

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

THE HONOURABLE MR.
JUSTICE HAINEY

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WEDNESDAY, THE 19TH
DAY OF MAY, 2021

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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF
GREEN GROWTH BRANDS INC., GGB CANADA INC., GREEN GROWTH BRANDS
REALTY LTD. AND XANTHIC BIOPHARMA LIMITED

Applicants

ORDER
(Terminating CCAA Proceedings)



THIS MOTION, made by the Applicants, pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**"), for an order approving, *inter alia* (i) the Fifth Report of Ernst & Young Inc. ("**EY**") in its capacity as the Court-appointed Monitor (the "**Monitor**") dated March 20, 2021 (the "**Fifth Report**"), the Sixth Report of the Monitor dated May 12, 2021 (the "**Sixth Report**") and the fees and disbursements of the Monitor and its counsel, including the Subsequent Fees and Disbursements, and (ii) terminating the CCAA proceedings and discharging the Monitor upon the service of the CCAA Termination Certificate (as defined below), proceeded on this day by way of video-conference due to the COVID-19 pandemic.

ON READING the affidavit of Kent Kiffner sworn May 11, 2021 (the "**Kiffner Affidavit**") and the Exhibits attached thereto and the Sixth Report, filed, and on hearing the submissions of counsel for the Applicants, the Monitor, All Js, and those other parties appearing as indicated on the counsel slip, no one else appearing for any other party although duly served as appears from the affidavit of service of Sanja Sopic sworn May 17, 2021, filed;

SERVICE

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

DEFINITIONS

2. **THIS COURT ORDERS** that capitalized terms not otherwise defined in this Order shall have the meaning given to them in the Kiffner Affidavit.

AMALGAMATION

3. **THIS COURT ORDERS AND DECLARES** that Green Growth Brands Inc. ("**GGB**") and Green Growth Brands Realty Ltd. ("**GGB Realty**") are permitted to amalgamate pursuant to Section 177(1) of the *Business Corporations Act* (Ontario) (the "**OBCA**") and continue as one corporation (the "**Amalgamation**", such amalgamated entity, "**Amalgamated GGB**", and references to the "**Applicants**" herein shall be deemed to include Amalgamated GGB from and after the Amalgamation) under such legal name as GGB and GGB Realty deem appropriate. GGB and GGB Realty are authorized to execute and file articles of amalgamation or such other documents or instruments as may be required to permit or enable and effect the Amalgamation, and such articles, documents, or other instruments shall be deemed to be duly authorized, valid and effective notwithstanding (a) any requirement under federal or provincial law to obtain director or shareholder approval with respect to such actions, and (b) any third party requirements, consents, or solvency requirements pursuant to any federal or provincial legislation relating to the same.

4. **THIS COURT ORDERS AND DECLARES** that for the purposes of permitting, enabling and effecting the Amalgamation, each of GGB and GGB Realty and their successors (including Amalgamated GGB, as the case may be) are deemed to comply with the requirements of section 178(2) of the OBCA, and that each of GGB and GGB Realty and their successors (including Amalgamated GGB, as the case may be) are hereby permitted to execute and file a statement under section 178(2) of the OBCA stating that (a) each amalgamating corporation is and will be able to pay its liabilities as they become due; (b) the realizable value of the amalgamated corporation's assets will not be less than the aggregate of its liabilities and stated capital of all

classes; (c) no creditor will be prejudiced by the amalgamation; (d) the grounds upon which the objections of all creditors who have notified each amalgamating corporation that they object to the amalgamation are either frivolous or vexatious; and (e) each amalgamating corporation has complied with the notice requirements in section 178(2)(d) of the OBCA.

5. **THIS COURT ORDERS** the appropriate authority under the OBCA to accept and receive any articles of amalgamation or such other documents or instruments as may be required to permit and enable and effect the Amalgamation, filed by any of the Applicants.

APPROVAL OF MONITOR'S FEES AND ACTIVITIES

6. **THIS COURT ORDERS** that the Fifth Report and the Sixth Report; and the Monitor's activities as set out in the Fifth Report and the Sixth Report, are hereby approved, provided, however, that only the Monitor, in its personal capacity and only with respect to its own personal liability, shall be entitled to rely upon or use in any way such approval.

7. **THIS COURT ORDERS** that the fees and disbursements of the Monitor, as described in the Sixth Report and set out in the affidavit of Sharon Hamilton sworn May 11, 2021, including the Subsequent Fees and Disbursements, are hereby approved.

8. **THIS COURT ORDERS** that the fees and disbursements of Osler, Hoskin and Harcourt LLP, counsel to the Monitor, as described in the Sixth Report, including the Subsequent Fees and Disbursements, are hereby approved.

TERMINATION OF CCAA PROCEEDINGS

9. **THIS COURT ORDERS AND DECLARES** that upon the service of the Monitor's CCAA Termination Certificate in the form attached as Schedule "A" (the "**CCAA Termination Certificate**") on the Service List, the CCAA Proceedings shall be terminated.

10. **THIS COURT ORDERS AND DECLARES** that upon the service of the Monitor's CCAA Termination Certificate on the Service List, the Administration Charge, the Director's Charge, the DIP Lender's Charge and the Bid Protections Charge shall be terminated, discharged and released.

DISCHARGE OF MONITOR

11. **THIS COURT ORDERS AND DECLARES** that upon the service of the Monitor's CCAA Termination Certificate on the Service List, EY shall be deemed to be discharged from its duties as Monitor and released from all claims relating to its activities as Monitor, whether before or after the date of this Order.

12. **THIS COURT ORDERS** that, in addition to the protections in favour of the Monitor as set out in the Amended and Restated Initial Order of the Honourable Mr. Justice McEwen dated June 2, 2020 (the "**Amended and Restated Initial Order**"), in any other Order of this Court in the CCAA Proceedings or the CCAA, EY, whether in its capacity as Monitor or otherwise, and its affiliates and officers, directors, partners, employees and agents (the "**Released Parties**") are hereby released and discharged from any and all claims that any person may have or be entitled to assert against the Released Parties, whether known or unknown, matured or unmatured, foreseen or unforeseen, existing or hereafter arising, based in whole or in part on any act or omission, transaction, dealing or other occurrence in any way relating to, arising out of or in respect of these CCAA Proceedings (collectively, the "**Released Claims**"), and any such Released Claims are hereby released, stayed, extinguished and forever barred and the Released Parties shall have no liability in respect thereof, provided that the Released Claims shall not include any claim or liability arising out of any gross negligence or wilful misconduct on the part of the Released Parties.

13. **THIS COURT ORDERS** that no action or other proceeding shall be commenced against EY in any way arising from or related to its capacity or conduct as Monitor except with prior leave of this Court on at least seven days' prior written notice to EY and upon further order securing, as security for costs, the full indemnity costs of the Monitor in connection with any proposed action or proceeding as the Court hearing the motion for leave to proceed may deem just and appropriate.

14. **THIS COURT ORDERS** that, notwithstanding any provision of this Order, nothing contained in this Order shall affect, vary, derogate from or amend any of the protections in favour of the Monitor at law or pursuant to the Amended and Restated Initial Order.

STAY EXTENSION

15. **THIS COURT ORDERS** that the stay of proceedings referred to in the Amended and Restated Initial Order is hereby extended until and including the date on which the CCAA Termination Certificate is served on the Service List.

BANKRUPTCY OF THE APPLICANTS

16. **THIS COURT ORDERS** that Amalgamated GGB is authorized to file an assignment in bankruptcy (the “**Bankruptcy Assignment**”) pursuant to the *Bankruptcy and Insolvency Act* (Canada).

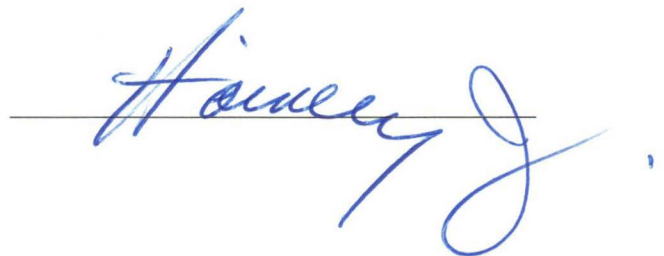
17. **THIS COURT ORDERS** that EY is hereby authorized to act as trustee in bankruptcy in respect of the Bankruptcy Assignment.

GENERAL

18. **THIS COURT ORDERS** that the Applicants or the Monitor may apply to the Court as necessary to seek further orders and directions to give effect to this Order.

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

20. **THIS COURT ORDERS** that this Order and all of its provisions are effective from the date it is made without the need for entry and filing.



SCHEDULE "A"

FORM OF MONITOR'S CCAA TERMINATION CERTIFICATE

Court File No. CV-20-00641220-00CL

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MONITOR'S CCAA TERMINATION CERTIFICATE

RECITALS

- A. The Applicants obtained protection under the *Companies' Creditors Arrangement Act* (the "CCAA") pursuant to an Initial Order of the Ontario Superior Court of Justice (Commercial List) (the "Court") dated May 20, 2020 (the "Initial Order"), which was amended and restated through an Amended and Restated Initial Order dated June 2, 2020. The proceedings commenced by the Applicants under the CCAA will be referred to herein as the "CCAA Proceedings".
- B. Ernst & Young Inc. was appointed as the Monitor of the Applicants in the CCAA proceedings pursuant to the Initial Order (in such capacity, the "Monitor").

- C. The CCAA Proceedings have been completed in accordance with the Orders of this Court and under the supervision of the Monitor.
- D. Pursuant to the Order of this Court dated ●, 2021, the Monitor may be discharged and the CCAA Proceedings may be terminated upon service of this Monitor's Certificate on the Service List.

THE MONITOR CERTIFIES the following:

1. The fees and disbursements of the Monitor and of the Monitor's counsel, have been paid in full.
2. The amalgamation of Green Growth Brands Inc. and Green Growth Brands Realty Ltd. pursuant to Section 177(1) of the *Business Corporations Act* (Ontario) has been successfully completed.
3. The Monitor has completed any and all matters that may be incidental to the termination of the CCAA Proceedings or any other matters necessary to complete the CCAA Proceedings as requested by the Applicants and agreed to by the Monitor.
4. Upon the service of this Certificate, the within CCAA Proceedings shall be terminated and EY shall be discharged as Monitor.

DATED at Toronto, Ontario this _____ day of _____, 2021

**ERNST & YOUNG INC., solely in its capacity as
Monitor of the Applicants and not in its personal
capacity**

Per: _____
Name:
Title: