured by both:
  - (i) a super-priority DIP charge (the "**DIP Charge**") on all of the existing and after-acquired real and personal property of the Credit Parties (collectively, the "**DIP Collateral**") as provided for herein and in the Initial Order; and
  - (ii) the existing security and guarantees in favour of the Agent under the Transaction Documents.
- (b) For certainty, the DIP Charge shall not secure any Pre-Filing Obligations.

### **3.8 Existing Cash Management System/Cash Receipts to the Agent**

The Initial Order shall, among other things, authorize and direct the Credit Parties to continue to use the central cash management system currently in place or replace it with another substantially

similar central cash management system. The Borrower will provide evidence to the Agent that it has directed each financial institution with which it maintains a deposit account into which payments are received from its Account Debtors (collectively, "**Post-Filing Collections**") to transfer on a weekly basis, at the Borrower's cost and expense, all such Post-Filing Collections to an account maintained by the Agent. The Agent shall apply the Post-Filing Collections to repay the outstanding advances under the DIP Facility, and, for greater certainty, the Agent shall not apply any Post-Filing Collections to repay the Pre-Filing Obligations.

### **3.9 Additional Reporting**

In addition to all other existing reporting requirements set out in the Credit Agreement (to the extent not otherwise dealt with in this Agreement), the Borrower shall provide to the Agent:

- (a) on a weekly basis within four (4) Business Days after the end of each week during the CCAA Proceedings an executed Borrowing Base Certificate for the Borrower duly completed in all material respects consistent with past practice, plus all backup information requested by the Agent; and
- (b) on a bi-weekly basis within six (6) Business Days after the end of each bi-weekly period during the CCAA Proceedings:
  - (i) a report comparing the Borrower's actual performance to that projected in the Budget for the given bi-weekly period, specifically identifying any negative variances in excess of ten percent (10%) (provided such variance is more than \$10,000) in respect of each of the actual cumulative net cash flow, cash receipts and disbursements, net sales and net excess availability (noting that net excess availability is not a cumulative calculation) against each of the forecasted cumulative net cash flow, cash receipts and disbursements, net sales and net excess availability (noting that net excess availability is not a cumulative calculation) in the Budget and providing a detailed explanation for same;
  - (ii) updating the Budget to account for actual performance by the Borrower for the previous week and rolling forward by two (2) additional weeks cash flow projections set forth in the last updated Budget; and
  - (iii) such other information as the Agent may reasonably request.

### **3.10 Status Calls**

During the CCAA Proceedings, upon request from the Agent from time to time, the Borrower shall arrange and participate in conference call with the Agent to discuss the Borrower's performance,

any negative variances in the Borrower's actual performance compared to that projected in the Budget, updates for future weeks, and any other matters the Agent may reasonably raise.

### **3.11 CCAA Proceedings and Other Materials to be Provided to Agent**

The Borrower shall deliver to the Agent copies of all Court materials and documents prepared by the Credit Parties in connection with the CCAA Proceedings, and shall provide the Agent with a reasonable opportunity to comment thereon and ensure the same are acceptable to the Agent.

### **3.12 Compliance with Transaction Documents**

Each of the Credit Parties shall strictly adhere to all of the terms, conditions and covenants of this Agreement and the Transaction Documents (to the extent not otherwise dealt with in this Agreement), including, without limitation, terms requiring prompt payment of principal, interest, fees, and other amounts when due.

### **3.13 Covenants**

Each Credit Party covenants and agrees with the Agent that it shall:

- (a) pay all sums of money when due under the terms of this Agreement;
- (b) immediately advise the Agent of any event which constitutes an Event of Default;
- (c) file all tax returns which are or will be required to be filed by it;
- (d) pay or make provision for the payment of all taxes and source deductions (including interest and penalties) which will become due and payable after the commencement of the CCAA Proceedings;
- (e) give the Agent thirty (30) days' prior notice in writing of any Change of Control and, unless otherwise expressly waived by the Agent in writing, the Change of Control will cause a Termination Date (as defined below) to occur;
- (f) comply in all respects with all Applicable Laws, including all environmental laws;
- (g) immediately advise the Agent of any material action requests or material violation notices and hold the Agent harmless from and against any losses, costs or expenses which the Agent may suffer or incur for any environment related liabilities existing now or in the future with respect to it;
- (h) immediately advise the Agent of any unfavourable change in its financial position which may adversely affect its ability to pay or perform its obligations in accordance with the terms of this Agreement;
- (i) keep its assets fully insured against such perils and in such manner as would be customarily insured by Persons carrying on a similar business or owning similar assets and, in addition, for any buildings located in areas prone to flood and/or earthquake, will insure and keep fully insured such buildings against such perils;

- (j) at reasonable times and upon reasonable notice (provided that upon the occurrence of an Event of Default, the Agent is permitted to do the following at any time and without notice, subject to the Initial Order) permit the Agent or its representatives, during normal business hours, subject to any applicable laws governing the Credit Parties' business, (i) to visit and inspect a Credit Party's premises, properties and assets and examine and obtain copies of such Credit Party's records or other information, and (ii) to discuss such Credit Party's affairs with the auditors (if any) of such Credit Party (in the presence of such Credit Party's representatives as it may designate). Each Credit Party hereby authorizes and directs any such third party to provide to the Agent or its representatives all such information, records or documentation reasonably requested by the Agent;
- (k) except for Permitted Encumbrances and the charges granted pursuant to the Initial Order, not, without the prior written consent of the Agent, grant, create, assume or suffer to exist any Lien or other encumbrance affecting any of its properties, assets or other rights;
- (l) not incur any borrowings or other indebtedness, obligations or liabilities, other than Permitted Indebtedness;
- (m) not, without the prior written consent of the Agent, sell, transfer, convey, lease or otherwise dispose of any of its assets, properties or undertakings other than in the ordinary course of business and on arm's-length, commercially reasonable terms;
- (n) not, without the prior written consent of the Agent, sell the shares/equity interests of any wholly owned or non-wholly owned subsidiaries of the Borrower or Guarantor;
- (o) not, without the prior written consent of the Agent, provide any guarantees, financial assistance or otherwise provide for, on a direct, indirect or contingent basis, the payment of any monies or performance of any obligations by any other Person, other than Permitted Indebtedness;
- (p) not, without giving the Agent fifteen (15) days' prior notice in writing and obtaining the Agent's written consent, merge, amalgamate, or otherwise enter into any other form of business combination with any other Person. In the event the Agent gives its consent, it will cause any such resulting Person to become a borrower or guarantor, as applicable, hereunder and to grant such security and enter into such agreements as the Agent may require;
- (q) not pay any dividends, other corporate distributions, interest or principal on any secured or unsecured debt, other than as contemplated by the Budget;
- (r) not make any disbursements or provide any funding to any related entity which is not an applicant in the CCAA Proceedings;
- (s) not acquire or move any Collateral to any jurisdiction outside the Province of Ontario or any other jurisdiction where the Agent has perfected its security over such Collateral without first executing and delivering all such security and other documentation and completing all registrations, recordings and filings to grant in

favour of the Agent a first-ranking security interest in such Collateral and to render effective the security interest granted thereby, all in form and substance satisfactory to the Agent;

- (t) notify the Agent within one (1) Business Day of any Account Debtor notifying such Borrower that they are contesting any invoice;
- (u) fully cooperate with each party conducting any field exam or due diligence on behalf of the Agent and will permit and reimburse the Agent for all reasonable and documented costs associated with any appraisals;
- (v) pay only those expenditures set out in the Budget, or such other expenditures the Agent and Monitor consent to in writing;
- (w) provide to the Agent on a weekly basis all payments, disbursements and transfers of money proposed to be made by the Borrower during the following week and will make only those payments, disbursements and transfers that are set out in the Budget or otherwise consented to by the Agent;
- (x) not create or grant any security (other than the DIP Charge, the Administration Charge, the D&O Charge or pursuant to the Initial Order) over any of the Collateral, whether ranking in priority to, *pari passu* or subordinate to the DIP Charge, without the prior consent of the Agent;
- (y) provide the Agent with any financial or other information reasonably requested by the Agent; and
- (z) within one (1) Business Day of the receipt by any Borrower of the same, deliver to the Agent a copy of any notice of motion, pleading or application to vary, supplement, revoke, terminate or discharge the Initial Order including (without limitation) any application to the Court for the granting of security that will or may have priority over the DIP Charge, or otherwise for the variation of the priority of the DIP Charge.

### **3.14 Events of Default**

In addition to the "Events of Default" provided for in the Credit Agreement (other than any Event of Default which is superseded by this Agreement or the CCAA Proceedings), the following shall constitute Events of Default under the Credit Agreement and this Agreement (collectively, the "**Events of Default**"):

- (a) the Borrower fails to make payment of any amount, whether on account of principal, interest or otherwise, when due pursuant to the terms of this Agreement;
- (b) without the consent of the Agent, the occurrence of any negative variances in excess of \$750,000 in respect of the net excess availability against the forecasted net excess availability in the Budget (noting, in both cases, that net excess availability is not a cumulative calculation);

- (c) entry of an order which stays, modifies (other than extensions of the Initial Order), or reverses the Initial Order or which otherwise materially adversely affects the effectiveness of the Initial Order without the express written consent of the Agent;
- (d) the entry of any order without the prior written consent of the Agent which provides relief from the automatic stay made under the Initial Order or the CCAA which permits any creditor to realize upon, or to exercise any right or remedy with respect to, any asset of the Borrower or to terminate any license, franchise, or similar agreement, where the exercise of such right or remedy or such realization or termination would reasonably be likely to result in a Material Adverse Change as determined by the Agent;
- (e) the filing of any application by the Borrower without the express prior written consent of the Agent for the approval of any super-priority claim or debtor in possession financing in the CCAA Proceedings which is *pari passu* with or senior to the priority of the DIP Charge, or there shall arise any such super-priority claim under the CCAA;
- (f) the payment or other discharge by the Borrower of any pre-petition indebtedness, except as expressly permitted hereunder, or generally permitted within the category and range in the Budget or by order in the CCAA Proceedings, to which payment or discharge the Agent has not provided its written prior consent;
- (g) the failure of the Borrower (i) to comply with each and all of the terms and conditions of the Initial Order, or (ii) to materially comply with any other order entered in the CCAA Proceedings, if such failure would reasonably likely result in a Material Adverse Change as determined by the Agent;
- (h) (i) the filing of any motion by the Borrower or the entry of any order in the CCAA Proceedings: (A) permitting any financing (other than ordinary course trade credit or unsecured debt) for the Borrower from any Person other than the Agent, (B) granting a Lien on, or security interest in any of the Collateral of the Borrower equal or superior status to that of the DIP Charge, other than with respect to this Agreement or as otherwise permitted herein, or (C) dismissing the CCAA Proceedings, or (ii) the filing of any motion by any Person (other than the Borrower) regarding matters specified in the foregoing clause (i) that is not immediately stayed and dismissed or denied within forty-five (45) days of the date of the filing of such motion;
- (i) the breach of any term, covenant or agreement by any Credit Party in this Agreement; and
- (j) any representation, warranty, certification or statement of fact made or deemed made by or on behalf of the Borrower, any other Credit Party herein, or in any document delivered in connection herewith or therewith shall be incorrect or misleading in any material respect when made or deemed made.

### **3.15 Cooperation**

Each of the Credit Parties shall cooperate fully with the Agent and its respective agents and employees by providing all information requested by the Agent, and by providing access to its books, records, property, assets, and personnel as requested by the Agent wherever they may be situated in whatever medium they may be recorded, except for confidential information, at the request of and at times convenient to the Agent, acting reasonably, which right of access shall include the right to inspect and appraise such property and assets.

### **3.16 Professional Expenses**

Each of the Credit Parties hereby covenants and agrees with the Agent to reimburse the Agent for all reasonable expenses incurred in connection with this Agreement and the CCAA Proceedings, including, without limitation, legal fees and other professional expenses that the Agent has incurred or will incur arising out of its dealings with the Borrower in the CCAA Proceedings (collectively, the "**Professional Expenses**"). The Borrower shall ensure that the Professional Expenses are provided for in the Budget. Nothing in this Agreement, shall derogate from the Credit Parties' obligation to pay for all of the Professional Expenses or shall constitute a cap on Professional Expenses. Notwithstanding the foregoing, the Agent shall add all of the Professional Expenses to the Post-Filing Obligations if the same are not paid when due. Each of the Credit Parties hereby acknowledges, confirms and agrees that the Professional Expenses which are added to the Post-Filing Obligations shall be secured and covered by the Transaction Documents and the DIP Charge.

### **3.17 Remedies Upon Event of Default and on Termination Date**

If any Event of Default occurs and is continuing, or upon the Termination Date, the Agent may take any or all of the following actions, subject to the Initial Order:

- (a) declare the DIP Facility to be terminated, whereupon the DIP Facility shall be terminated;
- (b) declare the Post-Filing Obligations to be immediately due and payable, without presentment, demand, protest or other notice of any kind, all of which are hereby expressly waived by the Credit Parties; and
- (c) exercise any or all of its rights and remedies available to it under this Agreement, the other Transaction Documents, the BIA, the PPSA, other applicable law, or otherwise.

### **3.18 Termination**

The term of the DIP Facility will be the earlier of (a) 16 weeks from the date of the Initial Order (the "**Maturity Date**"), and (b) any other Termination Date.

The Agent shall have the right to terminate the DIP Facility upon the occurrence of an Event of Default in accordance with the terms of this Agreement.

The Agent shall have the right to terminate the DIP Facility upon 60 days' notice to the Borrower if adverse market conditions are negatively affecting the liquidity of the Lenders; provided that, the repayment of the outstanding advances under the DIP Facility shall not be due and payable until 60 days after receipt of such notice by the Borrower, unless otherwise agreed to in writing by the Borrower.

The DIP Facility may be terminated with the consent of both the Agent and the Borrower, at which time, all accrued interest, principal, fees and expenses owing shall be paid in cash to the Agent on such Termination Date.

The date on which all outstanding principal and interest under the DIP Facility shall become due and payable will be termed the "Termination Date" and will be the date which is the earliest to occur of the following:

- (a) the Maturity Date;
- (b) The date on which any Event of Default (other than the CCAA Event of Default) occurs or is discovered to have occurred in the past and the Agent has terminated the DIP Facility by notice to the Borrower (as provided herein);
- (c) The date of a sale of all or a portion of the Collateral, provided the CCAA Proceedings are concurrently terminated with the consent of the Agent; and
- (d) Unless waived or otherwise consented to by the Agent, the date on which any Credit Party undertakes a liquidity, reorganization event, or Change of Control.

#### **ARTICLE 4 GENERAL PROVISIONS**

##### **4.1 Effect of this Agreement**

Except as expressly modified pursuant hereto, no other changes or modifications to the terms of the Transaction Documents are intended or implied.

##### **4.2 Transaction Document**

This Agreement is a Transaction Document.

##### **4.3 Further Assurances**

The parties hereto shall execute and deliver such supplemental documents and take such supplemental action as may be necessary or desirable by the Agent to give effect to the provisions and purposes of this Agreement and the DIP Charge all at the sole expense of the Borrower.



#### **4.4 Binding Effect**

This Agreement shall be binding upon and enure to the benefit of each of the parties hereto and their respective successors, heirs, executors, administrators, permitted assigns and legal representatives.

#### **4.5 Survival of Representations and Warranties**

All representations and warranties made in this Agreement or any other document furnished in connection herewith shall survive the execution and delivery of this Agreement and such other document delivered in connection herewith, and no investigation by the Agent or any closing shall affect the representations and warranties or the rights of the Agent to rely upon such representations and warranties.

#### **4.6 No Novation**

This Agreement will not discharge or constitute novation of any debt, obligation, covenant or agreement contained in the Transaction Documents but the same shall remain in full force and effect save to the extent amended by this Agreement.

#### **4.7 Assignments**

No Credit Party may assign any of its rights or obligations under this Agreement or any Transaction Document to any Person, without the prior written consent of the Agent. The Agent may assign, sell or participate its rights or obligations or any part thereof with respect to this Agreement, any of the Transaction Documents or any related documentation to any Person, (i) with the prior written consent of the Credit Parties or (ii) without the prior written consent of the Credit Parties from and after the occurrence and continuance of an Event of Default other than the CCAA Event of Default.

#### **4.8 Amendments**

This Agreement may not be amended nor waived except by an instrument in writing signed by each of the Credit Parties and the Agent.

#### **4.9 Execution in Counterparts**

This Agreement may be executed in counterparts, each of which shall be deemed to be an original and which taken together will be deemed to constitute one and the same instrument. Counterparts may be executed either in original, faxed or portable document format ("**PDF**") form and the parties adopt any signatures received by a receiving fax machine or by emailed PDF as original signatures of the parties; provided, however, that any party providing its signature in such manner will promptly forward to the other party an original of the signed copy of the Agreement which was so faxed or emailed.

[REMINDER OF PAGE DELIBERATELY LEFT BLANK]

**IN WITNESS WHEREOF**, the parties have entered into this Agreement as of the date first above mentioned.

**CORTLAND CREDIT LENDING CORPORATION, as Agent for and on behalf of the Lenders**

By: \_\_\_\_\_  
Name: Sean Register  
Title: CEO

DocuSigned by:  
*Sean Register*  
378FEFF2EF6A46C...

**TRICHOME JWC ACQUISITION CORP.**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**TRICHOME FINANCIAL CORP.**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**MYM NUTRACEUTICALS INC.**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**TRICHOME RETAIL CORP.**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**MYM INTERNATIONAL BRANDS INC.**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**HIGHLAND GROW INC.**


By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**IN WITNESS WHEREOF**, the parties have entered into this Agreement as of the date first above mentioned.


**CORTLAND CREDIT LENDING CORPORATION, as Agent for and on behalf of the Lenders**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_


**TRICHOME JWC ACQUISITION CORP.**

By:  \_\_\_\_\_  
Name: Michael Ruscetta  
Title: Director

**TRICHOME FINANCIAL CORP.**

By:  \_\_\_\_\_  
Name: Michael Ruscetta  
Title: Director


**MYM NUTRACEUTICALS INC.**

By:  \_\_\_\_\_  
Name: Michael Ruscetta  
Title: Director

**TRICHOME RETAIL CORP.**

By:  \_\_\_\_\_  
Name: Michael Ruscetta  
Title: Director

**MYM INTERNATIONAL BRANDS INC.**

By:  \_\_\_\_\_  
Name: Michael Ruscetta  
Title: Director

**HIGHLAND GROW INC.**

By:  \_\_\_\_\_  
Name: Michael Ruscetta  
Title: Director

**SCHEDULE "A"**  
**INITIAL BUDGET**

Trichome Financial Corp., Trichome JWC Acquisition Corp., MYM Nutraceuticals Inc., Trichome Retail Corp., MYM International Brands Inc. and Highland Grow Inc. (collectively, the "Companies")

**Projected Statement of Cash Flow**

For the Period Ending February 3, 2023

(Unaudited; \$CAD)

		Week 1	Week 2	Week 3	Week 4	Week 5	Week 6	Week 7	Week 8	Week 9	Week 10	Week 11	Week 12	Week 13	
								Week Ending							
Notes		11-Nov	18-Nov	25-Nov	2-Dec	9-Dec	16-Dec	23-Dec	30-Dec	6-Jan	13-Jan	20-Jan	27-Jan	3-Feb	Total
<i>Receipts</i>															
	1														
	2	69,609	81,408	72,904	1,033,552	963,883	1,065,792	537,854	1,021,435	1,427,833	994,596	415,137	803,836	1,589,655	10,077,495
<i>Disbursements</i>															
<i>Operating Disbursements</i>															
	3	238,557	238,557	238,557	357,835	119,278	79,519	79,519	79,519	119,278	39,759	-	-	-	1,590,378
	4	533,706	39,856	436,935	43,106	334,706	37,456	338,706	40,000	273,650	15,000	263,000	55,027	293,650	2,704,798
	5	16,000	-	-	16,000	-	-	-	-	16,000	-	-	-	16,000	64,000
	6	-	-	167,689	1,010,896	500,000	382,063	-	-	928,420	-	-	-	593,716	3,582,783
	7	-	-	82,033	118,111	-	118,111	-	184,874	-	-	-	-	-	503,130
	8	374,945	277,925	258,349	396,665	335,298	247,694	145,577	452,695	221,982	397,453	145,577	442,773	207,639	3,904,572
		20,000	20,000	20,000	20,000	20,000	20,000	20,000	20,000	20,000	20,000	20,000	20,000	20,000	260,000
		1,183,208	576,337	1,203,562	1,962,613	1,309,282	884,843	583,802	777,089	1,579,330	472,212	428,577	517,800	1,131,004	12,609,662
		(1,113,599)	(494,929)	(1,130,658)	(929,061)	(345,400)	180,949	(45,947)	244,347	(151,498)	522,384	(13,439)	286,036	458,650	(2,532,166)
	9	-	-	191,000	191,000	-	-	382,000	-	-	-	382,000	-	-	1,146,000
	10	200,000	-	-	25,110	-	-	-	53,992	-	-	-	54,001	-	333,103
		(1,313,599)	(494,929)	(1,321,658)	(1,145,171)	(345,400)	180,949	(427,947)	190,354	(151,498)	522,384	(395,439)	232,034	458,650	(4,011,270)
<i>Opening Cash Balance</i>															
		-	-	-	-	-	-	-	-	-	-	-	-	-	-
		(1,313,599)	(494,929)	(1,321,658)	(1,145,171)	(345,400)	180,949	(427,947)	190,354	(151,498)	522,384	(395,439)	232,034	458,650	(4,011,270)
	11	1,313,599	494,929	1,321,658	1,145,171	345,400	(180,949)	427,947	(190,354)	151,498	(522,384)	395,439	(232,034)	(458,650)	4,011,270
<i>Closing Cash Balance</i>															
		-	-	-	-	-	-	-	-	-	-	-	-	-	-
<i>Opening DIP Loan Balance</i>															
		-	1,313,599	1,808,528	3,130,187	4,275,357	4,620,757	4,439,808	4,867,755	4,677,401	4,828,899	4,306,515	4,701,954	4,469,920	-
		1,313,599	494,929	1,321,658	1,145,171	345,400	(180,949)	427,947	(190,354)	151,498	(522,384)	395,439	(232,034)	(458,650)	4,011,270
<i>Closing DIP Loan Balance</i>															
		1,313,599	1,808,528	3,130,187	4,275,357	4,620,757	4,439,808	4,867,755	4,677,401	4,828,899	4,306,515	4,701,954	4,469,920	4,011,270	4,011,270

Trichome Financial Corp., Trichome JWC Acquisition Corp., MYM Nutraceuticals Inc., Trichome Retail Corp., MYM International Brands Inc. and Highland Grow Inc. (collectively, the "Companies")

## **Notes to Projected Statement of Cash Flow**

For the Period Ending February 3, 2023

(Unaudited; \$CAD)

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### **Purpose and General Assumptions**

1. The purpose of the projection is to present a cash flow forecast of the Companies for the period November 7, 2022 to February 3, 2023 (the "Period") in respect of their proceedings under the Companies' Creditors Arrangement Act ("CCAA"). The forecast assumes that the Companies file for protection under the CCAA on November 7, 2022.

The cash flow projection has been prepared based on hypothetical and most probable assumptions.

### **Hypothetical Assumptions**

2. Represents collections from retail and wholesale sales of all cannabis related-products.

### **Probable Assumptions**

3. Represents cannabis and cannabis-related product purchases for the purpose of resale.
4. Represents payroll and benefits for the Companies' employees.
5. Represents monthly rent for the Companies premises located on Trillium Drive in Kitchener Ontario. The projection assumes that during the Period, the rent for the Companies' leased premises located on Manitou Drive, Kitchener, Ontario, will be satisfied through a deposit previously paid to the landlord.
6. The amounts up to and including the week ending December 16, 2022 represent payment of pre-filing excise taxes owing by the Companies. The amounts in the weeks ending January 6, 2023 and February 3, 2023 represent payment of post-filing excise taxes in the normal course.
7. The amounts up to and including the week ending December 16, 2022 represent payment of pre-filing HST owing by the Companies. The amount in the week ending December 30, 2022 represents a payment of post-filing HST in the normal course.
8. Represents general operating costs, including sales and marketing, administrative costs, overhead costs and other sundry items.
9. Includes the estimated payments to the Monitor, its counsel, the Companies' counsel and the DIP Lender's counsel.
10. Represents the interest and fees payable on the debtor-in-possession ("DIP") facility.
11. Represents projected DIP funding or repayments, in respect of the DIP facility to be provided by Cortland Credit Lending Corporation pursuant to the terms of the DIP Facility Agreement.

**SCHEDULE "B"**  
**FORM OF ADVANCE CERTIFICATE**

See attached.

**FORM OF**  
**ADVANCE REQUEST CERTIFICATE**

Pursuant to the provisions of the DIP facility agreement dated as of November 6, 2022 (as it may be amended, restated, supplemented or otherwise modified from time to time, the “**Credit Agreement**”) (terms defined therein being used herein as so defined), between, *inter alia*, Trichome JWC Acquisition Corp. (the “**Borrower**”) and Cortland Credit Lending Corporation, as administrative agent (the “**Agent**”), the undersigned, being an officer or director of the Borrower hereby represents, warrants and certifies in such capacity, and not in her or his personal capacity, as follows:

**1. Representations and Warranties.** The representations and warranties of the Borrower and the other Credit Parties set forth in the Credit Agreement, or which are contained in any certificate, document or financial or other written statement furnished pursuant to or in connection with the Credit Agreement, including the other Transaction Documents are accurate and complete in all material respects on and as of the date hereof with the same effect as if made on the date hereof, except to the extent specified in the Credit Agreement or Transaction Documents to be made as of a specific date.

**2. No Material Adverse Change.** Since the date of the latest financial statements of the Borrower provided to the Agent in connection with the Transaction Documents, no Material Adverse Change has occurred.

**3. No Default.** No Event of Default, and no event, act, omission or condition which with the giving of notice or passage of time, or both, would result in an Event of Default, has occurred and is continuing as of the date hereof.

**4. Conditions Precedent.** The conditions precedent in the Credit Agreement applicable to the loan advance requested hereby have been satisfied.

**5. Loan Advance.** The Borrower hereby requests, authorizes, and instructs the Agent to drawdown and advance under the DIP Facility the amount of CDN \$ \_\_\_\_\_ to the Borrower on \_\_\_\_\_, 20\_\_\_\_.

This will be the Agent’s authority:

- a) [•]; and
- b) [•].

[Signature Page Follows]



**DATED** , 20 \_\_\_\_.

**TRICHOME JWC ACQUISITION CORP.**

Per:  
Name:  
Title:

Per: \_\_\_\_\_  
Name:  
Title:

I/we have the authority to bind the Agent.

## **SCHEDULE "C"**

As at October 31, 2022, the Credit Parties had approximately \$847,000 in excise tax arrears (net of deposits and a surety bond), approximately \$268,000 in sales tax arrears, and approximately \$5.3 million in withholding tax arrears.

## FIRST AMENDING AGREEMENT

This First Amending Agreement (this “**Amendment**”) is entered into on December 14, 2022

**WHEREAS** Trichome JWC Acquisition Corp., Trichome Financial Corp., Highland Grow Inc., MYM International Brands Inc., MYM Nutraceuticals Inc., and Trichome Retail Corp. (collectively, the “**Credit Parties**” and each, a “**Credit Party**”) commenced proceedings pursuant to the *Companies’ Creditors Arrangement Act* (Canada) (the “**CCAA**”);

**AND WHEREAS** on November 7, 2022, the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) issued an initial order in respect of the Credit Parties under the CCAA, which was subsequently amended and restated on November 17, 2022 (the “**Initial Order**”);

**AND WHEREAS** the Initial Order, among other things, approved the DIP Facility Agreement, dated November 6, 2022 (the “**DIP Facility Agreement**”) entered into by the Credit Parties and Cortland Credit Lending Corporation, as agent for and on behalf of itself and the lenders party thereto from time to time (the “**Agent**”);

**AND WHEREAS** the parties hereto wish to amend the DIP Facility Agreement on the terms and subject to the conditions set forth herein;

**NOW, THEREFORE**, in consideration of the mutual covenants, terms and conditions set forth herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Interpretation. Capitalized terms used and not otherwise defined in this Amendment shall have the meanings assigned to them in the DIP Facility Agreement.
2. Amendments to the DIP Facility Agreement. The DIP Facility Agreement is hereby amended by deleting the chart in section 3.1 and replacing it with the chart contained on Schedule “A” hereto.
3. Conditions Precedent. The effectiveness of this Amendment is subject to the Agent having received a copy of this Amendment duly executed and delivered by each of the Credit Parties.
4. Covenant regarding Court Approval. The Credit Parties covenant and agree in favour of the Agent that they shall obtain Court Approval of this Amendment by no later than January 13, 2023.
5. Limited Effect. Except as expressly provided herein, all of the terms and provisions of the DIP Facility Agreement, all security documents and guarantees delivered by the Credit Parties in connection with the Credit Agreement, the DIP Charge and all related documentation are and shall remain in full force and effect and are hereby ratified and confirmed by the Credit Parties. The amendments contained herein shall not be construed as a waiver or amendment of any other provision of the DIP Facility Agreement or for any purpose except as expressly set forth herein

or a consent to any further or future action on the part of the Credit Parties that would require the waiver or consent of the Agent.

6. Representations and Warranties. The Credit Parties hereby represent and warrant to the Agent that:

- (a) The Credit Parties are duly incorporated, organized and validly existing and in good standing under the laws of the jurisdiction of their incorporation.
- (b) The Credit Parties have taken all necessary corporate action to authorize the execution, delivery and performance of this Amendment.
- (c) This Amendment has been duly authorized, executed and delivered by the Credit Parties and constitutes a legal, valid and binding obligation of the Credit Parties enforceable in accordance with its terms.
- (d) Each of the representations and warranties made by the Credit Parties herein or in or pursuant to the DIP Facility Agreement is true and correct on and as of the date hereof.
- (e) No Event of Default has occurred or will result from this Amendment.

7. Confirmation of Security. The Borrowers hereby confirm that the DIP Charge is and continues to be in full force and effect as continuing security for the payment and performance by them of all of their present and future indebtedness, liabilities and obligations to the Agent now or hereafter arising under the DIP Facility Agreement, and the DIP Charge is enforceable against them by the Agent in accordance with the terms of the DIP Facility Agreement and the Initial Order.

8. Confirmation of Guarantees. Each Credit Party that has delivered a guarantee in favour of the Agent pursuant to the Credit Agreement hereby confirms that such guarantee remains in full force and effect as a continuing guarantee of the such Credit Party's present and future indebtedness, liabilities and obligations to the Agent under the DIP Facility Agreement, the DIP Charge, the Credit Agreement, the Security Agreements (as defined in the Credit Agreement), and related documentation (all as more particularly set forth in such guarantee), enforceable against such Credit Party in accordance with its terms and the Initial Order.

9. Successors and Assigns. This Amendment is binding upon and shall enure to the benefit of the parties and each of their respective permitted successors and permitted assigns.

10. Governing Law. All matters arising out of or relating to this Amendment shall be governed by and construed in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable in that Province and the parties hereby attorn to the exclusive jurisdiction of the Court.

11. Counterparts and Electronic Execution. This Amendment may be executed in counterparts, each of which is deemed an original, but all of which together are deemed to be one and the same agreement. A signed copy of this Amendment delivered by facsimile, email or

other means of electronic transmission is deemed to have the same legal effect as delivery of an original signed copy of this Amendment.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties hereto have executed this Amendment as of the date first above written.

**Agent:**

**CORTLAND CREDIT LENDING CORPORATION**

DocuSigned by:  
*Sean Register*  
376FEFF2EF6A46C...  
\_\_\_\_\_  
Sean Register  
CEO

**TRICHOME JWC ACQUISITION CORP.**

Per: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**TRICHOME FINANCIAL CORP.**

Per: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**HIGHLAND GROW INC.**

Per: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**MYM INTERNATIONAL BRANDS INC.**

Per:

Name: Michael Ruscetta

Title: Director

**MYM NUTRACEUTICALS INC.**

Per:

Name: Michael Ruscetta

Title: Director

**TRICHOME RETAIL CORP.**

Per:

Name: Michael Ruscetta

Title: Director

IN WITNESS WHEREOF, the parties hereto have executed this Amendment as of the date first above written.

**Agent:**

**CORTLAND CREDIT LENDING CORPORATION**

---

**TRICHOME JWC ACQUISITION CORP.**

Per: 

Name: Michael Ruscetta

Title: Director

**TRICHOME FINANCIAL CORP.**

Per: 

Name: Michael Ruscetta

Title: Director

**HIGHLAND GROW INC.**

Per: 

Name: Michael Ruscetta

Title: Director



**MYM INTERNATIONAL BRANDS INC.**

Per: 

Name: Michael Ruscetta

Title: Director

**MYM NUTRACEUTICALS INC.**

Per: 

Name: Michael Ruscetta

Title: Director

**TRICHOME RETAIL CORP.**

Per: 

Name: Michael Ruscetta

Title: Director

### SCHEDULE "A"

<b>Week Ended</b>	<b>Max over-advance</b>
9-Dec-2022	(2,399,069)
16-Dec-2022	(2,628,918)
23-Dec-2022	(2,582,595)
30-Dec-2022	(2,554,643)
6-Jan-2022	(2,257,967)
13-Jan-2022	(2,577,025)
20-Jan-2022	(1,813,624)
27-Jan-2022	(2,488,156)
3-Feb-2022	(2,464,093)
10-Feb-2022	(982,479)
17-Feb-2022	(1,967,628)
24-Feb-2022	(1,331,183)
03-Mar-2022	(1,430,446)

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

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

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

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

PROCEEDING COMMENCED AT  
TORONTO

**THIRD REPORT OF KSV RESTRUCTURING INC. IN  
ITS CAPACITY AS COURT-APPOINTED MONITOR**

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*Lawyers for the Monitor*