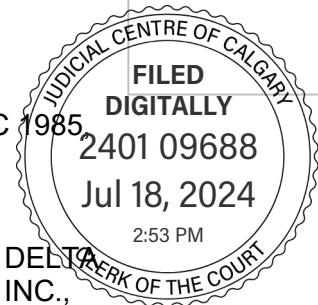


COURT FILE NUMBER 2401-09688
COURT COURT OF KING'S BENCH OF ALBERTA
JUDICIAL CENTRE CALGARY

Clerk's stamp

IN THE MATTER OF THE COMPANIES'
CREDITORS ARRANGEMENT ACT, RSC 1985,
c C-36, AS AMENDED

AND IN THE MATTER OF A PLAN OF
COMPROMISE OR ARRANGEMENT OF DELTA
9 CANNABIS INC., DELTA 9 LOGISTICS INC.,
DELTA 9 BIO-TECH INC., DELTA 9 LIFESTYLE
CANNABIS CLINIC INC. and DELTA 9
CANNABIS STORE INC.



APPLICANTS DELTA 9 CANNABIS INC., DELTA 9 LOGISTICS
INC., DELTA 9 BIO-TECH INC., DELTA 9
LIFESTYLE CANNABIS CLINIC INC. and DELTA
9 CANNABIS STORE INC.

DOCUMENT **SECOND AFFIDAVIT OF JOHN ARBUTHNOT IV**

ADDRESS FOR SERVICE
AND CONTACT
INFORMATION OF
PARTY FILING THIS
DOCUMENT

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File No. 0136555.00034

SECOND AFFIDAVIT OF JOHN ARBUTHNOT IV
Sworn July 18, 2024

I, John Arbuthnot IV, of the City of Winnipeg, in the Province of Manitoba, SWEAR AND SAY
THAT:

1. I am the Chief Executive Officer (“**CEO**”) and director of Delta 9 Cannabis Inc. (“**D9 Parent**”) and a director and president of Delta 9 Logistics Inc. (“**Logistics**”), Delta 9 Bio-Tech Inc. (“**Bio-Tech**”), Delta 9 Lifestyle Cannabis Clinic Inc. (“**Lifestyle**”) and Delta 9 Cannabis Store Inc. (“**Store**”; collectively, the “**Applicants**” or “**Delta 9**”). As such, I have personal knowledge of the matters deposed to in this Affidavit, except where stated to be based on information and belief, in which case, I verily believe the same to be true.

2. D9 Parent is a publicly traded company and the parent company of Bio-Tech, Logistics and Store. Bio-Tech in turn owns 68.8% of Lifestyle and 2759054 Ontario Inc., o/a Fika Herbal Goods ("**Fika**") owns the other 31.2% of Lifestyle's shares. D9 Parent centrally manages the finances and business operations of Delta 9.
3. As a director and officer, I am responsible for managing the Applicants' overall operations and resources and making strategic business decisions. I have been in my current role as a director and officer for over six years, since shortly after D9 Parent went public in November 2017.
4. Unless otherwise indicated, monetary references in this Affidavit are references to Canadian dollars.

I. RELIEF SOUGHT

5. This affidavit (the "**Second Affidavit**") is sworn in support of an application (the "**Comeback Application**") scheduled for July 24, 2024 for, among other things, an amended and restated initial order ("**ARIO**") pursuant to the *Companies' Creditors Arrangement Act*, RSC 1985, c C-36, as amended (the "**CCAA**").
6. This Second Affidavit should be read in conjunction with my first affidavit (the "**First Affidavit**"), sworn on July 12, 2024. Any capitalized terms not otherwise defined herein shall have the meaning ascribed to them in the First Affidavit.
7. On July 15, 2024, the Honourable Justice D.R. Mah granted an application for an initial order (the "**Initial Order**") under the CCAA, approving, among other things, an initial stay of proceedings until July 25, 2024 (the "**Stay Period**") and appointing Alvarez & Marsal Canada Inc. as the monitor (the "**Monitor**").
8. The Applicants are seeking approval of the following relief at the Comeback Application:
 - (a) the ARIO substantially in the form attached at Schedule "A" to the Comeback Application, providing for the following relief:
 - (i) declaring service of the Comeback Application and supporting materials good and sufficient, and if necessary, abridging time for notice of the Comeback Application to the time actually given;

- (ii) extending the Stay Period to September 15, 2024;
- (iii) approving the break-fee of \$1,500,000 set out in the Restructuring Term Sheet dated July 12, 2024 between the plan sponsor, Fika (in such capacity, the “**Plan Sponsor**”) and the Applicants (the “**Restructuring Term Sheet**”) and granting a charge (the “**Plan Sponsor Protection Charge**”) to secure the amount of the break-fee;
- (iv) approving an interim financing loan agreement between the Plan Sponsor and the Applicants dated July 18, 2024 (the “**Interim Financing Agreement**”) and a charge securing the amounts advanced under the Interim Financing Agreement not exceeding the principal sum of \$16,000,000.00, plus interest, costs and expenses in favour of the Plan Sponsor (the “**Interim Financing Charge**”), as security for any advances made by the Plan Sponsor pursuant to the Interim Financing Agreement;
- (v) authorizing the Plan Sponsor to advance the funds in Tranche 2 (as defined below) directly to the Applicants’ senior secured lender, SNDL Inc. (“**SNDL**”) on behalf of the Applicants in an amount sufficient to pay the full value of the SNDL Mezzanine Debt (as defined below);
- (vi) approving a key employee retention plan dated July 18, 2024 (the “**KERP**”) and corresponding charge to secure obligations under the KERP up to the amount of \$655,000 (the “**KERP Charge**”) for individuals identified as critical management personnel of the Applicants in order to retain and incentivize those parties to ensure the success of the CCAA proceedings;
- (vii) increasing the Administration Charge to \$750,000 and the Directors’ Charge to \$900,000;
- (viii) preserving the status quo of the LP Licences by automatically extending the term of the LP Licenses for the same period as the Stay Period; and
- (ix) appointing Mark Townsend as the chief restructuring officer (in such capacity, the “**CRO**”) of the Applicants;

- (b) a Sales and Investment Solicitation Process Order (the “**SISP Order**”), substantially in the form attached as Schedule “B” to the Comeback Application, approving the proposed sales and investment solicitation process (the “**SISP**”) in respect of a going-concern sale of the assets and/or shares of Bio-Tech;
- (c) an Order (the “**Claims Procedure Order**”), substantially in the form attached as Schedule “C” to the Comeback Application, approving a claims procedure with respect to the Applicants (the “**Claims Procedure**”);
- (d) a sealing order (the “**Sealing Order**”) sealing the confidential appendices (the “**Confidential Appendices**”) enclosed to the First Report of the Monitor (the “**First Report**”), which contain an unredacted copy of the KERP and CRO Engagement (as defined below); and
- (e) such further and other relief as this Honourable Court may deem just.

A. Extension of Stay of Proceedings

- 9. The Applicants are seeking an extension of the Stay Period until September 15, 2024 (the “**Stay Extension**”). The Stay Extension is necessary and appropriate to provide the Applicants with continued breathing space while they work to maximize value for their stakeholders and take the next steps in these CCAA proceedings, including formulating a plan of arrangement to be put to the creditors of certain of the Applicants and initiating a sales and investment solicitation process for the going concern sale or investment in Bio-Tech.
- 10. The Applicants require the Stay Extension to have sufficient time to properly and diligently conduct the proposed SISP, conduct the Claims Procedure and to formulate and negotiate a plan or plans of arrangement with their creditors.
- 11. Subject to the approval of the Interim Financing Agreement, the Applicants will have sufficient liquidity during the Stay Extension to fund their required obligations, the costs of these CCAA proceedings and to pay out in full the second-tier debt of their senior secured lender, SNDL Inc. (“**SNDL**”) pursuant to the March 30, 2022 second-lien convertible debenture agreement between SNDL and D9 Parent (the “**SNDL Convertible Debenture**”).

12. The Applicants have acted, and continue to act, in good faith and with due diligence to, among other things, operate their Business in the ordinary course and advance these CCAA proceedings.
13. To the best of my knowledge, no stakeholder will suffer material prejudice as a result of the Stay Extension. Rather, the Applicants' stakeholders will benefit from the Stay Extension, which provides the Applicants with the time and space required to implement a successful compromise and restructuring and emerge as a sustainable operation.

B. Restructuring Term Sheet

14. The Applicants worked closely with their advisors, key stakeholders, and the proposed Plan Sponsor to negotiate and enter into a plan sponsor support agreement, dated effective as of July 12, 2024 (the "**Restructuring Term Sheet**"). A copy of the Restructuring Term Sheet is attached as **Exhibit "4"** to the First Affidavit and **Exhibit "1"** to this Second Affidavit.
15. The Restructuring Term Sheet provides for, among other things, a potential transaction whereby the Plan Sponsor would acquire the Applicants' retail cannabis operations through a plan of arrangement with the additional goal of monetizing the Bio-Tech Business as a going-concern through the SISP. The Restructuring Agreement provides for the Interim Financing Facility, the SISP, the Claims Procedure and the eventual plan or plans of arrangement.
16. The proposed restructuring is detailed in the Restructuring Term Sheet. The following is a summary of the significant aspects of the Restructuring Term Sheet:
 - (a) **Parties:** The Applicants and Fika.
 - (b) **Plan Consideration:** The Plan Sponsor will:
 - (i) make interim financing available in the principal amount of \$16,000,00, payable in two tranches (as set out in further detail below);
 - (ii) issue voting common shares in the capital of Fika to the shareholders of D9 Parent in the aggregate value of \$2,000,000;

- (iii) make voting common shares in the capital of Fika available to a class of unsecured creditors of Lifestyle and Store who elect to convert their unsecured debt into equity, with an aggregate value of \$4,000,000;
 - (iv) if necessary, increase the Interim Financing Facility to cover the costs of the CCAA proceedings;
 - (v) provide payment in full to SNDL in respect of the senior-ranking indebtedness previously held by CFCU and assumed by SNDL on July 5, 2024 pursuant to the SNDL Assignment (the “**Senior SNDL Debt**”) owing by the Applicants upon plan implementation; and
 - (vi) fund the successful plan(s) of compromise including any distributions to unsecured creditors of the Applicants, providing that the minimum aggregate amount for all unsecured creditors of the Applicants shall be no less than \$750,000.
- (c) **SISP:** The business and/or assets of Bio-Tech shall be monetized through a court-approved SISP. Proceeds realized through the SISP will be directed to pay down amounts owing under the Senior SNDL Debt, with full payout of the Senior SNDL Debt to follow on plan implementation.
- (d) **Key Plan Sponsor Covenants:** Among other things, the Plan Sponsor is considering extending offers of employment to the Applicants’ employees in relation to the retail business operations and will request both third party releases and the KERP from the Court as part of the CCAA proceedings.
- (e) **Key Delta 9 Covenants:** Among other things, the Applicants will make best efforts to affect the proposed transaction; engage the CRO; and provide the cash flow forecast and court material drafts to Fika for review and approval.
- (f) **Plan of Arrangement:** Upon implementation of the proposed plan of arrangement, D9 Parent would issue new common shares to the Plan Sponsor and cancel all issued and outstanding common shares of D9 Parent (the “**Acquisition Transaction**”) so that the Plan Sponsor would be the sole shareholder of D9 Parent.

- (g) **Back-up Sale and Investment Solicitation Process:** If the Plan Sponsor and the Applicants determine that effecting a successful plan of arrangement is not achievable, then at the Plan Sponsor's sole discretion, the Applicants will initiate a sales and investment solicitation process for the sale of Delta 9 and execute a stalking horse agreement with the Plan Sponsor, whereby the Plan Sponsor will act as a stalking horse purchaser and provide substantially similar consideration to the value to be provided to Delta 9's stakeholders under the Restructuring Term Sheet;
 - (h) **Break Fee:** The Applicants will pay a break fee of \$1,500,000 (the "**Break Fee**") to the Plan Sponsor if the Court approves any plan of compromise, arrangement or other transaction that would preclude the Plan Sponsor from completing the Acquisition Transaction, or the Applicants otherwise enter into any agreement that would preclude the Acquisition Transaction.
17. Accordingly, and as contemplated in the Restructuring Term Sheet, the Applicants intend to seek approval of the following, concurrently and in conjunction with the ARIO: (a) a SISF in respect of Bio-Tech's business and/or assets as a going-concern; and (b) a claims procedure for determining the validity of creditors' claims in respect of the Applicants.
18. Prior to bringing the Initial Order Application, the Applicants have been working diligently with the Plan Sponsor for several months to develop a restructuring plan for Delta 9 that pays out Delta 9's senior secured creditor's facilities in full and provides additional value for Delta 9's other stakeholders. The Applicants believe that the restructuring process and proposed plan of arrangement that is contemplated under the Restructuring Term Sheet is the best available outcome in the circumstances after canvassing the market for alternative transactions for many months, as described in the First Affidavit beginning at paragraph 180.

C. Break Fee and Plan Sponsor Protection Charge

19. The Applicants are of the view that the Break Fee is reasonable and appropriate in the circumstances. The Break Fee was calculated to compensate the Plan Sponsor for its considerable investment of both funds and time in the process to date, including working with Delta 9 for many months and negotiating with Delta 9's former primary secured lender, CFCU, and other of Delta 9's shareholders and key stakeholders.

20. The Plan Sponsor has entered into the Restructuring Term Sheet and agreed to provide the Interim Financing Facility to not only fund the Applicants ongoing business operations during these CCAA proceedings, but also to repay in full the SNDL Mezzanine Debt (as defined below).
21. In light of the SNDL Demands and absent the stability of the Restructuring Term Sheet, the Applicants would be left to source a transaction in a relatively short timeframe that would not only have to repay all indebtedness owing to SNDL, but also provide value to the Applicants' unsecured creditors and shareholders, which is something the Applicants were unable to do during its prior SAP. The Restructuring Term Sheet offers a baseline recovery through the restructuring process that guarantees full payment of the Applicants' senior secured lender and provides a certain level of recovery to the Applicants' remaining stakeholders.
22. By exposing the details of the Restructuring Term Sheet in these CCAA proceedings, there is a risk to the Plan Sponsor that another party can submit a more competitive plan of arrangement that will be approved by the creditors, preventing the Plan Sponsor from completing the Acquisition Transaction.
23. The Break Fee has been negotiated with the Plan Sponsor to protect the Plan Sponsor from the risk that it will not be compensated for engaging in the significant negotiations and discussions with Delta 9 to formulate the proposal contained in the Restructuring Term Sheet after such terms are exposed in a public process.
24. The Applicants are of the view the Plan Sponsor has provided stability to the within CCAA proceedings, value to the Applicants' stakeholders, and that the Break Fee is reasonable and appropriate to fairly compensate the Plan Sponsor for its investment in what would ultimately be a successful restructuring of the Applicants.
25. The Break Fee represents approximately 3% of the estimated \$50,000,000 gross consideration proposed to be advanced by the Plan Sponsor pursuant to the Restructuring Term Sheet.
26. For all of the reasons set out above, the Applicants believe that the Break Fee and the Plan Sponsor Protection Charge securing payment of the Break Fee are necessary and appropriate in the circumstances. As set out below, the Plan Sponsor Protection Charge

is proposed to rank after all of the other court-ordered Charges and behind the registrations in favour of SNDL.

27. Further, the Plan Sponsor Protection Charge will only apply in the circumstance that the plan(s) of arrangement contemplated under the Restructuring Term Sheet do not proceed and the Plan Sponsor is prevented from completing the Acquisition Transaction.

D. Interim Financing Agreement and Interim Financing Charge

28. The Applicants require access to additional funding in order to continue their operations during these proceedings and to bring their restructuring plans to fruition. Without interim financing, the Applicants lack sufficient liquidity to cover all of their expenses during these CCAA proceedings, and their ability to carry on business will be impacted, to the detriment of their stakeholders.
29. Pursuant to the Restructuring Term Sheet, it is contemplated that the Plan Sponsor will make an interim financing facility available to the Applicants in the total principal amount of \$16,000,000 (the “**Interim Financing Facility**”). This amount of interim financing was calculated in light of the Cash Flow Forecasts and is expected to be sufficient to allow the Applicants to complete the SISP, close a transaction, conduct a Claims Procedure, negotiate and seek approval of a plan or plans of arrangement, pay out SNDL’s second-ranking debt and complete the Applicants’ restructuring.
30. A copy of the Interim Financing Facility is attached hereto as **Exhibit “2”**.
31. The key terms of the Interim Financing Facility include, among others:
 - (a) **Interim Financing Facility:** Non-revolving, committed credit facility in the maximum aggregate principal amount of \$16,000,000, plus applicable costs and interests, payable in two tranches:
 - (i) Tranche 1: up to \$3,000,000 advanced to the Applicants in multiple draws to fund the Applicants’ working capital requirements in connection with the CCAA proceedings: (A) in accordance with the Cash Flow Forecast; and (B) for amounts outside the Cash Flow Forecast, on request by the Applicants as approved by the Monitor and the Plan Sponsor from time to time; and

- (ii) **Tranche 2:** up to \$13,000,000 advanced directly to SNDL on the Applicants' behalf to repay the full value of the secured obligations owing to SNDL under the SNDL Convertible Debenture Agreement (the "**SNDL Mezzanine Debt**") within 10 business days of the issuance of the ARIO and upon confirmation by the Monitor of the validity, enforceability and the quantum of the SNDL Mezzanine Debt ("**Tranche 2**");
- (b) **Interest:** The Toronto Dominion Bank "prime rate" ("**Prime**") + 3%;
- (c) **Default Interest:** The greater of: (i) Prime + 8%; or (b) 15% per annum;
- (d) **Security:** Interim Financing Charge created by the ARIO, which shall be a priority charge on the Applicants' Property subject only to: (i) the Administration Charge, not to exceed \$750,000; (ii) the Directors' Charge, not to exceed \$900,000; (iii) the KERP Charge, not to exceed \$655,000; and (iv) the secured obligations owing to SNDL;
- (e) **Purpose:** To fund the working capital requirements of the Applicants during these CCAA proceedings and not to pay indebtedness of the Applicants that arose prior to the commencement of the proceedings, except as permitted by the Court or contemplated by the Cash Flow Projections, which include professional fees incurred in connection with the CCAA proceedings and debt service payments that would otherwise be due and payable to SNDL but for these CCAA proceedings;
- (f) **Increases:** The Plan Sponsor will fund any increase to the Interim Financing Facility, if necessary, to cover the costs of the CCAA proceedings, including but not limited to, reasonable professional fees, costs and expenses of the CRO, general working capital and the KERP;
- (g) **Recoverable Expenses:** All reasonable fees and expenses incurred by the Plan Sponsor and the CRO (if appointed) in connection with, among other things, the Restructuring Term Sheet, the Interim Financing Agreement, the Initial Order, the ARIO and the enforcement of the Plan Sponsor's rights thereunder, shall be added to the Interim Financing Facility, paid by the Borrower on Maturity and secured by the Interim Financing Charge;

(h) **Maturity:** The earlier of:

- (i) October 14, 2024, or such later date as agreed by the Plan Sponsor in writing;
- (ii) the implementation of the plan of arrangement contemplated under the Restructuring Term Sheet;
- (iii) the closing of any sale or investment transaction respecting any entity other than Bio-Tech;
- (iv) the date on which the CCAA proceedings are terminated; or
- (v) the occurrence of an Event of Default (as defined in the Interim Financing Facility).

- 32. With respect to the payment of Tranche 2 to pay the amount of the SNDL Mezzanine Debt, the Applicants seek this Court's authorization for the Plan Sponsor to pay the confirmed amount of the SNDL Mezzanine Debt directly to SNDL on behalf of the Applicants.
- 33. If such authorization is granted, the Applicants will require the assistance of the Monitor to review and confirm the quantum of the SNDL Mezzanine Debt and the validity and enforceability of SNDL's security prior to making that advance.
- 34. In the First SNDL Demand, issued on May 21, 2024, SNDL alleged that the amount of \$12,512,876.71 was due and owing under the SNDL Convertible Debenture. However, according to Delta 9's internal calculations, as of July 2, 2024, the amount owing to SNDL on the SNDL Convertible Debenture amounted to only \$10,833,333.33, which included interest but excluded other costs, expenses and legal costs. The Applicants require the Monitor's assistance to confirm the quantum of the SNDL Mezzanine Debt as well as the validity and enforceability of SNDL's security registered in respect of such SNDL Mezzanine Debt.
- 35. The Interim Financing Facility is subject to customary covenants, conditions precedent, representations and warranties and events of default. The Interim Financing Facility is conditional upon, among other requirements: (a) the Court approving the ARIO, including

the Interim Financing Charge; (b) the Court approving the SISP Order; and (c) the Plan Sponsor approving the Cash Flow Forecast.

36. The Applicants believe the Interim Financing Facility, the proposed Interim Financing Charge and the related grant of security interests are (a) fair and reasonable in the circumstances; (b) necessary to the restructuring process; and (c) in the best interest of the Applicants and their stakeholders.

E. KERP and KERP Charge

37. The Applicants have developed a KERP with the assistance of the Monitor.
38. The KERP has been designed to first, retain management personnel of the Applicants that have been identified as critical to the continued Business operations during the restructuring (the “**Key Employees**”); and, second, to incentivize the Key Employees to assist in maximizing the value of the Applicants as a going concern. A redacted copy of the KERP is appended to the First Report and an unredacted copy is appended in the Confidential Appendices to the First Report.
39. Subject to this Court’s approval of the KERP, the Applicants are seeking a KERP Charge up to a maximum amount of \$655,000 to secure payment to the Key Employees under the KERP.
40. Key terms of the KERP include, among others:
- (a) “Eligible Participants” in the KERP are initially comprised of nine managers and officers designated as “Key D9 Employees”;
 - (b) Eligible Participants may be added or removed with the approval of the Monitor and the Plan Sponsor if it is determined they (i) are essential to the stability of the Applicants’ Business; (ii) will enhance the effectiveness of a restructuring; and (iii) are necessary to facilitate a restructuring;
 - (c) the total payment to be made to the Eligible Participants is capped at \$655,000 (the “**KERP Cap**”), subject to any increase approved by the Court;
 - (d) if Eligible Participants are added beyond the Key D9 Employees, the amount of the KERP Cap will not be increased without the approval of the Court, but the

allocation of retention payments between Eligible Participants can be amended by the Applicants with the approval of the Monitor, the Plan Sponsor and any affected Eligible Participants;

- (e) retention payments are to be allocated amongst the Eligible Participants based on certain capped amounts for each Eligible Participant; and
- (f) payments vest in the Eligible Participants in two tranches:
 - (i) the first tranche is payable within five days following the applicable vesting event for each Eligible Participant; and
 - (ii) the second tranche is payable on the sooner of plan implementation, the sale of the applicable company or the completion of restructuring.

- 41. The Key Employees, designated as Eligible Participants under the KERP, have significant experience, specialized expertise and personal relationships with employees, customers and suppliers that cannot be replicated or easily replaced. The Applicants anticipate that the Key Employees may also be presented with more certain employment opportunities while facing increased workloads during these CCAA proceedings.
- 42. The Key Employees also include directors and officers that are necessary and integral to the business and operations of Delta 9 continuing to operate in the normal course. A key component, and part of the intended consideration under the KERP, is that releases be sought for the directors and officers as part of any sales transaction and in conjunction with any plan of arrangement that is approved. I am Bio-Tech's only director and the only person with the necessary security clearance to allow Bio-Tech to operate in compliance with its Health Canada Licence. It would be very difficult, if not impossible, to successfully complete the SISP for Bio-Tech without my continued involvement in the operation of the business and in the SISP.
- 43. I believe the continued retention of the Key Employees is necessary to ensure, among other things, the Applicants will be able to successfully maintain their business operations, preserve and maximize asset values, maintain valuable relationships with critical suppliers and retain other employees.

44. The KERP contains private and confidential information pertaining to the Key Employees. Accordingly, any disclosure of the information in the KERP could be detrimental to the Key Employees, and could provide sufficient information to allow competitors to attempt to lure those Key Employees away to alternative employment. As such, Delta 9 is looking to seal the unredacted copy of the KERP on the Court record pursuant to the terms of the Sealing Order.

F. Increase in Administration Charge

45. The following Charges were granted pursuant to the Initial Order: (a) the Administration Charge in the amount of \$350,000; and (b) the Directors' Charge in the amount of \$300,000. Each of the Administration Charge and Directors' Charge were necessary to ensure the participation of the Applicants' counsel, financial advisors, the Monitor and its counsel and the directors and officers of the Applicants in these CCAA proceedings.
46. Pursuant to the ARIO, the Applicants seek to increase the Administration Charge from \$350,000 to \$750,000, which is a necessary increase to continue funding the necessary administration fees and going-concern Business operations of the Applicants during the Stay Extension.
47. The Applicants further seek to increase the Directors' Charge from \$300,000 to \$900,000 to ensure the ongoing participation of the Applicants' directors and officers. While the Applicants' directors and officers are the beneficiaries of an insurance policy that provides coverage for certain claims and liabilities, the policy contains exclusions and exceptions to that coverage. The increase in the Directors' Charge will also include the costs of legal counsel for the directors and officers.
48. The ordinary course operations of the Applicants during the CCAA proceedings give rise to potential director or officer liabilities, including payroll and sales tax remittances. To address legitimate concerns with respect to their potential exposure, the directors and officers have requested reasonable protection against personal liability that might arise against them during the post-filing period.
49. To the best of my knowledge, the Monitor is supportive of increasing the Administration Charge and the Directors' Charge.

G. Ranking of Court-Ordered Charges

50. If approved, the Administration Charge, Interim Financing Charge, Directors' Charge and KERP Charge (collectively, the "**Charges**") would rank ahead of all other encumbrancers other than certain priority payables and secured obligations to SNDL, as follows:
- (a) First – Administration Charge: \$750,000;
 - (b) Second – Directors' Charge: \$900,000;
 - (c) Third – KERP Charge: \$655,000.
 - (d) Fourth – Interim Financing Charge, in the principal amount of \$16,000,000, plus interest, charges, fees and expenses to be paid under the terms of the Interim Financing Term Sheet; and
 - (e) Fifth – Plan Sponsor Protection Charge: \$1,500,000.
51. For clarity, the only charges that would rank in priority to the secured obligations of SNDL (including both the SNDL Senior Debt and SNDL Mezzanine Debt), would be the Administration Charge, the Directors' Charge and the KERP Charge. The remaining Charges, namely the Interim Financing Charge and the Plan Sponsor Protection Charge, would rank subordinate to SNDL's secured debt.
52. I believe that the Charges are necessary to maximizing the value of Delta 9; ensuring a successful restructuring, the continued involvement of the restructuring professionals, key employees, directors and officers; and are in the best interest of all of the stakeholders.

H. Appointing Mark Townsend as CRO

53. The Applicants are seeking this Court's approval and authorization to appoint Mark Townsend as the CRO of the Applicants during the CCAA proceedings.
54. Mr. Townsend is the Managing Partner at Broderick Capital Corp. and has over fourteen years of experience in investment banking, private equity, capital markets, corporate development and strategy. He has been directly involved in over \$2,000,000,000 of M&A and financing transactions and has experience working with both public and private companies in Canada and the US across a wide variety of industries. He has been

engaged with the Applicants since January, 2024 and has completed a significant review of the Applicants' financial performance and valuation of their business.

55. Mr. Townsend has substantial experience in the cannabis industry, having evaluated over eight retail cannabis acquisition opportunities in the past year. He has worked extensively with the Applicants in the time leading up to the Initial Order Application, including assisting in the preparation of key financial analysis and the Cash Flow Forecast.
56. Mr. Townsend has also entered into a form of engagement agreement with the Applicants (the "**CRO Engagement**") to act as CRO. I have reviewed the CRO Engagement and understand that it is to be treated as private as confidential. A full copy of the CRO Engagement is enclosed in the Confidential Appendices to the First Report.
57. The CRO's fees are to be paid by the Interim Financing Facility and secured by the Interim Financing Charge.

I. Approval of the SISP

58. Pursuant to the SISP Order, the Applicants are seeking this Court's approval of the SISP, which will authorize the Monitor, with the assistance of Bio-Tech and, if deemed necessary by the Monitor, a Sales Advisor(s) (defined below), to implement the SISP according to its terms. A copy of the procedural requirements of the SISP are enclosed as a schedule to the SISP Order, which itself is enclosed at Schedule "B" to the Comeback Application.
59. The SISP provides for a process to complete a sale of, or investment in Bio-Tech's assets and business operations as a going-concern.
60. The SISP is intended to provide a fair and transparent process for qualified bidders to assess the nature of the Property and Business (as defined in the SISP) and to submit qualified bids in respect of same.
61. Prior to filing for protection under the CCAA, the Applicants had been engaged in a soft marketing process to assess the interest of select counter parties who might be interested in purchasing the Bio-Tech Property and Business. This soft marketing process had been ongoing for about four to six months prior to the date of the Initial Order.

(i) Key Terms of the SISP

62. The purpose of the SISP is to solicit interest in, and opportunities for, a sale of, or investment in, all of part of Bio-Tech's assets and business operations. Any transaction resulting from the SISP must provide that the purchase of Bio-Tech's Property and/or Business is on an "as is, where is" basis, with the purchased assets vesting in the purchaser free and clear of any and all encumbrances.
63. The SISP is currently contemplated to occur over a 45-day period and is comprised of one phase and, if required, an auction phase. The SISP timelines were designed after taking into consideration the lengthy informal SAP the Applicants previously undertook prior to the commencement of these CCAA proceedings (as detailed in paragraphs 180-192 of the First Affidavit) and the timeline of similar SISP's conducted in other cannabis restructurings.
64. The Monitor shall be authorized to retain one or more sales advisors (each, a "**Sales Advisor**"), to be engaged by the Monitor on customary terms for engagement, to conduct the SISP on the Monitor's behalf, if deemed necessary by the Monitor.

(ii) Key Milestones – Bio-Tech SISP

65. The key milestones of the SISP are as follows:
- (a) July 26, 2024: Bio-Tech to create a list of Known Potential Bidders;
 - (b) July 26, 2024: Monitor to prepare and have available the Data Room for Potential Bidders;
 - (c) July 31, 2024: Monitor to distribute Teaser Letters and NDAs to Known Potential Bidders;
 - (d) August 26, 2024: Bid Deadline;
 - (e) August 28, 2024: Auction (if required);
 - (f) September 2 – 6, 2024: Transaction approval application to be scheduled, if required; and
 - (g) September 9, 2024: Closing Date Deadline.

66. The SISP provides that the milestones provided therein may be extended by the Monitor with the consent and approval of Bio-Tech and the Interim Lender and in consultation with SNDL.

(iii) SISP Marketing Process

67. Pursuant to the proposed SISP, the Monitor, in conjunction with the Applicants, would prepare the following:
- (a) a non-confidential teaser letter describing the opportunity to acquire the Applicants' Business and/or Property, either separately or as a whole (the "**Teaser Letter**");
 - (b) a form of non-disclosure agreement (the "**NDA**"); and
 - (c) a virtual data room (the "**Data Room**") with key financial, operational and other due diligence documents for potential purchasers to conduct due diligence on the Applicants' Business and Property and evaluate the acquisition opportunity.
68. The SISP provides for the following marketing process:
- (a) the Monitor, with the advice of any Sales Advisor and in consultation with Bio-Tech, shall prepare a list of Known Potential Bidders;
 - (b) the SISP shall commence two business days following the date on which the ARIO is granted (the "**Commencement Date**");
 - (c) the Monitor will publish notice of the SISP on the Commencement Date;
 - (d) by July 31, 2024, the Monitor, in consultation with any Sales Advisor and Bio-Tech, shall prepare and issue the Teaser Letter, NDA and instructions on how to become a Potential Bidder to Known Potential Bidders;
 - (e) any party wishing to participate in the SISP must deliver to the Monitor an executed NDA; a letter with details about the Potential Bidder's identity, contact information and full disclosure of its direct and indirect principals; and a form of financial disclosure and credit quality statement;

- (f) upon the Monitor's receipt and review of the above documents, the Monitor will determine if a Potential Bidder is a Qualified Bidder;
- (g) if the Monitor determines a Potential Bidder is a Qualified Bidder, the Monitor will provide the Qualified Bidder with access to the Data Room;
- (h) Qualified Bidders shall submit final, binding purchase offers ("**Binding Bids**") to the Monitor by no later than August 26, 2024 (the "**Bid Deadline**");
- (i) upon receipt of the Binding Bids, the Monitor, together with any Sales Advisor, Bio-Tech and the Plan Sponsor, will review the Binding Bids and will then designate the most competitive bids that comply with the SISP requirements as "**Qualified Bids**";
- (j) if one or more Qualified Bids have been received for different Property, the Monitor may designate the applicable Qualified Bids as the respective Successful Bids for the applicable Property;
- (k) if one or more Qualified Bids have been received for the same Property, the Monitor, in consultation with Bio-Tech, may either designate one of the Qualified Bids as the Successful Bid and one or more of the other Qualified Bids as the Back-up Bid, or provide all parties that have made the Qualified Bids the opportunity to make further bids through the auction process (the "**Auction**");
- (l) in the event of an Auction, the Auction will be held on August 28, 2024, or such other date to be adjusted for any other Applicant, at the offices of the Monitor's legal counsel;
- (m) bidding at the Auction will begin with the Starting Bid and continue in one or more rounds of bidding for as long as at least one Subsequent Bid is advanced, and will run until in any round of bidding, no new Subsequent Bid is made;
- (n) at the conclusion of the Auction, the Monitor will select the Winning Bid with the approval of the Plan Sponsor, which shall be negotiated into a Selected Superior Offer and deemed the Successful Bid;

- (o) once the Successful Bid is selected, Bio-Tech will use best efforts to close the transaction by September 9, 2023 and will bring an application to approve the transaction with the Successful Bidder between September 2 to 6, 2024; and
- (p) the Successful Bidder and Bio-Tech shall use best efforts to close the transaction by no later than September 9, 2024, or such other date to be adjusted for any other Applicant.

J. Claims Procedure Order

- 69. The Applicants are seeking this Court's approval of the Claims Procedure Order attached at Schedule "C" to the Comeback Application. A full copy of the proposed Claims Procedure is appended to the Claims Procedure Order.
- 70. The Claims Procedure Order is a condition of the Restructuring Term Sheet and provides for a process to identify, quantify and resolve all claims against the Applicants and their directors and officers in order to assist with the negotiation, implementation, and voting on any plan of arrangement or compromise.
- 71. At a high level, the key aspects of the Claims Procedure include the following:
 - (a) **Notice:** The Monitor shall send a Claims Package to each Known Claimant within five (5) Business Days following the issuance of the Claims Procedure Order;
 - (b) **Claims Bar Date:** The Claims Bar Date to submit a Notice of Dispute or Proof of Claim with respect to all Pre-Filing Claims and D&O Claims is 5:00 p.m. MT on August 17, 2024;
 - (c) **Restructuring Claims Bar Date:** The Restructuring Claims Bar Date to submit a Proof of Claim with respect to all Restructuring Claims is the later of:
 - (i) the Claims Bar Date; and
 - (ii) 5:00 p.m. MT on the day that is 15 days after the Monitor sends the Claims Package with respect to a Restructuring Claim in accordance with the Claims Procedure Order;

- (d) **Review of Proofs of Claim:** The Monitor, in consultation with the Applicants or the applicable directors and officers in respect of a D&O Claim, shall review all Proofs of Claim and may (i) request additional information from a Claimant; (ii) request that a Claimant file a revised Proof of Claim; (iii) attempt to resolve and settle any issue arising in a Proof of Claim; (iv) accept (in whole or in part) any Claim; and (v) revise or disallow (in whole or in part) any Claim;
- (e) **Notice of Revision or Disallowance:** Where a Claim is revised or disallowed, the Monitor shall deliver to the Claimant a Notice of Revision or Disallowance, attaching the form of Notice of Dispute;
- (f) **Notice of Dispute:** Any Person who intends to dispute a Notice to Known Claimant or a Notice of Revision or Disallowance pursuant to the Claims Procedure Order shall deliver a Notice of Dispute by the Claims Bar Date or seven (7) calendar days after receiving the Notice of Revision or Disallowance; and
- (g) **Disputed Claims Resolution.** If a dispute raised in a Notice of Dispute is not settled within a reasonable time or in a manner satisfactory to the Applicants, the Claimant may have to file an application with the Court.

- 72. The Applicants are of the view that the notification process described in the Claims Procedure Order will provide Claimants with sufficient notice of the Claims Procedure and a sufficient opportunity to prove their Claims against the Applicants and their directors and officers before the Claims Bar Date or the Restructuring Claims Bar Date, as applicable.
- 73. The Applicants are also of the view that the adjudication process for assessing Claims will facilitate the fair and expeditious resolution of any disputes regarding the status and/or amount of each Claim against the Applicants and their directors and officers and allow the Applicants' restructuring to advance in an orderly and efficient manner. A timely and streamlined claims process will also allow the Applicants to determine the amounts to be voted by the creditors in respect of any plan or plans of arrangement that might be presented to the creditors for approval.

K. Sealing Relief

74. The Applicants are seeking a direction that the Confidential Appendices enclosed to the First Report be sealed. The Confidential Appendices contain commercially sensitive information, including details of the payments to be made to Key Employees under the terms of the KERP and the confidential CRO Engagement. I am advised and do I believe the redacted information in the KERP is personal information that should be kept confidential and that the CRO Engagement contains commercially sensitive information respecting the engagement of the CRO.
75. The Applicants are only seeking to seal the limited information in the Confidential Appendices. A redacted copy of the KERP is otherwise available to the public. The Applicants have endeavoured to provide as much information as possible on the public record.


L. Continuance of Lifestyle

76. At the time of swearing my Supplemental Affidavit on July 15, 2024, I had executed all of the necessary documents to continue Lifestyle out of Manitoba and into Alberta and understand that the documents were submitted to the Manitoba Companies Office. At the time of swearing, Lifestyle had not yet received approval from the Manitoba Companies Office to continue into Alberta.
77. I have now received confirmation that Lifestyle's continuation out of Alberta and into Manitoba was approved on July 18, 2024. Lifestyle's head office is now located at 2100, 222-3rd Avenue SW, Calgary, Alberta.
78. Attached hereto and marked as **Exhibit "3"** is a copy of an Alberta Corporate Registry Search dated as of July 18, 2024.

II. CONCLUSION

79. I swear this Affidavit in support of an Application for approval of the ARIO, the SISP Order, the Claims Procedure Order and the Sealing Order, and for no other or improper purpose.

SWORN BEFORE ME at Winnipeg, Manitoba,)
this 18th day of July, 2024.)


Notary Public in and for the Province of
Manitoba

JOHN ARBUTHNOT IV

**This is Exhibit "1" to the
Second Affidavit of John Arbuthnot IV
Sworn before me at Winnipeg, Manitoba
this 18th day of July, 2024**

A handwritten signature in blue ink, appearing to read "Ayati/andhu", is written over a horizontal line.

A Notary Public in and for the Province of Manitoba

PLAN SPONSOR TERM SHEET

July 12, 2024

RECITALS:

A. Delta 9 Cannabis Inc. ("**Delta Parent**") is a publicly traded, vertically integrated cannabis company, operating as a licensed producer of cannabis (the "**Production Business**") through its wholly owned subsidiary, Delta 9 Bio-Tech Inc. ("**Delta LP**"), as a retail cannabis business (the "**Retail Business**") with shops throughout Manitoba, Saskatchewan and Alberta through its subsidiaries Delta 9 Cannabis Store Inc. ("**Delta Retail**"), and Delta 9 Lifestyle Cannabis Clinic Inc. ("**Delta Lifestyle**") and as a distributor through its subsidiary, Delta 9 Logistics Inc. ("**Delta Logistics**", and together with Delta Parent, Delta LP, Delta Retail and Delta Lifestyle, the "**Delta 9 Group**").

B. The Delta 9 Group is indebted to: (i) SNDL Inc. (f/k/a Sundial Growers Inc.) ("**SNDL**") pursuant to certain secured credit facilities made available to the Delta 9 Group (the "**SNDL Debt**"); and (ii) Delta LP is indebted to the Canada Revenue Agency ("**CRA**") for certain unpaid excise tax arrears (collectively, the "**Secured Debt**").

C. On May 21, 2024, SNDL issued a notice of intention to enforce security under section 244 of the *Bankruptcy and Insolvency Act* (Canada) as a result of defaults under the applicable secured loan facilities made available to the Delta 9 Group by SNDL.

D. In addition to the Secured Debt, the Delta 9 Group is indebted to various unsecured creditors, including amounts owing under certain shareholder loans, CRA in respect of the unsecured portion of Delta LP's excise tax arrears, employee claims, and other unsecured claims (collectively, the "**Unsecured Claims**").

E. The Delta 9 Group has engaged in negotiations with 2759054 Ontario Inc. o/a Fika Herbal Goods ("**Fika**" or the "**Plan Sponsor**", and together with the Delta 9 Group, the "**Parties**") regarding a transaction whereby Fika would acquire the Retail Business and, potentially, the assets of the Production Business. As a result of the Delta 9 Group's desire to return value to shareholders, the Parties have agreed to an acquisition structure whereby Fika will acquire the Delta 9 Group and all of its assets in exchange for consideration that includes an equity swap and the assumption of certain debt, as further described herein (the "**Acquisition Transaction**").

F. In order to effect the Acquisition Transaction, the Delta 9 Group intends to make an application for an initial order (the "**Initial Order**"), among other things, commencing proceedings (the "**CCAA Proceedings**") under the *Companies Creditors' Arrangement Act* (the "**CCAA**"), and appointing Alvarez & Marsal Canada Inc. ("**A&M**") as monitor to supervise the affairs of the Delta 9 Group for the CCAA Proceedings (the "**Monitor**").

G. Fika intends to participate as Plan Sponsor in the CCAA Proceedings, and to present one or more plans of compromise or arrangement (collectively, the "**Plan**") to the Delta 9 Group's creditors to effect the Acquisition Transaction and acquire up to 100% of the Delta 9 Group, its assets and the proceeds from any divestiture completed through the CCAA Proceedings (the "**Restructuring**").

H. In addition to the consideration proposed to complete the Acquisition Transaction (as described herein), the Plan Sponsor has agreed to provide debtor in possession funding to the Delta 9 Group to fund the CCAA Proceedings, including the Restructuring and the implementation of the Plan, all subject to, and in accordance with, the terms and conditions set out in this binding plan sponsor term sheet (this "**Term Sheet**").

NOW THEREFORE, in consideration of the mutual covenants and agreements set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties acknowledge and agree that the terms and conditions set out below are intended to form the basis of the Plan.

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| <p>1. PLAN CONSIDERATION</p> | <p>The Plan Sponsor will contribute the following consideration to complete the Acquisition Transaction and fund the CCAA Proceedings:</p> <p>(a) Subject to (d) below, the Plan Sponsor shall establish a debtor-in-possession loan facility in favour of the Delta 9 Group in the maximum aggregate principal amount of \$16,000,000 (the “DIP Loan”) in accordance with the terms of a debtor-in-possession term sheet (the “DIP Term Sheet”), comprised of the following:</p> <p>(i) up to \$3,000,000, available upon the issuance of the ARIO (as defined herein), to be advanced on a weekly basis in accordance with the Cash Flow Forecast (as defined herein) to fund the CCAA Proceedings (“Tranche 1”); and</p> <p>(ii) up to \$13,000,000, to repay any and all secured obligations owing to SNDL under the Note Purchase Agreement dated March 30, 2022 and the Senior Secured Second-Lien Convertible Debenture dated March 30, 2022 (the “SNDL Mezzanine Debt”) promptly following issuance of the ARIO, provided that the amount of such obligations shall be confirmed by the Monitor (“Tranche 2”).</p> <p>The DIP Loan shall bear interest at a rate equal to the Toronto Dominion Bank “prime rate” plus 3%. The DIP Loan shall be secured by a Court-ordered charge over all of the assets of the Delta 9 Group, to be granted in the ARIO (the “DIP Loan Charge”). The DIP Loan Charge shall be a priority charge subject only to: (i) a Court-ordered administration charge not to exceed \$750,000; (ii) a Court-ordered Directors and Officers Charge not to exceed \$900,000 (the “D&O Charge”); (iii) a Court-ordered KERP charge not to exceed \$655,000; and (iv) secured obligations owing to SNDL.</p> <p>The Delta 9 Group shall use Tranche 1 to, among other things, pay all debt servicing payments that would otherwise be due and payable to SNDL but for these CCAA Proceedings. For greater certainty, the ARIO shall explicitly authorize the payment of such amounts.</p> <p>(b) The Plan Sponsor shall issue voting common shares in the capital of Fika to the shareholders of Delta Parent, with an aggregate value of \$2,000,000 at a valuation agreed between the Parties. Such Fika shares shall be issued through a structure satisfactory to the Parties, acting reasonably, and shall be deposited in a voting trust, with a trustee agreed upon by the Delta 9 Group and the Plan Sponsor.</p> |
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| | <p>(c) The Plan Sponsor shall make available voting common shares in the capital of Fika to the Equity Conversion Electing Creditors, defined below, with an aggregate value of \$4,000,000 at a valuation agreed between the Parties (such Fika shares being the "Fika Conversion Shares"). The Fika Conversion Shares shall be issued through a structure satisfactory to the Parties, acting reasonably, and shall be deposited in a voting trust, with a trustee agreed upon by the Delta 9 Group and the Plan Sponsor.</p> <p>"Equity Conversion Electing Creditors" means the creditors of Delta Retail and Delta Lifestyle holding Unsecured Claims who elect, prior to the implementation of the Plan, to convert all of their Unsecured Claims in Delta Retail or Delta Lifestyle, as applicable, into Fika Conversion Shares, at a ratio of Unsecured Claims to Fika Conversion Shares to be determined by the Plan Sponsor, at its sole discretion.</p> <p>(d) The Plan Sponsor shall pay out the outstanding balance of the SNDL Debt on Plan implementation.</p> <p>(e) The Plan Sponsor will fund any increase to the DIP Loan, if necessary, to cover the costs of the CCAA Proceedings, including, but not limited to, reasonable professional fees, costs and expenses of the CRO (as defined herein), general working capital, and the KERP. For certainty, the cash position of the Delta 9 Group shall be the responsibility of the Plan Sponsor from and after the commencement of the CCAA Proceedings.</p> <p>(f) The Plan Sponsor shall fund the Plan, including any distributions to creditors of the Delta 9 Group holding Unsecured Claims which, for certainty, shall exceed the amount that such creditors would receive in a bankruptcy provided that, for certainty, the minimum aggregate amount for all creditors holding Unsecured Claims in respect of the Delta 9 Group shall be no less than \$750,000.</p> <p>The consideration noted in this Section 1 is hereinafter referred to as the "Plan Consideration".</p> |
| <p>2. CONVENIENCE CLASS</p> | <p>Creditors, when voting on the Plan, may select the convenience option (each a "Convenience Creditor" and collectively, the "Convenience Creditors"). Any creditor with a claim that has a value of less than an amount to be determined by the Plan Sponsor, in its sole discretion (the "Convenience Creditor Amount") shall be deemed a Convenience Creditor. Convenience Creditors shall be deemed to vote in favour of the Plan. Convenience Creditors shall receive the lesser of the Convenience Creditor Amount or the quantum of their proven claim in full and final satisfaction of their claim.</p> <p>For greater certainty, there shall be a separate Convenience Creditor Amount for each of the Delta 9 Group entities, to be determined by the Plan Sponsor, in its sole discretion.</p> |

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| 3. DELTA LP SISP | <p>The Production Business and/or assets of Delta LP shall be monetized through a Court-approved sales process (the “Delta LP SISP”). The Parties shall make best efforts to seek the Court’s approval of the Delta LP SISP concurrent with the issuance of the ARIO. The Delta LP SISP shall be designed and agreed upon by the Delta 9 Group, the Plan Sponsor, and the Monitor. The Delta 9 Group shall not accept any offer made within the Delta LP SISP unless the Plan Sponsor consents to accepting such offer. The Parties acknowledge and agree that the proceeds of sale resulting from the Delta LP SISP shall be distributed in accordance with the Plan and with the approval of creditors with an economic interest in the financial outcome.</p> |
| 4. PLAN SPONSOR COVENANTS | <p>In addition to paying the Plan Consideration, the Plan Sponsor hereby covenants and agrees as follows:</p> <ul style="list-style-type: none"> (a) The Plan Sponsor intends to offer continued employment to each of the Delta 9 Group’s employees who are necessary to operate the Retail Business. (b) The Plan Sponsor shall support any request of the Delta 9 Group for the Court to approve third-party releases in favour of the board of directors and officers of the Delta 9 Group as part of any sanction order issued in connection with the Plan. (c) The Plan Sponsor shall support any request of the Delta 9 Group for the Court to approve third party releases in favour of the board of directors of Delta LP as part of any approval and reverse vesting order sought in the CCAA Proceedings. (d) The Plan Sponsor shall support the Delta 9 Group’s request for the Court to approve a Key Employee Retention Plan (the “KERP”), in form and substance acceptable to the Plan Sponsor, acting reasonably, but with aggregate consideration of no less than \$655,000.00, and it shall be a term of the KERP that the officers receive a release under any Plan or in any approval and reverse vesting transaction consummated for Delta LP. The Delta 9 Group shall provide the Plan Sponsor with a proposed draft of the KERP as soon as reasonably practicable following the execution of this Term Sheet. |
| 5. DELTA 9 GROUP COVENANTS | <p>The Delta 9 Group hereby covenants and agrees as follows:</p> <ul style="list-style-type: none"> (a) The Delta 9 Group will make best efforts to effect the Acquisition Transaction in accordance with the terms of this Term Sheet and the Plan. (b) The Delta 9 Group shall consult with the Plan Sponsor regarding any and all material decisions affecting the Restructuring that diverge from the terms and conditions of this Term Sheet and, for certainty, such decisions shall require the prior approval of the Plan Sponsor, not to be unreasonably withheld, conditioned or delayed. For certainty, if the Plan Sponsor does not accept or |

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| | <p>reject (with reasons) any such approval request within 48 hours, it will be deemed to approve such course of action.</p> |
| | <p>(c) The Delta 9 Group shall engage Mark Townsend as Chief Restructuring Officer (“CRO”) to facilitate the Restructuring. The CRO shall report to the CEO of Delta Parent and shall have no agency or ability to bind the Delta 9 Group without the express consent of the CEO or the board of directors of Delta Parent. The costs and expense of the CRO shall be funded by the DIP Loan. The CRO shall be given full access to all of the Delta 9 Group’s books and records and facilities. The CRO shall have the right to attend at all meetings of the board of directors of any of the Delta 9 Group entities. The CRO shall be consulted prior to any Delta 9 Group entity making any material decision related to the Restructuring and the CRO shall have the authority to make decisions and bind the Plan Sponsor for the purposes of this Binding Term Sheet.</p> |
| | <p>(d) The Delta 9 Group shall, as soon as reasonably practicable following the execution of this Term Sheet, provide the Plan Sponsor with a 13-week cash flow forecast (the “Cash Flow Forecast”). The Plan Sponsor shall have the right to comment on the Cash Flow Forecast. The Delta 9 Group shall obtain the Plan Sponsor’s approval of any Cash Flow Forecast prior to providing the same to the Court, provided such approval shall not be unreasonably withheld, conditioned or delayed.</p> |
| | <p>(e) The Delta 9 Group shall not file any documents with the Court unless the Plan Sponsor has approved the form and content of such documents, provided such approval shall not be unreasonably withheld, conditioned or delayed.</p> |
| | <p>(f) The Delta 9 Group shall oppose, and shall support Fika in opposing, any attempt by any person to seek the Court’s approval of any order that is not consistent with or would lead to an outcome that is not consistent with the terms of this Term Sheet.</p> |
| | <p>(g) In the circumstance whereby the Parties determine that the effecting of a successful Plan isn’t achievable, at the Plan Sponsor’s sole discretion, the Delta 9 Group shall: (i) initiate a process for the sale of the Delta 9 Group; and (ii) execute a stalking horse purchase agreement whereby the Plan Sponsor will act as stalking horse purchaser, with consideration substantially similar to that provided for herein.</p> |
| | <p>(h) The Delta 9 Group shall obtain the Court’s authorization to continue its existing cash management process in the ordinary course during the CCAA Proceedings.</p> |
| | <p>(i) The Delta 9 Group shall pay a break fee of \$1,500,000 to the Plan Sponsor in the event that: (i) the Court approves any plan of compromise or arrangement or any other transaction that</p> |

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| | <p>would have the effect of precluding the consummation of the Acquisition Transaction; or (ii) the Delta 9 Group otherwise enters into any agreement that would have the effect of precluding the consummation of the Acquisition Transaction.</p> <p>(j) The Delta 9 Group shall pay the Plan Sponsor a commitment fee of \$50,000 upon the execution of this Term Sheet (the “Commitment Fee”). The Commitment Fee shall be fully earned and payable upon the execution of this Term Sheet.</p> <p>(k) Delta Parent shall, on the execution of this Term Sheet, assign, transfer, and convey \$2,000,000 of debt owing by Delta Lifestyle to Delta Parent (the “Intercompany Debt”) such that the Plan Sponsor shall become the owner of the Intercompany Debt and all legal rights thereto, including but not limited to the right to further assign the Intercompany Debt.</p> <p>(l) At any meeting of the creditors of the Delta 9 Group held pursuant to the Meeting Order for the purpose of voting on the Plan, the Delta 9 Group entities shall not cast any votes in respect of the Plan on the basis of any intercompany debt that, at the time of such meeting of creditors, is owing to any Delta 9 Group entity from any other Delta 9 Group entity.</p> |
| <p>6. CONDITIONS PRECEDENT</p> | <p>The Parties agree that the obligation of the Plan Sponsor to perform its obligations under this Term Sheet will be subject to the following conditions precedent (which, for certainty, shall be staggered to reflect the relative timing of each event)):</p> <p>(a) The respective boards of directors of each of the Parties shall approve and ratify the execution of this Term Sheet;</p> <p>(b) the Court shall issue the initial order (the “Initial Order”) in the CCAA Proceedings, in substantially the form of the Alberta Template CCAA Initial Order, as may be amended by the Parties to reflect the terms and conditions set out herein, in form and substance satisfactory to the Plan Sponsor, acting reasonably;</p> <p>(c) the Court shall issue an amended and restated Initial Order (“ARIO”), in substantially the form of the Alberta Template CCAA Initial Order, as may be amended by the Parties to reflect the terms and conditions set out herein, in form and substance satisfactory to the Plan Sponsor, acting reasonably. For certainty, the ARIO will approve this Term Sheet, the DIP Loan, the DIP Loan Charge, the D&O Charge, the DIP Term Sheet, the KERP the appointment of the CRO and payment of Tranche 2 to SNDL promptly following the issuance of the ARIO in full satisfaction of the SNDL Mezzanine Debt;</p> <p>(d) the Court shall issue an order, in form and substance satisfactory to the Plan Sponsor, acting reasonably, approving the Delta LP SISP (the “Delta LP SISP Order”);</p> |

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| | <p>(e) the Court shall issue an order, in form and substance satisfactory to the Plan Sponsor, acting reasonably, approving a creditor meeting order (the “Meeting Order”);</p> <p>(f) the Court shall issue an order, in form and substance satisfactory to the Plan Sponsor, acting reasonably, approving a claims procedure (the “Claims Process Order”);</p> <p>(g) a majority in number representing two thirds in value of each class of creditors shall vote in favour of the Plan (provided that if the Plan is not approved, the offer of Fika contemplated herein will be deemed to convert to a stalking horse bid within a Court-supervised sale and investment solicitation process (“SISP”); and</p> <p>(h) if not converted to a SISP, the Court shall issue an order, in form and substance satisfactory to the Plan Sponsor, acting reasonably, approving the Plan (the “Plan Approval Order”).</p> |
| 7. CREDITOR DISTRIBUTION | <p>Creditors shall be paid in accordance with the Plan or in accordance with relative priorities from the outcome of the Delta LP SISP (subject to any other agreement amongst the creditors of Delta Parent), as follows:</p> <p>(a) The Convenience Creditors shall be paid their applicable Convenience Creditor Amount upon the implementation of the Plan.</p> <p>(b) The Equity Conversion Electing Creditors shall receive the Fika Conversion Shares upon the implementation of the Plan, in satisfaction of their Unsecured Claims.</p> <p>(c) All creditors of the Delta 9 Group who hold Unsecured Claims and are not Convenience Creditors or Equity Conversion Electing Creditors shall receive a payment, to be determined by the Plan Sponsor, in consultation with the Monitor, which shall exceed the amount that such creditors would receive in a bankruptcy, in satisfaction of their Unsecured Claims but in aggregate shall be equal to or exceed the amounts contemplated herein.</p> |
| 8. EQUITY | <p>Upon implementation of the Plan:</p> <p>(a) Delta Parent shall issue new common shares to the Plan Sponsor (the “New Shares”), in a manner satisfactory to the Plan Sponsor and, following the cancellation described in Section 8(b), such New Shares shall represent 100% of the issued and outstanding equity of Delta Parent;</p> <p>(b) all issued and outstanding common shares of Delta Parent shall be cancelled, terminated and extinguished without compensation or consideration, save and except for the New Shares; and</p> |

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| | <p>(c) any other equity interests of any nature or kind of Delta Parent, excluding the New Shares, shall be cancelled, terminated and extinguished without compensation or consideration.</p> |
| 9. CLAIMS PROCESS | <p>The procedure for determining the validity of creditor's claims will be governed by the Claims Process Order. The Claims Process Order shall consider, among other things, the following:</p> <ul style="list-style-type: none"> (a) classification of creditors; (b) claims bar date; and (c) review, assessment and determination of claims. <p>The Claims Process Order shall be on usual and customary terms and shall be in form and substance acceptable to the Plan Sponsor acting reasonably.</p> |
| 10. MEETING ORDER | <p>The procedure for conducting the creditors' meetings (the "Creditors Meetings") for each member of the Delta 9 Group filing a Plan shall be set out in the Meeting Order. The Meeting Order shall be in form and substance acceptable to the Plan Sponsor, acting reasonably. The Meeting Order shall consider, among other things, the following:</p> <ul style="list-style-type: none"> (a) the date(s) that the Creditors' Meetings shall be held; (b) Plan voting procedures; (c) adjournment and postponement procedures; and (d) Plan related disclosure and associated timeline and schedule. |
| 11. RESTRUCTURING STEPS | <p>The Restructuring shall be completed in accordance with the steps set out below. The Parties agree that they shall make best efforts to complete each step within the timelines set out below, provided a failure to meet such deadlines despite acting in good faith shall not be a breach of this Term Sheet or a condition precedent:</p> <ul style="list-style-type: none"> (a) the Delta 9 Group engages A&M as Monitor; (b) the Court approves the Initial Order on the "Filing Date"; (c) the Court approves the ARIO, the Delta LP SISP Order, and the Claims Process Order no more than 10 days after the Filing Date; (d) the Parties settle the terms of the Plan as soon as reasonably possible but no later than 21 days after the Filing Date; (e) the Court approves the Meeting Order no later than 28 days after the Filing Date; (f) the Delta LP SISP, including any auction held therewith, concludes no later than 40 days after the Filing Date; |

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| | <p>(g) the claims process is completed no later than 45 days after the Filing Date;</p> <p>(h) the creditors meet to vote on the Plan no later than 75 days after the Filing Date, subject to any adjournments as contemplated by the terms of the Meeting Order;</p> <p>(i) the Court approves the Plan no later than 90 days after the Filing Date;</p> <p>(j) the Plan is implemented, including but not limited to payment of creditors in accordance with the Plan by no later than 90 days after the Filing Date;</p> <p>(k) all payments to creditors are completed by the Monitor no later than 90 days after the Filing Date; and</p> <p>(l) Delta Parent issues new common shares to the Plan Sponsor in accordance with Section Error! Reference source not found. hereof, and completes all necessary amendments to Delta Parent's articles of incorporation, amalgamation or continuance, as applicable, no later than 120 days after the Filing Date.</p> |
| 12. JURISDICTION | The Parties agree to submit to the non-exclusive jurisdiction of the courts of the Province of Alberta and agree to be bound to any suit, action or proceeding commenced in such courts and by any order or judgment resulting from such suit, action or proceeding. For certainty, the Delta 9 Group shall use best efforts to have the CCAA Proceedings commenced in the courts in the Province of Alberta (the " Court "). |
| 13. TERMINATION | This Term Sheet and the obligations of the Parties contained herein shall automatically cease and terminate if the Restructuring is not implemented on or before October 14, 2024. |
| 14. AMENDMENT | This Term Sheet may not be amended without the mutual agreement of the parties. |
| 15. CURRENCY | All references to currency noted in this Term Sheet shall be a reference to Canadian dollars. |
| 16. EXCLUSIVITY | Other than within the context of a SISP contemplated under this Term Sheet, the Delta 9 Group agrees to negotiate exclusively with the Plan Sponsor in respect of the Restructuring contemplated herein for a period beginning on the date of this Term Sheet and ending 93 days after the date hereof (the " Exclusivity Period ") in an effort to negotiate and complete the Restructuring, the Delta 9 Group shall not, and shall not cause or permit any of its officers, directors, employees, representatives or agents to, directly or indirectly: (a) encourage, solicit, initiate or participate in any way in discussions or negotiations with; (b) provide any information to; or (c) enter into any agreement, arrangement or understanding with any person or group of persons, in each case concerning any transactions, whether by merger, business combination, sale of all or a material portion of the assets of the Delta 9 Group or the |

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| | equity securities of the Delta 9 Group or any other disposition of Delta 9 Group that would be competitive with or have an adverse impact on the Restructuring or Acquisition Transaction (or would otherwise not be in the ordinary course for the Delta 9 Group). |
| 17. ASSIGNMENT | Fika may assign its rights or obligations under this Term Sheet to any affiliate with prior written notice to the Delta 9 Group, but without prior written consent; provided that Fika shall remain primarily liable to the Delta 9 Group for the performance of all of its obligations contemplated herein. Other than the foregoing, neither Party may assign its rights or obligations hereunder without the prior written consent of the other Party. For certainty, and notwithstanding any assignment by Fika, all Delta Parent Shares and Fika Conversion Shares shall be issued in the capital of Fika. |
| 18. COSTS | Upon approval of the DIP Loan, and subject to section 1(d), all reasonable accrued and continuing costs and expenses of the Parties incurred in connection with the Restructuring (" Costs and Expenses ") shall be borne by the Delta 9 Group and shall be paid in accordance with the Cash Flow Forecast. In addition to the foregoing, any of the Plan Sponsor's Costs and Expenses not paid in accordance with the Cash Flow Forecast shall become due and payable to the Plan Sponsor, on behalf of the Delta 9 Group, two (2) business days after the earlier of: (i) the implementation of the Plan; (ii) the Court approving any plan of compromise and arrangement or any other transaction that would have the effect of precluding the consummation of the Acquisition Transaction; or (iii) the Delta 9 Group otherwise entering into any agreement that would have the effect of precluding the consummation of the Acquisition Transaction. |
| 19. COUNTERPARTS | This Term Sheet 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 e-mail of an executed counterpart of this Term Sheet shall be deemed to constitute due and sufficient delivery of such counterpart. |
| 20. BINDING AGREEMENT | This Term Sheet shall constitute a binding agreement between the Parties. Each Party agrees to execute and deliver such further documents and do such further acts and things as may be necessary to carry out the intent and purpose of this Term Sheet. |

IN WITNESS WHEREOF the Parties hereto have executed this Term Sheet as of the day and year first above written.

**2759054 ONTARIO INC. O/A FIKA
HERBAL GOODS**

Signed by:

Per: _____
Name: Mark Vasey
Title: CEO

DELTA 9 CANNABIS INC.

Per: _____
Name: John Arbuthnot
Title: _____

DELTA 9 LOGISTICS INC.

Per: _____
Name: John Arbuthnot
Title: _____

DELTA 9 CANNABIS STORE INC.

Per: _____
Name: John Arbuthnot
Title: _____

DELTA 9 BIO-TECH INC.

Per: _____
Name: John Arbuthnot
Title: _____

**DELTA 9 LIFESTYLE CANNABIS CLINIC
INC.**

Per: _____
Name: John Arbuthnot
Title: _____

**This is Exhibit "2" to the
Second Affidavit of John Arbuthnot IV
Sworn before me at Winnipeg, Manitoba
this 18th day of July, 2024**



A Notary Public in and for the Province of Manitoba

July 18, 2024

Delta 9 Cannabis Inc.
Delta 9 Bio-Tech Inc.
Delta 9 Cannabis Store Inc.
Delta 9 Lifestyle Cannabis Clinic Inc.
Delta 9 Logistics Inc.

Attention: John Arbuthnot, CEO

Re: Debtor-in-Possession Financing of Delta 9 Cannabis Inc. et al

A. Pursuant to the order of the Honourable Justice Mah of the Court of King's Bench of Alberta (the "**Court**") issued July 15, 2024 (the "**Initial Order**"), Delta 9 Cannabis Inc. ("**Delta Parent**"), Delta 9 Bio-Tech Inc. ("**Bio-Tech**"), Delta 9 Cannabis Store Inc. ("**Store**"), Delta 9 Lifestyle Cannabis Clinic Inc. ("**Lifestyle**") and Delta 9 Logistics Inc. ("**Logistics**", and together with Delta Parent, Bio-Tech, Store and Lifestyle, the "**Borrowers**") were granted, among other things, creditor protection under the *Companies' Creditors Arrangement Act*, RSC 1985, c C-36, as amended (the "**CCAA Proceedings**"), and Alvarez & Marsal Canada Inc. was appointed as monitor (in such capacity, the "**Monitor**") of the Borrowers.

B. The Borrowers intend to return to Court on July 24, 2024 to seek: (i) an amended and restated initial order to, among other things, extend the initial stay of proceedings established by the Initial Order, approve this debtor-in-possession term sheet (this "**Term Sheet**"), appoint Mark Townsend as Chief Restructuring Officer to the Borrowers (in such capacity, the "**CRO**") and grant the Interim Lender's Charge (as defined herein) (as may be further amended and restated from time to time, the "**ARIO**"); and (ii) an order approving and authorizing the Borrowers, in consultation with the Monitor, to conduct a sales and investment solicitation process (the "**Bio-Tech SISP**") for the business and/or assets of Bio-Tech (as may be amended and restated from time to time, the "**SISP Order**").

C. The Borrowers require funding to satisfy the cash flow requirements of the CCAA Proceedings, the Bio-Tech SISP and other short-term liquidity requirements.

D. The Borrowers and 2759054 Ontario Inc. o/a Fika Herbal Goods (the "**Interim Lender**") have entered into a binding plan sponsor term sheet dated on or about the date hereof (the "**Plan Sponsor Term Sheet**") pursuant to which the Interim Lender agreed to: (i) acquire a 100% ownership interest in the Borrowers (other than potentially Bio-Tech) within the CCAA Proceedings (the "**Transaction**") pursuant to one or more plans of compromise or arrangement (collectively, the "**Plan**"); and (ii) establish a debtor-in-possession credit facility in the maximum aggregate principal amount of \$16,000,000 (as may be increased in accordance with the terms hereof), plus applicable interest and costs, subject to and in accordance with the terms and conditions of this Term Sheet.

NOW THEREFORE in consideration of the foregoing and the mutual covenants and agreements set forth below, and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereby agree as follows:

SUMMARY OF TERMS FOR INTERIM FINANCING FACILITY

1. **Borrowers:** Delta 9 Cannabis Inc., Delta 9 Bio-Tech Inc., Delta 9 Cannabis Store Inc., Delta 9 Lifestyle Cannabis Clinic Inc. and Delta 9 Logistics Inc., on a joint and several basis.
2. **Interim Lender:** 2759054 Ontario Inc. o/a Fika Herbal Goods

3. Interim Financing Facility:

Non-revolving, committed credit facility in the maximum aggregate principal amount of \$16,000,000 (as may be increased in accordance with the terms hereof), plus applicable interest and costs (the "**Maximum Amount**"), consisting of:

- (a) up to \$3,000,000 ("**Tranche 1**"), to fund working capital requirements in connection with the CCAA Proceedings in accordance with the Cash Flow Forecast approved by the Monitor and the Interim Lender from time to time (the "**Cash Flow Forecast**"); and
- (b) up to \$13,000,000 ("**Tranche 2**" and together with Tranche 1, collectively, the "**Interim Financing Facility**"), to fund the repayment of any and all secured indebtedness (the "**SNDL Mezzanine Debt**") owing to SNDL Inc. ("**SNDL**"), under the Note Purchase Agreement dated March 30, 2022 and the Senior Secured Second-Lien Convertible Debenture dated March 30, 2022; provided that the quantum, validity and enforceability of the SNDL Mezzanine Debt shall be confirmed by the Monitor.

The amount and purpose of the Interim Financing Facility may be amended by the Borrowers and the Interim Lender in writing and subject to the consent of the Monitor or order of the Court. The Borrowers may not use the proceeds of the Interim Financing Facility to pay any pre-filing obligations of the Borrowers, except: (i) obligations contemplated by the Cash Flow Forecast (which shall include professional fees incurred in connection with the CCAA Proceedings and debt service payments that would otherwise be due and payable to SNDL but for these CCAA Proceedings); or (ii) obligations for which the Borrowers have obtained the prior written consent of the Interim Lender and the Monitor. Notwithstanding the foregoing, where Tranche 1 has been fully Advanced, the Maximum Amount shall be increased by the Interim Lender to cover any fees and disbursements of the Professional Advisors in excess thereof; provided that the Interim Lender's Charge shall be increased accordingly, and the Interim Lender shall have no obligation to advance any amount that is not properly secured by the Interim Lender's Charge.

4. Advances:

Subject to the funding conditions set out in Section 10 of this Term Sheet, the Interim Financing Facility shall be available by multiple advances (individually, an "**Advance**" and collectively, the "**Advances**").

Tranche 1 shall be Advanced to the Borrowers (or such other person as the Borrowers shall direct) in multiple draws in accordance with: (a) the Cash Flow Forecast; and (b) for Advance requests that are not contemplated by the Cash Flow Forecast, the Borrowers shall provide the Interim Lender and the Monitor with no less than two (2) business days' written notice, which notice shall state the purpose for which the Advance is to be used by the Borrowers. For certainty, Advance requests that are not contemplated by the Cash Flow Forecast shall require the approval of the Interim Lender.

Subject to completion of the review outlined in section 3(b) above, Tranche 2 shall be made in a single Advance within ten (10) business days of the ARIO being issued. Such Advance shall be paid by the Interim Lender, for

and on behalf of the Borrowers, directly to SNDL in an amount sufficient to repay the SNDL Mezzanine Debt.

Nothing in this Term Sheet creates a legally binding obligation on the Interim Lender to advance any amount under the Interim Financing Facility at any time unless: (a) the Borrowers are in compliance with the provisions of this Term Sheet, the Plan Sponsor Term Sheet and the ARIO; (b) the funding conditions set out in Section 10 of this Term Sheet have been satisfied, if applicable; and (c) the Borrowers are operating within the parameters of the Cash Flow Forecast.

5. Interest:

Interest shall accrue on all amounts Advanced under the Interim Financing Facility at a rate equal to the Prime Rate plus 3% (the “**Interest**”). Interest shall be calculated on the daily outstanding balance owing under the Interim Financing Facility, not in advance, and shall accrue and be paid on the Maturity Date (as defined herein).

Notwithstanding the foregoing, upon the occurrence of an Event of Default (as defined below) and the expiry of the Cure Period (as defined below), Interest shall be increased to the greater of: (a) the Prime Rate plus 8%; and (b) 15% per annum; from the date that the Cure Period expires in respect of such Event of Default, until such time as the Obligations are repaid in full.

“**Prime Rate**” means, on any day, the annual rate of interest equal to the rate which the principal office of The Toronto Dominion Bank in Toronto, Ontario quotes, publishes and refers to as its “prime rate” from time to time, and which is its reference rate of interest for loans in Canadian Dollars made in Canada to Canadian borrowers.

6. Recoverable Expenses:

The Borrowers shall pay all reasonable fees and expenses (collectively, the “**Recoverable Expenses**”) incurred by the Interim Lender in connection with the preparation, registration and ongoing administration of the Plan Sponsor Term Sheet, this Term Sheet, the Interim Financing Facility, the Initial Order, the ARIO, the Interim Lender’s Charge and with the enforcement of the Interim Lender’s rights and remedies hereunder and thereunder, at law or in equity, including, without limitation, all reasonable legal fees and disbursements incurred by the Interim Lender. An estimate of Recoverable Expenses shall be included in the Cash Flow Forecast along with the fees of the Professional Advisors, and shall be paid to the Interim Lender on a bi-weekly basis.

For greater certainty, “Recoverable Expenses” shall include all reasonable fees and expenses incurred by the Interim Lender in connection with the CCAA Proceedings and all court attendances in respect thereof. If the Interim Lender has paid any expense for which the Interim Lender is entitled to reimbursement from the Borrowers, such expenses shall be added to the Interim Financing Facility and shall accrue interest at the rate set out above. All such fees and expenses and interest thereon shall be secured by the Interim Lender’s Charge whether or not any funds under the Interim Financing Facility are advanced.

The Borrowers shall also pay all compensation and reasonable fees and expenses incurred by the CRO in connection with his mandate, as further set out in that certain CRO engagement letter dated as of the date hereof.

7. Security:

All debts, liabilities and obligations of the Borrowers to the Interim Lender under or in connection with the Interim Financing Facility, this Term Sheet and any other documents executed in connection therewith shall be secured by a Court-ordered priority charge (the “**Interim Lender’s Charge**”), granted to the Interim Lender in and to all present and future properties, assets and undertakings of the Borrowers, real and personal, tangible and intangible, whether now owned or hereafter acquired (the “**Property**”), subject only to the following priorities:

- (a) first, an administration charge in the maximum aggregate amount of \$750,000 securing the payment of reasonable and documented fees and expenses of the Monitor, counsel to the Borrowers and counsel to the Monitor (as may be increased from time to time with the agreement of the Interim Lender);
- (b) second, a directors’ charge in the maximum aggregate amount of \$900,000 as security for the indemnity provided to the directors and officers of the Borrowers against obligations and liabilities they may incur after the commencement of the CCAA Proceedings and the fees of the counsel to the directors (the “**Directors’ Charge**”);
- (c) third, a KERP charge in the maximum aggregate amount of \$655,000 as security for the obligations of the Borrowers under the key employee retention plan to be approved by the Court; and
- (d) fourth, any secured obligations owing to SNDL.

8. Maturity Date:

Unless otherwise agreed to by the Interim Lender and the Borrowers in writing, the term of the Interim Financing Facility shall expire, and the Borrowers shall repay all obligations owing to the Interim Lender under this Term Sheet, on the earliest of the following (the “**Maturity Date**”):

- (a) October 14, 2024 or such later date as specified by the Interim Lender in writing;
- (b) the implementation of the Plan within the CCAA Proceedings which, for certainty, has been approved by the requisite majorities of the Borrowers’ creditors and by an order entered by the Court;
- (c) the closing of any sale or investment transaction involving any Borrower (other than Bio-Tech or the Transaction) which transaction has been approved by an order of the Court;
- (d) the date on which the CCAA Proceedings are terminated for any reason, including if the CCAA Proceedings are converted into a proceeding under the *Bankruptcy and Insolvency Act*, RSC 1985, C B-3 (the “**BIA**”); and

- (e) the occurrence of an Event of Default (as defined herein), subject to a cure period of three (3) business days (the “**Cure Period**”), beginning on the date of the occurrence of such Event of Default.

9. Repayment:

The aggregate principal amount owing under the Interim Financing Facility plus all accrued and unpaid Interest and the Recoverable Expenses, shall become immediately due and payable on the Maturity Date. The Interim Financing Facility may be prepaid at any time, without penalty (provided all accrued and unpaid Interest and Recoverable Expenses are paid in full). If the Borrowers choose to prepay any amount owing under the Interim Financing Facility, any such payment shall be applied: (i) first, to all accrued and unpaid Interest; (ii) second, to the Recoverable Expenses; and (iii) third, to any principal amount outstanding under the Interim Financing Facility.

10. Funding Conditions: The availability of the Advances under the Interim Financing Facility shall be subject to and conditional upon the following, which may be waived by the Interim Lender in writing:

- (a) the Court shall have issued the ARIO, in a form and substance satisfactory to the Interim Lender, including:

- i. approving this Term Sheet and the Interim Financing Facility;
- ii. authorizing and directing the Interim Lender to repay the SNDL Mezzanine Debt to SNDL directly, on behalf of the Borrowers, within ten (10) business days of the issuance of the ARIO;
- iii. granting the Interim Lender’s Charge in favour of the Interim Lender in the amount of \$16,000,000 plus interest, fees and costs;
- iv. authorizing the Interim Lender to effect registrations, filings and recordings wherever in its discretion it deems appropriate regarding the Interim Lender’s Charge;
- v. providing that the Interim Lender’s Charge shall be valid and effective to secure all of the obligations of the Borrowers to the Interim Lender hereunder, without the necessity of the making of any registrations or filings and whether or not any other documents have been executed by the Borrowers;
- vi. declaring that the granting of the Interim Lender’s Charge and all other documents executed and delivered to the Interim Lender as contemplated herein, including, without limitation, all actions taken to perfect, record and register the Interim Lender’s Charge, do not constitute conduct meriting an oppression remedy, settlement, fraudulent preference, fraudulent conveyance or other challengeable or reviewable transaction under any applicable federal or provincial legislation; and

- vii. provisions restricting the granting of any additional priority liens or encumbrances on the assets of the Borrowers, other than as permitted herein and the Interim Lender's Charge.
- (b) the Court shall have issued the SISP Order, in a form and substance satisfactory to the Interim Lender;
- (c) the ARIO and the SISP Order shall not have been vacated, stayed, appealed or amended in a manner not acceptable to the Interim Lender, and no application or motion shall have been made to vacate, stay, appeal or amend same;
- (d) the Interim Lender shall have received and approved the Cash Flow Forecast, and such Cash Flow Forecast shall not have been varied or amended without the prior written consent of the Interim Lender, and the Borrowers shall be in material compliance with respect to same;
- (e) the Interim Lender shall be satisfied that the Borrowers have complied with and are continuing to comply in all material respects with all applicable laws, regulations and orders of the Court in the CCAA Proceedings; and
- (f) no Event of Default shall have occurred or shall be reasonably expected to occur as a result of such Advance.

11. Covenants

The Borrowers covenant and agree with the Interim Lender, so long as any amounts are outstanding by the Borrowers to the Interim Lender hereunder, to:

- (a) bring an application before the Court for the approval of the ARIO in a form and substance satisfactory to the Interim Lender, as particularized in Section 10(a);
- (b) promptly on the receipt by the Borrowers of the same, give the Interim Lender a copy of any Application to vary, supplement, revoke, terminate or discharge the ARIO, including (without limitation) any application to the Court for the granting of new or additional security that will or may have priority over the Interim Lender's Charge, or otherwise for the variation of the priority of the Interim Lender's Charge;
- (c) provide the Interim Lender with all materials it intends to file in the CCAA Proceedings and provide the Interim Lender and its counsel a reasonable amount of time to review same prior to filing;
- (d) promptly provide the Interim Lender with any additional financial information reasonably requested by the Interim Lender;
- (e) use the Advances under the Interim Financing Facility for the purposes for which they are being provided, as set out in Section 3 of this Term Sheet, or such other purposes that may be agreed to by the Interim Lender and the Monitor in writing;

- (f) provide the Interim Lender and the Monitor with prompt written notice of any event which constitutes, or which, with notice, lapse of time, or both, would constitute an Event of Default, a breach of any covenant, or other term or condition of this Term Sheet, or of any document executed in connection with this Term Sheet;
- (g) pay all claims which, under law, may rank prior to or *pari passu* with the Interim Lender's Charge due and payable from and after the commencement of the CCAA Proceedings, as and when such amounts are due;
- (h) allow the Interim Lender or its advisors, on reasonable written notice during regular business hours, and at any time after and during the continuance of an Event of Default, to enter on and inspect each of the Borrower's assets and properties;
- (i) keep and maintain books of account and other accounting records in accordance with generally accepted accounting principles;
- (j) provide the Interim Lender or its advisors, on reasonable written notice and during normal business hours, full access to the books and records of the Borrowers;
- (k) not make any payment to any director, officer, investor or related party (except salary and wages in the normal course and any KERP payments) without the prior written consent of the Interim Lender;
- (l) keep the Borrowers' Property insured against such perils and in such manner as is in place at the time of the Initial Order;
- (m) not, without the prior written consent of the Interim Lender, incur any borrowings or other additional secured indebtedness, obligations or liabilities, other than the Interim Financing Facility, or create or grant any security (other than the charges described in Section 7) over any of its property, whether ranking in priority to or subordinate to the Interim Lender's Charge;
- (n) not sell, transfer, assign, convey or lease any Property, including but not limited to any indebtedness owing by one Borrower to another Borrower (other than in the ordinary course or in accordance with the Bio-Tech SISP) unless agreed to by the Interim Lender;
- (o) other than the CRO, the Monitor, and the legal counsel of the Monitor, Borrowers, the directors of the Borrowers, and Interim Lender engaged as of the date hereof (the "**Professional Advisors**"), or as approved in the Initial Order, not pay, incur any obligation to pay, or establish any retainer with respect to, the fees, expenses or disbursements of a legal, financial or other advisor of any party, unless such fees, expenses or disbursements of such additional advisors, as applicable, are reviewed and approved in advance by the Monitor and the Interim Lender, acting reasonably;

- (p) comply with all orders of the Court in the CCAA Proceedings and all applicable laws; and
- (q) conduct all activities in the ordinary course and in material compliance with the Cash Flow Forecast.

12. Events of Default:

The Interim Financing Facility shall be subject to the following events of default ("**Events of Default**"):

- (a) the Borrowers' failure to pay any amount due hereunder when due and payable;
- (b) the Borrower's failure to comply with or fulfill, to the reasonable satisfaction of the Interim Lender, any covenant, condition precedent, payment obligation, or other term or condition of this Term Sheet or the Plan Sponsor Term Sheet;
- (c) the seeking or support by the Borrowers of, or the issuance of, any Court order (in the CCAA Proceedings or otherwise) which is adverse to the interests of the Interim Lender, including for certainty but without limitation, any change to the Interim Financing Facility or the Interim Lender's Charge;
- (d) the issuance of any court order staying, reversing, vacating or modifying the terms of the ARIO, the Interim Financing Facility or the Interim Lender's Charge without the Interim Lender's consent;
- (e) any material failure by the Borrowers to comply with the ARIO, the SISP Order, or any other Court order approving or affecting the Transaction;
- (f) the Borrowers become bankrupt or subject to a proceeding under the BIA, or a receiver, interim receiver, receiver and manager or trustee in bankruptcy is appointed in respect of any Borrower or any of its Property;
- (g) the acceptance of any offer, or the filing of a motion seeking approval of the Court to accept any such offer, unless the total indebtedness owing by the Borrowers under the Interim Financing Facility is to be paid in full in cash or other immediately available funds upon completion of the transaction resulting from such offer;
- (h) the filing of any plan of reorganization, arrangement or liquidation to which the Interim Lender does not consent;
- (i) the commencement of any claim, action, proceeding, application, motion, defense or other contested matter the purpose of which is to seek or the result of which would be to obtain any order, judgment, determination, declaration or similar relief: (i) invalidating, setting aside, avoiding, or subordinating the obligations of the Borrowers under the Interim Financing Facility, the Interim Lender's Charge; (ii) for monetary, injunctive or other relief against the Interim Lender; or (iii) preventing, hindering or otherwise delaying the

exercise by the Interim Lender of any of its rights and remedies hereunder, pursuant to the ARIO or under applicable law, or the enforcement or realization by the Interim Lender against any of its collateral.

13. Remedies and Enforcement

Following the occurrence of an Event of Default and the expiration of the Cure Period, upon written notice to the Borrowers and the Monitor, the Interim Lender shall have the right, subject to the Interim Lender obtaining an Order from the Court lifting the stay under the CCAA Proceedings, to:

- (a) seek the appointment of a receiver, an interim receiver or a receiver and manager over the Property, or to seek the appointment of a trustee in bankruptcy of the Borrowers;
- (b) enforce the Interim Lender's Charge and realize on the Property and any other collateral securing the Interim Financing Facility;
- (c) exercise the rights and powers of a secured lender pursuant to the *Personal Property Security Act*, R.S.A. 2000, c. P-7, or any legislation of similar effect; and
- (d) exercise all such other rights and remedies available to the Interim Lender under this Term Sheet, the ARIO, any other order of the Court or applicable law.

No failure or delay on the part of the Interim Lender in exercising any of its rights and remedies shall be deemed to be a waiver of any kind.

14. Amendments; Waivers:

No amendment or waiver of any provision of this Term Sheet or consent to any departure by the Borrowers from any provision hereof is effective unless it is in writing and signed by the Interim Lender. Such amendment, waiver or consent shall be effective only in the specific instance and for the specific purpose for which it is given.

15. Timing:

Time is of the essence in this Term Sheet and the Interim Financing Facility and all transactions contemplated thereby.

16. Severability:

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

17. Further Assurances:

The Borrowers will, at their own expense and promptly on demand by the Interim Lender at any time, do such acts and things and execute and deliver such documents as the Interim Lender may reasonably request to give effect to any other provisions set out hereunder.

18. Assignment:


The Borrowers shall not assign this Term Sheet or any of the provisions set out herein without the prior written consent of the Interim Lender. The Interim Lender may assign or sell its rights or obligations with respect to this Term Sheet to any person without the prior written consent of the Borrowers.

- 19. Governing Law:** The Interim Financing Facility and the provisions set out herein shall be governed and construed in all respects in accordance with the laws of the Province of Alberta and the laws of Canada applicable therein.
- 20. Currency:** All dollar amounts herein are in Canadian Dollars.
- 21. Counterparts:** This Term Sheet may be executed in any number of counterparts, each of which when taken together shall constitute one and the same instrument. Any counterpart of this Term Sheet can be executed and delivered by any manner of direct electronic transmission each of which shall be deemed to be an original hereof.

[Signature Page Follows]

Dated this 18th day of July, 2024.

**2759054 ONTARIO INC. O/A FIKA
HERBAL GOODS, as Interim Lender**

Per: Signed by:

284E634ED2884FE
Name: Mark Vasey
Title: CEO

DELTA 9 CANNABIS INC., as borrower

Per: _____
Name: John Arbuthnot
Title: Authorized Signatory

DELTA 9 LOGISTICS INC., as borrower

Per: _____
Name: John Arbuthnot
Title: Authorized Signatory

**DELTA 9 CANNABIS STORE INC., as
borrower**

Per: _____
Name: John Arbuthnot
Title: Authorized Signatory

Dated this 18th day of July, 2024.

**2759054 ONTARIO INC. O/A FIKA
HERBAL GOODS, as Interim Lender**

Per: _____
Name: Mark Vasey
Title: CEO

DELTA 9 CANNABIS INC., as borrower

Per: John Arbuthnot
Name: John Arbuthnot
Title: Authorized Signatory

DELTA 9 LOGISTICS INC., as borrower

Per: John Arbuthnot
Name: John Arbuthnot
Title: Authorized Signatory

**DELTA 9 CANNABIS STORE INC., as
borrower**

Per: John Arbuthnot
Name: John Arbuthnot
Title: Authorized Signatory

DELTA 9 BIO-TECH INC., as borrower

Per: John Arbuthnot

Name: John Arbuthnot

Title: Authorized Signatory

**DELTA 9 LIFESTYLE CANNABIS CLINIC
INC., as borrower**

Per: John Arbuthnot

Name: John Arbuthnot

Title: Authorized Signatory

D9 DIP (Final)(37029284.3)

Final Audit Report

2024-07-18

| | |
|-----------------|--|
| Created: | 2024-07-18 |
| By: | Chris Nyberg (cnyberg@mltaikins.com) |
| Status: | Signed |
| Transaction ID: | CBJCHBCAABAAjGJAQtK9Jn7X1VmVpr0aSViKg4U_y1Z5 |

"D9 DIP (Final)(37029284.3)" History

-  Document created by Chris Nyberg (cnyberg@mltaikins.com)
2024-07-18 - 4:01:08 PM GMT
-  Document emailed to john.arbuthnot@delta9.ca for signature
2024-07-18 - 4:01:55 PM GMT
-  Email viewed by john.arbuthnot@delta9.ca
2024-07-18 - 4:09:56 PM GMT
-  Signer john.arbuthnot@delta9.ca entered name at signing as John Arbuthnot
2024-07-18 - 4:10:43 PM GMT
-  Document e-signed by John Arbuthnot (john.arbuthnot@delta9.ca)
Signature Date: 2024-07-18 - 4:10:45 PM GMT - Time Source: server
-  Agreement completed.
2024-07-18 - 4:10:45 PM GMT



Adobe Acrobat Sign

**This is Exhibit "3" to the
Second Affidavit of John Arbuthnot IV
Sworn before me at Winnipeg, Manitoba
this 18th day of July, 2024**

A handwritten signature in blue ink, appearing to read "Ajahfandh", is written over a horizontal line.

A Notary Public in and for the Province of Manitoba

Government of Alberta

■

Corporation/Non-Profit Search

Corporate Registration System

Date of Search:2024/07/18

Time of Search:10:56 AM

Search provided by:MLT AIKINS LLP (CALGARY)

Service Request Number:42570545

Customer Reference Number:136555.34/raa

Corporate Access Number:2026310371

Business Number:729015123

Legal Entity Name:DELTA 9 LIFESTYLE CANNABIS CLINIC INC.

Legal Entity Status:Active

Alberta Corporation Type:Named Alberta Corporation

Method of Registration:Continuance

Previous Canadian/Foreign Jurisdiction:MANITOBA

Date of Continuance into Alberta:2024/07/18 YYYY/MM/DD

Date Of Formation in Home Jurisdiction:2017/02/09 YYYY/MM/DD

Registered Office:

Street:2100-222 3 AVE SW

City:CALGARY

Province:ALBERTA

Postal Code:T2P0B4

Records Address:

Street:2100-222 3 AVE SW

City:CALGARY

Province:ALBERTA

Postal Code:T2P0B4

Email Address:CAL_CORPFILING@MLTAIKINS.COM

Primary Agent for Service:

| Last Name | First Name | Middle Name | Firm Name | Street | City | Province | Postal Code | Email |
|-----------|------------|-------------|----------------|-------------------|---------|----------|-------------|------------------------------|
| NYBERG | CHRIS | | MLT AIKINS LLP | 2100-222 3 AVE SW | CALGARY | ALBERTA | T2P0B4 | CAL_CORPFILING@MLTAIKINS.COM |

Directors:

Last Name:ARBUTHNOT IV

First Name:JOHN

Street/Box Number: 351 OAK STREET
City: WINNIPEG
Province: MANITOBA
Postal Code: R3M3P8

Last Name: HIRSH
First Name: LEN
Street/Box Number: 2ND FLOOR, 310 ROSS AVE
City: WINNIPEG
Province: MANITOBA
Postal Code: R3A0L4

Last Name: LAWSON
First Name: JAMES
Street/Box Number: PO BOX 68096
City: WINNIPEG
Province: MANITOBA
Postal Code: R3L2V9

Details From Current Articles:

The information in this legal entity table supersedes equivalent electronic attachments

Share Structure: SEE ATTACHED SCHEDULE "A"
Share Transfers Restrictions: SEE ATTACHED SCHEDULE "B"
Min Number Of Directors: 1
Max Number Of Directors: 10
Business Restricted To: NONE
Business Restricted From: NONE
Other Provisions: SEE ATTACHED SCHEDULE "C"

Other Information:

Filing History:

| List Date (YYYY/MM/DD) | Type of Filing |
|------------------------|--------------------------|
| 2024/07/18 | Continuance Into Alberta |

Attachments:

| Attachment Type | Microfilm Bar Code | Date Recorded (YYYY/MM/DD) |
|---|--------------------|----------------------------|
| Share Structure | ELECTRONIC | 2024/07/18 |
| Restrictions on Share Transfers | ELECTRONIC | 2024/07/18 |

| | | |
|---|-------------------|------------|
| Other Rules or Provisions | ELECTRONIC | 2024/07/18 |
| Letter of Approval | 10000407146287761 | 2024/07/18 |

The Registrar of Corporations certifies that, as of the date of this search, the above information is an accurate reproduction of data contained in the official public records of Corporate Registry.

