

Court File No.: CV-22-00678884-00CL

**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 THE COMPROMISE OR ARRANGEMENT OF EVE & CO  
INCORPORATED, NATURAL MEDCO LTD., and EVE & CO INTERNATIONAL  
HOLDINGS LTD.

Applicants

**MOTION RECORD  
(RETURNABLE OCTOBER 7, 2022)**

October 3, 2022

**MILLER THOMSON LLP**

Scotia Plaza  
40 King Street West, Suite 5800  
P.O. Box 1011  
Toronto, ON Canada M5H 3S1

**David S. Ward LSO #: 33541W**

Tel: 416.595.8625  
dward@millerthomson.com

**Larry Ellis LSO #: 49313K**

Tel: 416.595.8639  
lellis@millerthomson.com

**Monica Faheim LSO #: 82213R**

Tel: 416.595.6087  
mfaheim@millerthomson.com

Lawyers for the Applicants

**TO THE SERVICE LIST**

**SERVICE LIST**

<b>TO:</b>	<p><b>MILLER THOMSON LLP</b> Scotia Plaza 40 King Street West, Suite 5800 P.O. Box 1011 Toronto, ON M5H 3S1</p> <p><b>David S. Ward</b> 416.595.8625 dward@millerthomson.com</p> <p><b>Larry Ellis</b> 416.595.8639 lellis@millerthomson.com</p> <p><b>Erin Craddock</b> ecraddock@millerthomson.com 416.595.8631</p> <p><b>Monica Faheim</b> mfaheim@millerthomson.com 416-597-6087</p> <p>Counsel for the Applicants</p>
<b>AND TO:</b>	<p><b>THORNTON GROUT FINNIGAN LLP</b> Suite 3200, 100 Wellington Street West P.O. Box 329, Toronto-Dominion Centre Toronto, ON M5K 1K7</p> <p><b>Leanne Williams</b> 416.304.0060 lwilliams@tgf.ca</p> <p><b>Alex Soutter</b> 416.304.0595 asoutter@tgf.ca</p> <p>Counsel for the Monitor (BDO Canada LLP)</p>

<b>AND TO:</b>	<p><b>BDO CANADA LIMITED</b> 633 Colborne Street, Suite 230 London, ON N6B 2V3</p> <p><b>Stephen Cherniak</b> 519.660.2666 scherniak@bdo.ca</p> <p><b>David Flett</b> dflett@bdo.ca</p> <p>Monitor of the Applicants</p>
<b>AND TO:</b>	<p><b>AIRD &amp; BERLIS LLP</b> Brookfield Place 181 Bay Street, Suite 1800 Toronto, ON M5J 2T9</p> <p><b>Kyle Plunkett</b> 416.865.3406 kplunkett@airdberlis.com</p> <p>Counsel for the DIP Lender, Deans Knight Private Credit Limited Partnership, and DK Strategic Yield U.S. GP LLC, as General Partner of DK Strategic Yield Master Trust Limited Partnership</p>
<b>AND TO:</b>	<p><b>HARRISON PENZA LLP</b> 450 Talbot Street London, ON N6A 5J6</p> <p><b>Tim Hogan</b> 519.661.6743 thogan@harrisonpensa.com</p> <p><b>Rob Danter</b> 519.850.5583 rdanter@harrisonpensa.com</p> <p>Counsel for Royal Bank of Canada</p>

<b>AND TO:</b>	<b>SCOTT PETRIE LLP</b> 252 Pall Mall St #200 London, ON N6A 5P6  <b>Ben Blay</b> 519.433.5310 ext. 223, bblay@scottpetrie.com  Counsel for Bryan and Joanne Van Engelen
<b>AND TO:</b>	<b>TRISURA GUARANTEE INSURANCE COMPANY</b> 333 Bay Street Suit 1610, Box 22 Toronto, ON M5H 2R2  <b>Stuart M. Detsky</b> , Vice President, Surety & Warranty Claims 416.607.2165 stuart.detsky@trisura.com info@trisura.com
<b>AND TO:</b>	<b>MERIDIAN ONECAP CREDIT CORP.</b> Suite 204, 3185 Willingdon Green Burnaby, BC V5G 4P3  collections@meridianonecap.ca Client.Service@meridianonecap.ca
<b>AND TO:</b>	<b>SALT CAPITAL INC. O/A CAPITAL NOW CANNABIS</b> #121, 234-5149 Country Hills Blvd NW Calgary, AB T3A 5K8  <b>Joshua Reynolds</b> , President 1.800.789.9611 joshua@capitalnowcannabis.com  <b>Luke Duri</b> , Director, Credit & Collections at Capital Now luke@capitalnow.ca
<b>AND TO:</b>	<b>TOWNSHIP OF ADELAIDE METCALFE</b> 2340 Egremont Drive, RR #5 Strathroy, Ontario N7G 3H6  <b>Morgan Calvert</b> , CAO mcalvert@adelaidemetcalfce.on.ca  <b>Johnny Pereira</b> , Treasurer jpereira@adelaidemetcalfce.on.ca

<b>AND TO:</b>	<b>MIDDLESEX COUNTY</b> Barrister and Solicitor's Office Middlesex County Building 399 Ridout Street North London, Ontario N6A 2P1  <b>David Samuels</b> 519-434-7321 ext. 2269 dsamuels@middlesex.ca  Counsel for Township of Adelaide Metcalfe
<b>AND TO:</b>	<b>WIGLE VENCE PARALEGAL SERVICES PROFESSIONAL CORPORATION</b> 1439 Kingston Road Toronto, Ontario M1N 1R4  <b>Janet L. Wigle-Vence</b> 416-690-9445 Janet@WVPS-PC.ca  Counsel for Mathews Equipment Limited o/a Herc Rentals
<b>AND TO:</b>	<b>ATTORNEY GENERAL OF CANADA</b> Department of Justice Canada Ontario Regional Office, Tax Law Section 120 Adelaide Street West, Suite 400 Toronto, ON M5H 1T1  <b>Diane Winters</b> 647.256.7459 Diane.winters@justice.gc.ca  Lawyers for the Minister of National Revenue
<b>AND TO:</b>	<b>MINISTRY OF FINANCE (ONTARIO)</b> Legal Services Branch 777 Bay Street, 11 <sup>th</sup> Floor Toronto, ON M5G 2C8  Insolvency.unit@ontario.ca
<b>AND TO:</b>	<b>OFFICE OF THE SUPERINTENDENT OF BANKRUPTCY CANADA</b> 151 Yonge Street, 4 <sup>th</sup> Floor Toronto, ON M5C 2W7

## EMAIL SERVICE LIST

dward@millerthomson.com; lellis@millerthomson.com; mfaheim@millerthomson.com;  
ecraddock@millerthomson.com; scherniak@bdo.ca; dflett@bdo.ca; lwilliams@tgf.ca;  
asoutter@tgf.ca; thogan@harrisonpensa.com; kplunkett@airdberlis.com;  
rdanter@harrisonpensa.com; bblay@scottpetrie.com; mcalvert@adelaidemetcalfe.on.ca;  
jpereira@adelaidemetcalfe.on.ca; Diane.winters@justice.gc.ca; Insolvency.unit@ontario.ca;  
stuart.detsky@trisura.com; info@trisura.com; collections@meridianonecap.ca;  
Client.Service@meridianonecap.ca; joshua@capitalnowcannabis.com; luke@capitalnow.ca;  
dsamuels@middlesex.ca; Janet@WVPS-PC.ca; dave.burch10@gmail.com

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# TAB 1



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**NOTICE OF MOTION  
(Returnable October 7, 2022)**

The applicants, Eve & Co Incorporated ("**Eve & Co**"), Natural MedCo Ltd. ("**NMC**" or the "**Company**") and Eve & Co International Holdings Ltd. ("**Eve International**" collectively, the "**Eve Group**", or the "**Applicants**") will make a motion to the Court on Friday, October 7, 2022, at 12:00 p.m. or as soon after that time as the motion can be heard.

PROPOSED METHOD OF HEARING: The motion is to be heard by videoconference at the following location:

[Zoom link to be uploaded to Caselines.](#)

**THE MOTION IS FOR:**

1. An order, substantially in the form of the draft order at **Tab 3** of this Motion Record (the "**Approval and Vesting Order**"), among other things:

- (a) extending the stay of proceedings granted pursuant to the September 29<sup>th</sup> Stay Extension Order (as defined below) up to and including November 30, 2022 ("**Extended Stay Period**");
- (b) approving the Share Purchase Agreement (the "**SPA**") entered into between Eve & Co as the vendor ("**Vendor**"), NMC (defined in the SPA as

the “Company”), and M4 Group Holdings Inc. (“**M4**” or the “**Purchaser**”) dated September 29, 2022, and the transaction contemplated thereby (the “**Transaction**”);

- (c) authorizing and directing the Applicants to perform their obligations under the SPA and to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Transaction;
- (d) transferring and vesting all of the Applicants’ right, title, and interest in and to the Excluded Assets, Excluded Contracts, and Excluded Liabilities (each as defined in the SPA) to and in a corporation to be incorporated (“**ResidualCo**”);
- (e) vesting in the Purchaser or its nominee all of the right, title and interest in and to the NMC Shares and certain real property free and clear of all Encumbrances, other than Permitted Encumbrances (each capitalized term as defined in the SPA), upon the filing of a certificate by BDO Canada Limited in its capacity as monitor of the Applicants (“**Monitor**”) substantially in the form attached Schedule “A” to the draft Approval and Vesting Order (the “**Monitor’s Certificate**”);
- (f) releasing and discharging the Company and the NMC Shares from the Excluded Liabilities in accordance with the SPA;
- (g) approving the releases (“**Releases**”) provided for in article 6.2 of the SPA in favour of the officers and directors of the Company, its advisors, the Monitor and the Monitor’s counsel (“**Released Parties**”); and
- (h) expanding the powers and duties of the Monitor set out in the Amended and Restated Initial Order (as defined below);

2. An order (“**Ancillary Order**”), substantially in the form of the draft order at **Tab 4** to this Motion Record, among other things:

- (a) abridging the time for and validating service of this notice of motion and the motion record and dispensing with service on any person other than those served;
  - (b) sealing the Confidential Exhibit Brief to the Affidavit of Melinda Rombouts dated October 3, 2022 (the “**Confidential Exhibit Brief**”) and the Confidential Appendix to the Fourth Report of the Monitor, to be filed, until the closing of the Transaction; and
  - (c) approving the Fourth Report of the Monitor, to be filed, and the activities of the Monitor as set out therein; and
3. such further and other relief as this Honourable Court may deem just and equitable.

#### **THE GROUNDS FOR THE MOTION ARE:**

##### **Background**

4. Eve Group is a licenced producer and distributor of cannabis flower, cannabis plants, and cannabis products, located in Strathroy, Ontario.
5. NMC owns approximately 32 acres of land in Strathroy, Ontario, on which the Eve Group operates one of the largest cannabis cultivation and processing facilities in the world at 1,000,000 square feet (the “**Facility**”).
6. NMC holds four cannabis licenses: (i) a license from Health Canada for the cultivation, processing and sale of cannabis and cannabis extracts, edibles and topicals; (ii) a cannabis license under the *Excise Act, 2001*, S.C. 2002, c. 22, as amended; (iii) a European Union Certificate of Good Manufacturing Practice issued by the Government of Upper Bavaria, Germany permitted it to export medical grade cannabis throughout the European Union; and (iv) a CUMCS-GA certificate as recognized by the Israeli Medical Cannabis Agency to export medical-grade cannabis to Israel.

## **Financial Difficulties**

7. The Eve Group initiated proceedings under the CCAA on account of the financial pressures arising as a result of, among other things: (i) a series of breached sales agreements that resulted in a loss of millions of dollars in expected annual revenue and the attendant spoilage of unsold inventory; (ii) investments in partnerships that did not come to fruition; (iii) the forced eviction of a leaseholder operating from the Eve Group's greenhouse for non-payment of rent and unacceptable operating practices; (iv) a breached share subscription; and (v) a global pandemic.

8. On March 25, 2022 (the "**Initial Filing Date**"), the Honourable Madam Justice Conway granted the Initial Order under the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c, C-36, as amended ("**CCAA**") that, among other things, provided protection to the Applicants (as amended and restated the "**Amended and Restated Initial Order**").

## **Sale Process**

9. On April 1, 2022, Justice Conway granted an order ("**Sale Process Approval Order**") approving, among other things, a sale and investment solicitation process in respect of the Applicants' business and assets ("**Sale Process**").

10. The purpose of the Sale Process was to solicit offers for the acquisition of or an investment in the business and assets of the Applicants, and to implement one or a combination of such offers, including a potential sale of the business on a going concern basis.

11. The Monitor, in conjunction with the Applicants, conducted the Sale Process in accordance with the Sale Process Approval Order.

12. The Monitor completed due diligence on the Company, prepared a marketing process and opportunity summary, and undertook a marketing process that broadly canvassed a comprehensive network of cannabis industry participants, greenhouse industry participants, as well as companies focusing on capital markets and investment.

13. By the first bid deadline, the Monitor received non-binding letters of interest from a total of five parties. By the second bid deadline (which was extended in accordance with the Sale Process), the Monitor received binding offers from two bidders.

14. The Monitor and the Applicants engaged in extensive negotiations to assess the terms of each offer, with a view to selecting an offer that maximizes value for the Applicants and its stakeholders. It was ultimately determined that a bid received from the Purchaser, M4 Group Holdings Inc., was the preferred bid ("**M4 Bid**").

15. The principal of M4 has extensive experience in the Canadian cannabis industry. The Applicants' cannabis licenses have value to M4 and it wishes to continue the cannabis business as a going concern and Health Canada compliant operation.

16. The Sale Process was accordingly successful in generating buyer interest.

17. All reasonable steps to obtain the best price have been taken, and the Sale Process was commercially reasonable, professionally run and robust.

18. On September 29, 2022, Justice Conway granted an extension of the stay of proceedings to and including October 7, 2022, to permit the Applicants time to prepare and serve court materials in respect of the within motion to seek approval of a sale transaction.

### **SPA and Transaction**

19. Subject to the approval of this Honourable Court and the satisfaction of other closing conditions, the Purchaser will acquire 100% of NMC's issued and outstanding shares pursuant to the SPA.

20. The only material assets of the Applicants are the Facility and the business conducted by NMC, being the cultivation, processing and sale of cannabis and cannabis products.

21. The Transaction contemplates the use of a "reverse vesting order" to preserve cannabis licenses which are essential for NMC to continue operations as a going

concern. A summary of the key terms and conditions of the SPA are as follows (all capitalized terms not otherwise defined herein shall have the meaning given to them in the SPA):

- (a) **Closing Date:** Subject to the terms and conditions of the SPA, the Closing shall occur once an Approval and Vesting Order satisfactory to the Parties has been issued and entered, and all applicable appeal periods have expired.
- (b) **NMC Shares:** The Purchaser shall purchase the NMC Shares from the Vendor, free and clear of all Encumbrances (other than Permitted Encumbrances), with the result that the Purchaser shall become the sole shareholder of NMC at the Closing Time.
- (c) **Excluded Assets, Contracts and Liabilities:** all of the Excluded Assets, and Excluded Liabilities will be transferred to and assumed by ResidualCo. All Claims related to Excluded Liabilities will continue to exist as against ResidualCo and the Claims shall attach to the Purchase Price and the Excluded Assets, if any, which shall be available to satisfy such Claims.
- (d) **Approval and Vesting Order:** the obligations of Eve & Co, NMC and the Purchaser to close the Transaction is subject to the granting of the Approval and Vesting Order.

22. In addition to seeking approval of the SPA, the Applicants are seeking additional relief that is important to the structure of the Transaction. Among other things, the Applicants are seeking:

- (a) to extend the stay of proceedings up to and including November 30, 2022;
- (b) to expand the powers and duties of the Monitor set out in the Amended and Restated Initial Order;
- (c) to add ResidualCo as an applicant in the CCAA proceeding;

- (d) to remove NMC as an applicant in the CCAA proceeding;
- (e) an order channelling, transferring and assigning the right, title and interest in and to the Excluded Assets and Excluded Contracts to ResidualCo; and
- (f) Releases in favour of the Released Parties.

23. The Releases are a requirement of the SPA. The Released Parties have made significant contributions to the CCAA proceedings, including negotiation of the Transaction, and have been instrumental in achieving the best possible outcome for Eve Group and its stakeholders. The Releases will also benefit Eve' Group's stakeholders by preventing claims against the Eve Group for contribution and indemnity thereby increasing the pool of assets available to creditors.

24. Given the breadth, duration and level of expressed buyer interest in the Sale Process, it is unlikely that an extended sale process would yield any other meaningful opportunities, or generate any additional value for the Applicants' stakeholders.

25. The Sale Process has shown that the Transaction represents the highest and best offer available for the Eve Group's business and assets.

26. The Monitor will provide its view on the Sale Process, the necessity of the reverse vesting structure, and the Transaction in its Fourth Report.

27. The Monitor is supportive of the relief sought on this motion.

### **Requested Extension of Stay of Proceedings**

28. The current stay period expires on October 7, 2022.

29. The Applicants seek an extension of the stay of proceedings to November 30, 2022 (the "**Extended Stay Period**") to allow time to complete the necessary steps to close the Transaction.

30. The Applicants have acted, and continue to act, in good faith and with due diligence in furtherance of these CCAA proceeding.

31. It is just and convenient and in the interests of the Applicants and their stakeholders that the stay of proceedings be extended to November 30, 2022.

32. The Monitor supports, and no creditor will be prejudiced by, the Extended Stay Period.

### **Sealing Order**

33. In order to protect the Applicants' ability to negotiate with other parties in the event that the Transaction does not close as intended, the Applicants are requesting that certain confidential information be sealed pending the closing of the Transaction.

### **General**

34. The provisions of the CCAA, including sections 11, 11.02, 11.03, 36 and the statutory, inherent and equitable jurisdiction of this Court.

35. Rules 1.04, 1.05, 2.01, 2.03, 3.02, 16, 37, and 39 of the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194, as amended.

36. Sections 97, 100, 106, and 137(2) of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended;

37. The equitable and inherent jurisdiction of the Court; and

38. Such further and other grounds as counsel may advise.

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

- (a) The affidavit of Melinda Rombouts, sworn October 3, 2022 and the exhibits attached thereto;
- (b) The fourth report of the Monitor, to be filed; and



- (c) Such further and other evidence as counsel may advise and this Honourable Court may permit.

October 3, 2022

**MILLER THOMSON LLP**  
Scotia Plaza  
40 King Street West, Suite 5800  
P.O. Box 1011  
Toronto, ON Canada M5H 3S1

**David S. Ward LSO #: 33541W**  
Tel: 416.595.8625  
dward@millerthomson.com

**Larry Ellis LSO #: 49313K**  
Tel: 416.595.8639  
lellis@millerthomson.com

**Monica Faheim LSO#82213R**  
Tel: 416.595.6087  
mfaheim@millerthomson.com

Lawyers for the Applicants

TO: THE SERVICE LIST

**SERVICE LIST**

<b>TO:</b>	<p><b>MILLER THOMSON LLP</b> Scotia Plaza 40 King Street West, Suite 5800 P.O. Box 1011 Toronto, ON M5H 3S1</p> <p><b>David S. Ward</b> 416.595.8625 dward@millerthomson.com</p> <p><b>Larry Ellis</b> 416.595.8639 lellis@millerthomson.com</p> <p><b>Erin Craddock</b> ecraddock@millerthomson.com 416.595.8631</p> <p><b>Monica Faheim</b> mfaheim@millerthomson.com 416-597-6087</p> <p>Counsel for the Applicants</p>
<b>AND TO:</b>	<p><b>THORNTON GROUT FINNIGAN LLP</b> Suite 3200, 100 Wellington Street West P.O. Box 329, Toronto-Dominion Centre Toronto, ON M5K 1K7</p> <p><b>Leanne Williams</b> 416.304.0060 lwilliams@tgf.ca</p> <p><b>Alex Soutter</b> 416.304.0595 asoutter@tgf.ca</p> <p>Counsel for the Monitor (BDO Canada LLP)</p>

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<b>AND TO:</b>	<p><b>AIRD &amp; BERLIS LLP</b> Brookfield Place 181 Bay Street, Suite 1800 Toronto, ON M5J 2T9</p> <p><b>Kyle Plunkett</b> 416.865.3406 kplunkett@airdberlis.com</p> <p>Counsel for the DIP Lender, Deans Knight Private Credit Limited Partnership, and DK Strategic Yield U.S. GP LLC, as General Partner of DK Strategic Yield Master Trust Limited Partnership</p>
<b>AND TO:</b>	<p><b>HARRISON PENZA LLP</b> 450 Talbot Street London, ON N6A 5J6</p> <p><b>Tim Hogan</b> 519.661.6743 thogan@harrisonpensa.com</p> <p><b>Rob Danter</b> 519.850.5583 rdanter@harrisonpensa.com</p> <p>Counsel for Royal Bank of Canada</p>

<b>AND TO:</b>	<b>SCOTT PETRIE LLP</b> 252 Pall Mall St #200 London, ON N6A 5P6  <b>Ben Blay</b> 519.433.5310 ext. 223, bblay@scottpetrie.com  Counsel for Bryan and Joanne Van Engelen
<b>AND TO:</b>	<b>TRISURA GUARANTEE INSURANCE COMPANY</b> 333 Bay Street Suit 1610, Box 22 Toronto, ON M5H 2R2  <b>Stuart M. Detsky</b> , Vice President, Surety & Warranty Claims 416.607.2165 stuart.detsky@trisura.com info@trisura.com
<b>AND TO:</b>	<b>MERIDIAN ONECAP CREDIT CORP.</b> Suite 204, 3185 Willingdon Green Burnaby, BC V5G 4P3  collections@meridianonecap.ca Client.Service@meridianonecap.ca
<b>AND TO:</b>	<b>SALT CAPITAL INC. O/A CAPITAL NOW CANNABIS</b> #121, 234-5149 Country Hills Blvd NW Calgary, AB T3A 5K8  <b>Joshua Reynolds</b> , President 1.800.789.9611 joshua@capitalnowcannabis.com  <b>Luke Duri</b> , Director, Credit & Collections at Capital Now luke@capitalnow.ca
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<b>AND TO:</b>	<b>ATTORNEY GENERAL OF CANADA</b> Department of Justice Canada Ontario Regional Office, Tax Law Section 120 Adelaide Street West, Suite 400 Toronto, ON M5H 1T1  <b>Diane Winters</b> 647.256.7459 Diane.winters@justice.gc.ca  Lawyers for the Minister of National Revenue
<b>AND TO:</b>	<b>MINISTRY OF FINANCE (ONTARIO)</b> Legal Services Branch 777 Bay Street, 11 <sup>th</sup> Floor Toronto, ON M5G 2C8  Insolvency.unit@ontario.ca
<b>AND TO:</b>	<b>OFFICE OF THE SUPERINTENDENT OF BANKRUPTCY CANADA</b> 151 Yonge Street, 4 <sup>th</sup> Floor Toronto, ON M5C 2W7

## EMAIL SERVICE LIST

dward@millerthomson.com; lellis@millerthomson.com; mfaheim@millerthomson.com;  
ecraddock@millerthomson.com; scherniak@bdo.ca; dflett@bdo.ca; lwilliams@tgf.ca;  
asoutter@tgf.ca; thogan@harrisonpensa.com; kplunkett@airdberlis.com;  
rdanter@harrisonpensa.com; bblay@scottpetrie.com; mcalvert@adelaidemetcalfе.on.ca;  
jpereira@adelaidemetcalfе.on.ca; Diane.winters@justice.gc.ca; Insolvency.unit@ontario.ca;  
stuart.detsky@trisura.com; info@trisura.com; collections@meridianonecap.ca;  
Client.Service@meridianonecap.ca; joshua@capitalnowcannabis.com; luke@capitalnow.ca;  
dsamuels@middlesex.ca; Janet@WVPS-PC.ca; dave.burch10@gmail.com

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**MILLER THOMSON LLP**

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40 King Street West, Suite 5800  
P.O. Box 1011  
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lellis@millerthomson.com

**Monica Faheim LSO#82213R**

Tel: 416.595.6087  
mfaheim@millerthomson.com

Lawyers for the Applicants

# TAB 2



Court File No.: CV-22-00678884-00CL

**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 THE COMPROMISE OR ARRANGEMENT OF EVE & CO  
INCORPORATED, NATURAL MEDCO LTD., and EVE & CO INTERNATIONAL  
HOLDINGS LTD.

Applicants

**AFFIDAVIT OF MELINDA ROMBOUTS  
(sworn October 3<sup>rd</sup>, 2022)**

I, Melinda Rombouts, of the municipality of Lambton Shores, in the County of  
Lambton, in the Province of Ontario, MAKE OATH AND SAY AS FOLLOWS:

**A. Introduction**

1. I am the President and Chief Executive Officer ("**CEO**") of Eve & Co Incorporated ("**Eve & Co**"), as well as a member of the board of directors, having served in these positions since I founded the company in 2014.

2. I am also the CEO and a member of the board of directors of each of Eve & Co's two wholly owned subsidiaries, Natural MedCo Ltd. ("**NMC**" or the "**Company**") and Eve & Co International Holdings Ltd. ("**Eve International**", collectively with NMC and Eve & Co, the "**Applicants**" or the "**Eve Group**").

3. As such, I have personal knowledge of the matters to which I depose in this affidavit, except where I have obtained information from others. Where I have obtained information from others, I have stated the source of my information and, in all such cases, believe such information to be true.

4. I have sworn four affidavits in this CCAA proceeding: my first affidavit was sworn on March 23, 2022. My second affidavit was sworn on March 29, 2022. My third affidavit was sworn August 25, 2022. My fourth affidavit was sworn September 28, 2022.

**B. HISTORY OF THIS CCAA PROCEEDING**

5. On March 25, 2022 (the “**Initial Filing Date**”), the Honourable Madam Justice Conway granted the initial order (the “**Initial Order**”) that, among other things, provided protection to the Applicants under the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c, C-36, as amended (“**CCAA**”).

6. On April 1, 2022, Justice Conway granted:

a. an order (the “**Amended and Restated Initial Order**”):

- i. extending the stay of proceedings granted pursuant to the Initial Order to and including August 26, 2022;
- ii. authorizing and approving an increase in the amount that the Applicants are entitled to borrow under the Debtor-in-Possession Term Sheet dated March 22, 2022, between the Applicants and Deans Knight Private Credit GP Inc., as General Partner of Deans Knight Private Credit Limited Partnership, and DK Strategic Yield U.S. GP LLC, as General Partner of DK Strategic Yield Master Trust Limited Partnership (“**DIP Lender**”), from \$1,200,000 to \$2,200,000;
- iii. approving increases to the following charges;
  1. increasing the Administration Charge to \$500,000; and

2. increasing the DIP Lenders' Charge to \$2,200,000.

- b. an order ("**Sale Process Approval Order**") among other things, approving a sale and investment solicitation process in respect of the Applicants' business and assets ("**Sale Process**").

7. On August 26, 2022, Justice Conway granted an order extending the stay of proceedings to and including September 30, 2022.

8. On September 29, 2022, Justice Conway granted an order (the "**September 29<sup>th</sup> Stay Extension Order**") extending the stay of proceedings to and including October 7, 2022 (the "**Current Stay Period**") to permit the Applicants time to prepare and serve court materials in respect of the within motion to seek approval of a sale transaction.

9. A copy of the Amended and Restated Initial Order is attached as **Exhibit "A"**. A copy of the Sale Process Approval Order is attached as **Exhibit "B"**. A copy of the September 29<sup>th</sup> Stay Extension Order is attached as **Exhibit "C"**.

### **C. RELIEF SOUGHT ON THIS MOTION**

10. This affidavit is sworn in support of a motion by the Applicants for:

- a. an order, substantially in the form of the draft order at Tab 3 to this Motion Record (the "**Approval and Vesting Order**"), among other things:
- i. extending the stay of proceedings granted pursuant to the September 29<sup>th</sup> Stay Extension Order up to and including November 30, 2022 (the "**Extended Stay Period**");

- ii. approving the Share Purchase Agreement (the “**SPA**”) entered into between Eve & Co, as vendor (“**Vendor**”), NMC (defined in the SPA as the Company), and M4 Group Holdings Inc. (“**M4**” or the “**Purchaser**”) dated September 29, 2022, and the transaction contemplated thereby (the “**Transaction**”);
- iii. authorizing and directing the Applicants to perform their obligations under the SPA and to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Transaction;
- iv. transferring and vesting all of the Applicants’ right, title, and interest in and to the Excluded Assets, Excluded Contracts, and Excluded Liabilities (each as defined in the SPA) to and in a corporation to be incorporated (“**ResidualCo**”);
- v. vesting in the Purchaser (or its nominee, as it may direct) all of the right, title and interest in and to the NMC Shares and certain real property free and clear of all Encumbrances, other than Permitted Encumbrances (each capitalized term as defined in the SPA), upon the filing of a certificate by BDO Canada Limited in its capacity as monitor of the Applicants (the “**Monitor**”) substantially in the form attached

Schedule “A” to the draft Approval and Vesting Order (the “**Monitor’s Certificate**”);

- vi. releasing and discharging the Company and the NMC Shares from the Excluded Liabilities in accordance with the SPA;
  - vii. approving the releases (“**Releases**”) provided for in article 6.2 of the SPA in favour of the officers and directors of the Company, its advisors, the Monitor and the Monitor’s counsel (“**Released Parties**”); and
  - viii. expanding the powers and duties of the Monitor set out in the Amended and Restated Initial Order; and
- b. an order, (“**Ancillary Order**”), substantially in the form of the draft order at **Tab 4** to this Motion Record, among other things:
- ix. abridging the time for and validating service of this notice of motion and the motion record and dispensing with service on any person other than those served;
  - x. sealing the Confidential Exhibit Brief to the Affidavit of Melinda Rombouts dated October 3, 2022 (the “**Confidential Exhibit Brief**”) and the Confidential Appendix to the Monitor’s Fourth Report, to be filed, until the closing of the Transaction; and

xi. approving the Fourth Report of the Monitor, to be filed, and the activities of the Monitor as set out therein; and

c. such further and other relief as this Honourable Court may deem just.

**D. OVERVIEW OF APPLICANTS AND THEIR BUSINESS**

11. The Eve Group is a licenced producer and distributor of cannabis flower, cannabis plants, and cannabis products, located in Strathroy, Ontario.

12. Eve & Co is a publicly traded holding company. The Eve Group's operations are substantially conducted through NMC, a wholly-owned subsidiary of Eve & Co.

13. On March 25, 2022, the Eve Group initiated proceedings under the CCAA on account of the financial pressures arising as a result of, among other things: (i) a series of breached sales agreements that resulted in a loss of millions of dollars in expected annual revenue and the attendant spoilage of unsold inventory; (ii) investments in partnerships that did not come to fruition; (iii) the forced eviction of a leaseholder operating from the Eve Group's greenhouse for non-payment of rent and unacceptable operating practices; (iv) a breached share subscription; and (v) a global pandemic.

14. It is widely understood that in Canada the cannabis industry is nascent, highly regulated and has experienced rapid change. The uncertainty caused by these changes has created challenges for companies in the industry, including the ability to obtain investment or financing for operations and capital expenditures. Despite these challenges, the Eve Group has significant value as a going concern. Among other things:

- a. NMC owns approximately 32 acres of land in Strathroy, Ontario, on which the Eve Group operates one of the largest cannabis cultivation and processing facilities in the world at 1,000,000 square feet (the “**Facility**”);
- b. Although the Facility is purpose built for cannabis production, it is readily adaptable to other agricultural crops. In terms of cannabis, the Facility meets European Union cannabis production specifications. It features an automated fertilization and irrigation system that recirculates and accurately monitors plant nutrients, precision environmental controls to optimize plant growth, and a unique, full-length butterfly roof to improve air circulation and ventilation; and
- c. NMC holds four cannabis licenses: (i) a license from Health Canada for the cultivation, processing and sale of cannabis and cannabis extracts, edibles and topicals; (ii) a cannabis license under the *Excise Act, 2001*, S.C. 2002, c. 22, as amended; (iii) a European Union Certificate of Good Manufacturing Practice issued by the Government of Upper Bavaria, Germany permitted it to export medical grade cannabis throughout the European Union; and (iv) a CUMCS-GA certificate as recognized by the Israeli Medical Cannabis Agency to export medical-grade cannabis to Israel.

15. Since the date of the Initial Order, the Applicants have worked with Monitor oversight to stabilize and maintain operations, while conducting the Sale Process in accordance with the Sale Process Approval Order.

16. As described below, the Sale Process generated buyer interest and was concluded successfully on September 28, 2022. On September 29, 2022, an agreement in respect of substantially all of the Applicants' assets and property was executed.

#### **E. SALE PROCESS**

17. The purpose of the Sale Process was to solicit offers for the acquisition of or an investment in the business and assets of the Applicants, and to implement one or a combination of such offers, including a potential sale of the business on a going concern basis.

18. The Monitor, in conjunction with the Applicants, conducted the Sale Process in accordance with the terms of the Sale Process Approval Order.

19. The Monitor conducted due diligence on the Company, prepared a marketing process and opportunity summary, and undertook a marketing process that broadly canvassed a comprehensive network of cannabis industry participants, greenhouse industry participants, as well as companies focusing on capital markets and investment.

20. The Monitor identified and delivered marketing material summarizing the opportunity to approximately 140 targeted potential purchasers. A total of 23 parties executed an NDA and were granted access to the data room. The data room was created and managed by the Monitor and was populated with various financial, operational, legal and supplier information to assist potential purchasers in conducting detailed due diligence.



21. By the phase 1 bid deadline of July 29, 2022, the Monitor received non-binding letters of interest from five parties (the “**Phase 1 Qualified Bidders**”). The Applicants conducted site visits with each of the Phase 1 Qualified Bidders, hosted meetings with management, and otherwise provided the Phase 1 Qualified Bidders with a number of opportunities to meet, conduct due diligence and fully understand the business.

22. By the phase 2 bid deadline of August 17, 2022 (which was extended from the initial deadline of August 10, 2022), the Monitor received binding offers from two bidders (the “**Phase 2 Qualified Bidders**”). The Monitor and the Applicants engaged in extensive negotiations with each of the Phase 2 Qualified Bidders to assess the terms of each offer, with a view to selecting an offer that maximizes value for the Applicants and its stakeholders.

23. To the greatest extent possible, the Sale Process was conducted in a manner so as to create and maintain a “competitive tension” as between interested parties, all with a view to promoting interest in the opportunity and yielding the highest and best sale price for the Applicants.

24. At the conclusion of the Sale Process it was determined that an initial bid received from M4 was the preferred bid (“**M4 Bid**”). The M4 Bid was, however, subject to some additional (albeit limited) due diligence.

25. Throughout September, the Applicants worked closely with M4 to address its reasonable due diligence requests including facilitating site visits and inspections, and satisfying all manner of information and document requests. During this period the

Applicants consulted with key stakeholders and the Monitor regarding the timing and terms and conditions of the M4 Bid.

26. In conjunction with advancing the September 2022 due diligence process, the Applicants and M4, engaged in extensive back and forth negotiations regarding pricing and the terms of the potential transaction. The Applicants also engaged with a number of their important stakeholders regarding the M4 Bid, particularly secured creditors.

27. The Sale Process, and ensuing September 2022 due diligence and negotiation, resulted in the SPA.

28. The Sale Process was accordingly successful in generating buyer interest. Given the breadth, duration, and management of the Sale Process, I believe that all reasonable steps to obtain the best price have been taken, and that the Sale Process was commercially reasonable, professionally run and robust.

29. On September 29, 2022, Justice Conway granted an extension of the stay of proceedings to and including October 7, 2022, to permit the Applicant time to finalize the terms of the SPA and prepare and serve court materials in respect of the within motion to seek approval of a sale transaction.

#### **F. SPA AND PROPOSED TRANSACTION**

30. On September 29, 2022, Eve & Co, NMC and the Purchaser executed the SPA.

31. The SPA provides that, subject to the approval of this Court and the satisfaction of other closing conditions, the Purchaser will acquire 100% of NMC's issued and

outstanding shares. A copy of the SPA, with the purchase price and deposit amounts redacted, is attached hereto as **Exhibit “D”**. An unredacted copy of the SPA has been filed with this Court as **Confidential Exhibit “A”**.

*The Purchaser*

32. The principal of M4 has extensive experience in the Canadian cannabis industry. The Applicants’ cannabis licenses have value to M4 and it wishes to continue the cannabis business as a going concern and Health Canada compliant operation.

33. I understand that M4 intends to focus on the production of cannabis, and the continuation and expansion of NMC’s existing operations. Additionally, and with a view to maximizing the use of the Facility, consideration will be given to creating a “mixed-use” space which includes tenants in the vegetable-growing industry.

*The “Reverse Vesting” Transaction*

34. The transaction contemplates the use of a reverse vesting order in an attempt to preserve NMC’s licenses, which are essential to the Company’s realization of going concern value.

35. The key terms of the SPA are as follows (all capitalized terms not otherwise defined herein shall have the meaning given to them in the SPA):

- a. **Closing Date:** Subject to the terms and conditions of the SPA, the Closing shall occur once an Approval and Vesting Order satisfactory to the Parties

has been issued and entered, and all applicable appeal periods have expired.

- b. **NMC Shares:** The Purchaser shall purchase the NMC Shares from the Vendor, free and clear of all Encumbrances (other than Permitted Encumbrances), with the result that the Purchaser shall become the sole shareholder of NMC at the Closing Time.
- c. **Excluded Assets, Contracts and Liabilities:** all of the Excluded Assets, and Excluded Liabilities will be transferred to and assumed by ResidualCo. All claims related to Excluded Liabilities will continue to exist as against ResidualCo and the Claims shall attach to the Purchase Price and the Excluded Assets, if any, which shall be available to satisfy such Claims;
- d. **Approval and Vesting Order:** the obligations of Eve & Co, NMC and the Purchaser to close the Transaction is subject to the granting of the Approval and Vesting Order.

36. In addition to seeking approval of the SPA, the Applicants are seeking additional relief that is important to the structure of the Transaction. Among other things, the Applicants are seeking:

- a. to extend the stay of proceedings up to and including November 30, 2022;
- b. to expand the powers and duties of the Monitor set out in the Amended and Restated Initial Order;

- c. to add ResidualCo as an applicant in the CCAA proceeding;
- d. to remove NMC as an applicant in the CCAA proceeding;
- e. an order channelling, transferring and assigning the right, title and interest in and to the Excluded Assets and Excluded Contracts to ResidualCo; and
- f. Releases in favour of the Released Parties.

37. The Releases are a requirement of the SPA. The Released Parties have made significant contributions to the CCAA proceedings, including negotiations of the Transaction, and have been instrumental in achieving the best possible outcome for the Eve Group and its stakeholders. The Releases will also benefit the Eve Group's stakeholders by preventing claims against the Eve Group for contribution and indemnity thereby increasing the pool of assets available to creditors.

38. In furtherance of the Closing of the Transaction, M4 has asked that the NMC owned real property (the site of the Facility) be vested in an M4 nominee entity. The form of Sale Approval and Vesting Order sought on this motion will reflect this nomination.

#### *Benefits of the Transaction*

39. The primary benefit of the proposed Transaction is the seamless continuity of the Applicants' business. Completion of the Transaction will preserve the Company's structure of operations, maintain the current licenses, and preserve the economic activity and supply arrangements of the Eve Group without interruption. For example, it

is anticipated that completion of the Transaction will permit the continuation of go-forward supply arrangements with providers of IT, HVAC, maintenance, electrical, security and agricultural product and services.

40. Importantly, a number of key individuals in NMC's business will remain involved with the business following closing of the Transaction. This, together with the "reverse vesting" structure of the Transaction, will ensure that the change in control of the business does not impact the preservation of the valuable cannabis licenses.

41. At present, the Eve Group employs six people. It is anticipated that following the closing of the Transaction, up to thirty new jobs will be available. A number of employees who were recently laid off as part of the Eve Group's restructuring will be offered the opportunity to return.

42. Article 6.4 of the SPA contemplates the terms of a renewable six month transition services agreement pursuant to which I will assist M4 in developing a Post-Closing transition strategy. The objectives of the transition will include positioning NMC as a more competitive company with the resources and opportunities to increase employment and economic activity in the Strathroy community.

43. I believe the SPA and the Transaction represent the best possible outcome for the Applicants, and will permit the Applicants to emerge from CCAA protection as a successful, going-concern business.

44. I understand that the Monitor, the DIP lender, and the secured creditors of the Applicants are supportive of the SPA and the Transaction.

## **G. REQUESTED EXTENSION OF STAY OF PROCEEDINGS**

45. The Current Stay Period expires on October 7, 2022.

46. The purpose of the stay extension to October 7, 2022 was to afford the Applicants and the Monitor some additional time to conclude negotiations with M4 and prepare these materials for the approval of the Transaction.

47. The Applicants seek an extension of the stay of proceedings to November 30, 2022 (the “**Extended Stay Period**”) to allow the Applicants and the Purchaser to complete the necessary steps to close the Transaction.

48. During the Current Stay Period, the Applicants have acted, and continue to act, in good faith and with due diligence in furtherance of these CCAA proceedings.

49. The cash flow forecast which is appended to the Monitor’s third report, to be filed, indicates sufficient liquidity to fund the ongoing operating costs of the Applicants during the Extended Stay Period. M4’s commitment, at paragraph 6.4 of the SPA, to fund reasonable amounts as are necessary to operate the business during the interim period pending the closing of the Transaction will assist in ensuring that NMC’s working capital requirements are met.

50. It is just and convenient and in the interests of the Applicants and their stakeholders that the Current Stay Period be extended to November 30, 2022.

51. The Monitor supports, and no creditor will be prejudiced by, the Extended Stay Period.

**J. SEALING ORDER**

52. In order to protect the Applicants' ability to negotiate with other parties in the event that the Transaction does not close as intended, the Applicants are requesting that the Confidential Exhibit Brief and the Confidential Appendix Brief to the Monitor's fourth report, to be filed, be sealed pending the closing of the Transaction.

**I. CONCLUSION**

53. In all of the above circumstances, the Eve Group respectfully submits that it is appropriate that the SPA and the Transaction be approved, and the additional relief sought on this motion be granted.

54. I swear this affidavit in support of a motion for orders substantially in the form of the draft orders at **Tabs "3"** and **"4"** to this motion record and for no other or improper purpose.

SWORN BEFORE ME via video-conference with the deponent in the municipality of Lambton Shores, in the County of Lambton, and the Commissioner in the City of Mississauga, Ontario this 3<sup>rd</sup> day of October, 2022 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.

DocuSigned by:  
*Monica Faheim*  
\_\_\_\_\_  
A Commissioner for taking Affidavits (or as may be)

**MONICA FAHEIM**

DocuSigned by:  
*Melinda Rombouts*  
\_\_\_\_\_  
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Melinda Rombouts



This is **Exhibit "A"** to the  
Affidavit of **MELINDA ROMBOUITS**  
Sworn on October 3, 2022

DocuSigned by:

*Monica Fakeim*

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A Commissioner, etc.



Court File No. CV-22-00678884-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

Electronically issued : 01-Apr-2022  
Délivré par voie électronique : 01-Apr-2022  
Toronto

IADAM ) FRIDAY, THE 1ST  
)  
JUSTICE CONWAY ) DAY OF APRIL, 2022  
)

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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF EVE & CO INCORPORATED, NATURAL MEDCO LTD., and EVE & CO INTERNATIONAL HOLDINGS LTD. (collectively, the "Applicants")

**AMENDED AND RESTATED INITIAL 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 amending and restating the initial order ("**Initial Order**"), dated March 25, 2022 ("**Filing Date**") was heard this day by videoconference.

**ON READING** the affidavit of Melinda Rombouts sworn March 23, 2022 and the Exhibits thereto, the affidavit of Melinda Rombouts sworn March 29, 2022, the pre-filing report of BDO Canada Limited, in its capacity as proposed monitor of the Applicants ("**Monitor**"), dated March 24, 2022, and the First Report of the Monitor, dated March 31, 2022, and on being advised that the secured creditors who are likely to be affected by the charges created herein were given notice, and on hearing the submissions of counsel for Applicants and counsel for the Monitor, no one appearing for any other party although duly served as appears from the affidavit of service, filed, and on reading the consent of BDO Canada Limited act as the Monitor,

## INITIAL ORDER AND INITIAL FILING DATE

1. **THIS COURT ORDERS** that the Initial Order, reflecting the Initial Filing Date, shall be amended and restated as provided for herein.

## SERVICE

2. **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.

## APPLICATION

3. **THIS COURT ORDERS AND DECLARES** that the Applicants are companies to which the CCAA applies.

## PLAN OF ARRANGEMENT

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

## POSSESSION OF PROPERTY AND OPERATIONS

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

6. **THIS COURT ORDERS** that the Applicants shall be entitled but not required to pay the following expenses whether incurred prior to or after the Initial Filing Date:

- (a) all outstanding and future wages, salaries, employee and pension benefits, vacation pay and expenses payable on or after the Initial Filing Date, in each case incurred in the ordinary course of business and consistent with existing compensation policies and arrangements;
- (b) the fees and disbursements of any Assistants retained or employed by the Applicants in respect of these proceedings, at their standard rates and charges; and
- (c) any taxes, duties, or other payments required under the Cannabis Legislation (as defined below).

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

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

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

- (a) any statutory deemed trust amounts in favour of the Crown in right of Canada or of any Province thereof or any other taxation authority which are required to be deducted from employees' wages, including, without limitation, amounts in

respect of (i) employment insurance, (ii) Canada Pension Plan, (iii) Quebec Pension Plan, and (iv) income taxes;

- (b) all goods and services or other applicable sales taxes and all federal excise taxes and duties (collectively, "**Sales Taxes**") required to be remitted by the Applicants in connection with the sale of goods and services by the Applicants, but only where such Sales Taxes are accrued or collected after the Initial Filing Date, or where such Sales Taxes were accrued or collected prior to the Initial Filing Date but not required to be remitted until on or after the Initial Filing Date, and
- (c) any amount payable to the Crown in right of Canada or of any Province thereof or any political subdivision thereof or any other taxation authority in respect of municipal realty, municipal business or other taxes, assessments or levies of any nature or kind which are entitled at law to be paid in priority to claims of secured creditors and which are attributable to or in respect of the carrying on of the Business by the Applicants.

9. **THIS COURT ORDERS** that until a real property lease is disclaimed in accordance with the CCAA, the Applicants shall pay all amounts constituting rent or payable as rent under real property leases (including, for greater certainty, common area maintenance charges, utilities and realty taxes and any other amounts payable to the landlord under the lease) or as otherwise may be negotiated between the Applicants and the landlord from time to time ("**Rent**"), for the period commencing from and including Initial Filing Date, twice-monthly in equal payments on the first and fifteenth day of each month, in advance (but not in arrears). On the date of the first of such payments, any Rent relating to the period commencing from and including the Initial Filing Date shall also be paid.

10. **THIS COURT ORDERS** that, except as specifically permitted herein, the Applicants are hereby directed, until further Order of this Court: (a) to make no payments of principal, interest thereon or otherwise on account of amounts owing by the Applicants to any of their creditors as of the Initial Filing Date unless such payments are approved under the DIP Term Sheet, the Forbearance Agreement (as defined below), and/or the Definitive Documents (each as defined below) and consented to by the Monitor; (b) to

grant no security interests, trust, liens, charges or encumbrances upon or in respect of any of their Property; and (c) to not grant credit or incur liabilities except in the ordinary course of the Business.

## **RESTRUCTURING**

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

- (a) permanently or temporarily cease, downsize or shut down any of their business or operations, and to dispose of redundant or non-material assets not exceeding \$50,000 in any one transaction or \$250,000 in the aggregate;
- (b) terminate the employment of such of their employees or temporarily lay off such of its employees as it deems appropriate; and,
- (c) pursue all avenues of refinancing of their Business or Property, in whole or part, subject to prior approval of this Court being obtained before any material refinancing,

all of the foregoing to permit the Applicants to proceed with an orderly restructuring of the Business (the “**Restructuring**”).

12. **THIS COURT ORDERS** that the Applicants shall provide each of the relevant landlords with notice of the Applicants’ intention to remove any fixtures from any leased premises at least seven (7) days prior to the date of the intended removal. The relevant landlord shall be entitled to have a representative present in the leased premises to observe such removal and, if the landlord disputes the Applicants’ entitlement to remove any such fixture under the provisions of the lease, such fixture shall remain on the premises and shall be dealt with as agreed between any applicable secured creditors, such landlord and the Applicants, or by further Order of this Court upon application by the Applicants on at least two (2) days notice to such landlord and any such secured creditors. If the Applicants disclaim the lease governing such leased premises in accordance with Section 32 of the CCAA, they shall not be required to pay Rent under such lease pending

resolution of any such dispute (other than Rent payable for the notice period provided for in Section 32(5) of the CCAA), and the disclaimer of the lease shall be without prejudice to the Applicants' claim to the fixtures in dispute.

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

#### **NO PROCEEDINGS AGAINST THE APPLICANTS OR THE PROPERTY**

14. **THIS COURT ORDERS** that until and including August 26, 2022, or such later date as this Court may order ("**Stay Period**"), no proceeding or enforcement process in or out of any court or tribunal (each, a "**Proceeding**") shall be commenced or continued against or in respect of the Applicants or the Monitor, or affecting the Business or the Property, except with the written consent of the Applicants and the Monitor, or with leave of this Court, and any and all Proceedings currently under way against or in respect of any of the Applicants or affecting the Business or the Property are hereby stayed and suspended pending further Order of this Court. Notwithstanding the foregoing, Royal Bank of Canada ("**Secured Lender**") shall be unaffected by the stay of proceedings and shall be entitled to enforce its rights and remedies in accordance with the terms agreed to in the Forbearance Agreement, and subject to the jurisdiction of this Court.

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

15. **THIS COURT ORDERS** that during the Stay Period, all rights and remedies of any individual, firm, corporation, governmental body or agency, or any other entities (all of the foregoing, collectively being "**Persons**" and each being a "**Person**") against or in respect of the Applicants or the Monitor, or affecting the Business or the Property, are hereby

stayed and suspended except with the written consent of the Applicants and the Monitor, or leave of this Court, provided that nothing in this Order shall (i) empower the Applicants to carry on any business which the Applicants are not lawfully entitled to carry on, (ii) affect such investigations, actions, suits or proceedings by a regulatory body as are permitted by Section 11.1 of the CCAA, (iii) prevent the filing of any registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien.

### **NO INTERFERENCE WITH RIGHTS**

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

### **CONTINUATION OF SERVICES**

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



## **NON-DEROGATION OF RIGHTS**

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

## **PROCEEDINGS AGAINST DIRECTORS AND OFFICERS**

19. **THIS COURT ORDERS** that during the Stay Period, and except as permitted by subsection 11.03(2) of the CCAA, no Proceeding may be commenced or continued against any of the former, current or future directors or officers of any of the Applicants with respect to any claim against the directors or officers that arose before the date hereof and that relates to any obligations of any of the Applicants whereby the directors or officers are alleged under any law to be liable in their capacity as directors or officers for the payment or performance of such obligations, until a compromise or arrangement in respect of the applicable Applicant, if one is filed, is sanctioned by this Court or is refused by the creditors of the applicable Applicant or this Court.

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

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

21. **THIS COURT ORDERS** that the directors and officers of the Applicants shall be entitled to the benefit of and are hereby granted a charge (the "**Directors' Charge**") on the Property, which charge shall not exceed an aggregate amount of \$150,000, as security for the indemnity provided in paragraph 20 of this Order. The Directors' Charge shall have the priority set out in paragraphs 39 and 41 herein.

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

### **APPOINTMENT OF MONITOR**

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

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

- (a) monitor the Applicants' receipts and disbursements;
- (b) report to this Court at such times and intervals as the Monitor may deem appropriate with respect to matters relating to the Property, the Business, and such other matters as may be relevant to the proceedings herein;
- (c) assist the Applicants, to the extent required by the Applicants, in their dissemination, to the DIP Lender and its counsel of financial and other information as agreed to between the Applicants and the DIP Lender which may be used in these proceedings including reporting on a basis to be agreed with the DIP Lender;

- (d) advise the Applicants in its preparation of the Applicants' cash flow statements and reporting required by the DIP Lender, which information shall be reviewed with the Monitor and delivered to the DIP Lender and its counsel as agreed to by the DIP Lender;
- (e) advise the Applicants in its preparation of the Applicants' cash flow statements and reporting required by the Secured Lender pursuant to the Forbearance Agreement, which information shall be reviewed with the Monitor and delivered to the Secured Lender and its counsel on a weekly basis, or as otherwise agreed to by the Secured Lender;
- (f) advise the Applicants in their development of the Plan and any amendments to the Plan;
- (g) assist the Applicants, to the extent required by the Applicants, with the holding and administering of creditors' or shareholders' meetings for voting on the Plan;
- (h) have full and complete access to the Property, including the premises, books, records, data, including data in electronic form, and other financial documents of the Applicants, to the extent that is necessary to adequately assess the Applicants' business and financial affairs or to perform its duties arising under this Order or the Initial Order;
- (i) be at liberty to engage independent legal counsel or such other persons as the Monitor deems necessary or advisable respecting the exercise of its powers and performance of its obligations under this Order or the Initial Order; and
- (j) perform such other duties as are required by this Order, the Initial Order, or by this Court from time to time.

25. **THIS COURT ORDERS** that the Monitor shall not take possession of the Property or be deemed to take possession of the Property, pursuant to any provision of any federal, provincial, or other law respecting, among other things, the manufacturing, possession, processing, and distribution of cannabis or cannabis products including, without limitation, under the *Cannabis Act*, S.C. 2018, c. 16, the *Controlled Drugs and Substances Act*, S.C.

1996, c. 19, the *Excise Tax Act*, R.S.C. 1985, c. E. 15, the Ontario *Cannabis Control Act, 2017*, S.O. 2017, c. 26, Sched. 1, or other such applicable federal or provincial legislation (collectively, the “**Cannabis Legislation**”) and shall take no part whatsoever in the management or supervision of the management of the Business and shall not, by fulfilling its obligations hereunder, be deemed to have taken or maintained possession or control of the Business or Property, or any part thereof within the meaning of any Cannabis Legislation, or otherwise, and nothing in this Order or the Initial Order shall be construed as resulting in the Monitor being an employer or successor employer within the meaning of any statute, regulation or rule of law or equity, for any purpose whatsoever.

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

27. **THIS COURT ORDERS** that the Monitor shall provide any creditor of the Applicants and the DIP Lender with information provided by the Applicants in response to reasonable requests for information made in writing by such creditor addressed to the Monitor. The Monitor shall not have any responsibility or liability with respect to the information disseminated by it pursuant to this paragraph. In the case of information that

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

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

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

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

31. **THIS COURT ORDERS** that the Monitor, counsel to the Monitor, if any, and the Applicants' counsel shall be entitled to the benefit of and are hereby granted a charge (the "**Administration Charge**") on the Property, which charge shall not exceed an aggregate amount of \$500,000, as security for their professional fees and disbursements incurred at the standard rates and charges of the Monitor and such counsel, both before and after the making of the Initial Order in respect of these proceedings. The Administration Charge shall have the priority set out in paragraphs 39 and 41 hereof.

## DIP FINANCING

32. **THIS COURT ORDERS** that the Applicants are hereby authorized and empowered to obtain and borrow under a credit facility (“**DIP Loan**”) from Deans Knight Private Credit GP Inc., as General Partner of Deans Knight Private Credit Limited Partnership and DK Strategic Yield U.S. GP LLC, as General Partner of DK Strategic Yield Master Trust Limited Partnership (collectively, the “**DIP Lender**”) in order to finance the Applicants’ working capital requirements and other general corporate purposes and capital expenditures, provided that borrowings under such credit facility shall not exceed \$2,200,000 unless permitted by further Order of this Court.

33. **THIS COURT ORDERS** that such DIP Loan shall be on the terms and subject to the conditions set forth in the DIP Term Sheet between the Applicants and the DIP Lender dated as of March 22, 2022 (“**DIP Term Sheet**”), filed.

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

35. **THIS COURT ORDERS** that the DIP Lender shall be entitled to the benefit of and is hereby granted a charge (“**DIP Lender’s Charge**”) on the Property, which DIP Lender’s Charge shall not secure an obligation that exists before the Initial Order is made. The DIP Lender’s Charge shall have the priority set out in paragraphs 39 and 41 hereof.

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

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

- (b) upon the occurrence of an event of default under the Definitive Documents or the DIP Lender's Charge, the DIP Lender, upon five business days written notice to the Applicants, the Monitor, the Secured Lender, and Brian Van Engelen and Joann Van Engelen (together, the "**Van Engelens**") and with the leave of this Court to lift the Stay Period, may exercise any and all of its rights and remedies against the Applicants or the Property under or pursuant to the DIP Term Sheet, Definitive Documents and the DIP Lender's Charge, including without limitation, to cease making advances to the Applicants and set off and/or consolidate any amounts owing by the DIP Lender to the Applicants against the obligations of the Applicants to the DIP Lender under the DIP Term Sheet, the Definitive Documents or the DIP Lender's Charge, to make demand, accelerate payment, and give other notices, or to apply to this Court for the appointment of a receiver, receiver and manager, or interim receiver, or for a bankruptcy order against the Applicants and for the appointment of a trustee in bankruptcy of the Applicants; and
- (c) the foregoing rights and remedies of the DIP Lender shall be enforceable against any trustee in bankruptcy, interim receiver, receiver or receiver and manager of the Applicants or the Property.

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

#### **FORBEARANCE AGREEMENT**

38. **THIS COURT ORDERS AND DECLARES** that the entering into of the forbearance agreement dated as of March 22, 2022 between the Secured Lender and the Applicants, Natural Medco Ltd. and Eve & Co Incorporated ("**Forbearance Agreement**"), providing for, among other things, the continuation and amendment of the loan agreement as between the Secured Lender and Natural Medco Ltd. dated June 11, 2020 (as previously amended from time to time) and the repayment of all indebtedness owing by the

Applicant, Natural Medco Ltd. to the Secured Lender, is hereby approved, ratified and confirmed, as are the terms thereof.

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

39. **THIS COURT ORDERS** that the priorities of the Directors' Charge, the Administration Charge, the DIP Lender's Charge, and any and all charges, liens, encumbrances and other security held by the Secured Lender ("**RBC Security**"), and security held by the Van Engelen ("**Van Engelen Security**") as among them, shall be as follows:

First – Administration Charge (to the maximum amount of \$500,000);

Second – DIP Lender's Charge (to the maximum amount of \$2,200,000);

Third – the RBC Security;

Fourth – the Van Engelen Security; and,

Fifth – Directors' Charge (to the maximum amount of \$150,000).

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

41. **THIS COURT ORDERS** that, subject to the priorities set out in paragraph 39 of this Order, each of the Charges (all as constituted and defined herein) shall constitute a charge on the Property and such Charges shall rank in priority to all other security interests, trusts, liens, charges and encumbrances, claims of secured creditors, statutory or otherwise (collectively, "**Encumbrances**") in favour of any Person.

42. **THIS COURT ORDERS** that except as otherwise expressly provided for herein, or as may be approved by this Court, the Applicants shall not grant any Encumbrances over



any Property that rank in priority to, or *pari passu* with, any of the Charges unless the Applicants also obtain the prior written consent of the Monitor, the DIP Lender, the Secured Lender, the Van Engelens, and the beneficiaries of the Directors' Charge and the Administration Charge, or further Order of this Court.

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

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

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

### **RELIEF FROM REPORTING OBLIGATIONS**

45. **THIS COURT ORDERS** that none of the directors, officers, employees, or other representatives of the Applicants, nor the Monitor (and its directors, officers, employees or representatives) shall have any personal liability for the Applicants failure to file annual information forms, annual and quarterly management discussion and analysis, annual and quarterly financial statements (including related audits, reports, and certifications) for the Stay Period, which period may be extended pursuant to further Order of the Court. Notwithstanding the foregoing, the Applicants shall continue to advise the appropriate regulators of material updates in this proceeding.

### **SERVICE AND NOTICE**

46. **THIS COURT ORDERS** that the Monitor shall (i) without delay, publish in the Globe & Mail (National Edition) a notice containing the information prescribed under the CCAA, (ii) within five days after the Initial Filing Date, (A) make this Order publicly available in the manner prescribed under the CCAA, (B) send, or cause to be sent, in the prescribed manner, a notice to every known creditor who has a claim against any of the Applicants of more than \$1,000, and (C) prepare a list showing the names and addresses of those creditors and the estimated amounts of those claims, and make it publicly available in the prescribed manner, all in accordance with Section 23(1)(a) of the CCAA and the regulations made thereunder.

47. **THIS COURT ORDERS** that the E-Service Protocol of the Commercial List (the "Protocol") is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Protocol (which can be found on the Commercial List website at <http://www.ontariocourts.ca/scj/practice/practice-directions/toronto/e-service-protocol/>) shall be valid and effective service. Subject to Rule 17.05 this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the Rules of Civil Procedure. Subject to Rule 3.01(d) of the Rules of Civil Procedure

and paragraph 21 of the Protocol, service of documents in accordance with the Protocol will be effective on transmission. This Court further orders that a Case Website shall be established in accordance with the Protocol with the following URL <https://www.bdo.ca/en-ca/extranets/eve-co-incorporated-and-natural-medco-ltd/>.

48. **THIS COURT ORDERS** that the Applicants and the Monitor and their respective counsel are at liberty to serve or distribute this Order, the Initial Order, and other materials and orders as may be reasonably required in these proceedings, including any notices or other correspondence, by forwarding true copies thereof by electronic message to the Applicants' creditors or other interested parties and their advisors. For greater certainty, any such distribution or service shall be deemed to be in satisfaction of a legal or judicial obligation, and notice requirements within the meaning of clause 3(c) of the *Electronic Commerce Protection Regulations*, Reg. 81000-2-175 (SOR/DORS).

49. **THIS COURT ORDERS** that if the service or distribution of documents in accordance with the Protocol is not practicable, the Applicants and the Monitor are at liberty to serve or distribute this Order, the Initial Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or facsimile transmission to the Applicants' creditors or other interested parties at their respective addresses as last shown on the records of the Applicants and that any such service or distribution by courier, personal delivery or facsimile transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

## **GENERAL**

50. **THIS COURT ORDERS** that the Applicants or the Monitor may from time to time apply to this Court to amend, vary or supplement this Order or for advice and directions in the discharge of their powers and duties under this Order or in the interpretation or application of this Order.

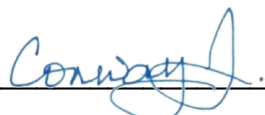
51. **THIS COURT ORDERS** that nothing in this Order or the Initial Order shall prevent the Monitor from acting as an interim receiver, a receiver, a receiver and manager, or a trustee in bankruptcy of the Applicants, the Business or the Property.

52. **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.

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

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

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

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

Court File No.: CV-2200678884

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF EVE & CO INCORPORATED, NATURAL MEDCO LTD., and EVE & CO INTERNATIONAL HOLDINGS LTD.**

**Applicants**

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

**AMENDED AND RESTATED INITIAL OR**

**MILLER THOMSON LLP**  
SCOTIA PLAZA  
40 KING STREET WEST, SUITE 5800  
P.O. BOX 1011  
TORONTO, ON CANADA M5H 3S1

**David S. Ward LSO #: 33541W**  
dward@millerthomson.com  
Tel: 416.595.8625

**Larry Ellis LSO#: 49313K**  
lellis@millerthomson.com  
Tel: 416.595.8639

**Erin Craddock LSO #: 62828J**  
ecraddock@millerthomson.com  
Tel: 416.595.8631

Lawyers for the Applicants

Electronically issued / Délivré par voie électronique : 01-Apr-2022  
Toronto Superior Court of Justice / Cour supérieure de justice

Court File No./N° du dossier du greffe: CV-22-00678884-00CL

This is **Exhibit “B”** to the  
Affidavit of **MELINDA ROMBOUTS**  
Sworn on October 3, 2022

DocuSigned by:

*Monica Fakhim*

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A Commissioner, etc.



Court File No. CV-22-00678884-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

Electronically issued : 01-Apr-2022  
Délivré par voie électronique  
Toronto

THE HONOURABLE MADAM ) FRIDAY, THE 1<sup>st</sup>  
 )  
JUSTICE CONWAY ) DAY OF APRIL, 2022

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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF EVE & CO INCORPORATED, NATURAL MEDCO LTD., and EVE & CO INTERNATIONAL HOLDINGS LTD. (collectively, the "Applicants")

**ORDER  
(Approval of the Sale Process)**

**THIS MOTION**, made by the Applicants, pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended, for an order, among other things approving a sale and investment solicitation process for the Applicants' business and property ("**Sale Process**"), was heard this day by videoconference.

**ON READING** the Notice of Motion of the Applicants, the affidavit of Melinda Rombouts sworn March 23, 2022, and the exhibits thereto ("**First Rombouts Affidavit**"), the affidavit of Melinda Rombouts sworn March 29, 2022, and the exhibits thereto ("**Second Rombouts Affidavit**"), and the First Report of BDO Canada Limited, in its capacity as court appointed monitor of the Applicants ("**Monitor**"), dated March 31, 2022, and on hearing the submissions of counsel for the Applicants, counsel for the Monitor, and counsel for those other parties appearing as indicated by the counsel slip,

no one appearing for any other party although duly served as appears from the affidavit of service, filed,

## **DEFINED TERMS**

1. **THIS COURT ORDERS** that all capitalized terms used in this Order and not otherwise defined herein shall have the meanings ascribed to them in the Bidding Procedures (as defined below).

## **SERVICE**

2. **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.

## **SALE PROCESS**

3. **THIS COURT ORDERS** that the bidding procedures, substantially in the form attached as Appendix "A" to this order ("**Bidding Procedures**") and the sale process described therein ("**Sale Process**") be and are hereby approved.

4. **THIS COURT ORDERS** that the Monitor, on behalf of the Applicants, be and is hereby authorized and directed to proceed with the Sale Process substantially in accordance with the Bidding Procedures and to take such steps as it considers necessary or desirable to carry out the Sale Process, subject to the terms of the Bidding Procedures.

5. **THIS COURT ORDERS** that the Monitor, the Applicants 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 Sale Process, except to the extent of such losses, claims, damages or liabilities arising or resulting from the gross negligence or wilful misconduct of the Monitor or the Applicants, as applicable, as determined by this Court.

## **PIPEDA**

6. **THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the Canada *Personal Information Protection and Electronic Documents Act*, S.C. 2000, c. 5, the Applicants and the Monitor may disclose personal information of identifiable individuals to prospective purchasers or bidders for the Property and to their advisors, but only to the extent desirable or required to carry out the Sale Process and to attempt to complete a transaction for some or all of the Property. Each prospective purchaser or bidder (and their respective advisors) to whom any such personal information is disclosed shall maintain and protect the privacy of such information and limit the use of such information solely to its evaluation of a transaction for some or all of the Property, and if it does not complete such a transaction, shall return all such information to the Applicants, or in the alternative destroy all such information. The purchaser of any of the Property shall be entitled to continue to use the personal information provided to it, and related to such assets, in a manner that is in all material respects identical to the prior use of such information by the Applicants, and shall return all other personal information to the Applicants, or ensure that all other personal information is destroyed.

## GENERAL

7. **THIS COURT ORDERS** that the Applicants or the Monitor may from time to time apply to this Court to amend, vary or supplement this Order or for advice and directions in the discharge of their powers and duties under this Order or under the Sale Process.

8. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States, to give effect to this Order and to assist the 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.

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

  
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**SCHEDULE "A"**  
**SALE PROCESS**

## Sale and Investment Solicitation Process

### Introduction

On March 25, 2022, Eve & Co Incorporated (“**Eve & Co**”), Natural Medco Ltd. (“**NMC**”), Eve & Co International Holdings Ltd. (collectively, the “**Applicants**”), applied for and were granted an order (the “**Initial Order**”) for protection pursuant to the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (“**CCAA**”) from the Ontario Superior Court of Justice (Commercial List) (“**Court**”) in Court File No. CV-22-00678884-00CL (“**CCAA Proceedings**”). Pursuant to the terms of the Initial Order, BDO Canada Limited was appointed as Monitor of the Applicants (in such capacity, the “**Monitor**”).

On April 1, 2022, the Court issued an amended and restated initial order (“**ARIO**”).

Set forth below are the bidding procedures (“**Bidding Procedures**”) to be employed with respect to the solicitation of any sale of, or investment in, all or part of the assets, shares, or business operations of the Applicants or any one of the Applicants (collectively referred to herein as, the “**Property**”), pursuant to a Court approved sale process in the CCAA Proceedings.

On April 1, 2022, the Court issued an order (“**Sale Process Order**”), among other things, approving these Bidding Procedures, and authorizing and directing the Applicants to proceed with a sale process (“**Sale Process**”) to market and sell the Property in accordance with these Bidding Procedures.

NMC is indebted to its senior secured creditor, Royal Bank of Canada (“**RBC**”), as detailed in the affidavit of Melinda Rombouts sworn March 23, 2022 (“**RBC Indebtedness**”). The RBC Indebtedness is guaranteed by Eve & Co.

Subject to Court availability and the terms hereof, within ten (10) business days following the selection of the Successful Bidder (as defined herein), the Applicants shall bring a motion, with the consent of RBC, (“**Approval and Vesting Order Motion**”) seeking the granting of an order by the Court (“**Approval and Vesting Order**”) authorizing the Applicants to proceed with the sale of the Property to the Qualified Bidder (as defined herein) making the highest or otherwise best bid pursuant to these Bidding Procedures.

### Key Dates

April 8, 2022, at 5:00 PM Toronto time – Deadline to publish Notice and Press Release

April 29, 2022, at 5:00 PM Toronto time – Deadline to deliver Teaser Letter and NDA to Known Potential Bidders

May 6, 2022, at 5:00 PM Toronto time – Deadline to deliver Confidential Information Memorandum

May 6, 2022, at 5:00 PM Toronto time – Deadline to establish an electronic data room with all required financial and other information to support the Sale Process

July 29, 2022, at 5:00 PM Toronto time – Phase 1 Bid Deadline

August 10, 2022, at 5:00 PM Toronto time – Phase 2 Bid Deadline

August 12, 2022, at 10:00 AM Toronto time – Auction (if any)

August 24, 2022, at 5:00 PM Toronto time – Approval and Vesting Order Motion hearing (if no Auction) (Depending on Court availability)

August 26, 2022, at 5:00 PM Toronto time – Approval and Vesting Order Motion hearing (if there is an Auction)(Depending on Court availability)

September 15, 2022, at 5:00 PM Toronto time – Closing of any transaction subject to the Approval and Vesting Order

### **Opportunity/Property for Sale**

1. The Sale Process is intended to solicit interest in and opportunities for an investment in, or sale of, all or substantially all of the Applicants' Property ("**Opportunity**"). The Opportunity may include one or more of a restructuring, recapitalization, or other form of reorganization of the business and affairs of one or more of the Applicants as a going concern, or a sale of all, substantially all or one or more components of the Applicants' Property as a going concern or otherwise.
2. The Monitor, in consultation with the Applicants, will be responsible for conducting the Sale Process and, if applicable, an auction ("**Auction**").
3. Any sale of or investment in the Property will be on an "as is, where is" basis and without surviving representations or warranties of any kind, nature or description by the Monitor, the Applicants, or any of their respective agents, advisors or estates, and, in the event of a sale, all of the right, title, and interest of the Applicants in and to the Property to be acquired will be sold free and clear of all pledges, liens, security interests, encumbrances, claims, charges, options, and interests therein and thereon conditional on and pursuant to Court orders, except as otherwise provided in such Court orders.
4. Except as otherwise provided in the Successful Bidder's ultimate definitive purchase agreement, and subject to any permitted encumbrances therein, all of the Applicants' right, title and interest in and to the Property shall be sold free and clear of all liens and encumbrances conditional on and pursuant to the Approval and Vesting Order.

### **Solicitation of Interest: Notice of Sale Process**

5. As soon as reasonably practicable, but in any event by no later than April 8, 2022:
  - a. the Applicants, in consultation with the Monitor and RBC, will prepare a list of potential bidders, including: (i) parties that have approached the

Applicants or the Monitor indicating an interest in the Opportunity; and (ii) local and international strategic and financial parties who the Applicants, in consultation with the Monitor, believe may be interested in purchasing all or part of the Property or investing in the Applicants, or any one of the Applicants, pursuant to the Sale Process (collectively, the “**Known Potential Bidders**”);

- b. the Monitor will cause a notice of the Sale Process (and such other relevant information that the Monitor and Applicants consider appropriate) (the “**Notice**”) to be published in The Globe and Mail (National Edition);
  - c. the Applicants will issue a press release setting out the information contained in the Notice and such other relevant information that the Applicants, in consultation with the Monitor, determine is appropriate; and
  - d. the Applicants and the Monitor will prepare: (i) a process summary (“**Teaser Letter**”) describing the Opportunity, outlining the Sale Process, and inviting recipients of the Teaser Letter to express their interest pursuant to the Sale Process; and (ii) a non-disclosure agreement in form and substance satisfactory to the Applicants and the Monitor (“**NDA**”).
6. The Monitor will send the Teaser Letter and the NDA to all Known Potential Bidders as soon as possible and in any event by no later than April 29, 2022, and to any other party who requests a copy of the Teaser Letter and NDA, or who is identified by or to the Monitor or the Applicants as a potential bidder, as soon as reasonably practicable after such request or identification, as applicable.
7. The Monitor, with the assistance of the Applicants, will prepare a confidential information memorandum (“**CIM**”) describing the opportunity to acquire the Property that will be provided to those Known Potential Bidders who have executed the NDA by May 6, 2022. The CIM will provide a concise summary of the Property that will allow those Known Potential Bidders that have executed the NDA to assess the Property from a financial and operational perspective.

## ***PHASE 1: NON-BINDING LETTERS OF INTEREST***

### **Qualified Bidders**

8. Any party who wishes to participate in the Sale Process (a “**Potential Bidder**”) must provide the Monitor with an executed NDA and written confirmation of the identity of the Potential Bidder, the contact information for such Potential Bidder, and full disclosure of the direct and indirect principals (if any) of the Potential Bidder.
9. A Potential Bidder who has delivered an executed NDA and provided the required written confirmation, contact information and disclosure to the satisfaction of the Applicants and the Monitor will be deemed a “**Phase 1 Qualified Bidder**” unless the Applicants and the Monitor determine such person is unlikely, based on the availability of financing, experience and other

considerations to be able to consummate a sale or investment pursuant to the Sale Process, in their sole and absolute discretion.

10. At any time during the first phase of the Sale Process (“**Phase 1**”), the Applicants, with the consent of the Monitor, may eliminate a Phase 1 Qualified Bidder from the Sale Process, in which case such bidder will be eliminated from the Sale Process and will no longer be a “Phase 1 Qualified Bidder” for the purposes of the Sale Process in their sole and absolute discretion.
11. Potential Bidders must rely solely on their own independent review, investigation and/or inspection of all information and of the Property in connection with their participation in the Sale Process and any transaction they enter into with the Applicants.

### **Due Diligence**

12. The Applicants and the Monitor shall in their reasonable business judgment and subject to competitive and other business considerations, afford each Phase 1 Qualified Bidder such access to due diligence materials and information relating to the Property as the Monitor, in consultation with the Applicants, may deem appropriate. Due diligence access may include but not be limited to management presentations, access to electronic data rooms, on-site inspections, and other matters that a Phase 1 Qualified Bidder may reasonably request and as to which the Monitor in consultation with the Applicants, in its reasonable business judgment, may agree. Any new information provided to a Phase 1 Qualified Bidder will be uploaded into the electronic data room so that other Phase 1 Qualified Bidders will have access to the same information. The Monitor will designate a representative to coordinate all reasonable requests for additional information and due diligence access from Phase 1 Qualified Bidders and the manner in which such requests must be communicated. Neither the Applicants nor the Monitor will be obligated to furnish any information relating to the Property to any person other than a Phase 1 Qualified Bidder. Further, and for the avoidance of doubt, selected due diligence materials may be withheld from certain Phase 1 Qualified Bidders if the Applicants in consultation with the Monitor deem such information to represent proprietary or sensitive competitive information.

### **Phase 1 Bids from Phase 1 Qualified Bidders**

13. A Phase 1 Qualified Bidder that wishes to pursue the Opportunity further must deliver a non-binding letter of interest (“**Phase 1 Bid**”) to the Applicants and the Monitor at the addresses specified below (which letter may be delivered by email transmission) so as to be received not later than 5:00 PM (Toronto time) on or before July 29, 2022 (“**Phase 1 Bid Deadline**”): (i) to the Monitor by email at [scherniak@bdo.ca](mailto:scherniak@bdo.ca) (Attention: Stephen Cherniak), with a copy to the Monitor’s counsel at [lwilliams@tgf.ca](mailto:lwilliams@tgf.ca) (Attention: Leanne Williams); and (ii) to the Applicants at [melinda@evcannabis.ca](mailto:melinda@evcannabis.ca) (Attention: Melinda Rombouts) with a copy to the Applicants’ counsel at [lellis@millerthomson.com](mailto:lellis@millerthomson.com) (Attention: Larry Ellis).

14. Subject to paragraph 15, a Phase 1 Bid will be considered a “**Qualified Phase 1 Bid**” only if it satisfies the following requirements (in each case, in form and substance satisfactory to the Applicants and the Monitor) (collectively, the “**Phase 1 Bid Requirements**”):
- a. it is submitted on or before the Phase 1 Bid Deadline by a Phase 1 Qualified Bidder;
  - b. it contains an indication of whether the Phase 1 Qualified Bidder is offering to:
    - i. acquire all, substantially all, or a portion of the Property (a “**Sale Proposal**”), or
    - ii. make an investment in, restructure, reorganize, or refinance the Applicants (an “**Investment Proposal**”)
  - c. in the case of a Sale Proposal, it identifies or contains the following:
    - i. the purchase price or price range in Canadian dollars, including details of any liabilities to be assumed by the Phase 1 Qualified Bidder and key assumptions supporting the valuation;
    - ii. a description of the Property that is expected to be subject to the transaction and any of the Property expected to be excluded;
    - iii. a description of the Phase 1 Qualified Bidder’s intended use of the Property expected to be subject to the transaction;
    - iv. a description of the Phase 1 Qualified Bidder’s proposed treatment of employees of the Applicants (for example, anticipated employment offers and treatment of post-employment benefits);
    - v. the key terms and provisions to be included in any order of the Court approving the contemplated Sale Proposal;
    - vi. a specific indication of the financial capability of the Phase 1 Qualified Bidder and the expected structure and financing of the transaction (including, but not limited to, the sources of financing to fund the acquisition, preliminary evidence of the availability of such financing or such other form of financial disclosure and credit-quality support or enhancement that will allow the Applicants and the Monitor and each of their respective advisors to make a reasonable business or professional judgment as to the Phase 1 Qualified Bidder’s financial or other capabilities to consummate the transaction and to perform all obligations to be assumed in such transaction, and the steps necessary and associated timing to obtain financing and any related contingencies, as applicable);



- vii. a description of the conditions and approvals required for a final and binding offer, including any anticipated corporate, licensing, security holder, internal, Health Canada, legal or other regulatory approvals required to close the transaction, and an estimate of the anticipated time frame and any anticipated impediments for obtaining such approvals;
  - viii. an outline of any additional due diligence required to be conducted in order to submit a final and binding offer;
  - ix. an acknowledgement that any Sale Proposal is made on an “as is, where is” basis;
  - x. all conditions to closing that the Phase 1 Qualified Bidder may wish to impose and an outline of the principal terms thereof;
  - xi. a target closing date that, in the opinion of the Applicants and the Monitor, is likely to be achieved; and
  - xii. any other terms or conditions of the Sale Proposal that the Phase 1 Qualified Bidder believes are material to the transaction;
- d. in the case of an Investment Proposal, it identifies the following:
- i. a detailed description of how the Phase 1 Qualified Bidder proposes to structure the Investment Proposal;
  - ii. the aggregate amount of the equity and/or debt investment to be made in the Applicants in Canadian dollars;
  - iii. key assumptions supporting the valuation;
  - iv. the key terms and provisions to be included in any order of the Court approving the contemplated Investment Proposal;
  - v. the underlying assumptions regarding the pro forma capital structure (including the form and amount of anticipated equity and/or debt levels, debt service fees, interest, or dividend rates, amortization, voting rights, or other protective provisions (as applicable), redemption, prepayment or repayment attributes and any other material attributes of the investment);
  - vi. a specific indication of the source of capital for the Phase 1 Qualified Bidder and the structure and financing of the transaction (including, but not limited to, the sources of capital to fund the investment, preliminary evidence of the availability of such capital or such other form of financial disclosure and credit-quality support or enhancement that will allow the Applicants and the Monitor and each of their respective advisors to make a reasonable business or professional judgment as to the Phase 1 Qualified Bidder’s financial

or other capabilities to consummate the transaction, steps necessary and associated timing to obtain such capital and any related contingencies, as applicable, and a sources and uses analysis);

- vii. a description of the conditions and approvals required for a final and binding offer, including any anticipated corporate, licensing, security holder, internal, Health Canada, legal or other regulatory approvals required to close the transaction, and an estimate of the anticipated time frame and any anticipated impediments for obtaining such approvals;
  - viii. an outline of any additional due diligence required to be conducted in order to submit a final and binding offer;
  - ix. an acknowledgement that any Investment Proposal is made on an “as is, where is” basis;
  - x. all conditions to closing that the Phase 1 Qualified Bidder may wish to impose and an outline of the principal terms thereof;
  - xi. a target closing date that, in the opinion of the Monitor in consultation with the Applicants, is likely to be achieved; and
  - xii. any other terms or conditions of the Investment Proposal that the Phase 1 Qualified Bidder believes are material to the transaction; and
- e. in the case of either a Sale Proposal or an Investment Proposal:
- i. it contains such other information as reasonably requested by the Applicants or the Monitor; and
  - ii. it confirms that the RBC Indebtedness is paid in full.

15. The Applicants, with the consent of the Monitor, may waive compliance with any one or more of the Phase 1 Bid Requirements<sup>1</sup> and deem such non-compliant Phase 1 Bid to be a Qualified Phase 1 Bid. For the avoidance of doubt, the completion of any Sale Proposal or Investment Proposal shall be subject to the approval of the Court and the requirement of approval of the Court may not be waived.

### **Preliminary Assessment of Phase 1 Bids and Subsequent Process**

16. Following the Phase 1 Bid Deadline, the Applicants, the Monitor and RBC will assess the Phase 1 Bids. If no Phase 1 Bids are received by the Phase 1 Bid Deadline or, in the opinion of the Applicants in consultation with the Monitor and RBC, no Phase 1 Bids constitute Qualified Phase 1 Bids, the Applicants with the

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<sup>1</sup> Other than the payment of the RBC Indebtedness.

consent of the Monitor and in consultation with RBC may consider other forms of bids for the Property. At any time following the Phase 1 Bid Deadline, the Applicants with the consent of the Monitor and in consultation with RBC, may determine that a second phase (“**Phase 2**”) is not required and proceed to execute definitive documentation with respect to a transaction contemplated with a Qualified Phase 1 Bid submitted by the Phase 1 Bid Deadline. If Phase 2 is required, the following shall apply:

- a. If it is determined by the Applicants in consultation with the Monitor and RBC that a Phase 1 Qualified Bidder has submitted a Qualified Phase 1 Bid: (i) has a *bona fide* interest in completing a Sale Proposal or an Investment Proposal (as the case may be); and (ii) has the financial capability (based on availability of financing, experience and other considerations) to consummate such a transaction based on the financial information provided, then such Phase 1 Qualified Bidder will be deemed a “**Phase 2 Qualified Bidder**”, provided that the Applicants with the consent of the Monitor may, in their reasonable business judgment limit the number of Phase 2 Qualified Bidders (and thereby eliminate some bidders from the process) taking into account the factors identified in paragraph 16b below and any material adverse impact on the operations and performance of the Applicants. Only Phase 2 Qualified Bidders shall be permitted to proceed to Phase 2 of the Sale Process.
- b. As part of the assessment of Qualified Phase 1 Bids, and the determination of the process subsequent thereto, the Monitor in consultation with the Applicants and RBC shall determine the process and timing to be followed in pursuing Qualified Phase 1 Bids based on such factors and circumstances as they consider appropriate in the circumstances including, but not limited to: (i) the number of Qualified Phase 1 Bids received, (ii) the extent to which the Qualified Phase 1 Bids relate to the same Property or involve Investment Proposals predicated on certain Property, and (iii) the scope of the Property to which any Qualified Phase 1 Bids may relate.
- c. Upon the determination of the manner in which the sale process will proceed to Phase 2 of the Sale Process, the Monitor in consultation with the Applicants and RBC will prepare a bid process letter for Phase 2 (the “**Bid Process Letter**”), and the Bid Process Letter will be (i) sent by the Applicants or the Monitor to all Phase 2 Qualified Bidders, and (ii) posted by the Monitor on the website the Monitor maintains in respect of the CCAA Proceedings.

## **PHASE 2: FORMAL OFFERS AND SELECTION OF SUCCESSFUL BIDDER**

17. Phase 2 Qualified Bidders that wish to make a formal offer to purchase the Property or make an investment in the Applicants shall submit a binding offer that complies with all of the following requirements prior to 5:00 PM (Toronto time) on August 10, 2022, or such other date as may be determined by the Monitor in

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consultation with the Applicants and set out in the Bid Process letter (“**Phase 2 Bid Deadline**”):

- a. the bid shall comply with each of the Phase 1 Bid Requirements;
- b. the bid (either individually or in combination with other bids that make up one bid) is an offer to purchase or make an investment in some or all of the Property on terms and conditions reasonably acceptable to the Applicants in consultation with the Monitor;
- c. the bid includes a letter stating that the Phase 2 Qualified Bidder’s offer is irrevocable until the selection of the Successful Bidder (as defined below), provided that if such Phase 2 Qualified Bidder is selected as the Successful Bidder, its offer shall remain irrevocable until the earlier of (i) the closing of the transaction with the Successful Bidder, and (ii) 120 days from the Approval and Vesting Order Motion, subject to further extensions as may be agreed to under the applicable transaction agreement(s);
- d. the bid includes duly authorized and executed transaction agreements, including the purchase price, investment amount, and any other key economic terms expressed in Canadian dollars (“**Purchase Price**”), together with all exhibits and schedules thereto, all applicable ancillary agreements with all exhibits and schedules thereto (or term sheets that describe the material terms and provisions of such agreements), and proposed orders to approve the sale by the Court;
- e. the bid includes written evidence of a firm, irrevocable commitment for financing or other evidence of the ability to consummate the proposed transaction, that will allow the Applicants in consultation with the Monitor to make a determination as to the Phase 2 Qualified Bidder’s financial and other capabilities to consummate the proposed transaction;
- f. the bid is not conditioned on: (i) the outcome of unperformed due diligence by the Phase 2 Qualified Bidder. (ii) obtaining financing, or (iii) any other condition that, in the business judgment of the Applicants in consultation with the Monitor unduly increases the risk that the proposed transaction will not close on or before the target closing date;
- g. the bid fully discloses the identity of each entity that will be entering into the transaction or the financing (including through the issuance of debt in connection with such bid), or that is participating or benefitting from such bid, and such disclosure shall include, without limitation: (i) in the case of a Phase 2 Qualified Bidder formed for the purposes of entering into the proposed transaction, the identity of each of the actual or proposed director or indirect equity holders of such Phase 2 Qualified Bidder and the terms and participation percentage of such equity holder’s interest in such bid, and (ii) the identity of each entity that has or will receive a benefit from such bid from or through a Phase 2 Qualified Bidder or any of its equity holders and the terms of such benefit;

- h. the bid includes a commitment by the Phase 2 Qualified Bidder to provide a non-refundable cash deposit in the amount of not less than 10% of the Purchase Price offered upon the Phase 2 Qualified Bidder being selected as the Successful Bidder;
  - i. the bid includes acknowledgements and representations of the Phase 2 Qualified Bidder that: (i) it has had an opportunity to conduct any an all due diligence regarding the Property and the Applicants prior to making its offer, (ii) it has relied solely upon its own independent review, investigation and/or inspection of any documents and the Property in making its bid, (iii) it did not rely upon any written or oral statements, representations, warranties, or guarantees whatsoever, whether express, implied, statutory or otherwise, regarding the Property or the Applicants or the completeness of any information provided in connection therewith, except as expressly stated in the definitive transaction agreement(s) signed by the Applicants;
  - j. the bid includes evidence, in form and substance reasonably satisfactory to the Applicants in consultation with the Monitor, of authorization and approval from the Phase 2 Qualified Bidder's board of directors (or comparable governing body) with respect to the submission, execution, delivery and closing of the transaction agreement(s) submitted by the Phase 2 Qualified Bidder;
  - k. the bid contains other information required by the Applicants or the Monitor including, without limitation, such additional information as may be required in the event Phase 2 is supplemented in accordance with paragraph 16.b to contemplate that an auction of certain Property be conducted; and
  - l. the bid is received by the Phase 2 Bid Deadline.
18. Following the Phase 2 Bid Deadline, the Applicants and the Monitor will assess the Phase 2 bids received. The Applicants, in consultation with the Monitor and RBC, will then designate the most competitive bids that comply with the foregoing requirements as "**Qualified Bids**". Only Phase 2 Qualified Bidders whose bids have been designated as Qualified Bids are eligible to become the Successful Bidder(s).
19. The Applicants in consultation with the Monitor may waive strict compliance with any one or more of the requirements specified above and deem such non-compliant bids to be a Qualified Bid.
20. The Monitor shall notify each Phase 2 Qualified Bidder in writing as to whether its bid constitutes a Qualified Bid within five business days of the expiration of the Phase 2 Bid Deadline, or at such later time as the Monitor deems appropriate.
21. If the Applicants in consultation with the Monitor and RBC are not satisfied with the number or terms of the Qualified Bids, the Applicants in consultation with the

Monitor may extend the Phase 2 Bid Deadline and/or seek Court approval of an amendment to the Sale Process.

22. The Applicants in consultation with the Monitor may aggregate separate bids from unaffiliated Phase 2 Qualified Bidders to create one "Qualified Bid".

### **Evaluation of Competing Bids**

23. A Qualified Bid will be evaluated based upon numerous factors including, without limitation, items such as the Purchase Price and the net value provided by such bid, the claims likely to be created by such bid in relation to other bids, the identity, circumstances and ability of the Phase 2 Qualified Bidder to successfully complete such transaction, the proposed transaction documents, the effects of the bid on the stakeholders of the Applicants, factors affecting the speed, certainty, and value of the transaction (including any licensing, Health Canada, regulatory or legal approvals, or third party contractual arrangements required to close the transactions) the assets included or excluded from the bid, any related restructuring costs, and the likelihood and timing of consummating such transactions, each as determined by the Applicants in consultation with the Monitor.

### **Selection of Successful Bid**

24. The Applicants in consultation with the Monitor will: (i) review and evaluate each Qualified Bid, provided that each Qualified Bid may be negotiated among the Applicants in consultation with the Monitor and the applicable Phase 2 Qualified Bidder, and may be amended, modified or varied to improve such Qualified Bid as a result of such negotiations; and (ii) identify the highest or otherwise best bid ("**Successful Bid**", and the Phase 2 Qualified Bidder making such Successful Bid, the "**Successful Bidder**") for the Property, in whole or in part. The determination of any Successful Bid by the Applicants in consultation with the Monitor and with the consent of RBC shall be subject to approval by the Court.
25. The Applicants shall have no obligation to enter into a Successful Bid, and the Applicants reserve the right, after consultation with the Monitor, to reject any or all Qualified Bids, subject to the rights of RBC.

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

26. At the hearing of the motion to approve any transaction with a Successful Bidder (the Approval and Vesting Order Motion Hearing), the Applicants shall seek, among other things, with the consent of RBC, approval from the Court to consummate any Successful Bid. All of the Qualified Bids other than the Successful Bid, if any, shall be deemed rejected by the Applicants on and as of the date of approval of the Successful Bid by the Court.

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

27. All discussions regarding a Sale Proposal, Investment Proposal, or a Phase 2 bid should be directed through the Monitor. Under no circumstances should the

Applicants' management or stakeholders be contacted directly without the prior consent of the Monitor. Any such unauthorized contact or communication could result in exclusion of the interested party from the Sale Process. For greater certainty, nothing herein shall preclude a stakeholder from contacting potential bidders with the agreement of the Monitor to advise that the Applicants have commenced a Sale Process and that they should contact the Monitor if they are interested.

28. If it is determined by the Applicants in consultation with the Monitor that it would be worthwhile to facilitate a discussion between a Phase 1 Qualified Bidder or a Phase 2 Qualified Bidder (as applicable, depending on the stage of the Sale Process) and a stakeholder or other third party as a consequence of a condition to closing or potential closing condition identified by such bidder, the Applicants may provide such bidder with the opportunity to meet with the relevant stakeholder or third party to discuss such condition or potential condition, with a view to enabling such bidder to seek to satisfy the condition or assess whether the condition is not required or can be waived. Any such meetings or other form of communication will take place on terms and conditions considered appropriate by the Applicants in consultation with the Monitor. The Monitor must be provided with the opportunity to be present at all such communications or meetings.

### **Administration of the Sale Process**

29. The Monitor will oversee and conduct, in all respects, the conduct of the Sale Process and, without limitation to that role, the Monitor will participate in the Sale Process in the manner set out herein and in the Sale Process Order and in the ARIO, and is entitled to receive all information in relation to the Sale Process.
30. The Sale Process does not, and will not be interpreted to create any contractual or other legal relationship between the Applicants and any Phase 1 Qualified Bidder, any Phase 2 Qualified Bidder or any other party, other than as specifically set forth in a definitive agreement that may be signed with the Applicants.
31. Participants in the Sale Process are responsible for all costs, expenses, and liabilities incurred by them in connection with the submission of any bid, due diligence activities, and any further negotiations or other actions whether or not they lead to the consummation of a transaction.
32. The Applicants with the consent of the Monitor, and in consultation with RBC, shall have the right to modify the Sale Process (including, without limitation, pursuant to the Bid Process Letter) if, in their reasonable business judgment, such modification will enhance the process or better achieve the objectives of the Sale Process; provided that the service list in these CCAA Proceedings shall be advised of any substantive modification to the procedures set forth herein.
33. The Sale Process and these Bidding Procedures are solely for the benefit of the Applicants and nothing contained in the Sale Process Order or these Bidding Procedures shall create any rights in any other person (including, without

limitation, any bidder in the Sale Process and any rights as third party beneficiaries or otherwise) other than the rights expressly granted to a Successful Bidder under the Sale Process Order.

34. Except as otherwise provided in an order of the Court, the Court shall retain jurisdiction to hear and determine all matters arising from or relating to the implementation of the Sale Process Order, the Sale Process, and the Bidding Procedures.



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

Court File No.: CV-22-00678884-

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF EVE & CO INCORPORATED, NATURAL MEDCO LTD., and EVE & CO INTERNATIONAL HOLDINGS LTD.**

**Applicants**

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

**ORDER**  
(APPROVAL OF SALE PROCESS)

**MILLER THOMSON LLP**  
SCOTIA PLAZA  
40 KING STREET WEST, SUITE 5800  
P.O. BOX 1011  
TORONTO, ON CANADA M5H 3S1

**David S. Ward LSO #: 33541W**  
Tel: 416.595.8625  
dward@millerthomson.com

**Larry Ellis LSO#: 49313K**  
Tel: 416.595.8639  
lellis@millerthomson.com

**Erin Craddock LSO #: 62828J**  
Tel: 416.595.8631  
ecraddock@millerthomson.com

Lawyers for the Applicants

Electronically issued / Délivré par voie électronique : 01-Apr-2022  
Toronto Superior Court of Justice / Cour supérieure de justice

Court File No./N° du dossier du greffe: CV-22-00678884-00CL

This is **Exhibit “C”** to the  
Affidavit of **MELINDA ROMBOUTS**  
Sworn on October 3, 2022

DocuSigned by:

*Monica Fakim*

A0273204160742A...

---

A Commissioner, etc.



Court File No. CV-22-00678884-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

THE HONOURABLE MADAM ) THURSDAY, THE 29<sup>th</sup>  
 )  
JUSTICE CONWAY ) DAY OF SEPTEMBER, 2022  
 )

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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF EVE  
& CO INCORPORATED, NATURAL MEDCO LTD., and EVE & CO INTERNATIONAL  
HOLDINGS LTD. (collectively, the "Applicants")

**ORDER**

**(Stay Extension)**

**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 amending and restating the order of Justice Conway dated April 1, 2022, as further amended by the order of Justice Conway dated August 26, 2022 (the "**Amended and Restated Initial Order**"), was heard this day by videoconference.

**ON READING** the affidavit of Melinda Rombouts sworn September 28, 2022, and the Exhibits thereto, the third report of BDO Canada Limited, in its capacity as monitor of the Applicants ("**Monitor**"), to be filed, and on hearing the submissions of counsel for Applicants, counsel for the Monitor and such other counsel as were present, no one appearing for any other party although duly served as appears from the affidavit of service, filed,

## **SERVICE**

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.

## **AMENDMENTS TO THE AMENDED AND RESTATED INITIAL ORDER**

2. **THIS COURT ORDERS** that paragraph 14 of the Amended and Restated Initial Order is hereby further amended and restated as follows:

### **NO PROCEEDINGS AGAINST THE APPLICANTS OR THE PROPERTY**

14. **THIS COURT ORDERS** that until and including October 7, 2022, or such later date as this Court may order (“**Stay Period**”), no proceeding or enforcement process in or out of any court or tribunal (each, a “**Proceeding**”) shall be commenced or continued against or in respect of the Applicants or the Monitor, or affecting the Business or the Property, except with the written consent of the Applicants and the Monitor, or with leave of this Court, and any and all Proceedings currently under way against or in respect of any of the Applicants or affecting the Business or the Property are hereby stayed and suspended pending further Order of this Court. Notwithstanding the foregoing, Royal Bank of Canada (“**Secured Lender**”) shall be unaffected by the stay of proceedings and shall be entitled to enforce its rights and remedies in accordance with the terms agreed to in the Forbearance Agreement, and subject to the jurisdiction of this Court.

## GENERAL

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



A handwritten signature in blue ink is positioned above a solid horizontal line. The signature is cursive and appears to read 'Conway J.'.

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

Court File No.: CV-2200678884-00CL

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF EVE &  
CO INCORPORATED, NATURAL MEDCO LTD., and EVE & CO INTERNATIONAL  
HOLDINGS LTD.**

**Applicants**

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

**ORDER**  
**(STAY EXTENSION)**

**MILLER THOMSON LLP**  
SCOTIA PLAZA  
40 KING STREET WEST, SUITE 5800  
P.O. BOX 1011  
TORONTO, ON CANADA M5H 3S1

**David S. Ward LSO #: 33541W**  
dward@millerthomson.com  
Tel: 416.595.8625

**Larry Ellis LSO#: 49313K**  
lellis@millerthomson.com  
Tel: 416.595.8639

**Monica Faheim LSO# 82213R**  
mfaheim@millerthomson.com  
Tel: 416.595.6087

Lawyers for the Applicants

This is **Exhibit “D”** to the  
Affidavit of **MELINDA ROMBOUS**  
Sworn on October 3, 2022

DocuSigned by:

*Monica Fakim*

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A Commissioner, etc.

**SHARE PURCHASE AGREEMENT**

This Agreement is made as of the 29<sup>th</sup> day of September, 2022 (the “**Effective Date**”), among:

**EVE & CO INCORPORATED**  
(the “**Vendor**”)

– and –

**NATURAL MEDCO LTD.**  
(the “**Company**”)

– and –

**M4 GROUP HOLDINGS INC., or its nominee**  
(the “**Purchaser**”)

**WHEREAS** on March 25, 2022, the Vendor, the Company and Eve & Co. International Holdings Ltd. (collectively, the “**Eve Group**”) applied for and obtained an initial order (as amended and restated on April 1 2022, and as may be further amended and restated from time to time, the “**Initial Order**”) for creditor protection pursuant to 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, BDO Canada Limited was appointed as the monitor of the Eve Group (in such capacity, the “**Monitor**”).

**AND WHEREAS** in connection with the proceedings initiated by the Initial Order (the “**CCAA Proceedings**”) and pursuant to an order of the Court dated April 1, 2022, the Vendor and the Monitor initiated a sale process (the “**Sale Process**”) to solicit offers for the sale of some or all of the Vendor’s assets.

**AND WHEREAS** in accordance with the terms of the Sale Process, the Purchaser submitted an offer for the purchase of 100% of the issued and outstanding shares of the Company. The Vendor has accepted the Offer subject to, and in accordance with, the terms and conditions set out in this Agreement.

**NOW THEREFORE**, in consideration of the mutual covenants and agreements set forth in this Agreement and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:



## ARTICLE 1 INTERPRETATION

### 1.1 Definitions

Unless something in the subject matter or context is inconsistent therewith, the terms defined herein shall have the following meanings:

“**Affiliate**” has the meaning given to the term “affiliate” in the *Business Corporations Act* (Ontario).

“**Agreement**” means this share purchase agreement, as may be amended and restated from time to time in accordance with the terms hereof, with the consent of the Monitor, and “**Article**” and “**Section**” mean and refer to the specified article, section and subsection of this Agreement.

“**Applicable Law**” means, in respect of any Person, property, transaction or event, any domestic or foreign statute, law (including the common law), ordinance, rule, regulation, treaty, restriction, regulatory policy, standard, code or guideline, by-law or order, in each case, having the force of law, that applies in whole or in part to such Person, property, transaction or event.

“**Approval and Vesting Order**” means an order by the Court, substantially in the form attached hereto as Schedule “F” with such changes as may be approved by the Monitor, among other things, approving and authorizing the Transaction and vesting in the Purchaser (or as it may direct) all the right, title and interest of the Vendor in and to the NMC Shares.

“**Assumed Contracts**” means all Contracts that are not Excluded Contracts.

“**Assumed Liabilities**” means all Liabilities which relate to the Business under any Assumed Contracts, Permits and Licenses (in each case, to the extent forming part of the Retained Assets) arising out of events or circumstances that occur after the Closing.

“**Books and Records**” means all files, documents, instruments, papers, books and records (whether stored or maintained in hard copy, digital or electronic format or otherwise), including Tax and accounting books and records, used or intended for use by, and in the possession of the Company, in connection with the ownership of the Company, or operation of the Business, including the Assumed Contracts, customer lists, customer information and account records, sales records, computer files, data processing records, employment and personnel records, sales literature, advertising and marketing data and records, credit records, records relating to suppliers and other data, in each case, relating to the Business.

“**Business**” means the business conducted by the Company, being the cultivation, processing and sale of cannabis and cannabis products.

“**Business Day**” means a day on which banks are open for business in Toronto, Ontario but does not include a Saturday, Sunday or statutory holiday in the Province of Ontario.

“**Cash Purchase Price**” has the meaning set out in Section 3.2(c).

“**CCAA**” has the meaning set out in the recitals hereto.

“**CCAA Proceeding**” has the meaning set out in the recitals hereto.

“**Claims**” means any civil, criminal, administrative, regulatory, arbitral or investigative inquiry, action, suit, investigation or proceeding and any claim of any nature or kind (including any cross-

claim or counterclaim), demand, investigation, chose in or cause of action, suit, default, assessment, litigation, third party action, arbitral proceeding or proceeding by or before any Person, and includes any and all claims and interests of secured creditors in and to the assets of the Company, including the Facility.

“**Closing**” means the closing and consummation of the Transaction.

“**Closing Date**” means the date that is thirty (30) calendar days after the date the Approval and Vesting Order is obtained, or such other earlier or later date as may be agreed by the Parties with the consent of the Monitor.

“**Closing Time**” means 10:00 a.m. (Toronto time) on the Closing Date.

“**Contracts**” means the written contracts, agreements, leases, understandings and arrangements that are related to the Business to which the Company is a party or by which the Company is bound or in which the Company has any rights, including any Contracts in respect of Employees.

“**Company**” means Natural MedCo Ltd. For greater certainty, any reference to the Company in this Agreement shall be to the Company as it existed and was prior to the Closing Date and not the Company as it exists after the Closing Date.

“**Court**” has the meaning set out in the recitals hereto.

“**Deposits**” has the meaning set out in Section 3.2(b).

“**Discharged**” means, in relation to any Encumbrance against any Person or upon any asset, undertaking or property, 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.

“**Effective Date**” has the meaning set out in the preamble hereto.

“**Employee**” means an individual who is employed by the Company, whether on a full-time or a part-time basis, whether active or inactive as of the Closing Date, and includes an employee on short term or long term disability leave, but, for greater certainty, excludes any Terminated Employees.

“**Encumbrances**” means any security interest, lien, Claim, charge, hypothec, reservation of ownership, pledge, encumbrance, mortgage or right of a third party of any nature or kind whatsoever and any agreement, option or privilege (whether by law, contract or otherwise) capable of becoming any of the foregoing, (including any conditional sale or title retention agreement, or any capital or financing lease).

“**Excise License**” means cannabis license 85403 2836 RD0001 obtained by the Company under the *Excise Act, 2001* (Canada).

“**Excluded Assets**” means those assets listed on Schedule “A”.

“**Excluded Contracts**” means the Contracts listed in Schedule “B”.

“**Excluded Liabilities**” has the meaning set out in Section 2.2(a).

“**Facility**” has the meaning set out in Section 5.2(f).

“**Filing Date**” means March 25, 2022.

“**First Deposit**” has the meaning set out in Section 3.2(a).

“**Governmental Authority**” means any domestic or foreign government, whether federal, provincial, state, territorial or municipal; and any governmental agency, ministry, department, court (including the Court), tribunal, commission, stock exchange, bureau, board or other instrumentality exercising or purporting to exercise legislative, judicial, regulatory or administrative functions of, or pertaining to, government or securities market regulation.

“**GST/HST**” means all goods and services tax and harmonized sales tax imposed under Part IX of the *Excise Tax Act* (Canada).

“**Health Canada License**” means all authorizations related to cannabis and issued by Health Canada to the Company, including authorizations to plant, grow, cultivate, extract, produce, process, store, destroy, sell, provide, ship, deliver, transport and/or distribute cannabis under Applicable Law, including without limitation the license attached hereto as Schedule “E”.

“**Initial Order**” has the meaning set out in the recitals hereto.

“**Interim Period**” means the period from the Effective Date to the Closing Time.

“**Liability**” means, with respect to any Person, any liability or obligation 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.

“**Monitor**” has the meaning set out in the recitals hereto.

“**NMC Shares**” means 100 common shares in the capital of the Company, which shares constitute all of the issued and outstanding shares of the Company.

“**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 November 15, 2022 or such later date as the Parties 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: (i) 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, the Company; (ii) the Excise License; and (iii) the Health Canada Licenses.

“**Permitted Encumbrances**” means those Encumbrances set forth in Schedule “D”.

“**Person**” means any individual, partnership, limited partnership, limited liability company, joint venture, syndicate, sole proprietorship, company or corporation with or without share capital,

unincorporated association, trust, trustee, executor, administrator or other legal personal representative, Governmental Authority or other entity however designated or constituted.

**“Pre-Closing Reorganization”** means the transactions, acts or events described in Exhibit “A” which are to occur immediately prior to the Closing Time.

**“Provincial Supply Agreements”** means supply agreements with the Provinces that do business with the Company as at the time of execution of this Agreement.

**“Purchase Price”** has the meaning set out in Section 3.1.

**“ResidualCo”** means a corporation to be incorporated to which the Excluded Assets and Excluded Liabilities will be transferred as part of the Pre-Closing Reorganization.

**“Retained Assets”** has the meaning set out in Section 4.1.

**“Retained Employee”** means any Employee that is not a Terminated Employee.

**“Sale Process”** has the meaning set out in the recitals hereto.

**“Second Deposit”** has the meaning set out in Section 3.2(b).

**“Taxes”** means, with respect to any Person, all national, federal, provincial, local or other taxes, including income taxes, capital gains 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, environmental taxes, transfer taxes, withholding or similar taxes, payroll taxes, employment taxes, employer health taxes, pension plan premiums and contributions, workers’ compensation premiums, employment insurance or compensation premiums, stamp taxes, occupation taxes, premium taxes, alternative or add-on minimum taxes, GST/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 Employee”** means those individuals currently employed by the Company whose employment will be terminated prior to Closing pursuant to Section 8.2(e), as determined by the Purchaser by written notice to the Company, with a copy to the Monitor, as soon as possible, but in any event by no later than October 3, 2022.

**“Transaction”** means the transaction of purchase and sale contemplated by this Agreement, whereby the Purchaser will acquire the NMC Shares.

**“Transition Services Agreement”** has the meaning set out in Section 6.5.

## **1.2 Interpretation Not Affected by Headings, etc.**

The division of this Agreement into Articles and Sections and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation of this Agreement.

## **1.3 General Construction**

The terms “this Agreement”, “hereof”, “herein” and “hereunder” and similar expressions refer to this Agreement and not to any particular section hereof. The expression “Section” or reference to another

subdivision followed by a number mean and refer to the specified Section or other subdivision of this Agreement. 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.

#### **1.4 Extended Meanings**

Words importing the singular include the plural and vice versa and words importing gender include all genders. The term “including” means “including, without limitation,” and such terms as “includes” have similar meanings and the term “third party” means any other Person other than the Company or the Purchaser, or any Affiliates thereof.

#### **1.5 Currency**

All references in this Agreement to dollars, monetary amounts, or to \$, are expressed in Canadian currency unless otherwise specifically indicated.

#### **1.6 Statutes**

Except as otherwise provided in this Agreement, any reference in this Agreement to a statute refers to such statute and all rules, regulations and interpretations made under it, as it or they may have been or may from time to time be modified, amended or re-enacted.

#### **1.7 Schedules**

The following exhibits and schedules are attached hereto and incorporated in and form part of this Agreement:

##### **EXHIBITS**

Exhibit A - Pre-Closing Reorganization

##### **SCHEDULES**

Schedule A - Excluded Assets

Schedule B - Excluded Contracts

Schedule C - Excluded Liabilities

Schedule D - Permitted Encumbrances

Schedule E - Health Canada Licenses

Schedule F - Approval and Vesting Order

The Parties acknowledge that as of the Effective Date, the Schedules are not complete. The Schedules are for the benefit of the Purchaser and shall be completed by the Purchaser, in the sole and absolute discretion of the Purchaser, on or before the date set out in each Schedule.

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 will 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 OF SHARES AND ASSUMPTION OF LIABILITIES

### 2.1 Purchase and Sale of the NMC Shares

Subject to the terms and conditions of this Agreement, effective as and from the Closing Time, the Vendor shall sell, assign and transfer the NMC Shares to the Purchaser, and the Purchaser shall purchase the NMC Shares from the Vendor, free and clear of all Encumbrances (other than Permitted Encumbrances), with the result that the Purchaser shall become the sole shareholder of the Company at the Closing Time.

### 2.2 Assumed Liabilities of the Company

- (a) Pursuant to the Approval and Vesting Order, save and except for the Assumed Liabilities, all debts, obligations, Liabilities, Encumbrances, indebtedness, Excluded 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 the Company or the NMC Shares or relating to any Excluded Assets or Excluded Contracts as at the Closing Time, including, *inter alia*, the non-exhaustive list of Liabilities set forth in Schedule “C”, any and all Liabilities relating to any change of control provision that may arise in connection with the change of control contemplated by the Transaction and to which the Company may be bound as at the Closing Time, all Liabilities relating to or under the Excluded Contracts and Excluded Assets, Liabilities for Terminated Employees whose employment with the Company or its Affiliate is terminated on or before Closing (collectively, the “**Excluded Liabilities**”) shall be excluded and will no longer be binding on the Company or the NMC Shares following the Closing Time.
- (b) Pursuant to the Approval and Vesting Order, the Excluded Liabilities shall be channeled to and assumed in full by ResidualCo in accordance with and as further described in Article 4 and the Company, the NMC Shares, the Retained Assets, and the Company’s undertakings, Business and properties shall be Discharged of such Excluded Liabilities. All Claims attaching to the Excluded Liabilities, if any, shall continue to exist against ResidualCo and the Purchase Price and the Excluded Assets, if any, shall, for the purposes of determining the nature and priority of Claims, stand in the place and stead of the Retained Assets and following the Closing Time, Claims shall attach to the Purchase Price and the Excluded Assets, if any, with the same priority as they had with respect to the Retained Assets immediately prior to the Closing Time and the Purchase Price and the Excluded Assets, if any, shall be available to satisfy such Claims. For clarity, the Purchase Price and the Excluded Assets, if any, shall not be available to satisfy any Claims against the NMC Shares.

### ARTICLE 3 PURCHASE PRICE

#### 3.1 Purchase Price

The purchase price payable by the Purchaser for the NMC Shares shall be \$ [REDACTED] (the “**Purchase Price**”). The Purchase Price shall be paid to the Monitor as consideration for the NMC Shares and the Retained Assets, and shall be held by the Monitor for the benefit of ResidualCo, and any Claim against the Company shall continue to exist as against ResidualCo after Closing. The Purchase Price shall be allocated among the Facility and the other assets of the Company in the sole discretion of the Purchaser, provided that no allocation shall be made as to the NMC Shares.

#### 3.2 Satisfaction of Purchase Price

The Purchaser shall pay the Purchase Price to the Monitor, for the benefit of ResidualCo, in accordance with the following:

- (a) First Deposit. The Parties acknowledge that the Purchaser has paid a deposit in the amount of \$100,000, to be credited against the Purchase Price at Closing (the “**First Deposit**”).
- (b) Second Deposit. Within two (2) Business Days of the Effective Date, the Purchaser shall pay a second deposit in the amount of \$1,000,000, to be credited against the Purchase Price at Closing (the “**Second Deposit**” and together with the First Deposit, collectively, the “**Deposits**”).
- (c) Cash Purchase Price. At the Closing Time, the Purchaser shall pay to the Monitor the balance of the Purchase Price, being [REDACTED], plus any adjustments in accordance with Section 6.4 and 6.6 of this Agreement, in immediately available funds (the “**Cash Purchase Price**”).

### ARTICLE 4 TRANSFER OF EXCLUDED ASSETS AND EXCLUDED LIABILITIES

#### 4.1 Transfer of Excluded Assets to ResidualCo

On the Closing Date, the Company shall retain all of the assets owned by it on the Effective Date of this Agreement and any assets acquired by it up to and including Closing, including the Facility, the Company’s equipment, its Assumed Contracts, Permits and Licences, Books and Records, Business and undertakings (the “**Retained Assets**”), save and except for inventory sold in the ordinary course of Business in the Interim Period, cash in the bank accounts of the Company as at the Effective Date, the Excluded Assets and Excluded Contracts, which the Company shall transfer to ResidualCo on or before the Closing Time or shall be vested in ResidualCo pursuant to the Approval and Vesting Order.

#### 4.2 Transfer of Excluded Liabilities to ResidualCo

At or before the Closing Time, the Excluded Liabilities shall have been channeled to and assumed by ResidualCo, in accordance with the Pre-Closing Reorganization and pursuant to the Approval and Vesting Order. Notwithstanding any other provision of this Agreement, neither the Purchaser nor the Company shall assume or have any Liability for any of the Excluded Liabilities and all Excluded Liabilities shall be Discharged from the Company and its assets, undertakings, Business and properties from and after the Closing Time.

### 4.3 Tax Matters

All Taxes owed or owing or accrued due by the Company shall be transferred to and vest in ResidualCo. Any audits or reassessments with respect to any Taxes that relate to a time period occurring, or facts arising, prior to the Closing Date, regardless upon when such audit was commenced or completed, and any and all such obligations with respect to such audits or reassessments shall be transferred to and vest in ResidualCo.

## ARTICLE 5 REPRESENTATIONS AND WARRANTIES

### 5.1 Representations and Warranties of the Vendor

Subject to the issuance of the Approval and Vesting Order, the Vendor hereby represents and warrants as follows, and acknowledges that, as of the Closing Time, the Purchaser is relying on such representations and warranties in connection with entering into this Agreement and performing its obligations hereunder:

- (a) Incorporation and Status. The Vendor is a corporation incorporated and existing under the *Business Corporations Act* (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 action 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 Approval and Vesting Order.
- (e) Proceedings. There are no proceedings pending against the Vendor or, to the knowledge of the Vendor, threatened, with respect to, or in any manner affecting, title to the NMC Shares, which would reasonably be expected to enjoin, delay, restrict or prohibit the transfer of all or any part of the NMC 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.
- (f) Residency. The Vendor is not a non-resident of Canada for purposes of the *Income Tax Act* or the *Excise Tax Act*, as applicable.
- (g) Title to NMC Shares. The Vendor is, and immediately prior to the Closing Time will be, the sole registered and beneficial owner of the NMC Shares, with good and valid title thereto, and the Vendor will transfer good and valid title to the NMC Shares to the Purchaser, free and clear of all Encumbrances (other than Permitted Encumbrances), pursuant to and in accordance with the Approval and Vesting Order. There are no issued and outstanding common shares or other securities of the Company other than the NMC Shares 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 the Company.

- (h) 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 or the Company of any of the NMC Shares or the Retained Assets.

## 5.2 Representations and Warranties of the Company

Subject to the issuance of the Approval and Vesting Order, the Company hereby represents and warrants to and in favour of the Purchaser, and acknowledges that, as of the Closing Time, the Purchaser is relying on such representations and warranties in connection with entering into this Agreement and performing its obligations hereunder:

- (a) Incorporation and Status. The Company is a corporation incorporated and existing under the *Business Corporations Act* (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 Company of this Agreement has been authorized by all necessary corporate action on the part of the Company.
- (c) No Conflict. The execution, delivery and performance by the Company of this Agreement do 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 Company.
- (d) Execution and Binding Obligation. This Agreement has been duly executed and delivered by the Company and constitutes a legal, valid and binding obligation of the Company, enforceable against it in accordance with its terms subject only to the Approval and Vesting Order.
- (e) Authorized and Issued Capital and Title to New Common Shares. The authorized capital of the Company consists of an unlimited number of one class of common shares of which 100 common shares are issued and outstanding. The NMC Shares: (i) constitute all of the issued and outstanding securities in the capital of the Company; (ii) have all been duly authorized and validly issued as fully paid and non-assessable; (iii) have been issued by the Company in compliance with all Applicable Laws; and (iv) are registered in the name of, and are legally and beneficially owned by, the Vendor. None of the NMC Shares have been issued in violation of any pre-emptive, right of first offer or refusal or similar rights.
- (f) Title to Facility. The Company is the legal and beneficial owner of the Company's facility located at 2941 Napperton Drive in Strathroy, Ontario (the "**Facility**"), and the Facility shall constitute a Retained Asset.
- (g) 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 Company of any of the NMC Shares or any Retained Assets.

- (h) Proceedings. There are no Proceedings pending against the Company or, to the knowledge of the Company, threatened, with respect to, or in any manner affecting, title to the NMC 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 NMC Shares or the Retained Assets or the Closing of the Transaction, as contemplated by this Agreement, or which would reasonably be expected to delay, restrict or prevent the Vendor or the Company from fulfilling any of their obligations set forth in this Agreement.
- (i) Health Canada Licenses. 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 Health Canada Licenses or the Excise License.
- (j) Assumed Contracts. The Company has provided to the Purchaser correct and complete copies of each Assumed Contract together with all amendments, modifications and supplements thereto.

### 5.3 Representations and Warranties of the Purchaser

The Purchaser hereby represents and warrants to and in favour of the Vendor, and acknowledges that, as of the Closing Time, the Vendor is relying on such representations and warranties in connection with entering into this Agreement and performing its obligations hereunder:

- (a) Incorporation and Status. The Purchaser is a corporation incorporated and existing under the *Business Corporations Act* (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 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 do 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 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) Proceedings. There are no proceedings pending, or to the knowledge of the Purchaser, threatened, against the Purchaser before any Governmental Authority, which prohibit or seek to enjoin delay, restrict or prohibit the Closing of the Transaction, as contemplated by this Agreement, or which would reasonably be expected to delay, restrict or prevent the Purchaser from fulfilling any of its obligations set forth in this Agreement.
- (f) HST Registrant. The Purchaser is, or will be on the Closing Date, an HST registrant.

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

The representations and warranties of the Company shall survive the Closing Time on the Closing Date provided, however, that the Purchaser's recourse for any breach or inaccuracy of such representations and warranties shall be against ResidualCo. The Purchaser acknowledges, agrees and confirms that, at the Closing Time, the NMC Shares (for clarity, together with the Retained Assets) shall be sold and delivered to the Purchaser on an "*as is, where is*" basis, subject only to the representations and warranties contained herein. Other than those representations and warranties contained herein, 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 Health Canada License, NMC Shares and the Retained Assets.

### **ARTICLE 6 COVENANTS**

#### **6.1 Closing Date**

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

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

As soon as practicable after the execution of this Agreement, the Vendor shall serve and file with the Court a motion for the issuance of the Approval and Vesting Order, seeking relief that will, *inter alia*, approve this Agreement and the Transaction, and release the officers and directors of the Company, its advisors, the Monitor and the Monitor's counsel. The Vendor shall diligently use its commercially reasonable efforts to seek the issuance and entry of the Approval and Vesting Order and the Purchaser shall cooperate with the Vendor in its efforts to obtain the issuance and entry of the Approval and Vesting Order.

#### **6.3 Interim Period**

During the Interim Period, except as contemplated or permitted by this Agreement (including the Approval and Vesting Order and the Pre-Closing Reorganization), the Company shall continue to maintain its Business and operations in substantially the same manner as conducted on the Effective Date.

#### **6.4 Funding during Interim Period**

To the extent that working capital requirements of the Company exceed revenue generated by the Business during the Interim Period, the Purchaser shall fund such reasonable amounts as are necessary to operate the Business in the ordinary course. The Deposits shall be available to satisfy any shortfall in such funding provided, however, that any costs funded by the Deposits shall constitute a dollar-for-dollar adjustment to the Cash Purchase Price in favour of the Vendor at Closing. For certainty, the cash in the bank accounts of the Company at the Effective Date shall not be available to the Company to satisfy working capital requirements, but shall be crystallized as at the Effective Date and transferred to the Monitor at Closing.

#### **6.5 Transition Services**

During the Interim Period, the Purchaser shall have full access to the Company's Chief Executive Officer, Melinda Rombouts, for the purpose of developing a post-Closing transition strategy. In addition to developing such strategy, the Purchaser and Ms. Rombouts will negotiate, on a best efforts basis, the terms and conditions pursuant to which Ms. Rombouts will provide transition services to the Purchaser

from and after the Closing Date, which terms and conditions shall be substantially similar to Ms. Rombouts' current employment terms and shall be memorialized in a transition services agreement executed by the Purchaser and Ms. Rombouts on or before the Closing Date (the "**Transition Services Agreement**"). The Transition Services Agreement shall be for an initial term of six (6) months, which term may be renewed for an additional terms of six (6) months at the Purchaser's discretion and upon 30 days' written notice prior to the end of the term. Upon execution of the Transition Services Agreement, Ms. Rombouts shall become the "Chief Transition Officer" of the Purchaser.

## **6.6 Insurance Matters**

Until Closing, the Vendor and the Company shall keep in full force and effect all existing insurance policies and give any notice or present any claim under any such insurance policies consistent with past practice in the ordinary course of business. The Cash Purchase Price shall be adjusted at Closing, on a dollar-for-dollar basis in favour of the Vendor, to account for the remaining portion of any pre-paid insurance policies, from the Effective Date.

## **ARTICLE 7 CLOSING ARRANGEMENTS**

### **7.1 Closing**

Closing shall take place electronically (or as otherwise determined by mutual agreement of the Parties in writing), by the exchange of deliverables (in counterparts or otherwise) by electronic transmission in PDF format.

### **7.2 Pre-Closing Reorganization**

- (a) Subject to the other terms of this Agreement, the Company shall effect the Pre-Closing Reorganization.
- (b) The Purchaser and the Vendor shall work cooperatively and use commercially reasonable efforts to prepare, before the Closing Date, all documentation necessary and do such other acts and things as are necessary to give effect to the Pre-Closing Reorganization.

### **7.3 Vendor / Company Closing Deliveries**

At or before the Closing Time, the Vendor and the Company shall deliver or cause to be delivered to the Purchaser the following:

- (a) a true copy of the Approval and Vesting Order, as issued and entered by the Court;
- (b) an executed certificate of the Monitor substantially in the form attached to the Approval and Vesting Order (the "**Monitor's Certificate**");
- (c) share certificates representing the NMC Shares duly endorsed in blank for transfer, or accompanied by irrevocable stock transfer powers duly executed in blank, in either case, by the Vendor;
- (d) a certificate dated as of the Closing Date confirming that all of the representations and warranties of the Vendor and the Company contained in this Agreement are true in all material respects as of the Closing Time, with the same effect as though made at and as of the Closing Time, and that the Vendor and the Company have performed in all material respects the covenants to be performed by them prior to the Closing Time; and

- (e) such other agreements, documents and instruments as may be reasonably required by the Purchaser to complete the Transaction, all of which shall be in form and substance satisfactory to the Parties, acting reasonably.

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

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

- (a) the Cash Purchase Price;
- (b) a certificate dated as of the Closing Date confirming that all of the representations and warranties of the Purchaser contained in this Agreement are true in all material respects as of the Closing Time, with the same effect as though made at and as of the Closing Time, and that the Purchaser has performed in all material respects the covenants to be performed by it prior to the Closing Time; and
- (c) such other agreements, documents and instruments as may be reasonably required by the Vendor and the Company to complete the Transaction, all of which shall be in form and substance satisfactory to the Parties, acting reasonably.

### **ARTICLE 8 CONDITIONS OF CLOSING**

#### **8.1 Conditions Precedent in favour of the Parties**

The obligation of the Parties to complete the Transaction is subject to the following joint condition being satisfied, fulfilled or performed, which joint condition may not be waived by either Party:

- (a) Approval and Vesting Order. The Court shall have granted the Approval and Vesting Order in form and substance satisfactory to each of the Parties, and all applicable appeal periods shall have expired.

#### **8.2 Conditions Precedent in favour of the Purchaser**

The obligation of the Purchaser to complete the Transaction is subject to the following conditions being satisfied, fulfilled, or performed:

- (a) Court Approval. The Approval and Vesting Order shall have been issued and entered by the Court and shall not have been vacated, set aside or stayed, and all applicable appeal periods shall have expired.
- (b) Company's Deliverables. The Vendor and the Company 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 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, each of the representations and warranties contained in Section 5.1 and Section 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.

- (d) No Breach of Covenants. The Company shall have performed, in all material respects, all covenants, obligations and agreements contained in this Agreement required to be performed by the Company on or before the Closing Date.
- (e) Company Employees. The Company shall have terminated the employment 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, shall be Excluded Liabilities pursuant to the Approval and Vesting Order.
- (f) ResidualCo. Pursuant to the Approval and Vesting Order: (i) all Excluded Assets and Excluded Liabilities shall have been transferred to ResidualCo or Discharged; (ii) the Excluded Liabilities shall have attached to the Excluded Assets and the proceeds from the Purchase Price; and (iii) the Company, its Business and property shall have been released and forever Discharged of all Claims and Encumbrances (other than Assumed Liabilities, if any) such that, from and after Closing the Business and property of the Company shall exclude the Excluded Assets and shall not be subject to any Excluded Liabilities.
- (g) CCAA Proceeding. Upon Closing, the CCAA Proceeding shall have been terminated in respect of the Company, its Business and property, as set out in the Approval and Vesting Order, but, for greater certainty, shall continue in respect of ResidualCo and the Vendor.
- (h) Disclaim Excluded Contracts. The Company shall have sent notices of disclaimer for all known Excluded Contracts and other agreements, and such known Excluded Contracts shall form part of the Excluded Assets.

The foregoing conditions are for the exclusive benefit of the Purchaser. Any condition in this Section 8.2 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. If any condition set out in Section 8.2 is not satisfied or performed on or prior to the Outside Date, the Purchaser may elect on written notice to the Vendor to terminate this Agreement.

### **8.3 Conditions Precedent in favour of the Vendor and the Company**

The obligation of the Company to complete the Transaction is subject to the following conditions being satisfied, fulfilled, or performed:

- (a) Court Approval. The Approval and Vesting Order shall have been issued and entered by the Court and shall not have been vacated, set aside or stayed, and all applicable appeal periods shall have expired.
- (b) Purchaser's Deliverables. The Purchaser shall have executed and delivered or caused to have been executed and delivered to the Company at the Closing all the documents and payments contemplated in Section 7.4.
- (c) 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.

- (d) 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.
- (e) Monitor's Certificate. The Monitor shall have provided an executed copy of the Monitor's Certificate confirming that all other conditions to Closing have either been satisfied or waived by both the Purchaser and the Company.

The foregoing conditions are for the exclusive benefit of the Vendor. Any condition in this Section 8.3 may be waived by the Vendor in whole or in part, without prejudice to any of its rights of termination in the event of non-fulfilment of any other condition in whole or in part. Any such waiver shall be binding on the Vendor only if made in writing. If any condition set forth in this Section 8.3 is not satisfied or performed on or prior to the Outside Date, the Vendor may elect on written notice to the Purchaser to terminate the Agreement.

## **ARTICLE 9 TERMINATION**

### **9.1 Grounds for Termination**

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

- (a) By the mutual written agreement of the Vendor and the Purchaser.
- (b) By either Party upon written notice to the other Party if: (i) the Approval and Vesting Order has not been obtained by the Outside 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 the Agreement.

### **9.2 Effect of Termination.**

If this Agreement is terminated pursuant to Section 9.1, all further obligations of the Parties under this Agreement will terminate and no Party will have any Liability or further obligations hereunder. Notwithstanding the foregoing, if the Transaction is not completed by the Outside Date solely as a result of the Vendor's failure to perform any of its obligations under this Agreement, then the Deposits shall be repaid to the Purchaser in full, without deduction or setoff.

## **ARTICLE 10 GENERAL**

### **10.1 Access to Books and Records**

For a period of two years from the Closing Date or for such longer period as may be reasonably required for the Vendor (or any trustee in bankruptcy of the estate of the Vendor) to comply with Applicable Law, the Purchaser will retain all original Books and Records that are transferred to the Purchaser under this Agreement. So long as any such Books and Records are retained by the Purchaser pursuant to this Agreement, the Vendor (and any representative, agent, former director or officer or trustee in bankruptcy of the estate of the Vendor, including the Monitor) has the right to inspect and to make copies (at its own expense) of them at any time upon reasonable request during normal business hours and upon reasonable notice for any proper purpose and without undue interference to the business operations of the Purchaser.

## 10.2 Notice

Any notice or other communication under this Agreement shall be in writing and may be delivered by read-receipted email, addressed:

- (a) in the case of the Purchaser, as follows:

**M4 Group Holdings Inc.**  
406 King Street East  
Toronto, ON M5A 1L4

with a copy to:

**Zimmerman Associates**  
3338 Dufferin Street  
Toronto, ON M6A 3A4

Attention: Larry Zimmerman  
Email: larry@zimlaw.ca

- (b) in the case of the Vendor or the Company, as follows:

**Eve and Co. Incorporated**  
2941 Napperton Drive  
Strathroy, ON N7G 3H8

Attention: Melinda Rombouts  
Email: melinda@evcannabis.ca

with a copy to:

**Miller Thomson LLP**  
40 King Street West, Suite 5800  
Toronto, ON M5H 4A9

Attention: Larry Ellis  
Email: lellis@millerthomson.com

- (c) in each case, with a further copy to the Monitor as follows:

**BDO Canada Limited**  
633 Colborne Street, Suite 230  
London, ON N6B 2V3

Attention: Steve Cherniak  
Email: SCherniak@bdo.ca

with a copy to:

**Thornton Grout Finnigan LLP**  
100 Wellington Street West  
Toronto, ON M5K 1K7

Attention: Leanne Williams  
Email: LWilliams@tgf.ca



Any such notice or other communication, if transmitted by email before 5:00 p.m. (Toronto time) on a Business Day, will be deemed to have been given on such Business Day, and if transmitted by email after 5:00 p.m. (Toronto time) on a Business Day, will be deemed to have been given on the Business Day after the date of the transmission.

Sending a copy of a notice or other communication to a Party's legal counsel as contemplated above is for information purposes only and does not constitute delivery of the notice or other communication to that Party. The failure to send a copy of a notice or other communication to legal counsel does not invalidate delivery of that notice or other communication to a Party.

### **10.3 Time**

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 Parties.

### **10.4 Survival**

The representations and warranties of the Parties contained in this Agreement shall not merge on Closing and the representations, warranties and covenants of the Parties contained herein to be performed after the Closing shall survive Closing and remain in full force and effect.

### **10.5 Benefit of Agreement**

This Agreement shall enure to the benefit of and be binding upon the Parties and their respective successors and permitted assigns, including for greater certainty, ResidualCo.

### **10.6 Entire Agreement**

This Agreement and the attached Schedules hereto constitute the entire agreement between the Parties with respect to the subject matter hereof and supersede all prior negotiations, understandings and agreements. This Agreement may not be amended or modified in any respect except by written instrument executed by all of the Parties.

### **10.7 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 this Transaction or this Agreement, the provisions of this Agreement shall prevail to the extent of such conflict or inconsistency.

### **10.8 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 and each of the Parties irrevocably attorns to the non-exclusive jurisdiction of the courts of the Province of Ontario.

### **10.9 Assignment by Purchaser**

This Agreement may be assigned by the Purchaser prior to the issuance of the Approval and Vesting Order, without the prior written consent of the Vendor or the Monitor, provided that: (i) such assignee is a related party or subsidiary of the Purchaser; (ii) the Purchaser provides prior notice of such assignment to the Vendor, the Company and the Monitor; and (iii) such assignee agrees to be bound by the terms of this Agreement to the extent of the assignment; provided, however, that any such assignment shall not relieve the Purchaser of its obligations hereunder.

**10.10 Further Assurances**

Each of the Parties shall, at the request and expense of the requesting Party, take or cause to be taken such action and execute and deliver or cause to be executed and delivered to the other such conveyances, transfers, documents and further assurances as may be reasonably necessary or desirable to give effect to this Agreement.

**10.11 Counterparts**

This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original and all of which shall constitute one and the same agreement. Transmission by facsimile or by e-mail of an executed counterpart of this Agreement shall be deemed to constitute due and sufficient delivery of such counterpart.

**10.12 Severability**

Notwithstanding any provision herein, if a condition to complete the Transaction, or a covenant or an agreement herein is prohibited or unenforceable pursuant to Applicable Law, then such condition, covenant or agreement shall be ineffective to the extent of such prohibition or unenforceability without invalidating the other provisions hereof.

**10.13 Monitor's Certificate**

The Parties acknowledge and agree that the Monitor shall be entitled to deliver to the Purchaser, and file with the Court, the executed Monitor's Certificate without independent investigation, upon receiving written confirmation from both Parties (or the applicable Party's counsel) that all conditions of Closing in favour of such Party have been satisfied or waived, and the Monitor shall have no Liability to the Parties in connection therewith. The Parties further acknowledge and agree that upon written confirmation from both Parties that all conditions of Closing in favour of such Party have been satisfied or waived, the Monitor may deliver the executed Monitor's Certificate to the Purchaser's counsel in escrow, with the sole condition of its release from escrow being the Monitor's written confirmation that all such funds have been received, the Monitor's Certificate will be released from escrow to the Purchaser, and the Closing shall be deemed to have occurred.

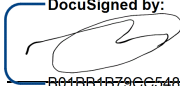
**10.14 Monitor's Capacity**

In addition to all of the protections granted to the Monitor under the CCAA or any Order of the Court in this CCAA Proceeding, the Company and the Purchaser acknowledge and agree that the Monitor, acting in its capacity as Monitor of the Company and not in its personal capacity, will have no Liability, in its personal capacity or otherwise, in connection with this Agreement or the Transaction contemplated herein whatsoever as Monitor.

***[Signature Page Follows]***

**IN WITNESS WHEREOF** the Parties have executed this Agreement as of the day and year first above written.

**M4 GROUP HOLDINGS INC.**

By:  DocuSigned by:  
Name: Bill Panagiotakopoulos  
Title: Authorized Signatory

I have authority to bind the Corporation.

**EVE & CO. INCORPORATED**

By: \_\_\_\_\_  
Name: Melinda Rombouts  
Title: Authorized Signatory

I have authority to bind the Corporation.

**NATURAL MEDCO LTD.**

By: \_\_\_\_\_  
Name: Melinda Rombouts  
Title: Authorized Signatory

I have authority to bind the Corporation.

**IN WITNESS WHEREOF** the Parties have executed this Agreement as of the day and year first above written.

**M4 GROUP HOLDINGS INC.**

By: \_\_\_\_\_

Name: Bill Panagiotakopoulos

Title: Authorized Signatory

I have authority to bind the Corporation.

**EVE & CO. INCORPORATED**

By:  \_\_\_\_\_

Name: Melinda Rombouts

Title: Authorized Signatory

I have authority to bind the Corporation.

**NATURAL MEDCO LTD.**

By:  \_\_\_\_\_

Name: Melinda Rombouts

Title: Authorized Signatory

I have authority to bind the Corporation.

**EXHIBIT "A"**  
**PRE-CLOSING REORGANIZATION**

1. ResidualCo shall be incorporated by the Vendor with nominal consideration for common shares and shall be added to the CCAA Proceeding as an Applicant, but taking no other steps or actions in respect thereof.
2. The Excluded Assets and Excluded Liabilities shall be channelled to, and vested in, ResidualCo pursuant to the Approval and Vesting Order.

**SCHEDULE "A"**  
**EXCLUDED ASSETS**

1. Inventory sold in the ordinary course of Business in the Interim Period.
2. Cash of the Company as at the Effective Date.
3. Excluded Contracts.
4. Any rebate received in connection with a reassessment of the Facility as an agricultural property.

**[Note: Balance of schedule to be completed on or before October 6, 2022.]**

**SCHEDULE "B"**  
**EXCLUDED CONTRACTS**

The following is a comprehensive list of the Excluded Contracts:

**[Note: Balance of schedule to be completed 2 business days prior to the Closing Date.]**

**SCHEDULE "C"**  
**EXCLUDED LIABILITIES**

The following is a non-exhaustive list of Excluded Liabilities:

1. Any and all Liabilities relating to any change of control provision that may arise in connection with the change of control contemplated by the Transaction and to which the Company may be bound as at the Closing Time.
2. All Liabilities relating to or under the Excluded Contracts and Excluded Assets.
3. Liabilities for Terminated Employees whose employment with the Company or its Affiliate is terminated on or before Closing.
4. Any and all Liabilities that are not Assumed Liabilities.

**[Note: Balance of schedule to be completed prior to the Closing Date.]**



**SCHEDULE "D"**  
**PERMITTED ENCUMBRANCES**

1. Any and all work orders registered against title to the Facility as at the date hereof.

**[Note: Schedule to be completed prior to October 3, 2022.]**

**SCHEDULE "E"**  
**HEALTH CANADA LICENSES**

Attached.

Licence No. - N° de licence  
LIC-JKPTN71PKT-2020

**LICENCE**

This licence is issued in accordance with the *Cannabis Act* and *Cannabis Regulations*

**LICENCE**

Cette licence est délivrée conformément à la *Loi sur le cannabis* et le *Règlement sur le cannabis*

**Licence Holder / Titulaire de la licence :**  
Natural MedCo Ltd.

**Licensed Site / Lieu autorisé :**  
2941 NAPPERTON DRIVE  
STRATHROY, ON, CANADA, N7G 3H8

The above-mentioned person is authorized to conduct, at the site specified on this licence, the activities listed below for the following licence classes and subclasses:

- Standard Cultivation
- Standard Processing

La personne susmentionnée est autorisée à effectuer, sur le site spécifié sur cette licence, les activités énumérées ci-dessous pour les catégories et les sous-catégories de licence suivantes:

- Culture standard
- Transformation standard

**Indoor Area(s) / Zone(s) intérieure(s)**

Building 1

<b>Activities</b>	<b>Activités</b>
<ul style="list-style-type: none"> <li>• to possess cannabis</li> <li>• to obtain dried cannabis, fresh cannabis, cannabis plants or cannabis plant seeds by cultivating, propagating and harvesting cannabis</li> <li>• to sell cannabis in accordance with subsection 11(5) of the <i>Cannabis Regulations</i></li> <li>• for the purpose of testing, to obtain cannabis by altering its chemical or physical properties by any means</li> <li>• to produce cannabis, other than obtain it by cultivating, propagating or harvesting it</li> <li>• to sell cannabis in accordance with subsection 17(5) of the <i>Cannabis Regulations</i></li> </ul>	<ul style="list-style-type: none"> <li>• avoir du cannabis en sa possession</li> <li>• obtenir du cannabis séché, du cannabis frais, des plantes de cannabis ou des graines provenant de telles plantes par la culture, la multiplication et la récolte de cannabis</li> <li>• vendre du cannabis en vertu du paragraphe 11(5) du <i>Règlement sur le cannabis</i></li> <li>• afin d'effectuer des essais sur du cannabis, obtenir du cannabis par l'altération, par tout moyen, de ses propriétés physiques ou chimiques</li> <li>• produire du cannabis, sauf en l'obtenant par la culture, la multiplication et la récolte</li> <li>• vendre du cannabis en vertu du paragraphe 17(5) du <i>Règlement sur le cannabis</i></li> </ul>

**Outdoor Area(s) / Zone(s) extérieure(s)****Conditions**

Natural MedCo Ltd. must meet the requirements set out in the document entitled "Mandatory cannabis testing for pesticide active ingredients".	Natural MedCo Ltd. doit satisfaire aux exigences énoncées dans le document intitulé « Analyse obligatoire du cannabis pour les résidus de principes actifs de pesticides ».
The only cannabis products that Natural MedCo Ltd. may sell or distribute to (i) a holder of a licence for sale, and (ii) a person authorized to sell cannabis under a provincial Act by reason of subsection 69(1) of the Act, are as follows: cannabis plants that are cannabis products; cannabis plant seeds that are cannabis products; dried cannabis that is a cannabis product; and, fresh cannabis that is a cannabis product.	Les seuls produits du cannabis que Natural MedCo Ltd. peut vendre ou distribuer (i) à un titulaire d'une licence de vente et (ii) à une personne autorisée par une loi provinciale à vendre du cannabis en vertu du paragraphe 69(1) de la Loi sont les suivants : plantes de cannabis qui sont des produits du cannabis; graines provenant d'une plante de cannabis qui sont des produits du cannabis; cannabis séché qui est un produit du cannabis; cannabis frais qui est un produit du cannabis.
The only cannabis products that Natural MedCo Ltd. may send or deliver to the purchaser at the request of (i) a holder of a licence for sale, and (ii) a person authorized to sell cannabis under a provincial Act by reason of subsection 69(1) of the Act, are as follows: cannabis plants that are cannabis products; cannabis plant seeds that are cannabis products; dried cannabis that is a cannabis product; and, fresh cannabis that is a cannabis product.	Les seuls produits du cannabis que Natural MedCo Ltd. peut expédier ou livrer à l'acheteur à la demande (i) d'un titulaire d'une licence de vente et (ii) d'une personne autorisée par une loi provinciale à vendre du cannabis en vertu du paragraphe 69(1) de la Loi sont les suivants : plantes de cannabis qui sont des produits du cannabis; graines provenant d'une plante de cannabis qui sont des produits du cannabis; cannabis séché qui est un produit du cannabis; cannabis frais qui est un produit du cannabis.

**Conditions**

Authorized Official, Controlled Substances and Cannabis Branch

Officiel autorisé, Direction générale des substances contrôlées et du cannabis

**Effective date** of the licence:

This licence is effective as of **July 6, 2020**

**Expiry date** of the licence:


This licence expires on **July 6, 2023**

**Date d'entrée** en vigueur de la licence:

Cette licence entre en vigueur à compter du **6 juillet 2020**

**Date d'expiration** de la licence:

La présente licence expire le **6 juillet 2023**



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Authorized Official, Controlled Substances and Cannabis Branch

Officiel autorisé, Direction générale des substances contrôlées et du cannabis

**SCHEDULE "F"**  
**APPROVAL AND VESTING ORDER**

**[Note: Schedule to be completed on or before September 30, 2022.]**

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

Court File No.: CV-22-00678884-00CL

**AND IN THE MATTER OF THE COMPROMISE OR ARRANGEMENT OF EVE & CO  
INCORPORATED, NATURAL MEDCO LTD., EVE & CO INTERNATIONAL HOLDINGS  
LTD.**

**Applicants**

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

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**AFFIDAVIT OF MELINDA ROMBOUS  
(SWORN OCTOBER 3, 2022)**

---

**MILLER THOMSON LLP**  
SCOTIA PLAZA  
40 KING STREET WEST, SUITE 5800  
P.O. BOX 1011  
TORONTO, ON CANADA M5H 3S1

**David S. Ward LSO #: 33541W**  
Tel: 416.595.8625  
dward@millertomson.com

**Larry Ellis LSO#: 49313K**  
Tel: 416.595.8639  
lellis@millertomson.com

**Monica Faheim LSO#82213R**  
Tel: 416.595.6087  
mfaheim@millertomson.com

Lawyers for the Applicants

# TAB 3

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

THE HONOURABLE ) FRIDAY, THE 7<sup>th</sup>  
 )  
JUSTICE OSBORNE ) DAY OF OCTOBER, 2022

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

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF EVE & CO  
INCORPORATED, NATURAL MEDCO LTD., and EVE & CO INTERNATIONAL HOLDINGS  
LTD.**

(collectively, the "**Applicants**" and each an "**Applicant**")

**APPROVAL AND VESTING ORDER**

**THIS MOTION**, made by the Applicants, pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended ("**CCAA**"), for an order, among other things: (i) approving the Share Purchase Agreement, dated September 29, 2022 (the "**SPA**"), between Eve & Co Incorporated ("**Eve & Co**"), Natural MedCo Ltd. (the "**Company**") and M4 Group Holdings Inc. (the "**Purchaser**"), for the purchase and sale of all of the issued and outstanding shares of the Company ("**NMC Shares**") and the assets owned by the Company, including its equipment, Facility, Assumed Contracts, Permits and Licenses, Books and Records, Business and undertakings (each as defined in the SPA and referred to herein as the "**Retained Assets**"); (ii) adding a corporation to be incorporated ("**ResidualCo**") as an Applicant to these CCAA proceedings in order to carry out the transactions contemplated by the SPA (collectively, the "**Transaction**"); (iii) transferring and vesting all of the Applicant's right, title and interest in and to the Excluded Liabilities, Excluded Assets, and Excluded Contracts (all as defined in the SPA) to and in ResidualCo; (iv) vesting all of Eve & Co's right, title and interest in



and to the NMC Shares in the Purchaser; (v) approving the fourth report of BDO Canada Limited dated, in its capacity as Monitor of Applicants (the “**Monitor**”) dated October 1, 2022 (the “**Fourth Report**”); and (vi) extending the stay of proceedings in respect of the Applicants to November 30, 2022 (the “**Stay Period**”); was heard this day by videoconference due to the COVID-19 pandemic.

**ON READING** the Applicants notice of motion dated October 3, 2022, the Affidavit of Melinda Rombouts dated October 3, 2022, and the Fourth Report, to be filed, and on hearing the submissions of counsel for the Applicants and counsel for the Monitor and counsel for those other parties appearing as indicated by the counsel slip, no one appearing for any other party although duly served as appears from the affidavit of service, filed:

#### **SERVICE**

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

#### **DEFINED TERMS**

2. **THIS COURT ORDERS** that capitalized terms not otherwise defined herein shall have the meanings ascribed to such terms in the SPA.

#### **APPROVAL AND VESTING**

3. **THIS COURT ORDERS AND DECLARES** that the SPA and the Transaction be and are hereby approved and that the execution of the SPA by Eve & Co and the Company is hereby authorized, ratified and approved, with such minor amendments as the parties thereto may deem necessary, with the approval of the Monitor. Eve & Co and the Company are hereby authorized and directed to perform their obligations under the SPA and to take such additional steps and execute such additional documents as may be necessary or desirable to effect the Transaction and convey the NMC Shares to the Purchaser.

4. **THIS COURT ORDERS AND DECLARES** that this Order shall constitute the only authorization required by the Applicants to proceed with the Transaction and that no shareholder or other approval shall be required in connection therewith.

5. **THIS COURT ORDERS AND DECLARES** that upon the delivery of the Monitor's certificate (the "**Monitor's Certificate**") to the Purchaser (the time of such delivery being referred to herein as the "**Effective Time**"), substantially in the form attached as Schedule "A" hereto, the following shall occur and shall be deemed to have occurred at the Effective Time in the following sequence:

- (a) all of the right, title and interest in and to the Excluded Assets shall vest absolutely and exclusively in ResidualCo, and all Claims and Encumbrances (each as defined below) shall continue to attach to the Excluded Assets and to the Proceeds (defined below) in accordance with paragraph 9 of this Order, in either case with the same nature and priority as they had immediately prior to the transfer;
- (b) all Excluded Liabilities (which for certainty includes all debts, liabilities, obligations, indebtedness, contracts, leases, agreements, and undertakings 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 equity and whether based in statute or otherwise) of the Company shall be transferred to, assumed by and vest absolutely and exclusively in ResidualCo such that the Excluded Liabilities shall become obligations of ResidualCo and shall no longer be obligations of the Company;
- (c) all options, conversion privileges, equity-based awards, warrants, securities, debentures, loans, notes or other rights, agreements or commitments of any character whatsoever that are held by any Person (as defined below) and are

convertible or exchangeable for any securities of the Company, or which require the issuance, sale or transfer by the Company of any shares or other securities of the Company and/or the share capital of the Company, or otherwise relating thereto, shall be deemed terminated and cancelled; and

- (d) all of the right, title and interest in and to the NMC Shares shall vest absolutely in the Purchaser, free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the “**Claims**”) including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Initial Order or any other orders in these CCAA proceedings; (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal property registry systems; and (iii) those Claims listed on Schedule “C” hereto (all of which are collectively referred to as the “**Encumbrances**”) and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the NMC Shares are hereby expunged and discharged as against the NMC Shares; and
- (e) The Company shall be deemed to cease being an Applicant in these CCAA proceedings, and shall be deemed to be released from the purview of the Initial Order and all other orders of this Court granted in respect of these CCAA proceedings, save and except for this Order, the provisions of which (as they relate to the Company and ResidualCo) shall continue to apply in all respects.

6. **THIS COURT ORDERS** that, in furtherance of this order, upon the registration in the Land Titles Division of [●] of an Application for Vesting Order in the form prescribed by the *Land*

*Titles Act*, the Land Registrar is hereby directed to enter the Purchaser's nominee, [●], as the owner of the subject real property identified in Schedule B hereto (the "**Real Property**") in fee simple, and is hereby directed to delete and expunge from title to the Real Property all of the Claims listed in Schedule C hereto.

7. **THIS COURT ORDERS AND DIRECTS** the Monitor to file with the Court a copy of the Monitor's Certificate, forthwith after delivery thereof in connection with the Transaction.

8. **THIS COURT ORDERS** that the Monitor may rely on written notice from Eve & Co and the Purchaser regarding the fulfilment of conditions to closing under the SPA and shall have no liability with respect to delivery of the Monitor's Certificate.

9. **THIS COURT ORDERS** that for the purposes of determining the nature and priority of Claims the net proceeds from the sale of the NMC Shares and the Retained Assets, as allocated by the Purchaser among the Retained Assets, with no allocation by the Purchaser to the NMC Shares (the "**Proceeds**") and the Excluded Assets, if any, shall stand in the place and stead of the NMC Shares and the Retained Assets, and that from and after the delivery of the Monitor's Certificate all Claims and Encumbrances relating to the Retained Assets shall attach to the Proceeds with the same priority as they had with respect to the Retained Assets, immediately prior to the sale.

10. **THIS COURT ORDERS** that pursuant to section 7(3)(c) of the *Personal Information Protection and Electronic Documents Act*, S.C. 2000, c. 5, the Applicants or the Monitor, as the case may be, is authorized, permitted and directed to, at the Effective Time, disclose to the Purchaser all human resources and payroll information in the Company's records pertaining to past and current employees of NMC. The Purchaser shall maintain and protect the privacy of such information in accordance with applicable law and shall be entitled to use the personal

information provided to it in a manner that is in all material respects identical to the prior use of such information by the Company.

11. **THIS COURT ORDERS AND DECLARES** that, at the Effective Time and without limiting the provisions of paragraph 5 hereof, the Purchaser and the Company shall be deemed released from any and all claims, liabilities (direct, indirect, absolute or contingent) or obligations with respect to any taxes (including penalties and interest thereon) of, or that relate to, the Applicants (provided as it relates to the Company, such release shall not apply to taxes in respect of the business and operations conducted by the Company after the Effective Time), including, without limiting the generality of the foregoing, all taxes that could be assessed against the Purchaser or the Company (including any predecessor corporations) pursuant to section 160 of the *Income Tax Act*, R.S.C. 1985, c. 1 (5<sup>th</sup> Supp.), or any provincial equivalent, in connection with the Applicants.

12. **THIS COURT ORDERS** that except to the extent expressly contemplated by the SPA, all contracts to which the Applicants are parties upon delivery of the Monitor's Certificate will be and remain in full force and effect upon and following delivery of the Monitor's Certificate and no individual, firm, corporation, governmental body or agency, or any other entity (all of the foregoing, collectively being "**Persons**" and each being a "**Person**") who is a party to any such arrangement may accelerate, terminate, rescind, refuse to perform or otherwise repudiate its obligations thereunder or enforce or exercise any right (including any right of set-off, dilution or other remedy) or make any demand under or in respect of any such arrangement and no automatic termination will have any validity or effect, by reason of:

- (a) any event that occurred on or prior to the delivery of the Monitor's Certificate and is not continuing that would have entitled such Person to enforce those rights or remedies (including defaults or events of default arising as a result of the insolvency of any Applicant);

- (b) the insolvency of any Applicant or the fact that the Applicants sought or obtained relief under the CCAA;
- (c) any compromises, releases, discharges, cancellations, transactions, arrangements, reorganizations or other steps taken or effected pursuant to the SPA, the Transaction or the provisions of this Order, or any other Order of the Court in these proceedings; or
- (d) any transfer or assignment, or any change of control of the Company arising from the implementation of the SPA, the Transaction or the provisions of this Order.

13. **THIS COURT ORDERS** that from and after the Effective Time, all Persons shall be deemed to have waived any and all defaults of the Company then existing or previously committed by the Company, or caused by the Company, directly or indirectly, or non-compliance with any covenant, warranty, representation, undertaking, positive or negative pledge, term, provision, condition or obligation, expressed or implied, in any Contract existing between such Person and the Company arising directly or indirectly from the filing of the Company under the CCAA and the implementation of the Transaction, including without limitation any of the matters or events listed in paragraph 12 hereof and any and all notices of default and demands for payment or any step or proceeding taken or commenced in connection therewith under a contract shall be deemed to have been rescinded and of no further force or effect, provided that nothing herein shall be deemed to excuse the Company from performing its obligations under the SPA or be a waiver of defaults by the Company under the SPA and the related documents.

14. **THIS COURT ORDERS** that from and after the Effective Time, any and all Persons shall be and are hereby forever barred, estopped, stayed and enjoined from commencing, taking, applying for or issuing or continuing any and all steps or proceedings, whether directly, derivatively or otherwise, and including without limitation, administrative hearings and orders, declarations and assessments, commenced, taken or proceeded with or that may be

commenced, taken or proceeded with against the Company relating in any way to or in respect of any Excluded Assets, Excluded Liabilities or Excluded Contracts and any other claims, obligations and other matters that are waived, released, expunged or discharged pursuant to this Order.

15. **THIS COURT ORDERS** that from and after the Effective Time:

- (a) the nature of the Assumed Liabilities retained by the Company, including, without limitation, their amount and their secured or unsecured status, shall not be affected or altered as a result of the Transaction or this Order;
- (b) the nature of the Excluded Liabilities, including, without limitation, their amount and their secured or unsecured status, shall not be affected or altered as a result of their transfer to ResidualCo;
- (c) any Person that prior to the Effective Time had a valid right or claim against the Company under or in respect of any Excluded Contract or Excluded Liability (each an “**Excluded Liability Claim**”) shall no longer have such right or claim against the Company but will have an equivalent Excluded Liability Claim against ResidualCo in respect of the Excluded Contract or Excluded Liability from and after the Effective Time in its place and stead, and nothing in this Order limits, lessens or extinguishes the Excluded Liability Claim of any Person as against ResidualCo; and
- (d) the Excluded Liability Claim of any Person against ResidualCo following the Effective Time shall have the same rights, priority and entitlement as such Excluded Liability Claim had against the Company prior to the Effective Time.

16. **THIS COURT ORDERS AND DECLARES** that, as of the Effective Time:

- (a) ResidualCo shall be a company to which the CCAA applies; and
- (b) ResidualCo shall be added as an Applicant in these CCAA proceedings and all references in any Order of this Court in respect of these CCAA proceedings to (i) an “Applicant” or the “Applicants” shall refer to and include ResidualCo, and (ii)

“Property” shall include the current and future assets, licenses, undertakings and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof, of ResidualCo (the “**ResidualCo Property**”), and, for greater certainty, each of the Charges (as defined in the Initial Order dated April 1, 2022, as amended and restated from time to time), shall constitute a charge on the ResidualCo Property.

## **RELEASES**

17. **THIS COURT ORDERS** that effective upon the filing of the Monitor’s Certificate, (i) the current directors, officers, employees, legal counsel and advisors of the Applicants and (ii) the Monitor and its legal counsel (collectively, the “**Released Parties**”) shall be deemed to be forever irrevocably released and discharged from any and all present and future claims (including without limitation, claims for contribution or indemnity), liabilities, indebtedness, demands, actions, causes of action, counterclaims, suits, damages, judgments, executions, recoupments, debts, sums of money, expenses, accounts, liens, taxes, recoveries, and obligations of any nature or kind 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 equity and whether based in statute or otherwise) based in whole or in part on any act or omission, transaction, dealing or other occurrence existing or taking place prior to the filing of the Monitor’s Certificate (a) undertaken or completed pursuant to the terms of this Order, (b) arising in connection with or relating to the SPA or the completion of the Transaction, (c) arising in connection with or relating to the within CCAA proceedings, or (d) related to the management, operations or administration of the Applicants (collectively, the “**Released Claims**”), which Released Claims are hereby fully, finally, irrevocably and forever waived, discharged, released, cancelled and barred as against the Released Parties, provided that nothing in this paragraph shall waive, discharge, release, cancel or bar any claim that is not permitted to be released pursuant to section 5.1(2) of the CCAA.



18. **THIS COURT ORDERS** that, notwithstanding:

- (a) the pendency of these proceedings;
- (b) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act*, R.S.C 195, c. B-3, as amended (the "**BIA**"), in respect of the Applicants and any bankruptcy order issued pursuant to any such applications; and
- (c) any assignment in bankruptcy made in respect of the Applicants;

the SPA, the implementation of the Transaction (including without limitation the transfer and vesting of the Excluded Assets, Excluded Contracts and Excluded Liabilities in and to ResidualCo, the transfer and vesting of the NMC Shares in and to the Purchaser) and any payments by or to the Purchaser, the Applicants or the Monitor authorized herein shall be binding on any trustee in bankruptcy that may be appointed in respect of the Applicants and/or ResidualCo and shall not be void or voidable by creditors of the Applicants or ResidualCo, as applicable, nor shall they constitute nor be deemed to be a fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue, or other reviewable transaction under the CCAA, the BIA or any other applicable federal or provincial legislation, nor shall they constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

#### **MONITOR'S ENHANCED POWERS**

19. **THIS COURT ORDERS** that in addition to the powers and duties of the Monitor set out in the Amended and Restated Initial Order or any other Order of this Court in this CCAA proceeding, and without altering in any way the limitations and obligations of ResidualCo as a result of these proceedings, the Monitor be and is hereby authorized and empowered, but not required to:

- (a) take any and all actions and steps, and execute all documents and writings, on behalf of, and in the name of ResidualCo in order to facilitate the performance of any ongoing obligations of ResidualCo, including with respect to any Excluded Liability

Claim, and to carry out the Monitor's duties under this Order or any other Order of this Court in this CCAA Proceeding;

- (b) exercise any powers which may be properly exercised by a board of directors of ResidualCo;
- (c) cause ResidualCo to retain the services of any person as an employee, consultant, or other similar capacity all under the supervision and direction of the Monitor and on the terms as agreed with the Monitor;
- (d) open one or more new accounts (the "**ResidualCo Accounts**") into which all funds, monies, cheques, instruments and other forms of payment payable to ResidualCo shall be deposited from and after the making of this Order from any source whatsoever and to operate and control, as applicable, on behalf of ResidualCo, the ResidualCo Accounts in such manner as the Monitor, in its sole discretion, deems necessary or appropriate to assist with the exercise of the Monitor's powers and duties;
- (e) cause ResidualCo to perform such other functions or duties as the Monitor considers necessary or desirable in order to facilitate or assist the winding-down of ResidualCo or the distribution of the proceeds of the ResidualCo Property or any other related activities, including in connection with bringing this CCAA Proceeding to an end;
- (f) engage, deal, communicate, negotiate, agree and settle with any creditor or other stakeholder of ResidualCo (including any governmental authority) in the name of or on behalf of ResidualCo;
- (g) claim or cause ResidualCo to claim any and all insurance refunds or tax refunds, including refunds of harmonized sales taxes, to which ResidualCo is entitled;
- (h) have access to all books and records that are the property of ResidualCo in ResidualCo's possession or control in addition to the Applicant's books and records in accordance with the terms of the SPA;
- (i) assign ResidualCo, or cause ResidualCo to be assigned, into bankruptcy, and the Monitor shall be entitled but not obligated to act as trustee in bankruptcy thereof;

- (j) consult with Canada Revenue Agency or Health Canada with respect to any issues arising in respect of this CCAA Proceeding; and
- (k) apply to this Court for advice and directions or any orders necessary or advisable to carry out its powers and obligations under this Order or any other Order granted by this Court including for advice and directions with respect to any matter.

## **GENERAL**

20. **THIS COURT ORDERS** that, following the Effective Time, the Purchaser shall be authorized to take all steps as may be necessary to effect the discharge of the Claims and Encumbrances as against the NMC Shares.

21. **THIS COURT ORDERS** that, following the Effective Time, the title of these proceedings is hereby changed to:

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 [●], EVE & CO INCORPORATED, and EVE  
& CO INTERNATIONAL HOLDINGS LTD.

## **STAY PERIOD**

22. **THIS COURT ORDERS** that the Stay Period referred to in the Amended and Restated Initial Order, dated April 1, 2022, be and is hereby extended to November 30, 2022.

## **OTHER**

23. **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.

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

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**SCHEDULE “A” – FORM OF MONITOR’S CERTIFICATE**

**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 EVE & CO INCORPORATED, NATURAL MEDCO LTD., and EVE & CO INTERNATIONAL HOLDINGS LTD.**

(collectively, the “**Applicants**” and each an “**Applicant**”)

**RECITALS**

A. Pursuant to the Amended and Restated Initial Order of the Honourable Madam Justice Conway of the Ontario Superior Court of Justice (Commercial List), dated April 1, 2022, as amended on August 26, 2022 and September 29, 2022 (the “**Amended and Restated Initial Order**”) the Applicants were granted protection from their creditors pursuant to the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended, and BDO Canada Limited was appointed as the monitor (“**Monitor**”) of the Applicants.

B. Pursuant to the Approval and Vesting Order of the Court, dated October 7, 2022 (the “**Order**”), the court approved the transaction (the “**Transaction**”) contemplated by the Share Purchase Agreement dated September 29, 2022 (the “**SPA**”), between Eve & Co Incorporated (“**Eve & Co**”), Natural MedCo Ltd. (the “**Company**”), and M4 Group Holdings Inc. (the “**Purchaser**”), and ordered, *inter alia*, that (i) all of the Company’s right, title and interest in and to the Excluded Assets shall vest absolutely and exclusively in ResidualCo.; (ii) all of the Excluded Contracts and Excluded Liabilities shall be transferred to and assumed by and vest in ResidualCo.; and (iii) all of the right, title and interest in and to the all of the outstanding and issued shares of the Company (“**NMC Shares**”) shall vest absolutely and exclusively in the Purchaser, which vesting is, in each case, to be effective upon the delivery by the Monitor to the Purchaser of a certificate confirming that the Monitor has received written confirmation in the form and substance satisfactory to the Monitor from the Purchaser and Eve & Co that all conditions to closing have been satisfied or waived by the parties to the SPA.

C. Capitalized terms not defined herein shall have the meaning given to them in the Order.

**THE MONITOR CERTIFIES** the following:

1. The Monitor has received written confirmation from the Purchaser and from Eve & Co, in form and substance satisfactory to the Monitor, that all conditions to closing have been satisfied or waived by the parties to the SPA.

2. This Monitor's certificate was delivered by the Monitor at \_\_\_\_\_ on \_\_\_\_\_, 2022.

**BDO Canada Limited, in its capacity as Monitor of the Applicants, and not in its personal capacity.**

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

**SCHEDULE "B"**

**DESCRIPTION OF REAL PROPERTY**

PT LT 17, CON 5, SER ADELAIDE AS IN MW105987; TOWNSHIP OF ADELAIDE  
METCALFE

**SCHEDULE "C"**  
**ENCUMBRANCES**

[●]



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

Court File No.: CV-22-00678884-00CL

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF EVE & CO  
INCORPORATED, NATURAL MEDCO LTD., and EVE & CO INTERNATIONAL HOLDINGS LTD.

Applicants

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

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**APPROVAL AND VESTING ORDER**  
(MOTION RETURNABLE OCTOBER 7, 2022)

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**MILLER THOMSON LLP**

Scotia Plaza  
40 King Street West, Suite 5800  
P.O. Box 1011  
Toronto, ON Canada M5H 3S1

**David S. Ward LSO #: 33541W**

Tel: 416.595.8625  
dward@millerthomson.com

**Larry Ellis LSO#: 49313K**

Tel: 416.595.8639  
lellis@millerthomson.com

**Monica Faheim LSO#82213R**

Tel: 416.595.6087  
mfaheim@millerthomson.com

Lawyers for the Applicants

# TAB 4

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

THE HONOURABLE ) FRIDAY, THE 7<sup>th</sup>  
 )  
MR. JUSTICE OSBORNE ) DAY OF OCTOBER, 2022  
 )

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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF EVE  
& CO INCORPORATED, NATURAL MEDCO LTD., and EVE & CO INTERNATIONAL  
HOLDINGS LTD. (collectively, the "Applicants")

**ANCILLARY 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**"), was heard this day by videoconference.

**ON READING** the Applicants' notice of motion dated October 3, 2022, the affidavit of Melinda Rombouts sworn October 3, 2022 and the Exhibits thereto ("**Rombouts Affidavit**"), the fourth report (the "**Fourth Report**") of BDO Canada Limited, in its capacity as monitor of the Applicants ("**Monitor**"), to be filed, and on hearing the submissions of counsel for Applicants, counsel for the Monitor and such other counsel as were present, no one appearing for any other party although duly served as appears from the affidavit of service, filed,

**SERVICE**

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.

**SEALING**

2. **THIS COURT ORDERS** that the Confidential Exhibit Brief to the Rombouts Affidavit and the Confidential Appendix to the Fourth Report shall be sealed and kept confidential pending the Closing of the Transaction (as defined in the Rombouts Affidavit).

**MONITOR'S REPORT AND ACTIVITIES APPROVAL**

3. **THIS COURT ORDERS** that the Fourth Report of the Monitor and the activities and conduct of the Monitor described therein 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.

**GENERAL**

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

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

Court File No.: CV-2200678884-00CL

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF EVE &  
CO INCORPORATED, NATURAL MEDCO LTD., and EVE & CO INTERNATIONAL  
HOLDINGS LTD.**

**Applicants**

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

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**ANCILLARY ORDER  
(RETURNABLE OCTOBER 7, 2022)**

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**MILLER THOMSON LLP**  
SCOTIA PLAZA  
40 KING STREET WEST, SUITE 5800  
P.O. BOX 1011  
TORONTO, ON CANADA M5H 3S1

**David S. Ward LSO #: 33541W**  
dward@millerthomson.com  
Tel: 416.595.8625

**Larry Ellis LSO#: 49313K**  
lellis@millerthomson.com  
Tel: 416.595.8639

**Monica Faheim LSO# 82213R**  
mfaheim@millerthomson.com  
Tel: 416.595.6087

Lawyers for the Applicants

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

Court File No.: CV-22-00678884-00CL

**AND IN THE MATTER OF THE COMPROMISE OR ARRANGEMENT OF EVE & CO  
INCORPORATED, NATURAL MEDCO LTD., and EVE & CO INTERNATIONAL  
HOLDINGS LTD.**

**Applicants**

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**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**  
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**MOTION RECORD**  
**(RETURNABLE OCTOBER 7, 2022)**

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**MILLER THOMSON LLP**  
Scotia Plaza  
40 King Street West, Suite 5800  
P.O. Box 1011  
Toronto, ON Canada M5H 3S1

**David S. Ward LSO #: 33541W**  
Tel: 416.595.8625  
dward@millerthomson.com

**Larry Ellis LSO #: 49313K**  
Tel: 416.595.8639  
lellis@millerthomson.com

**Monica Faheim LSO#: 82213R**  
Tel: 416.595.6087  
mfaheim@millerthomson.com

Lawyers for the Applicants