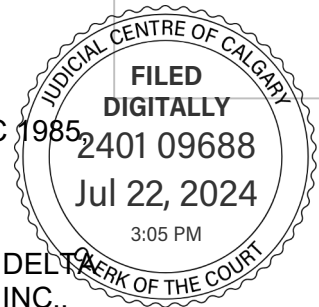


COURT FILE NUMBER 2401-09688
COURT COURT OF KING'S BENCH OF ALBERTA
JUDICIAL CENTRE CALGARY

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
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 SUPPLEMENTAL AFFIDAVIT OF
JOHN ARBUTHNOT IV**

ADDRESS FOR SERVICE
AND CONTACT
INFORMATION OF
PARTY FILING THIS
DOCUMENT

MLT AIKINS LLP
Barristers and Solicitors
#2100 – 222 3rd Ave SW
Calgary, AB T2P 0B4
Attention: Ryan Zahara / Kaitlin Ward
Telephone: (403) 693-5420 / 4311
Email: rzahara@mltaikins.com /
kward@mltaikins.com
File No. 0136555.00034

SECOND SUPPLEMENTAL AFFIDAVIT OF JOHN ARBUTHNOT IV
Sworn July 22, 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. This affidavit (the “**Second Supplemental Affidavit**”) is supplemental to my second affidavit (the “**Second Arbuthnot Affidavit**”) sworn on July 18, 2024 and is sworn in support of an application scheduled for July 24, 2024 (the “**Comeback Application**”) for, among other things, an Amended and Restated Initial Order (the “**ARIO**”) in respect of the Applicants pursuant to the *Companies’ Creditors Arrangement Act*, RSC 1985, c C-36 (the “**CCAA**”).
3. Capitalized terms not otherwise defined herein shall have the meanings given to them in the Second Arbuthnot Affidavit.

I. NECESSITY OF MAINTAINING CANNABIS LICENCES

4. The Applicants are seeking a direction in the ARIO maintaining the status quo of the LP Licences (as defined below).

A. Overview of Cannabis Licences

5. As cannabis producers, distributors and retailers, the Applicants are subject to regulation by various government authorities including Health Canada and provincial boards in each of the provinces where the Applicants operate. The Applicants’ ability to produce, store and sell cannabis depends on their Health Canada licence and provincial retail licences. The Applicants have incurred significant costs to maintain compliance with these licences
6. Bio-Tech holds a cannabis licence from Health Canada issued under the *Cannabis Act* (Canada) (the “**Health Canada Licence**”). Bio-Tech also holds an excise cannabis licence to sell cannabis products under the *Excise Act*, 2001 (Canada) (the “**Excise Licence**”, and together with the Health Canada Licence, the “**LP Licences**”).
7. Attached hereto and marked as **Exhibit “1”** is a copy of the Health Canada Licence. Attached hereto and marked as **Exhibit “2”** is a copy of the Excise Licence.
8. The CRA currently holds a security deposit of approximately \$308,000 from Bio-Tech respecting the Excise Licence.
9. Bio-Tech’s excise tax arrears currently total approximately \$7,800,000 (the “**Excise Tax Arrears**”).
10. In approximately November 2023, Bio-Tech applied to the Canada Revenue Agency (the “**CRA**”) for relief of interest and penalties due to financial hardship. I understand there is

a caseworker currently reviewing the application, which if granted, could reduce the amount of the Excise Tax Arrears by approximately \$2,000,000.

11. Due to Bio-Tech's Excise Tax Arrears, since approximately December 2023, the CRA moved to only renew the Excise Licence on a 30-day basis.
12. In addition to the other regulatory requirements on the Excise Licence, Bio-Tech was also required to enter into a payment plan to address the Excise Tax Arrears. This monthly payment amount was verbally negotiated and set at \$50,000/month (the "**Arrears Payment**"). There is no formal written agreement respecting the Arrears Payment, but Bio-Tech has provided the Arrears Payment every month since agreeing to the monthly payment plan.
13. As a result, each month, whether the CRA renewed the Excise Licence depended on Bio-Tech filing a monthly L300 licence application form and providing two payments: (a) the \$50,000 monthly Arrears Payment; and (b) the go-forward monthly amount of excise tax. Since December 2023, making both payments has continued to place additional strain on Bio-Tech's liquidity.
14. The most recently renewed Excise Licence was renewed effective as of July 16, 2024 and, unlike previously issued 30-day licences, does not include an expiry date. It is not clear when the CRA intends the Excise Licence to expire as it has otherwise communicated its belief that the Excise Licence will expire on August 16, 2024.
15. To the best of my knowledge, the CRA will require Bio-Tech to provide both the monthly Arrears payment and the go-forward excise tax amount before renewing or maintaining the Excise Licence beyond August 16, 2024. The Arrears Payment is a payment of the pre-filing excise tax amount that was incurred prior to the Applicants obtaining an Initial Order under the CCAA.

B. Necessity of Maintaining *Status Quo* of LP Licences

16. The Applicants require a direction from the Court maintaining the *status quo* of the LP Licences. While there is no immediate concern that the Health Canada Licence will expire or be terminated during the Stay Period, there is a risk that the CRA will unilaterally terminate the Excise Licence unless Bio-Tech provides the monthly Arrears Payment.
17. The Excise Licence provides that if Bio-Tech wishes to maintain or renew the Excise Licence, it must continue meeting certain conditions, including the condition under section

2(2)(e) of the Regulations Respecting Excise Licences and Registrations (the “**Regulations**”), which requires a licensee to maintain sufficient financial resources to conduct business in a responsible manner.

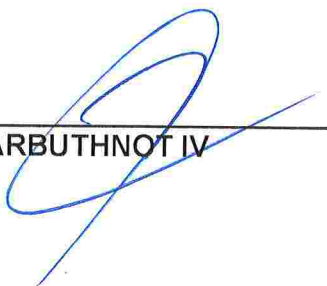
18. The Excise Licence indicates that in order for Bio-Tech to demonstrate its compliance with the Regulations, it must provide the Arrears Payment and the go-forward excise tax amount within 30 days of the date of the expiry of the Excise Licence. To the best of my knowledge, the CRA will require payment of both of those amounts prior to August 16, 2024.
19. I believe that without a provision maintaining the *status quo*, and unless Bio-Tech continues paying the monthly Arrears Payment towards Bio-Tech’s pre-filing Excise Tax Arrears, the CRA may unilaterally terminate or refuse to renew the Excise Licence.
20. The LP Licences are critical to the Applicants’ overall operations as they cannot legally operate without them and would lose the ability to cultivate, produce and sell cannabis inventory in the ordinary course. The LP Licences are either non-transferrable or else only transferrable by, in effect, making a new application for a licence
21. The terms of the LP Licences must continue through the duration of the Stay Period to ensure Bio-Tech’s ability to operate as a going-concern. If the Excise Licence is allowed to expire, or is cancelled or revoked before its expiry, Bio-Tech would not be able to use its existing stock of cannabis excise stamps or continue obtaining a go-forward supply of cannabis excise stamps. Without the ability to sell cannabis products and feed into the distribution chain, the Applicants would lose vital revenue streams and the ability to sell any inventory, threatening their viability and frustrating the restructuring process.
22. Without the ability to operate as a going-concern, Bio-Tech’s substantial value as a built-to-operate cultivation facility would be lost in the proposed SISP, to the detriment of the Applicants’ stakeholders and the restructuring process.

23. I swear this Second Supplemental Affidavit in support of an Application for an Amended and Restated Initial Order and for no other or improper purpose.

SWORN BEFORE ME at Winnipeg, Manitoba,)
this 22nd day of July, 2024)
)
)
)
)
)
)



Notary Public in and for the Province of
Manitoba



JOHN ARBUTHNOT IV

**This is Exhibit "1" to the
Second Supplemental Affidavit of John Arbuthnot IV
Sworn before me at Winnipeg, Manitoba
this 22nd day of July, 2024**



A Notary Public in and for the Province Of Manitoba

Licence No. - N° de licence
LIC-DUUNT3BJW1-2022

LICENCE

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

LICENCE

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

Licence Holder / Titulaire de la licence :
Delta 9 Bio-Tech Inc.

Licensed Site / Lieu autorisé :
770 PANDORA AVE EAST
WINNIPEG, MB, CANADA, R2C 3N1

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

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

Standard Cultivation

Culture standard

Activities	Activités
<ul style="list-style-type: none">To possess cannabisTo obtain dried cannabis, fresh cannabis, cannabis plants or cannabis plant seeds by cultivating, propagating and harvesting cannabisFor the purposes of testing, to obtain cannabis by altering its chemical or physical properties by any meansTo sell cannabis in accordance with subsection 11(5) of the Cannabis Regulations	<ul style="list-style-type: none">Avoir du cannabis en sa possessionObtenir du cannabis séché, du cannabis frais, des plantes de cannabis ou des graines provenant de telles plantes par la culture, la multiplication et la récolte de cannabisAfin d'effectuer des essais sur du cannabis, obtenir du cannabis par l'altération, par tout moyen, de ses propriétés physiques ou chimiquesVendre du cannabis en vertu du paragraphe 11(5) du Règlement sur le cannabis

Conditions	Conditions
The licence holder must meet the requirements set out in the Health Canada document entitled " <i>Mandatory cannabis testing for pesticide active ingredients - Requirements</i> ".	Le titulaire de la licence doit respecter les exigences énoncées dans le document de Santé Canada intitulé « <i>Analyse obligatoire du cannabis pour les résidus de principes actifs de pesticides-Exigences</i> ».

Standard Processing

Transformation standard

Activities	Activités
<ul style="list-style-type: none">To possess cannabisTo produce cannabis, other than obtain it by cultivating, propagating or harvesting itTo sell cannabis in accordance with subsection 17(5) of the Cannabis Regulations	<ul style="list-style-type: none">Avoir du cannabis en sa possessionProduire du cannabis, sauf en l'obtenant par la culture, la multiplication et la récolteVendre du cannabis en vertu du paragraphe 17(5) du Règlement sur le cannabis

Conditions	Conditions
The licence holder must meet the requirements set out in the Health Canada document entitled " <i>Mandatory cannabis testing for pesticide active ingredients - Requirements</i> ".	Le titulaire de la licence doit respecter les exigences énoncées dans le document de Santé Canada intitulé « <i>Analyse obligatoire du cannabis pour les résidus de principes actifs de pesticides-Exigences</i> ».
The only cannabis products that the licence holder may sell or distribute to (i) a holder of a licence for sale, and (ii) a person that is authorized under a provincial Act referred to in subsection 69(1) of the Act to sell cannabis, are as follows: cannabis plants; cannabis plant seeds; dried cannabis; fresh cannabis; cannabis topicals; cannabis extracts; and edible cannabis.	Les seuls produits du cannabis que le titulaire de la licence peut vendre ou distribuer (i) à un titulaire d'une licence de vente et (ii) à une personne autorisée sous le régime d'une loi provinciale visée au paragraphe 69(1) de la Loi à vendre du cannabis sont les suivants : plantes de cannabis; graines provenant d'une plante de cannabis; cannabis séché; cannabis frais; cannabis topiques; cannabis extraits; et cannabis comestible.



Acting Director, Licencing and Security, Controlled Substances and Cannabis Branch

Directeur par intérim, Licences et sécurité, Direction générale des substances contrôlées et du cannabis

Conditions	Conditions
The only cannabis products that the licence holder may send or deliver to the purchaser at the request of (i) a holder of a licence for sale, and (ii) a person that is authorized under a provincial Act referred to in subsection 69(1) of the Act to sell cannabis, are as follows: cannabis plants; cannabis plant seeds; dried cannabis; fresh cannabis; cannabis topicals; cannabis extracts; and edible cannabis.	Les seuls produits du cannabis que le titulaire de la licence peut expédier ou livrer à l'acheteur à la demande (i) d'un titulaire d'une licence de vente et (ii) d'une personne autorisée sous le régime d'une loi provinciale visée au paragraphe 69(1) de la Loi à vendre du cannabis sont les suivants : plantes de cannabis; graines provenant d'une plante de cannabis; cannabis séché; cannabis frais; cannabis pour usage topique; extrait de cannabis; et cannabis comestible.

Sale for Medical Purposes

Vente à des fins médicales

Activities	Activités
<ul style="list-style-type: none">To possess cannabisTo sell cannabis products in accordance with section 27 and Part 14, Division 1 of the Cannabis Regulations	<ul style="list-style-type: none">Avoir du cannabis en sa possessionVendre des produits du cannabis en vertu de l'article 27 et la section 1 de la partie 14 du Règlement sur le cannabis

Conditions	Conditions
N/A	nd

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

The possession of cannabis and the other activities mentioned above are authorized in the following building(s) / La possession de cannabis et les autre activités mentionnées ci-haut sont autorisées dans les bâtiment(s) suivant(s) :

E Building

Effective date of the licence:

This licence is effective as of **August 22, 2022**

Expiry date of the licence:

This licence expires on **August 22, 2027**

Date d'entrée en vigueur de la licence:

Cette licence entre en vigueur à compter du **22 août 2022**

Date d'expiration de la licence:

La présente licence expire le **22 août 2027**



Acting Director, Licencing and Security, Controlled Substances and Cannabis Branch

Directeur par intérim, Licences et sécurité, Direction générale des substances contrôlées et du cannabis

**This is Exhibit "2" to the
Second Supplemental Affidavit of John Arbuthnot IV
Sworn before me at Winnipeg, Manitoba
this 22nd day of July, 2024**



A Notary Public in and for the Province Of Manitoba



July 9, 2024

James Lawson
Delta 9 Bio-Tech Inc.
PO Box 68096 RPO Osborne
Winnipeg MB R3L 2V9

Dear James Lawson:

Subject: Renewal of Cannabis Licence under the Excise Act, 2001

We have reviewed your cannabis licence renewal application and are pleased to inform you that your cannabis licence under the Excise Act, 2001 has been renewed effective July 16, 2024.

Cannabis licence number

The following licence number should be recorded on all correspondence with the CRA:

85116 3048 RD0001
770 Pandora Avenue E, Winnipeg MB R2C 3N1

Each of the physical business locations included in the licence application has been provided with a separate account number as follows:

Location	Account Identifier	Account Type	Premises Address
1	RD0001	Filing	770 Pandora Ave E Winnipeg MB R2C 3N1

Sufficient Financial Resources

A holder of a licence issued under the Act who wishes to maintain or renew their excise licence must continue to meet certain conditions imposed under the Act. Pursuant to paragraph 2(2)(e) of the Regulations Respecting Excise Licences and Registrations a licensee must maintain sufficient financial resources to conduct their business in a responsible manner.

In order to demonstrate that you have sufficient financial resources to conduct business in a responsible manner in accordance with section 2 of the Regulations, we require that the following payment requirements are met 30 days before the short term renewal expires:

1. Monthly excise duty payable is paid by the due date (last day of the calendar month following your reporting period); and
2. You continue to follow the payment arrangement agreed upon with Collections for the outstanding arrears.

Failure to meet the above mentioned payment requirements may render your licence not eligible for renewal, as you will not meet the requirements per the Regulations.

To apply for renewal of your cannabis licence, a completed Form L300, Cannabis Licence Application must be submitted to your regional office not later than 30 days before the expiry date.

Obligations of a Cannabis Licensee

Changes to Information

The CRA must be informed of any changes to the name, legal entity, business or mailing address, location of books and records or changes to any other information provided in the licence application form. The CRA must also be informed if your business/operations have been discontinued or sold.

Books and Records

All cannabis licensees are required to maintain adequate books and records and provide access to those books and records to excise officers. Denied access to books and records could result in a suspension or the cancellation of a cannabis licence.

Filing of Returns

A form B300, Cannabis Duty and Information Return, for each filing division under your cannabis licence must be filed for each calendar month whether any duty is payable. Your returns are due at the end of the month following the calendar month for the production being reported. It should be noted that a licensee who fails to file a return for a reporting period as and when required will be subject to penalty. Similarly, if payment is not made as and when required, a licensee will be subject to interest on the late payment.

Electronic filing of the monthly B300 Cannabis Duty and Information Return, the B301 Application for a Refund of Cannabis Duty, as well as other account information, such as account transactions and balances, licence status and account maintenance activities, is available at canada.ca/my-cra-business-account. Electronic filing of returns provides immediate confirmation that your return has been received by the CRA. Enrollment can be completed online, and further information is available at canada.ca/my-cra-business-account or by phone at 1-800-959-5525.

Monthly excise cannabis returns may also be printed from our website at canada.ca/cannabis-excise so that they may be completed and submitted by mail. Please note that should a return and any payment due not be filed or received within the time limits, penalty and interest charges may be applied in accordance with the Act.

Methods of Destruction and Analysis

As a reminder, methods for destruction and analysis of cannabis products must be approved by the Minister. Any changes to the previously approved methods must be submitted in writing to the Regional Manager for Excise Duty for approval, prior to implementation of the revised procedures.

Although we reserve the right to be present during any destruction, mandatory notification and witnessing of destruction is not required for regular, routine destruction. However, unusual destruction or the destruction of packaged goods returned from a purchaser are required to be reported and may require witnessing of the destruction by an officer.

Should you have any questions or require clarification regarding the above information, please do not hesitate to contact Bradley Loxley at 204-583-7571. For general information regarding the excise duty on cannabis products please go to canada.ca/cannabis-excise or call 1-866-330-3304 to make an enquiry. To request a ruling or technical interpretation on cannabis excise duty, please email cannabis@cra-arc.gc.ca.

Sincerely,



Brenda Omara, CPA
Regional Manager, Western Region
Excise Duties and Taxes Division

Telephone: 1-866-330-3304
Facsimile: 1-204-984-0606
Address: Eastern Prairie Tax Services Office
PO Box 1022 Station Main
Winnipeg MB R3C 2W2