Court File No.: CV-20-00638930-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF CANNTRUST HOLDINGS INC., CANNTRUST INC., CTI HOLDINGS (OSOYOOS) INC. AND ELMCLIFFE INVESTMENTS INC.

MOTION RECORD OF THE CCAA CANADIAN REPRESENTATIVES
(Fee Approval)

December 6, 2021

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Court File No.: CV-20-00638930-00CL

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MOTION RECORD OF THE CCA REPRESENTATIVES
(Fee Approval)

INDEX

E.	Carriage Motion Order, dated January 28, 2020
F.	Initial CCAA Order, dated March 31, 2020
G.	Mediation Order, dated May 8, 2020
H.	CCAA Representation Order, dated January 29, 2021
I.	Bank of Canada Exchange Rates between July 14-21, 2021
J.	Draft Declaration of Trust and Agreement
K.	Affidavit of Serge Kalloghlian, dated January 20, 2021
L.	Decision of Patillo J. dated June 24, 2021
M.	ISS Research Report, dated May 31, 2018
3.	Affidavit of Dennis O'Connor, dated November 29, 2021
4.	Affidavit of Dharambir Singh, dated December 3, 2019 (including the following exhibits)
A.	Summaries of Trades in CannTrust Shares
B.	Retainer Agreement, dated October 10, 2019
5.	Affidavit of Patrick Hrusa, sworn December 3, 2021
A.	Retainer Agreement, dated October 10, 2019
B.	Summaries of Trades in CannTrust Shares
6.	Draft Order

TAB 1

Court File No.: CV-20-00638930-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE

[Commercial List]

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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF CANNTRUST HOLDINGS INC., CANNTRUST INC., CTI HOLDINGS (OSOYOOS) INC. AND ELMCLIFFE INVESTMENTS INC.

NOTICE OF MOTION
(Fee Approval for CCAA Canadian Representative Counsel)

The CCAA Canadian Representatives will make a motion before a judge of the Ontario Superior Court of Justice (Commercial List) on December 17, 2021 at 2:00 p.m., or as soon after that time as the motion can be heard, by judicial videoconference via Zoom at Toronto Ontario due to the COVID-19 pandemic. Please refer to the conference details at **Schedule "A"** hereto in order to attend.

THE MOTION IS FOR:

1. An order approving the fees, disbursements and taxes of A. Dimitri Lascaris Law Professional Corporation, Henein Hutchison LLP, Kalloghlian Myers LLP, and Strosberg Sasso Sutts LLP (together, "**CCAA Canadian Representative Counsel**") in accordance with the retainer agreement between CCAA Canadian Representative Counsel and the CCAA Canadian Representatives; and

2. Such further and other relief as counsel may request and this Honourable Court may deem just.

THE GROUNDS FOR THE MOTION ARE:

3. CannTrust Holdings[1] is a cannabis company and with its shares listed on the Toronto Stock Exchange ("**TSX**") and on the New York Stock Exchange ("**NYSE**");

4. Following an announcement on July 8, 2019 that it was not compliant with cannabis laws and regulations, securities class actions and other litigation were commenced against CannTrust and other defendants in Canada and the United States;

5. By order dated January 28, 2020 (the "**Carriage Order**") the Honourable Glenn A. Hainey granted carriage of the Ontario Class Action to CCAA Canadian Representative Counsel and stayed all other proposed class actions in Ontario relating to the same subject matter;

6. On March 31, 2020, CannTrust filed for protection from its creditors by commencing proceedings under the *Companies' Creditors Arrangement Act* ("**CCAA**");

7. On May 8, 2020, the Court made an order (the "**Mediation Order**") appointing the Court-Appointed Mediator, the Honourable Dennis O'Connor, Q.C. as a neutral third party to mediate a global settlement of the various securities actions and related claims made against CannTrust Holdings (the "**Mediation Process**");

[1] All capitalized terms not otherwise defined have the meanings given to them in the plan of compromise, arrangement and reorganization of CannTrust Holdings, CannTrust Inc. and Elmcliffe Investments Inc. under the *Companies' Creditors Arrangement Act* (the "**CCAA**") dated April 16, 2021 (as amended from time to time) ("**CCAA Plan**")

8. On January 29, 2021, the Court issued an order ("**CCAA Representation Order**"):

   a. appointing CCAA Canadian Representative Counsel as counsel to the Canadian and Non-US Securities Claimants; and

   b. appointing CCAA US Representative Counsel as counsel to the US Securities Claimants;

9. The CCAA Representation Order also authorized CCAA Canadian Representative Counsel and CCAA US Representative Counsel (together, "**CCAA Representative Counsel**") to negotiate, settle, and prosecute Securities Claimants' claims against CannTrust and other defendants to the Ontario Class Action and the U.S. Class Action (together, "**Class Actions**");

10. Following extensive negotiations and participation in the Mediation Process, CCAA Representative Counsel reached settlements with over 30 defendants and their insurers recovering in excess of $125 million (the "**Settlements**") for the benefit of Securities Claimants;

11. CCAA Canadian Representative Counsel seeks approval of $12,314,628.50, plus $1,600,901.71 in HST (totaling $13,915,530.21 in respect of fees);

12. The fees sought are fair and reasonable and should be approved;

   a. CCAA Canadian Representative Counsel has conducted extensive work to achieve these Settlements at all times on a contingency fee basis;

   b. The Settlements represent an excellent recovery for Securities Claimants particularly in light of the nature of the claims and the inherent risks, costs and delay associated with continued litigation;

c. CCAA Canadian Representative Counsel have acted in the Ontario Class Action and these proceedings on a contingency fee basis pursuant to a retainer agreement with the Canadian CCAA Representatives;

d. The fee requested by CCAA Canadian Representative Counsel is consistent with the terms of the retainer agreements between the CCAA Representatives and CCAA Representative Counsel;

e. The fee requested by CCAA Canadian Representative Counsel equals approximately 19.5% of the settlement amount notionally allocated to the Ontario Action;

f. The fee requested by CCAA Canadian Representative Counsel is within the range of percentages that Ontario courts have approved in the past;

g. The fee requested by CCAA Canadian Representative Counsel represents a multiplier on its time of 2.68 which is at the low end of range of multipliers accepted by the courts;

13. From the outset, this action has had significant risk, most significantly the risk that CannTrust would not be able to satisfy a judgment given its precarious financial situation and that its insurers had denied coverage to it;

14. CCAA Canadian Representative Counsel committed to expending millions of dollars in time, money and other resources to prosecute this action with the significant risk of little or no compensation to match this commitment;

15. *Companies Creditors' Arrangement Act*, R.S.C. 1985, c. C-36;

16. *Class Proceedings Act, 1992*, S.O. 1992, c. 6;

17. *Courts of Justice Act*, R.S.O. 1990, c. C.43; and

18. Such further and other grounds as counsel may advice and this Court may permit.

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

1. The affidavit of Serge Kalloghlian; and

2. Such further and other material as counsel may advise and this Court may permit.

December 6, 2021

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CCAA Canadian Representative Counsel

SCHEDULE "A"

Conference Details to join Motion via Zoom

Time: Dec 17, 2021 02:00 PM America/Toronto

Join Zoom Meeting
https://us02web.zoom.us/j/89590096032?pwd=bFpobmhxT1BOY1EzbjQyMURTS21kQT09

Meeting ID: 895 9009 6032
Passcode: 491233
One tap mobile
+12532158782,,89590096032# US (Tacoma)
+13017158592,,89590096032# US (Washington DC)

Dial by your location
+1 253 215 8782 US (Tacoma)
+1 301 715 8592 US (Washington DC)
+1 312 626 6799 US (Chicago)
+1 346 248 7799 US (Houston)
+1 669 900 6833 US (San Jose)
+1 929 205 6099 US (New York)
Meeting ID: 895 9009 6032
Find your local number: https://us02web.zoom.us/u/kdEOcA3YNI

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 CANNTRUST HOLDINGS INC. ET AL.

Court File No. CV-20-00638930-0CL

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

Notice of Motion
(Fee Approval for CCAA Canadian Representative Counsel)

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CCAA Canadian Representative Counsel

TAB 2

Court File No.: CV-20-00638930-00CL

ONTARIO
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AFFIDAVIT OF SERGE KALLOGHLIAN
(Fee Approval for CCAA Canadian Representative Counsel)
(Affirmed December 6, 2021)

TABLE OF CONTENTS

I, **SERGE KALLOGHLIAN**, of the City of Toronto, in the Province of Ontario, **AFFIRM**:

1. I am a partner at Kalloghlian Myers LLP, who along with Henein Hutchison LLP, Strosberg Sasso Sutts LLP, and A. Dimitri Lascaris Law Professional Corporation ("**CCAA Canadian Representative Counsel**"), are counsel to Patrick Hrusa and Dharambir Singh ("**CCAA Canadian Representatives**") in these proceedings, and in the proposed class action against CannTrust Holdings Inc. ("**CannTrust Holdings**") and others bearing (Toronto) Court File No. 19-000625181-00CP in the Ontario Superior Court of Justice ("**Ontario Class Action**").

2. Where I use the terms "us", "our", or "we" in this affidavit, I am referring to myself and the other lawyers comprising CCAA Canadian Representative Counsel.

3. I affirmed affidavits dated June 2, 2021 ("**First Affidavit**") and June 16, 2021 ("**Second Affidavit**") in support of the Applicants' motion for an order approving the plan of compromise, arrangement and reorganization of CannTrust Holdings, CannTrust Inc. and Elmcliffe Investments Inc. under the *Companies' Creditors Arrangement Act* (the "**CCAA**") dated April 16, 2021 (as amended from time to time) ("**CCAA Plan**") in these proceedings (the "**CCAA Proceedings**").

4. I also affirmed an affidavit of today's date in support of the CCAA Representatives' motion to authorize the Additional RSAs, approve notice and appoint a claims administrator ("**Third Affidavit**"). The First, Second, and Third Affidavits (without exhibits) (the "**Settlement Affidavits**") are marked and attached as **Exhibits** "**A-1**" to "**A-3**", respectively. I adopt the content of the Settlement Affidavits in respect of my views expressed herein.

5. I swear this affidavit in support of the motion for approval of counsel fees described below, and for no other or improper purpose.

6. No portion of this affidavit is meant to waive, nor should it be construed as a waiver of, solicitor-client, litigation, or any other privilege.

7. All dollar amounts are indicated herein in Canadian currency, unless otherwise stated.

I. BACKGROUND

A. Litigation against CannTrust

8. CannTrust is a publicly traded company and its shares were traded on the Toronto Stock Exchange ("**TSX**") and on the New York Stock Exchange ("**NYSE**"), under the ticker symbols "TRST" and "CTST" respectively, and elsewhere.

9. Following disclosure on July 8, 2019 that CannTrust Holdings' manufacturing facilities were not compliant with applicable laws, its share price declined significantly on the TSX and NYSE. Class actions and other litigation were commenced in Canada on behalf of shareholders seeking to recover losses arising from alleged misrepresentations.

10. Pursuant to the Order of the Honourable Justice Glenn A. Hainey, dated January 28, 2020 (the "**Carriage Order**"), CCAA Canadian Representative Counsel was granted carriage of the Ontario Class Action, and all other proposed class actions in Ontario relating to the same subject matter were stayed.

11. Additionally, Granite Point Master Fund, LP and Granite Point Capital Scorpion Focused Ideas Fund (the "**CCAA U.S. Representatives**", and together with the CCAA Canadian

Representatives, the "**CCAA Representatives**") commenced a class action against CannTrust Holdings and others in the Southern District of New York bearing court file No. 1:19-CV-06396 (JPO) (the "**U.S. Class Action**" and together with the Ontario Class Action, the "**Class Actions**").

12. Counsel to the U.S. Class Action plaintiffs is Labaton Sucharow LLP in the United States and Weisz Fell Kour LLP in Canada ("**CCAA U.S. Representative Counsel**", and together with CCAA Canadian Representative Counsel, "**CCAA Representative Counsel**").

13. The Ontario and U.S. Class Actions arise out of the same circumstances and make substantially similar allegations. They allege that, among other things, CannTrust Holdings and its officers and directors made, or were involved in making, misrepresentations and failed to disclose material facts about CannTrust Holdings' compliance with applicable laws, regulations, and standards.

14. The Ontario and U.S. Class Actions allege (among other claims asserted) that the defendants are liable for misrepresentations to shareholders who acquired their shares (i) on the TSX, NYSE, or other secondary market pursuant to Parts XXIII.1 of the Ontario Securities Act ("***OSA***") and under Rule 10b-5 and s 10(b) of the United States Securities Exchange Act of 1934 ("**Secondary Market Claims**"); and (ii) pursuant to the May 2019 prospectus share offering pursuant to Part XXIII of the OSA and ss 11, 12(a)(2) and 15 of the United States Securities Act of 1933 ("**Prospectus Claims**").

15. The Class Actions allege that CannTrust Holdings' securities traded at artificially inflated prices due to the misrepresentations. The Class Actions seek recovery of the losses sustained by investors because of those misrepresentations.

B. Carriage Motion

16. Because of the multiple class proceedings commenced in Ontario relating to the allegations against CannTrust Holdings, it was necessary for there to be a motion to determine which action(s) should be permitted to proceed and which should be stayed ("**Carriage Motion**").

17. CCAA Canadian Representative Counsel's retainer agreements with the CCAA Canadian Representatives were before the Court on the Carriage Motion. One of CCAA Canadian Representative Counsel's key submissions was it should be chosen as class counsel because its retainer agreement was more favourable to class members than the retainers of the other counsel group, because its proposed fee arrangement would result in lower fees to the class. Attached as **Exhibit "B-1"** and "**B-2"** are the retainer agreements between CCAA Canadian Representative Counsel and the CCAA Canadian Representatives, dated October 10, 2019. Attached hereto as **Exhibit "C"** is the proposed fee arrangements from the competing counsel group.

18. Justice Hainey appointed CCAA Canadian Representative Counsel to prosecute the Ontario Class Action, and stayed the action commenced by the co-counsel group of Thornton Grout Finnigan LLP and Rochon Genova LLP. Attached as **Exhibits "D"** and **"E"** are copies of the order and reasons on the carriage motion.

C. CCAA Proceeding and Representation Order

19. On March 31, 2020, CannTrust along with CannTrust Inc., CTI Holdings (Osoyoos) Inc., and Elmcliffe Investments Inc. (the "**CCAA Applicants**" or the "**CannTrust Group**") filed for protection from their creditors by commencing these CCAA Proceedings. Attached as **Exhibit "F"** is a copy of the initial order.

20. On May 8, 2020, the Court made an order (the "**Mediation Order**") appointing the Court-Appointed Mediator, the Hon. Dennis O'Connor, Q.C. as a neutral third party to mediate a global settlement of the various securities actions and related claims made against CannTrust Holdings (the "**Mediation Process**"). Attached as **Exhibit "G"** is a copy of the Mediation Order.

21. On January 29, 2021, this court issued the CCAA Representation Order which appointed (i) the CCAA Canadian Representatives to represent the interests of the Canadian and non-US Securities Claimants in relation to their Securities Claims and (ii) CCAA Canadian Representative Counsel as counsel to the Canadian and non-US Securities Claimants with authorization to take instructions from the representatives and to act on behalf of the Canadian and non-US Securities Claimants in respect of their Securities Claims and related claims. Similar orders were made in respect of the CCAA US Representatives and Counsel.

22. The CCAA Representation Order dated January 29 2021, is attached hereto as **Exhibit "H"**.

D. Overview of the Settlements

23. Following many months of complex negotiations with multiple parties facilitated by the Court-Appointed Mediator, the CCAA Representatives and CCAA Representative Counsel reached agreements to resolve the Securities Claims against CannTrust Holdings and related claims against a number of co-defendants to the Class Actions and their Insurers.

24. In exchange for releases of their liabilities, upon implementation of the CCAA Plan and satisfaction of certain preconditions, CannTrust Holdings and other settling co-defendants and Insurers will (i) collectively pay a total of approximately $129 million into a trust (the "**Securities Claimant Trust**") to be established for the benefit of all Securities Claimants; and

(ii) CannTrust Holdings will assign to the Securities Claimant Trust its claim against its former auditor, KPMG LLP, which will be prosecuted for the benefit of Securities Claimants (“**Settlements**”).

25. The payments comprising the cash component of the Settlements (“**Cash Contributions**”) will be made in both Canadian and US dollars as follows:

a. CannTrust Holdings: CAD $50,000,000.00;
b. Paul Settling Parties: CAD $12,000,000.00;
c. Litwin Group: CAD $11,000,000.00;
d. ABC Insurers: US $30,000,000.00;
e. Underwriters: US$ 8,000,000.00; and
f. DIC Insurers: US $6,900,000.00.

26. The value in Canadian currency of the Cash Contributions is $129,542,570.00 calculated using an exchange rate of 1.2593, which is the CAD/USD exchange rate listed on the Bank of Canada website as of July 16, 2021 (the date of the Sanction Order). Attached as Exhibit “**I**” is a page from www.bankofcanada.ca showing the exchange rates between July 14-21, 2021.

27. Following the payment to the Zola Plaintiffs pursuant to the Zola RSA, the gross settlement amount paid for the benefit of the Securities Claimants is $126,292,570.00.

28. A description of the Mediation Process, the Settlements, and the rationale for entering into them are described in detail in my Settlement Affidavits.

29. The proceeds of the Settlements (following payment of counsel fees and other expenses) will be distributed to Securities Claimants pursuant to the Allocation & Distribution Scheme.

30. The Sanction Order issued July 16, 2021, authorized the CCAA Representatives and CCAA Representative Counsel to implement the Settlements authorized as of that date and the Allocation and Distribution Scheme in accordance and subject to their terms.

II. APPROVAL OF RETAINER AND CCAA CANADIAN REPRESENTATIVE COUNSEL FEES

31. CCAA Canadian Representative Counsel have acted in the Ontario Class Action and the CCAA Proceedings on a contingency fee basis. They collectively seek approval of $12,314,628.50, plus $1,600,901.71 in HST (totaling $13,915,530.21 in respect of fees), plus $366,994.83 for their disbursements incurred.

32. Section 4.2 of the CCAA Plan contemplates that the fees of CCAA Representative Counsel will be paid from amounts held in the Securities Claimant Trust in accordance with the terms of the Trust Declaration, subject to approval of the CCAA Court.

33. A draft form of the Trust Declaration is marked and attached as **Exhibit "J"**. Section 3.4(vii) thereof provides that the fees of CCAA Canadian Representative Counsel be paid out of the Securities Claimant Trust in accordance with the Retainer Agreements. The parties expect the final Trust Declaration to be substantially in the form of the attached draft and to be finalized and executed before the Plan Implementation Date.

A. Acting as Class or Representative Counsel

34. I have acted as class counsel in several securities class actions since I was called to the Bar in 2008, and I have been involved in a number of class action settlements.

35. I have also been involved in unsuccessful cases. The firms comprising CCAA Canadian Representative Counsel have collectively lost millions of dollars in time and out of pocket

expenses pursuing what they believed were meritorious cases. The practice creates unique risks, challenges and benefits.

36. First, class proceedings involve a significant commitment of time and financial resources. These actions are typically taken on a contingency fee basis. It is common to dedicate thousands of lawyer hours and hundreds of thousands of dollars in disbursements to a particular case. Investigation and expert expenses are typical.

37. Second, class proceedings are highly adversarial and are often protracted. The concept that class proceedings often settle soon after the motion for certification is not correct. Cases are increasingly continuing beyond certification, through productions, examination for discovery and trial. The defendants tend to be well-resourced. The defendants bring motions for almost any dispute and appeal almost all decisions. A scorched-earth approach is common. As a result, costs are generally high and litigation generally proceeds slowly.

38. Additionally, in class actions under Part XXIII.1 of the *OSA*, such as the Ontario Class Action, the preliminary motion for leave to proceed is often vigorously defended and costs awards of hundreds of thousands of dollars are typical.

39. Third, there are a number of risks from class proceedings procedure, including:

a. the risk that the action will not be certified as a class proceeding;
b. the risk that leave to proceed under Part XXIII.1 of the *OSA* will be denied;
c. the risk that a large number of class members opt out;
d. the risk that the defendant successfully moves to decertify a class proceeding;
e. the risk that an award of aggregate damages on a class-wide basis is denied and individual issues trials are ordered;

f. the risk that individual issues trials are ordered but are not economically feasible;

g. the risk that a defendant will invoke a contractual arbitration clause;

h. the risk that the court does not approve a settlement agreement after lengthy, time-consuming and expensive negotiations; and

i. the risk that the court does not approve class counsel fees, or approves them only at a reduced rate.

40. Fourth, class counsel's obligation to the class do not end at settlement approval, even where all defendants settle and the litigation is at an end. Class counsel typically perform the following work as part of settlement administration, including:

a. identifying class members;

b. advising and instructing class members with questions concerning the settlement agreement and claims process;

c. providing information to class members, including relevant documents;

d. assisting class members with claim forms, if necessary;

e. providing documentation to the accountants and financial advisors of class members to assist with determinations of tax implications of settlement proceeds;

f. facilitating the claims process;

g. monitoring settlement implementation to ensure the processed are be followed;

h. liaising with the claims administrator; and

i. overall coordination of the settlement distribution.

B. Notional Allocation of Settlement Amount

41. The Settlements provide for a gross recovery of CAD $126,292,570.00 to Securities Claimants. CCAA Canadian Representative Counsel and CCAA US Representative Counsel

have agreed to a notional allocation of that settlement amount between the US Securities Claimants and the Canadian and non-US Securities Claimants for the purposes of determining counsel fees.

42. The notional allocation to which they have agreed is that the fees of CCAA Canadian Representative Counsel and CCAA US Representative Counsel will each be determined on the basis that 50% of the gross recovery is allocated to the claims of Canadian Securities Claimants and 50% of the gross recovery is allocated to the claims of US Securities Claimants

43. Accordingly, CCAA Canadian Representative Counsel’s fee request in accordance with its retainer agreement is calculated based on a notional settlement amount of $63,146,285.00 (50% of $126,292,570.00).

44. For clarity, this notional allocation has no bearing on the actual distribution of settlement proceeds to Securities Claimants. As set out in the Allocation and Distribution Scheme, attached as Schedule B to the CCAA Plan, the distribution of the total settlement amount (net of fees and expenses) is based on the claims made, the losses for those claims and the relevant risk adjustment factor for each claim.

C. CCAA Canadian Representative Counsel’s Requested Fee

45. The retainer agreements provide for repayment without premium of all disbursements plus taxes and for a sliding scale of fees depending on the amount of money recovered (“**Recovery**”) and the stage of the litigation, as follows:

	For the first $20 million of any Recovery	For the portion of the Recovery between $20 million and $40 million	For the portion of the Recovery between $40 million and $60 million	For the portion of the Recovery in excess of $60 million
If the Recovery occurs before the Court renders a decision on a contested certification motion.	**twenty-five percent (25%)**	**twenty percent (20%)**	**fifteen percent (15%)**	**ten percent (10%)**
If the Recovery occurs after the Court renders a decision on a contested certification motion, but before the date that is six weeks preceding the date set for commencement of the common issues trial.	**twenty-seven and a half percent (27.5%)**	**twenty-two and a half percent (22.5%)**	**seventeen and a half percent (17.5%)**	**twelve and a half percent (12.5%)**
If Recovery occurs after the date that is six weeks preceding the date set for commencement of the common issues trial	**thirty percent (30.0%)**	**twenty-five percent (25.0%)**	**twenty percent (20.0%)**	**Fifteen percent (15.0%)**

46. This sliding scale is meant to ensure that CCAA Canadian Representative Counsel is paid in a manner that is tied directly to the degree of success achieved in the action, while at the same time ensuring the overall fees are not excessive. Accordingly, this fee structure provides that the larger the recovery, the less counsel will be paid as a percentage of that recovery.

47. In addition, the fee structure provides that CCAA Canadian Representative Counsel is paid less if the action settles early in the proceeding. There are three different time periods contemplated: (a) settlement before a certification decision; (b) settlement after a certification decision and before the commencement of the common issues trial; and (c) settlement after the commencement of the common issues trial.

48. These different time periods are meant to reflect the resources that CCAA Canadian Representative Counsel expended in pursuing the claims and securing recovery. For instance,

had the defendants all settled the action within 30 days of its commencement in August 2019, CCAA Canadian Representative Counsel would have committed fewer resources to the action. In contrast, had the action proceeded to a common issues trial and success achieved only through judgment, CCAA Canadian Representative Counsel would have committed an even larger amount of resources to this litigation. The sliding scale is meant to take into account this increasing level of resources, but uses the objective measure of stages in the proceeding in order to determine when the next level of compensation will be awarded.

49. Because the Settlements occurred before certification, the first row of the fee grid applies as follows:

Recovery	**Contingency %**	**Fee**
$ 20,000,000.00	25%	$ 5,000,000.00
$ 20,000,000.00	20%	$ 4,000,000.00
$ 20,000,000.00	15%	$ 3,000,000.00
$ 3,146,285.00	10%	$ 314,628.50
$63,146,285.00	**19.5%**	**$12,314,628.50**

50. Accordingly, CCAA Canadian Representative Counsel requests fees in the amount of $12,314,628.50 which is equivalent to 19.5% of the Canadian Notional Settlement Amount.

51. The requested fee is well within the range of percentages that Ontario courts have approved in past securities class actions.

52. Notably, the retainer agreement did not contemplate these CCAA Proceedings and the work involved in them. Although these settlements were achieved prior to the certification motion, applying the first level (pre-certification) of the fee grid will result in lower fees to CCAA Canadian Representative Counsel than what is contemplated by the retainer agreement because counsel has expended far more time and resources participating in the CCAA

Proceeding than what would have been required to reach the post-certification judgment stage of the proceedings.

D. Counsel's Efforts in Advancing the Securities Claims

53. CCAA Canadian Representative Counsel expended significant effort in advancing the Ontario Class Action and obtaining the Settlements.

54. CCAA Canadian Representative Counsel work on this litigation to date has included:

a. Conducting an extensive legal and factual investigation, including and in particular:

    i. reviewing CannTrust Holdings' public disclosure documents and other publicly available information regarding CannTrust Holdings;

    ii. holding discussions with a CannTrust Holdings whistleblower and obtaining relevant emails;

    iii. retaining and communicating with private "fact" investigators;

    iv. identifying and interviewing potential "fact" witnesses;

    v. retaining a cannabis consultant to advise counsel;

    vi. retaining and instructing Cyrus Khory, managing director at Froese Forensic Partners Ltd., to provide an expert opinion regarding applicable accounting standards;

    vii. retaining and instructing Professor Efrim Boritz, Ph.D., FCPA, FCA, CISA, to provide an expert opinion regarding applicable auditing standards;

    viii. retaining and instructing James Miller to provide an expert opinion regarding applicable underwriting standards;

    ix. retaining and instructing Sunita Surana, Ph.D., of Forensic Economics to provide an expert economic opinion on market efficiency, materiality, and damages;

    x. reviewing CannTrust Holdings' responsive insurance policies and other non-public information provided to CCAA Representative Counsel in the course of the Mediation Process;

xi. drafting mediation briefs and considering the defendants' written mediation briefs, information and documents provided, and positions taken by the parties during the Mediation Process;

xii. negotiating cooperation agreements with settling defendants to assist in continuing litigation;

b. preparing materials for and arguing a motion for carriage of the Ontario Class Action;

c. preparing materials for the motions for certification and leave to proceed under Part XXIII.1 of the OSA, which were not heard due to the stay initiated by the CCAA Proceeding;

d. preparing for and arguing the motions described below and attending several other appearances in this CCAA Proceeding;

e. participating in the Mediation Process, including attendance at dozens of formal and informal mediation sessions over a one-year period;

f. negotiating the RSA settlement framework which ensured claims against non-debtor defendants would be minimally affected;

g. negotiating the Additional RSAs;

h. retaining and receiving advice from tax counsel regarding the structure of the Securities Claimant Trust;

i. filing a proof of claim on behalf of Securities Claimants and voting in support of the CCAA Plan;

j. preparing for, giving evidence, and making submissions in support of the Representation Order;

k. preparing for, giving evidence, and making made submissions in support of the motions to sanction the CCAA Plan, to authorize the Settlements and Allocation & Distribution Scheme;

l. preparing, with CCAA US Representative Counsel, the motions for notice approval and settlement approval in the US Court;

m. designing the Allocation & Distribution Scheme to distribute the Settlement proceeds to Securities Claimants; and

n. retaining and working with the Claims Administrator in respect of the claims filing procedure, website, and notice to Securities Claimants.

(i) Investigation, Carriage Motion, and Preparation for Certification and Leave

55. The disclosure about CannTrust Holdings' non-compliant activities occurred on July 8, 2019. CCAA Canadian Representative Counsel conducted a preliminary investigation before filing the proposed consolidated pleading. This included reviewing CannTrust Holdings' public filings and other publicly available articles and reports, retaining a private fact investigator, interviewing the whistleblower, identifying other witnesses, and retaining experts.

56. Following the Carriage Motion, CCAA Canadian Representative Counsel immediately began preparation of materials for the motions for certification and leave under Part XXIII.1 of the *OSA*, including fact affidavits and expert reports. CannTrust Holdings commenced these insolvency proceedings before those motions could be served.

(ii) CCAA Proceedings and Mediation Process

57. On March 31, 2020, CannTrust Holdings commenced these CCAA Proceedings and obtained an order for the stay of proceedings against it. CCAA Canadian Representative Counsel immediately appeared in these proceedings and took steps to ensure that the rights of Securities Claimants would not be unfairly compromised.

58. Following the issuance of the Mediation Order, CCAA Canadian Representative Counsel, CCAA US Representative Counsel, and eight different investors sought to participate in the mediation process. CCAA Canadian and US Representative Counsel ultimately agreed to work together as a single negotiating unit to advance the interests of all Securities Claimants (other than those with counsel).

59. The Settlements are a product of extensive and hard-fought negotiations with counsel to more than thirty defendants and nine insurers over the course of 18 months. CCAA Canadian Representative Counsel estimate participation in well over one hundred formal and informal mediation sessions or other discussions with the mediator and other mediation participants.

(iii) Representation Order

60. Following the negotiation of the RSA, the Applicants brought a motion to appoint me and my co-counsel as CCAA Canadian Representative Counsel to the Canadian and non-US Securities Claimants. I swore an affidavit in support of that motion, which is attached and marked as Exhibit "K". I was cross examined on my affidavit by counsel to Zola Finance Holdings Ltd. and Igor Gimelshteim ("**Zola**"), who opposed the motion. CCAA Canadian Representative Counsel made oral submissions in support of that order.

(iv) Meeting Order

61. The Applicants' motion for a meeting order was heard on April 16, 2021, following an adjournment of the motion in March. CCAA Representative Counsel submitted a factum and made oral submissions in support of that order.

62. CCAA Representative Counsel submitted proofs of claim on behalf of the Securities Claimant. I attended the Meeting as proxy for the Securities Claimants and voted in favour of the CCAA Plan.

(v) Sanction Order – Part I

63. The Sanction Order motion was heard on June 11 and 17, 2021.

64. The Sanction Order was opposed by KPMG and Newline (an insurer). I was cross examined by counsel to both parties on my First Affidavit. The Sanction Order was also

opposed by Zola, who objected to the proposed Allocation and Distribution Scheme. CCAA Representative Counsel submitted two facta and made oral submissions in support of the Sanction Order.

65. During the course of the hearing, we reached an agreement in principle to resolve claims against the Insurers. Accordingly, Newline withdrew its opposition to the motion.

66. On June 24, 2021, Justice Patillo dismissed the motion for the Sanction Order. The reasons for decision are marked and attached as **Exhibit "L"**.

(vi) Sanction Order – Part II

67. Following dismissal of the motion in June , CCAA Representative Counsel re-engaged in discussions with counsel to the Applicants and KPMG regarding an amended CCAA Plan that addressed the concerns raised by Justice Patillo.

68. On July 16, 2021, the Sanction Order was granted. By this date, CCAA Representative Counsel had reached settlement agreements with all defendants and insurers except for KPMG.

(vii) US Orders and Claims Administration

69. Following the CCAA Plan's sanction, CCAA Canadian Representative Counsel have continued to work diligently with US counsel to obtain the US Approval Order, coordinate noticing, and establish an efficient cross-border claims filing procedure for distribution of the settlement funds.

E. Counsel's time and Disbursements Incurred

70. Pursuant to the agreement between the members of the CCAA Canadian Representative Counsel, work on this file is managed centrally and delegated with a view to ensuring that it is performed by the members of the team who can do so most efficiently and effectively. This central delegating function also avoids duplication of efforts.

71. I am advised by my co-counsel and I believe CCAA Canadian Representative Counsel have already expended more than $4.5 million in docketed time (without HST), as set out below:

DOCKETED TIME			
	Hours	Hourly Rate (avg)	Time-value
Henein Hutchison LLP			
Marie Heinen (1992)	264.7	$1115.98	$295,399.00
Scott Hutchison (1987)	277.50	$950.00	$263,625.00
Other lawyers, students & clerks	300.80	$275.19	$ 82,777.50
Subtotal	843.0		$641,801.50
Strosberg Sasso Sutts LLP			
Jay Strosberg (2002)	479.40	$880.23	$421,982.50
David R. Wingfield (1988)	1566.30	$937.26	$1,468,027.50
Patricia Speight (1986)	196.60	$700.51	$137,720.00
Scott Robinson (2014)	218.20	$451.37	$98,490.00
Justin Smith (2018)	604.10	$272.94	$164,882.50
Other lawyers, students & clerks	420.80	$284.85	$119,866.50
Subtotal	3485.40		$2,410,969.00
A. Dimitri Lascaris Law Professional Corporation			
A. Dimitri Lascaris (1992 NY, 2004 ON)	238	$869.43	$206,925
Subtotal	238		$206,925
Kalloghlian Myers LLP			
Serge Kalloghlian (2008)	2213.05	$561.34	$1,242,283.75
Garth Myers (2013)	96.1	$546.67	$52,535.00
A.J. Freedman (2017)	124.51	$258.44	$32,178.50
Ashley Seely (2020)	26.21	$300	$7,863
Subtotal	2459.87		$1,334,860.25
Total Docketed Time			**$4,594,555.75**

72. I am advised by my co-counsel and I believe that CCAA Canadian Representative Counsel has expended $366,994.83 in disbursements which include expert fees of accounting, auditing and damages experts. Expert reports were prepared for the leave motions and the mediations.

73. Considering the amount of work required, the steps taken, the division of work and responsibility between the firms, the amount of time spent was reasonable in all of the circumstances.

F. The Continuing Litigation Against KPMG

74. Litigation on behalf of the Securities Claimants has been resolved with all mediation participants except for KPMG. Following implementation of the CCAA Plan, CCAA Representative Counsel expect to prosecute in parallel against KPMG the Class Actions as well as CannTrust Holdings' claim against KPMG on behalf of the Securities Claimants Trust. CCAA Representative Counsel expect this to require significant resources.

G. Factors in Assessing Reasonableness of Class Counsel Fees

75. The requested fees of CCAA Canadian Representative Counsel reflect a percentage of 19.5% of the settlement amount notionally allocated to Canadian and non-US Securities Claimants. In our view, this amount is fair and reasonable.

76. CCAA Canadian Representative Counsel took on the major risk that there would be little or no recovery from the defendants with the means to satisfy a judgment, while at the same time having to commit a large amount of time, money and resources to the prosecution of Securities

Claims. CCAA Canadian Representative Counsel have already expended more than $4.5 million in docketed time (without HST) and more than $366,994.83 in disbursements.

77. The prosecution of these claims has involved significant risks and the result achieved is excellent in the circumstances.

(i) Recovery risk was very high from the outset

78. CCAA Canadian Representative Counsel were always confident of establishing liability against CannTrust Holdings and certain senior insiders; however establishing liability against defendants that could actually satisfy a large judgment was the greatest risk for this litigation and thus CCAA Canadian Representative Counsel.

79. The Insurers had denied coverage to CannTrust Holdings and the two senior insiders. CannTrust Holdings was and remains in a precarious financial situation and any judgment would likely result in a contested judicial liquidation over CannTrust Holdings' assets, making recovery for Securities Claimants uncertain.

80. In contrast, while other defendants such as the Underwriters had the means to satisfy a substantial judgment, recovery was still a major challenge. To succeed against the Underwriters, the plaintiffs would have to prove a breach of the due diligence standard, which the Underwriters would vigorously dispute. The damages attributable to the primary market claim would be reduced further to the extent such liability is shared with co-defendants. Further, we would expect them to argue that primary market damages were significantly lower than our experts' estimate of $48.3 million, and that primary market purchasers could not establish "traceability" (i.e. that they would not be able to prove that their shares were purchased pursuant to the offering), further reducing damages.

81. Recovery from the Insurers was also uncertain. Because they had denied coverage against CannTrust Holdings and culpable insiders there was a major risk that they would not contribute to a judgment or resolution.

(ii) Counsel Assumed Funding and Adverse Costs Risk

82. The Retainer Agreements provided that CCAA Canadian Representative Counsel assumed the responsibility and risk (i) of funding disbursements; and (ii) indemnifying the plaintiffs for any adverse costs award.

83. Counsel did not offset these risks by seeking assistance from the Class Proceedings Fund ("**CPF**") or other third-party funding or insurance agreement. In exchange for disbursement funding and an indemnity against adverse costs, the CPF is entitled to a levy of 10% of the settlement amount. In my experience, I would expect an institutional third-party funder to charge a levy of between 7-12% in a case like this.

84. Accordingly, the assumption of these responsibilities and risks by Canadian CCAA Representative Counsel resulted in savings to the Securities Claimants of approximately $6 million.

(iii) Counsel Achieved Significant Success

85. As set out in my First Affidavit at paragraphs 55 and elsewhere, the value of the settlement is superior to the likely result that could be obtained through a judgment and contested liquidation of CannTrust Holdings' assets, and the damages likely recoverable from the defendants.

86. To our knowledge, the recovery from the Settlements is one of the largest securities settlements ever reached in Canada. Marked and attached as Exhibit "M" is a research report by ISS Securities Class Action Services which ranks the top 25 Canadian class action settlements of all time, as of May 2018.[1]

(iv) The Monetary Value and Importance of the Matter to the Class

87. This action was of significant importance to the Plaintiff and Securities Claimants for financial and personal reasons.

88. First, unlike many class proceedings where the monetary value of individual claims can be miniscule (e.g. credit card or gas bill overcharges amounting to pennies or a few dollars, etc.), the individual compensation will be much more significant, potentially in the hundreds of thousands of dollars for Securities Claimants with large holdings.

89. Second, the Securities Claimants place significant importance on the integrity of capital markets. In CCAA Canadian Representative Counsel's view, results like this assist in maintaining that integrity, and this will benefit the Securities Claimants beyond the compensation that they will be awarded in the claims process.

(v) Competence of CCAA Canadian Representative Counsel

90. CCAA Canadian Representative Counsel are nationally recognized leaders in securities class proceedings and complex litigation. CCAA Canadian Representative Counsel expertise and experience were brought to bear in this novel and complex case. CCAA Canadian Representative Counsel believe that their efforts to drive this case forward and their reputation as effective class action counsel assisted significantly in achieving this settlement.

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[1] After the publication date, the *Valeant* securities class action settled for approximately $127 million.

H. Conclusion

91. I believe that the fee of $12,314,628.50 plus HST and disbursements sought on this motion is fair and reasonable given the work done, the results achieved, and the risks undertaken.

AFFIRMED BEFORE ME over video-teleconference in accordance with Ontario Regulation 431/20, with the affiant and the commissioner being located in the City of Toronto, in the Province of Ontario, this 6th day of December, 2021.	Serge Kalloghlian
A Commissioner for taking Affidavits *(or as may be)*	

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 CANNTRUST HOLDINGS INC. ET AL.

Court File No. CV-20-00638930-0CL

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

Affidavit of Serge Kalloghlian
(Fee Approval for CCAA Canadian Representative Counsel)

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CCAA Canadian Representative Counsel

TAB 2-A1

This is Exhibit “A-1” referred to in the Affidavit

of Serge Kalloghlian, sworn before me this

day of December 6th, 2021

____

A Commissioner, etc

Court File No. CV-20-00638930-00CL

ONTARIO

SUPERIOR COURT OF JUSTICE

(COMMERCIAL LIST)

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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF CANNTRUST HOLDINGS INC., CANNTRUST INC., CTI HOLDINGS (OSOYOOS) INC. AND ELMCLIFFE INVESTMENTS INC.

AFFIDAVIT OF SERGE KALLOGHLIAN

(Sworn June 2, 2021)

TABLE OF CONTENTS

Court File No. CV-20-00638930-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

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

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AFFIDAVIT OF SERGE KALLOGHLIAN

(Sworn June 2, 2021)

I, SERGE KALLOGHLIAN, of the City of Toronto, in the Province of Ontario, AFFIRM:

1. I am a partner at Kalloghlian Myers LLP, co-counsel to Patrick Hrusa and Dharambir Singh (the "**CCAA Canadian Representatives**") in these proceedings, and in the proposed class action against CannTrust Holdings Inc. ("**CannTrust Holdings**") and others bearing (Toronto) Court File No. 19-000625181-00CP in the Ontario Superior Court of Justice ("**Ontario Class Action**"). The statement of claim in the Ontario Class Action is attached as **Exhibit** "**A**".[1]

[1] The Fresh as Amended Statement of Claim is attached as a schedule to the Order of Justice Hainey dated January 28, 2020, appointing carriage to Ontario Class Action counsel. The Fresh as Amended Statement of Claim had not yet been issued as of the commencement of these insolvency proceedings.

2. Counsel to the CCAA Canadian Representatives is comprised of Henein Hutchison LLP ("**Henein**"), Strosberg Sasso Sutts LLP ("**Strosberg**"), A Dimitri Lascaris Law Professional Corporation ("**Lascaris**"), and Kalloghlian Myers LLP ("**Kalloghlian**") (together, "**CCAA Canadian Representative Counsel**").

3. Granite Point Master Fund, LP and Granite Point Capital Scorpion Focused Ideas Fund (the "**CCAA U.S. Representatives**" and together with the CCAA Canadian Representatives, the "**CCAA Representatives**") commenced a class action against CannTrust Holdings and others in the Southern District of New York bearing court file No. 1:19-CV-06396 (JPO) (the "**U.S. Class Action**"). The Complaint in that action is attached as **Exhibit "B".**

4. Counsel to the U.S. Class Action plaintiffs is Labaton Sucharow LLP in the United States and Weisz Fell Kour LLP in Canada ("**CCAA U.S. Representative Counsel**", and together with CCAA Canadian Representative Counsel, "**CCAA Representative Counsel**").

5. Where I use the terms "us", "our", or "we" in this affidavit, I am referring to myself and the other lawyers comprising CCAA Representative Counsel.

6. The Ontario Class Action and U.S. Class Action (together, the "**Class Actions**") assert claims against CannTrust Holdings and others on behalf of a global class of CannTrust shareholders.

7. On January 29, 2021, this court issued an order (the "**CCAA Representation Order**") (i) appointing the CCAA Representatives to represent the interests of all Securities Claimants (subject to some exclusions, discussed below) and (ii) appointing CCAA Representative Counsel as counsel to the Securities Claimants. The CCAA Representation Order is attached as **Exhibit** "**C**".

I swore an affidavit on January 20, 2021 in support of the CCAA Representation Order, which is attached (without exhibits) as **Exhibit "D"**.

8. The CCAA Representation Order authorizes CCAA Representative Counsel to take instructions from the CCAA Representatives and to act on behalf of the Securities Claimants in respect of their Securities Claims and related claims.

9. The CCAA Representation Order also authorizes the CCAA Representatives and CCAA Representative Counsel to enter into the RSA (defined below) and to negotiate, settle, and prosecute Securities Claimants' related claims against other defendants to the Class Actions and the insurers of those defendants.

10. Notice of the appointment of the CCAA Representatives and CCAA Representative Counsel was provided to Securities Claimants in accordance with the CCAA Representation Order. I am not aware of any Securities Claimants (other than those excluded from the Representation Order) that have indicated they do not want to be represented by the CCAA Representatives and CCAA Representative Counsel in connection with the CCAA Proceedings.

11. I have knowledge of the matters contained in this affidavit, except where stated to be based on information and belief, in which case I have indicated the source of that information and believe that information to be true.

12. I swear this affidavit in support of the Applicants' motion for an order approving the plan of compromise, arrangement and reorganization of CannTrust Holdings, CannTrust Inc. ("**CannTrust Opco**") and Elmcliffe Investments Inc. under the *Companies' Creditors*

Arrangement Act (the "**CCAA**") (as amended from time to time) ("**CCAA Plan**") in these proceedings (the "**CCAA Proceedings**").

13. No portion of this affidavit is meant to waive, nor should it be construed as a waiver of, solicitor-client, litigation, or any other privilege.

14. All capitalized terms used and not otherwise defined herein have the meanings given to them in the CCAA Plan.

I. OVERVIEW

15. Following months of complex negotiations with multiple parties facilitated by the Hon. Dennis O'Connor, Q.C. (the "**Court-Appointed Mediator**"), the CCAA Representatives and CCAA Representative Counsel reached agreements to resolve the Securities Claims against CannTrust Holdings and the related claims against a number of co-defendants to the Class Actions.

16. On January 19, 2021, the CCAA Representatives and CCAA Representative Counsel reached an agreement with the Applicants regarding a framework for the settlement of all Securities Claims against CannTrust Holdings and various related claims, a copy of which is attached and marked as **Exhibit "E"** (the "**RSA**").[2] The CCAA Plan implements the RSA settlement framework for the resolution of all Securities Claims against CannTrust Holdings and related claims against the co-defendants that have reached settlements with the CCAA Representatives and CCAA Representative Counsel, as detailed further below.

[2] The RSA is dated January 19, 2021. Following issuance of the Representation Order, the parties executed the joinder agreement dated January 29, 2021(attached to the RSA) whereby the CCAA Representatives and CCAA Representative Counsel became parties to the RSA.

17. In exchange for broad releases of their liabilities, upon the implementation of the CCAA Plan and satisfaction of certain preconditions, CannTrust Holdings, CannTrust Opco, the other Original Settlement Parties and the settling co-defendants will (i) collectively pay a total of approximately $83,000,000 into a trust (the “**Securities Claimant Trust**”) to be established for the benefit of all holders of Securities Claims (“**Securities Claimants**”); and (ii) assign to the Securities Claimant Trust certain claims that they have against other co-defendants or their insurers (“**Assigned Claims**”).

18. Below, I explain the rationale for entering into the RSA and the Additional RSAs with the Additional Settlement Parties and why I believe they are fair and reasonable.

II. THE CLASS ACTIONS

19. CannTrust Holdings is a publicly traded company and its shares were traded on the Toronto Stock Exchange (“**TSX**”) and on the New York Stock Exchange (“**NYSE**”), under the ticker symbols “TRST” and “CTST” respectively, and elsewhere.

20. The Ontario and U.S. Class Actions arise out of the same circumstances and make substantially similar allegations. They allege that, among other things, CannTrust Holdings, its officers, and directors, made, or were involved in making, misrepresentations and failed to disclose material facts about CannTrust Holdings’ compliance with applicable laws, regulations, and standards.

21. The Ontario and U.S. Class Actions allege (among other claims asserted) that the defendants are liable for misrepresentations to shareholders that acquired their shares (i) on the TSX, NYSE, or other secondary market pursuant to Parts XXIII.1 of the Ontario Securities Act and under Rule

10b-5 and s 10(b) of the United States Securities Exchange Act of 1934 (“**Secondary Market Claims**”); and (ii) pursuant to the May 2019 prospectus share offering pursuant to Part XXIII of the OSA and ss 11, 12(a)(2) and 15 of the United States Securities Act of 1933 (“**Prospectus Claims**”).

22. The Class Actions allege that CannTrust Holdings’ securities traded at artificially inflated prices due to the misrepresentations. Following its announcement on July 8, 2019 that it was in breach of regulations, the price of CannTrust Holdings’ shares began to fall significantly on the TSX and the NYSE.

23. The Class Actions seek recovery of the losses sustained by investors because of those misrepresentations.

III. THE MEDIATION PROCESS

24. On March 31, 2020, the Applicants commenced these CCAA Proceedings and obtained an order for a stay of proceedings against them in Canada. The US Class Action was subsequently stayed pending the Mediation Process (defined below) by agreement of the parties.

25. On May 8, 2020, the Court made an order (the “**Mediation Order**”) appointing the Court-Appointed Mediator, the Hon. Dennis O’Connor, Q.C. as a neutral third party to mediate a global settlement of the various securities actions and related claims made against CannTrust Holdings (the “**Mediation Process**”).

26. Since the beginning of the Mediation Process, CCAA Representative Counsel, on behalf of the Securities Claimants, attended numerous formal mediation sessions with counsel to the

Applicants, the co-defendants, and the insurers and countless informal discussions with the Court-Appointed Mediator, the Monitor, and other mediation participants. At all times, CCAA Representative Counsel followed the directions of the Court-Appointed Mediator.

27. In January 2021, following protracted negotiations over six months, with the assistance of the Court-Appointed Mediator and the Monitor, the CCAA Representatives and the Applicants reached the agreement reflected in the RSA. In the five months since then, additional settlements have been reached with the following co-defendants to the Class Actions:

(a) Eric Paul and the Paul Family Trust (the "**Paul Settling Parties**");

(b) Canaccord Genuity Corp., Canaccord Genuity LLC, Citigroup Global Markets Inc., Citigroup Global Markets Canada Inc., Credit Suisse Securities (Canada) Inc., Credit Suisse Securities (USA) LLC, Jefferies Securities, Inc, Jefferies LLC, Merrill Lynch Canada Inc., Merrill Lynch, Pierce, Fenner & Smith Incorporated, and RBC Dominion Securities Inc. (the "**Underwriters**");

(c) Mark Ian Litwin, Fred Litwin, Stan Abramowitz, Cannamed Financial Corp., Forum Financial Corporation, Mar-Risa Holdings Inc., York Capital Funding Inc., and Sutton Management Limited (the "**Litwin Group**");

(d) Ian Abramowitz; and

(e) Kenneth Brady Green.

28. The CCAA Representatives have also entered into an agreement with Zola Finance Holdings Ltd. and Igor Gimelshtein (the "**Zola Plaintiffs**") to transfer their Securities Claims and certain related claims against CannTrust Holdings and the co-defendants to the Securities Claimant Trust in exchange for a payment of $3.25 million.

29. As I explain below, it is CCAA Representative Counsel's view that each of these agreements in fair, reasonable, and in the best interests of the Securities Claimants.

IV. CCAA REPRESENTATIVE COUNSELS' CONSIDERATIONS IN NEGOTIATING THE SETTLEMENTS

A. Factual and Legal Investigation Supporting the Settlement

30. In coming to these settlement agreements, CCAA Representative Counsel conducted extensive legal and factual investigation, including:

(a) reviewing CannTrust Holdings' public disclosure documents and other publicly available information regarding CannTrust Holdings;

(b) holding discussions with a CannTrust Holdings whistleblower and obtaining relevant emails;

(c) retaining and communicating with private "fact" investigators;

(d) identifying and interviewing potential "fact" witnesses;

(e) communicating to date with over 1,000 individuals identifying themselves as Securities Claimants;

(f) retaining a cannabis consultant to advise counsel;

(g) retaining Cyrus Khory, managing director at Froese Forensic Partners Ltd., to provide an expert opinion regarding applicable accounting standards;

(h) retaining Professor Efrim Boritz, Ph.D., FCPA, FCA, CISA, to provide an expert opinion regarding applicable auditing standards;

(i) retaining James Miller to provide an expert opinion regarding applicable underwriting standards;

(j) retaining Sunita Surana, Ph.D., of Forensic Economics to provide an expert economic opinion on market efficiency, materiality, and damages;

(k) reviewing CannTrust Holdings' responsive insurance policies and other non-public information provided to CCAA Representative Counsel in the course of the Mediation Process; and

(l) considering the written mediation briefs, information and documents provided, and positions taken by the parties during the Mediation Process.

31. CCAA Representative Counsel believes there was more than adequate information available from which to make an appropriate recommendation concerning the resolution of the claims against the settling defendants and to resolve certain matters with the Zola Plaintiffs. As mentioned above, the Court-Appointed Mediator was heavily involved in the Mediation Process and in the negotiation of the settlements reached with most of the defendants noted above.

B. Damages Estimates

32. In assessing the reasonableness of the settlement values, we were guided by the advice of our damages expert, Dr. Sunita Surana. Dr. Surana provided us with an estimate of damages to Securities Claimants using the statutory damages formulas in Part XXIII.1 of the *OSA*.

33. Damages estimates are based largely on trading models and various assumptions, the results of which could vary from actual trading patterns. Damages estimates also depend on the dates of the alleged misrepresentations and corrective disclosures, the price impact on securities of those events, and the existence of confounding information on the stock price reaction. Changes to the underlying assumptions, or to the misrepresentation or correction dates could cause significant differences in estimates.

34. Based on CCAA Representative Counsel's allegations and other assumptions and instructions provided to her, Dr. Surana estimated aggregate damages to Securities Claimants of approximately $510 million. Of those damages, approximately $48 million are attributable to Prospectus Claims, and $461.5 million are attributable to Secondary Market Claims.

35. We were guided by this estimate, but were also cognizant that it is common for defendants to produce opinions which make different assumptions and put forth lower damages figures.

36. Moreover, in the event that this case went to trial and the plaintiffs were successful, the actual damages to be paid may only be for claims actually filed by class members. For a variety of reasons, significantly less than 100% of class members generally file claims. Although claim rates vary from case to case, to our knowledge, it is never the case that all class members file claims in a case of this nature. Therefore, actual payable damages would be some portion of the experts' estimated damages figures if the matter proceeded to trial and the defendants succeeded in establishing that damages should be only on claims filed.

C. CannTrust Holdings' Claim Against KPMG LLP

37. KPMG LLP ("**KPMG**") was the auditor of CannTrust Holdings during the period that it issued false and misleading financial statements. KPMG is a defendant in the Class Actions and faces statutory claims by shareholders that acquired CannTrust Holdings' shares on the TSX or NYSE, or in the May 2019 prospectus offering.

38. Early in the Mediation Process, CCAA Representative Counsel concluded that CannTrust Holdings also had a potentially valuable auditor's negligence claim against KPMG, although no such claim had been asserted. As discussed later in this affidavit, our assessment of the significant value of this claim was a critical factor in our determination to enter into the RSA instead of seeking a judgment against CannTrust Holdings.

39. CannTrust Holdings' potential claim against KPMG is for breach of contract, negligence, negligent misrepresentation, and negligent performance in connection with its audit of CannTrust's 2018 annual financial statements and Q1 2019 review engagement. Counsel to KPMG have been aware of the intention of the CCAA Representatives to pursue CannTrust

Holdings' potential claim against KPMG for several months and at least since the RSA was entered into.

40. On April 22, 2021, I wrote to counsel to KPMG regarding tolling of limitation periods for CannTrust Holdings' claim against it. Following their response to that letter, on May 3, 2021, I provided a draft statement of claim to KPMG's counsel advising that should we fail to reach an agreement, we would demand that CannTrust Holdings issue the claim through independent counsel to ensure that CannTrust Holdings' claim against KPMG that was to be assigned to the Securities Claimant Trust was not prejudiced by the passage of time. A copy of the draft statement of claim sent to KPMG's counsel is attached as **Exhibit** "**F**", with certain redactions to confidential information. Copies of the correspondence between me and KPMG's counsel are attached as **Exhibits** "**G-1**" to "**G-5**".

41. The draft claim alleges that KPMG owed a duty to CannTrust Holdings to conduct its audit and review engagements in accordance with applicable professional audit standards and practices. The gravamen of the claim is that had KPMG conducted a proper audit, CannTrust Holdings would have stopped the illegal activity and would not have issued US $230 million worth of shares in May 2019, thereby worsening its financial condition by incurring liabilities it was rendered unable to satisfy.

42. In consultation with our expert, we estimate potential damages in the proposed action to be well in excess of $270 million with reference to the damages analysis from *Livent v Deloitte & Touche*.

D. Settlements Parties' Claims against Insurers

43. As indicated in previous affidavits filed in these proceedings, CannTrust Holdings' insurers have denied coverage to it in respect of the Class Action claims. Pursuant to the CCAA Plan, the claims of CannTrust Holdings and other Settlement Parties against the Insurers will be transferred to the Securities Claimant Trust. The CCAA Plan provides a mechanism to allow continued litigation against such Settlement Parties solely for the purpose of establishing liability in order to collect from responsive insurance policies. In our view, the claims of CannTrust Holdings and other Settlement Parties against the Insurers have significant value.

44. CCAA Representative Counsel are engaged in continuing negotiations with the Insurers and hope to reach a resolution prior to the implementation of the CCAA Plan.

E. Risks and Challenges to Continued Litigation

45. Despite our view of the strength of the claims against CannTrust Holdings, a number of factors in this case presented a risk to the ultimate recovery from it and the other defendants. In this section I describe the risks and factors applicable to the litigation as a whole (which are in addition to the general risks associated with complex litigation). The specific claims made against each defendant other than CannTrust Holdings and the considerations regarding the settlement of those claims are discussed later in this affidavit.

(i) CannTrust Holdings' Ability to Satisfy a Judgment

46. The most significant factor in negotiating the settlement with CannTrust Holdings was its ability to satisfy a judgment. It has always been our view that the case against CannTrust Holdings

was very strong on the merits, and that the plaintiffs would prevail in establishing damages at trial well in excess of the $50,000,000 settlement payment contemplated by the RSA.

47. Nevertheless, since CannTrust Holdings was and remains in a precarious financial situation and its insurers had denied coverage, any judgment would likely result in a contested liquidation over CannTrust Holdings' assets. The extent to which the Securities Claimants could collect on a judgment was therefore questionable and the time it would take to obtain a recovery was unknown. Accordingly, and as discussed further below, counsel determined that it was reasonable for the Securities Claimants to enter into the RSA and work with CannTrust Holdings either to pursue litigation against, or obtain settlements with, the insurers and co-defendants to the Class Actions. For this reason, the Assigned Claims represented an important potential source of recovery for the Securities Claimants which they would not have had without the RSA.

(ii) Part XXIII.1 Liability Limits

48. Damages under Part XXIII.1 are subject to liability limits. For the issuer (i.e. CannTrust Holdings) the liability limit is equal to 5% of the company's market capitalization at the time of the misrepresentation. The liability limit may not be lifted under any circumstances.

49. It is uncertain how a court would apply the liability limits to a case with multiple misrepresentations such as those alleged in the Ontario Class Action. If this action proceeded to trial, we expect that CannTrust Holdings would argue that that the liability for the Part XXIII.1 claims against it were capped at approximately $43 million.

50. In the case of an officer or director, the limit is the greater of $25,000 and 50% of the individuals' compensation from CannTrust Holdings over the 12 month period preceding the date the misrepresentation was made. This liability limit may be lifted only if the plaintiff proves the individual made the misrepresentation with knowledge. The liability limits, if applied to the individual defendants, would limit recoveries to amounts that were not significant relative to the current settlement amounts.

(iii) Common law, conspiracy, and oppression claims

51. The Ontario Class Action asserts claims in negligence, negligent misrepresentation, conspiracy, and oppression. These claims present their own substantive and procedural issues, including (i) uncertainty as to the applicability and merits of such causes of action in the circumstances, (ii) calculation of damages on these fact patterns under these claims; and (iii) the possibility of significant individual issues following the common issues trial.

V. THE SETTLEMENTS

A. The RSA

52. The settlement reflected in the RSA is with the Applicants, Mark Dawber, Greg Guyatt, John Kaden, Robert Marcovitch, Shawna Page, Ilana Platt, Mitchell Sanders and Cajun Capital Corporation (the "**Original Settlement Parties**"). In exchange for releases of liability:

(a) CannTrust Holdings will pay a "**Cash Contribution**" of $50,000,000 to the Securities Claimant Trust;

(b) the Original Settlement Parties will assign their Assigned Claims to the Securities Claimant Trust; and

(c) CannTrust Holdings will provide information and cooperation to the plaintiffs in the prosecution of the continuing litigation.

53. The CCAA Representatives' compromise with the Original Settlement Parties was driven primarily by CannTrust Holdings' ability to pay, the anticipated value of their cooperation against other defendants, the anticipated impact of a settlement with the Original Settlement Parties on our negotiations with other defendants, and the anticipated significant value of their Assigned Claims, including CannTrust Holdings' potential claim against KPMG and the potential claims against Insurers of the directors and officers who are Original Settlement Parties.

54. The Original Settlement Parties other than CannTrust Holdings were not required to make separate monetary contributions. The Original Settlement Parties other than the Applicants were those directors and officers of CannTrust Holdings with respect to whom no evidence of wrongdoing was found during its internal investigation. Our decision not to require separate contributions from such persons was informed by that fact, as well as by our understanding that such persons were not material sources of recovery because they had limited legal or financial exposure relative to the $50,000,000 payment and/or did not have the capacity to make a meaningful contribution to a settlement thereby making litigation against these parties uneconomic.

55. CCAA Representative Counsel believe that the settlement reflected in the RSA is superior to the result that could be obtained through a judgment and contested liquidation of CannTrust Holdings' assets. In coming to this conclusion, we had regard to and considered the following:

(a) the RSA provided an orderly mechanism for the CCAA Representatives, with CannTrust Holdings' help to obtain additional settlements and provide releases to additional parties;

(b) the Assigned Claims, particularly against the Insurers and KPMG LLP, had significant value; and

(c) the RSA provided a mechanism to prosecute, on an expedited basis, the remaining Class Action claims and Assigned Claims in a single forum.

56. As indicated above, the significant value of CannTrust Holdings' Assigned Claims, and specifically, its claim against KPMG, was fundamental to the decision of the CCAA Representatives to enter into the RSA. CCAA Representative Counsel would not have agreed to the settlement payment of $50,000,000 without confirmation that the Assigned Claims and, in particular, CannTrust Holdings' claim against KPMG, would be assigned to the Securities Claimant Trust where the class action counsel could pursue recovery along with the other claims held by the Securities Claimant Trust.

57. Often, as here, where continuing litigation remains after some parties have settled in a class action, a distribution will be made to class members. Class counsel will continue the class action on behalf of the class against any remaining defendant(s), and if there is recovery, there will be a further distribution.

58. Here, the Securities Claimant Trust was an essential component of the RSA because the continuing litigation will involve both the Class Actions and the Assigned Claims. The Securities Claimant Trust is the mechanism through which the Securities Claimants will enjoy the benefits of the settlement proceeds from CannTrust Holdings and the Additional Settlement Parties, and through which they seek to realize the value of the remaining Assigned Claims alongside the Class Action claims.

59. I understand that KPMG objects to CCAA Representative Counsel acting as Trustee to the Securities Claimant Trust. I believe it would be against the Securities Claimants' interests to place

control of this litigation in the hands of someone other than counsel which has been appointed to act on behalf of the Securities Claimants. There are several reasons for why I hold this view:

(a) My co-counsel and I have worked on this matter for nearly two years and have developed a deep knowledge and understanding of the legal and factual issues in dispute;

(b) Appointing a different trustee (and hence counsel) to conduct the litigation of the Assigned Claims would eliminate the synergies and efficiency the RSA was designed to create for the continuing litigation;

(c) CCAA Representatives will be deprived of their choice of counsel, who this court already found was the counsel group best-suited to pursue this litigation;

(d) It will create unnecessary expense, complication, and the risk of inconsistent results in litigation being conducted over the same or similar facts for the benefit of the Securities Claimants, thereby potentially prejudicing them;

(e) It would be inconsistent with the Class Proceedings Act's goals of judicial economy, access to justice, and behaviour modification; and

(f) It is inconsistent with the party autonomy in litigation to permit a defendant to select the party and counsel against whom the defendant will be litigating.

B. Eric Paul and the Paul Family Trust

60. Eric Paul is the former CEO of CannTrust Holdings and Chairman of its board of directors. The Paul Family Trust is an entity that co-owned (together with members of the Litwin Group) Cannamed Financial Corp. ("**Cannamed**").

61. Eric Paul faces both Secondary Market Claims and Prospectus Claims. Cannamed faces only Prospectus Claims. The exposure to liability of the Paul Family Trust arises from its ownership of Cannamed and its participation with it in sales of CannTrust Holdings shares. Eric Paul and Cannamed are defendants in the Class Actions.

62. The CCAA Representatives, the Paul Settling Parties and the CannTrust Group entered into Minutes of Settlement effective as of May 20, 2021 (the “**Paul Settlement**”) pursuant to which, among other things: (i) the Paul Settling Parties agreed to make a Cash Contribution of $12 million to the Securities Claimant Trust, (ii) Eric Paul agreed to assign his claims against his insurer; and (iii) the Paul Settling Parties agreed to support the CCAA Plan in a manner consistent with the RSA. A copy of the Paul Settlement is attached as **Exhibit** “**H**”.

63. CCAA Representative Counsel believe the claims against Eric Paul and the Paul Family Trust are strong. These settlements were informed in part by CCAA Representatives Counsels’ understanding of the parties’ ability to satisfy a judgment.

64. As a result of the settlement and the transfer of his Assigned Claims, Eric Paul gave up his rights to insurance coverage that would respond to regulatory or criminal proceedings. Accordingly, the Paul Settlement provides that the Securities Claimant Trust will reserve $1 million in respect of legal costs to defend against any such proceedings. Any such funds remaining after the final disposition of such proceedings would revert back to the Securities Claimant Trust.

65. For the reasons set out above, CCAA Representative Counsel believe that the Paul Settlement is fair and reasonable.

C. The Underwriters

66. The Underwriters acted as underwriters in connection with the May 2019 offering of CannTrust Holdings shares and are defendants in the Class Actions.

67. The CCAA Representatives, the Underwriters, and the CannTrust Group entered into Minutes of Settlement effective as of April 27, 2021 (the "**Underwriters Settlement**") pursuant to which, among other things: (i) the Underwriters agreed to make a Cash Contribution of US $8 million to the Securities Claimant Trust; and (ii) the Underwriters agreed to support the CCAA Plan in a manner consistent with the RSA. A copy of the Underwriters Settlement is attached as **Exhibit "I"**.

68. The Underwriters faced Prospectus Claims. To succeed in these claims, the plaintiffs would have to prove that the Underwriters did not conduct a reasonable investigation into whether the prospectus contained a misrepresentation.

69. While it has always been our view that the claims against the Underwriters had merit and we would prevail at a trial, there was risk in prosecuting these claims. Among other things, we expect the Underwriters would vigorously dispute that they did not comply with due diligence standards, argue that primary market damages were significantly lower than our experts' estimate of $48.3 million, and that primary market purchasers could not establish "traceability" (i.e. that they would not be able to prove that their shares were purchased pursuant to the offering). We also expect they would argue that the joint and several liability claim under s. 130 is not available to shares distributed in the United States.

70. Given the estimated damages and the attendant risks, CCAA Representative Counsel believe that the Underwriters Settlement is fair and reasonable.

D. The Litwin Group

71. The Litwin Group is comprised of:

(a) Mark Litwin – a former director of CannTrust Holdings and member of its audit committee;

(b) Stan Abramowitz – a former secretary of CannTrust Holdings;

(c) Fred Litwin – who controlled a significant amount of CannTrust Holdings shares; and

(d) Cannamed, Mar-Risa Holdings Inc., York Capital Funding Inc., and Sutton Management Limited – significant CannTrust Holdings shareholders.

72. The CCAA Representatives, the Litwin Group and the CannTrust Group entered into Minutes of Settlement effective as of May 24, 2021 (the "**Litwin Settlement**") pursuant to which, among other things: (i) the Litwin Group agreed to make a Cash Contribution of $11 million to the Securities Claimant Trust; (ii) Mark Litwin and Stanley Abramowitz agreed to assign their claims against the Insurers; and (iii) the Litwin Group agreed to support the CCAA Plan in a manner consistent with the RSA. A copy of the Litwin Settlement is attached as **Exhibit** "**J**".

73. Mark Litwin and Stan Abramowitz face Secondary Market Claims in their capacities as director and officer of CannTrust Holdings. Mark Litwin also faces a Prospectus Claim in his capacity as a director. Fred Litwin controlled significant amounts of CannTrust Holdings shares. Fred Litwin is not a defendant in any of the Class Actions, however, he faces a $12.67 million claim by the Zola Plaintiffs in connection with a direct sale of 1,000,000 shares to them in September 2018. As discussed below, the CCAA Representatives have acquired the rights to those claims.

74. As with the Original Settlement Parties, CannTrust Holdings' special committee investigation did not find any evidence that either Mark Litwin or Stan Abramowitz were guilty

of any wrongdoing. We are similarly not aware of any findings that Fred Litwin was involved in, or had knowledge of, any wrongful conduct.

75. The remaining members of the Litwin Group (Mar-Risa Holdings Inc., York Capital Funding Inc., and Sutton Management Limited) have exposure to the Prospectus Claims against Cannamed, which they co-owned with the Paul Family Trust. Their exposure to liability arises from their ownership of Cannamed and their participation with it in sales of CannTrust Holdings shares.

76. A selling shareholder such as Cannamed does not have access to the reasonable investigation defense under section 130 of the OSA. Accordingly, it is our view that our case against those entities is strong. However, we expect that those defendants would make similar arguments to the Underwriters regarding the quantum of damages and traceability problems.

77. Given the totality of the circumstances, it is CCAA Representative Counsel's view that the Litwin Settlement is fair and reasonable.

E. Ian Abramowitz

78. Ian Abramowitz is a former officer and director of CannTrust Holdings and is a defendant in the Class Actions.

79. The CCAA Representatives, Mr. Abramowitz, and the CannTrust Group entered into Minutes of Settlement effective as of May 5, 2021 (the "**Abramowitz Settlement**") pursuant to which, among other things: (i) Mr. Abramowitz agreed to assign any Assigned Claims against Insurers that he may have to the Securities Claimant Trust, excluding any claims, rights or entitlement that he may have to insurance coverage for criminal, regulatory or administrative

proceedings; (ii) Mr. Abramowitz will provide cooperation to the plaintiffs; and (iii) Mr. Abramowitz agreed to support the CCAA Plan in a manner consistent with the RSA. A copy of the Abramowitz Settlement is attached as **Exhibit** "**K**".

80. Mr. Abramowitz faced Secondary Market Claims in his capacity as an officer of CannTrust Holdings. The settlement with Mr. Abramowitz was driven by his ability to pay. We were satisfied that he did not have sufficient assets to make a meaningful contribution. Given that he was CannTrust Holdings' chief financial officer prior to February 19, 2019, it was our view that his cooperation would be valuable in pursuing claims against KPMG.

81. The settlement provides that the Securities Claimant Trust will pay costs of Abramowitz's legal representation to aid in his cooperation obligations up to a maximum of $100,000.

82. Given the circumstances, it is CCAA Representative Counsel's view that the Abramowitz Settlement is fair and reasonable.

F. Brady Green

83. Kenneth Brady Green is the former head grower of CannTrust Opco and is a defendant in the Class Actions. The CCAA Representatives agreed to settle with Mr. Green in exchange for his cooperation.

84. Brady Green faces Secondary Market Claims. It is our understanding that he does not have sufficient assets to make a meaningful contribution. Given Mr. Green's role with respect to the operations of CannTrust Opco, our view is that his cooperation will be valuable in pursuing claims against KPMG.

85. In the circumstances, it is CCAA Representative Counsel's view that the settlement with Mr. Green is fair and reasonable.

G. Zola Plaintiffs

86. The CannTrust Group, the CCAA Representatives and the Zola Plaintiffs entered into a restructuring support agreement as of May 5, 2021 (the "**Zola RSA**"). A copy of the Zola RSA is attached as **Exhibit** "**L**".

87. The Zola Plaintiffs are Securities Claimants and fall under the definition of class members in the Ontario Class Action. However, they were excluded from the CCAA Representation Order and have their own counsel in these proceedings. The Zola Plaintiffs filed a proof of claim in these proceedings for voting purposes at the meeting of the Securities Claimants to vote on the CCAA Plan in the amount of $45 million. From before the commencement of the CCAA Proceedings, they announced an intention to opt out of the Ontario Class Action and pursue their own claims. The Zola Plaintiffs commenced an individual action against CannTrust Holdings and others in November of 2019. The statement of claim in that action is attached as **Exhibit** "**M**" ("**Zola Action**").

88. The Zola Action names many of the same defendants and many of its allegations and causes of action overlap with the Ontario Class Action. It also makes unique allegations and claims based on the Zola Plaintiffs' direct conversations with Eric Paul and Peter Aceto, as well as its direct purchase of shares from Fred Litwin (who is not named in any of the Class Actions).

89. It was desirable for the CCAA Representatives to acquire these claims and secure the Zola Plaintiffs' support for the RSA settlement framework so they could (i) offer global releases to

defendants that wished to settle; and (ii) strengthen the plaintiffs' position in any continuing litigation.

90. For the reasons set out above, it is CCAA Representative Counsel's view that the agreement with the Zola Plaintiffs has been a net benefit to the Securities Claimants and that it is fair and reasonable.

H. Conclusion on Settlements

91. In light of all the above considerations, it is CCAA Representative Counsel's opinion that the settlements described are fair and reasonable to the Securities Claimants.

VI. ALLOCATION & DISTRIBUTION SCHEME

92. The proposed CCAA Sanction Order would approve the Allocation & Distribution Scheme ("**A&DS**") which is appended to the CCAA Plan as Schedule "B", and authorize each of the CannTrust Plan Companies, the Monitor, the CCAA Representatives, CCAA Representative Counsel and the Trustees of the Securities Claimant Trust to do all things necessary to implement it.

93. The proposed A&DS prescribes the process for Securities Claimants to seek compensation from the net proceeds of the settlements. The A&DS is designed to provide compensation to Securities Claimants based on:

(a) The period in which CannTrust shares were acquired by the Securities Claimant;

(b) The date on which the shares were sold or if they are still held by the Securities Claimant; and

(c) whether the shares were acquired pursuant to the May 2019 offering or on the secondary market.

94. Under the A&DS, claimants would file claims with details of their trading in CannTrust Holdings' shares. The claims administrator will use this information to determine where the shares were acquired, the dates of acquisition and disposition, and each claimant's losses.

95. Only claims by persons that acquired shares during the period between June 1, 2018 and September 17, 2019 are eligible for compensation. Excluded from eligibility are the defendants in the Class Actions and certain persons related to them.

96. In creating the methodology in this A&DS, we were advised by our expert Dr. Sunita Surana. We believe the methods to be employed under the A&DS are fair and well-recognized methods.

A. Calculation of a Claimant's Entitlement

97. The net settlement funds will be distributed to claimants on a pro-rata basis based upon each claimant's "Recognized Claim". The key steps in calculating the Recognized Claim for each claimant are set out below.

Step 1: Recognized Loss Amount Per Share

98. The claims administrator will first calculate the "Recognized Loss Amount" for shares acquired by the claimant in CannTrust Holdings' May 2019 offering ("**Offering Shares**") and those purchased on the secondary market ("**Secondary Shares**").

99. First, the administrator will convert to CAD any purchase and sale amounts for shares acquired or disposed of in currencies other than CAD.

100. Next, the Recognized Loss Amount for each Offering Share and Secondary Share is calculated using the formulas set out in the chart below (from paragraph 10 of the A&DS) and with reference to the Share Inflation figures at Table A (from paragraph 11 of the A&DS):

Date of Sale of Shares acquired during the Class Period	**Recognized Loss Amount per Share**
June 1, 2018 – July 7, 2019	$0
July 8, 2019 – September 16, 2019	The lesser of: (i) the Share Inflation on the date of purchase minus the Share Inflation on the date of sale; or (ii) the Purchase Price minus the Sale Price.
September 17, 2019 – September 30, 2019	The lesser of: (i) the Share Inflation on the date of purchase; or (ii) the Purchase Price minus the Sale Price.
October 1, 2019 – March 5, 2021	The lesser of (i) the Share Inflation on the date of purchase; (ii) the Purchase Price minus CAD$1.70; or (iii) the Purchase Price minus the Sale Price.
Held as of the closing on March 5, 2021	The lesser of (i) the Share Inflation on date of purchase; or (ii) the Purchase Price minus CAD$1.70.

TABLE A – SHARE INFLATION	
Purchase/Acquisition or Sale Date Range	**Artificial Inflation Per Share**
June 1, 2018 – September 30, 2018	CAD$1.29
October 1, 2018 – July 7, 2019	CAD$5.02
July 8, 2019 – July 9, 2019	CAD$3.57
July 10, 2019 – July 11, 2019	CAD$3.05

TABLE A – SHARE INFLATION	
July 12, 2019 – July 15, 2019	CAD$2.57
July 16, 2019 – July 23, 2019	CAD$2.09
July 24, 2019 – August 11, 2019	CAD$1.41
August 12, 2019 – September 16, 2019	CAD$0.24
September 17, 2019 before 3:13 p.m. ET[3]	CAD$0.24
September 17, 2019 at or after 3:13 p.m. ET and thereafter	CAD$0.00

101. As explained further below, the date ranges and figures in Table A are based on Dr. Surana's analyses of the artificial inflation of CannTrust Holdings' share prices during different periods of time.

Step 2: Risk Adjusted Loss

102. The Recognized Loss Amounts for Offering Shares and Secondary Shares are multiplied by the risk adjustment in the following chart to obtain the "Risk Adjusted Loss":

Type of Share	Risk Adjustment
Offering Share	1
Secondary Share	0.8

103. As explained below, the risk adjustment factors are based on CCAA Representative Counsel's view of the strength of the Prospectus Claims as compared to the Secondary Market Claims.

[3] Trading at prices at or below CAD$1.85 will be deemed to have occurred after 3:13 p.m. ET.

Step 3: Recognized Claim

104. The claims administrator will determine each claimant's Recognized Claim by calculating the sum of the Risk Adjusted Loss for each of the claimants' Offering Shares and Secondary Shares.

Step 4: Pro Rata Allocation

105. After the claims administrator has calculated each claimant's Recognized Claim, the net settlement fund will be distributed on a pro-rata basis to eligible claimants based on their Recognized Claim.

106. Claimants whose *pro rata* entitlement is less than CAD $50.00 will not be paid out. Instead, such amounts will be allocated *pro rata* to other eligible claimants with *pro rata entitlements* equal to or greater than CAD$50.00

Step 5: Payments to Claimants

107. The claims administrator will make payments to claimants by either bank transfer or by cheque.

Step 6: Remaining Amounts

108. If a claimant does not cash a cheque within six (6) months after the date of the cheque, the claimant will forfeit the right to compensation. Any funds remaining in the Class Compensation Fund six (6) months after the initial distribution of such funds will be redistributed to claimants

that have cashed their initial distributions and would receive at least $50.00 on such additional redistribution in a manner consistent with the A&DS. Any funds remaining after the redistribution will be reallocated amongst eligible claimants in the manner set out above, if feasible. If CCAA Representative Counsel determine that further redistribution is not feasible, then the remaining amounts may be donated to charity.

B. Calculating Damages under the OSA and PSLRA

109. The A&DS reflects elements of the damages calculation rules under the OSA and the Private Securities Litigation Reform Act of 1995 ("**PSLRA**").

110. Damages for Part XXIII.1 claims are calculated pursuant to s. 138.5 of the OSA. Section 138.5(1) (essentially) assesses damages following a corrective disclosure as the difference between the acquisition price of the security and the sale price of the security, i.e. the full price decline between the date of purchase and sale. For securities still held 10 days following the correction, the sale price is limited to a floor equal to the 10 day volume weighted average price of the securities following the public correction. However, the decline in price between those dates could be a result of factors other than the disclosure of the misrepresentation. Section 138.5(3) of the OSA therefore limits damages to the amount of the price decline that is attributable to the misrepresentation.

111. I am advised by U.S. CCAA Representative Counsel that while the PSLRA includes a cap on recoverable damages (discussed below), it does not include a specific method of calculating damages in securities fraud actions. However, over the years, the caselaw has established certain standards. Most importantly, damages are limited to declines in the security's price that were

caused by (a) a corrective disclosure, or (b) public materializations of a fraudulently concealed risk.

112. I am also advised by my U.S co-counsel that to determine causation, U.S. courts usually look to the single day price decline following the corrective disclosure or risk materialization following removal of all market and industry effects, as well as all company-specific effects that were not related to the alleged fraud. The foregoing is subject to the PSLRA cap, which prohibits recoveries that exceed the difference between the price paid for the security and the 90-day average trading price following the corrective disclosure or such materialization.

C. Artificial Inflation, Dates, and Risk Adjustment Factors

113. In this section I discuss the rationale and methodology we employed to arrive at date ranges, artificial inflation numbers, and the risk adjustment factors.

Artificial Inflation and Date Ranges

114. Artificial inflation refers to the portion of a share's price that is attributable to one or more misrepresentations.

115. To determine the artificial inflation figures, Dr. Surana conducted an analysis of CannTrust Holdings' share price reaction to various public announcements related to the alleged misrepresentations in the Class Actions. This analysis was based on instructions and assumptions that we provided to her, which were based on the allegations and case theories in the Class Actions, as well as the OSA and PSLRA damages principles described earlier.

116. Dr. Surana's analysis showed that CannTrust Holdings' share price was artificially inflated by different amounts at different periods of time between June 1, 2018 and September 17, 2019. This is because different alleged misrepresentations began at different times, and because the artificial inflation declined, but not completely, after certain "partial corrections" of the misrepresentations.

117. For example, the Ontario Class Action alleges that CannTrust Holdings made separate misrepresentations about compliance at its facility in Vaughan ("**Vaughan Misrepresentation**") and its facility in Niagara ("**Niagara Misrepresentation**"). It alleges that the Vaughan Misrepresentation began on June 1, 2018, and that the Niagara Misrepresentation began on October 1, 2018. Based on Dr. Surana's analysis, the Niagara Misrepresentation caused a higher amount of artificial inflation to CannTrust Holdings' shares than the Vaughan Misrepresentation.

118. Accordingly, the artificial inflation between June 1 and September 30, 2018 (when only the Vaughan Misrepresentation was outstanding) was $1.29. But starting on October 1, 2018 (when the Niagara Misrepresentation began), artificial inflation increased to $5.02. This artificial inflation amount reflects both of the misrepresentations' effect on the share price.

119. The artificial inflation amounts began to decrease on July 8, 2019, as the alleged misrepresentations were partially corrected through a series of public announcements. According to our case theory and Dr. Surana's analysis, the shares had no artificial inflation after September 17, 2019.

120. The Recognized Loss Amount formulas calculate the net amount of artificial inflation that a claimant paid for a share by subtracting the artificial inflation at time of sale from the artificial

inflation at time of purchase ("**Net Inflation**"). For example, a claimant that bought a share on October 2, 2018 paid $5.02 of artificial inflation for that share. But if that share is sold on July 9, the price received for that share will include $3.57 of artificial inflation from which the claimant will benefit. At the end of the transaction, the claimant will be out of pocket $1.45 worth of artificial inflation for that share.

121. Similarly, if a share was acquired on June 5, 2018 with artificial inflation of $1.29, and sold on October 5, 2018 at a price that included $5.02 of artificial inflation, then the claimant would be receiving more by way of artificial inflation at sale than was paid for at purchase. In such an instance, the net artificial inflation would be $0.00 for that share (as paragraph 10 of the A&DS limits the Recognized Loss Amount for any particular disposition of securities to no less than zero).

122. The Recognized Loss Amount is the lesser of the Net Inflation or the actual loss (purchase price – sale price) on the sale for shares disposed of prior to September 30, 2019. For shares held after that date, the sale price "floor" is $1.70, which is the 10-day volume weight average price following the last alleged correction.

Risk Adjustment Factors

123. A claimants' Recognized Loss Amount will be multiplied by the Risk Adjustment Factor to calculate the Recognized Claim. The purpose of the Risk Adjustment Factor is to reflect CCAA Representative Counsel's view that the Prospectus Claims (both under the OSA and U.S. securities laws) have higher prospects of recovery than Secondary Market Claims. Among other things, under the OSA, Prospectus Claims have no liability limit, and are not subject to a preliminary test for leave as are Secondary Claims.

D. The Zola Plaintiffs' Concerns with the A&DS

124. On May 28, 2021, counsel to the Zola Plaintiffs sent me a letter communicating their concerns regarding the A&DS. The letter is attached as **Exhibit** "**N**".

125. The letter explains that the Zola Plaintiffs acquired their shares in the period between September 26-28, 2018, for which the A&DS attributes $1.29 Share Inflation. By contrast, if they had purchased the shares a few days later, on October 1, 2018, their Share Inflation would be $5.02 per share.

126. The letter explains the Zola Plaintiff's view that any decisions, preparations, and ramp-up to the illegal conduct in Niagara (i.e. the Niagara Misrepresentation) must have started no later than mid-September. The letter requested that the current proposed A&DS be modified so that the start point of the $5.02 Share Inflation Period begin on September 15, 2018 instead of October 1, 2018.

127. By way of letter to their counsel dated June 1, 2021, I advised the Zola Plaintiffs that we were not prepared to make their requested modification to the A&DS. That letter is attached and marked as **Exhibit** "**O**".

128. In our view, this is effectively a request to modify the plaintiffs' case theory such that the Niagara Misrepresentation began on September 15, 2018, instead of October 1, 2018. CCAA Representative Counsel chose October 1 as the date the Niagara Misrepresentation began based on CannTrust Holdings' announcement that illegal growing in its Niagara Facility began in October 2018. We are not aware of public information that could provide further specificity of the start date. CannTrust Holdings' press release dated July 8, 2019 stating that the noncompliant activity began in October 2018 is attached as **Exhibit** "**P**".

129. Although it is difficult to estimate with any precision the result that such a modification to the A&DS would have on the Zola Plaintiffs' ultimate entitlement, given the size of their share holdings, we expect that it would be significant. Because there is a fixed pool of money, we expect such an increase in distribution to the Zola Plaintiffs would necessarily mean that other Securities Claimants' distributions would be impacted negatively in a non-trivial way.

130. Based on the information available to CCAA Representative Counsel at this time, the case we have pleaded, publicized to Securities Claimants, and have advanced throughout the Mediation Process is sound and best accords with the evidence. We believe it would be inconsistent with the duties as representative counsel, and as eventual Trustees of the Securities Claimant Trust, to modify the A&DS to the benefit of a particular claimant. For this reason, CCAA Representative Counsel have declined the Zola Plaintiffs' request to change the allocation methodology.

AFFIRMED BEFORE ME over video-teleconference in accordance with Ontario Regulation 431/20, with the affiant located in the City of Toronto, and the commissioner in the Municipality of Lakeshore, each in the Province of Ontario, this 2nd day of June, 2021. J Smith A Commissioner for taking Affidavits *(or as may be)* LSO 75275W	Serge Kalloghlian

TAB 2-A2

This is Exhibit “A-2” referred to in the Affidavit

of Serge Kalloghlian, sworn before me this

day of December 6th, 2021

____

A Commissioner, etc

Court File No. CV-20-00638930-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF CANNTRUST HOLDINGS INC., CANNTRUST INC., CTI HOLDINGS (OSOYOOS) INC. AND ELMCLIFFE INVESTMENTS INC.

AFFIDAVIT OF SERGE KALLOGHLIAN

(Affirmed June 16, 2021)

I, SERGE KALLOGHLIAN, of the City of Toronto, in the Province of Ontario, AFFIRM:

1. I am a partner at Kalloghlian Myers LLP, co-counsel to Patrick Hrusa and Dharambir Singh ("**CCAA Canadian Representatives**"), in these proceedings, and in the proposed class action against CannTrust Holdings Inc. ("**CannTrust Holdings**") and others bearing (Toronto) Court File No. 19-000625181-00CP in the Ontario Superior Court of Justice ("**Ontario Class Action**").

2. I affirmed an affidavit dated June 2, 2021 ("**First Affidavit**") in support of the Applicants' motion for an order approving the plan of compromise, arrangement and reorganization of CannTrust Holdings, CannTrust Inc. and Elmcliffe Investments Inc. under the *Companies'*

Creditors Arrangement Act (the "**CCAA**") dated April 16, 2021 (as amended from time to time) ("**CCAA Plan**") in these proceedings (the "**CCAA Proceedings**"). Unless otherwise defined, capitalized terms in this affidavit have the meanings ascribed to them in the First Affidavit or, if not defined in the First Affidavit, in the CCAA Plan.

3. Following the commencement of the hearing of the Applicants' motion for a sanction order on June 11, 2021, the CCAA Representatives reached settlements in principle with: (i) Peter Aceto, CannTrust Holdings' former chief executive officer; and (ii) the Insurers, which provided policies of insurance to CannTrust Holdings and its directors and officers. The CCAA Representatives also intend to enter an agreement with Ian Abramowitz to supplement the Additional RSA described in the First Affidavit. I make this affidavit to provide further information to the Court on these settlements.

4. The parties are still in the process of negotiating final documentation in respect of these settlements and do not anticipate that the documentation will be finalized and executed prior to the issuance of the CCAA Sanction Order.

A. Aceto Settlement

5. Peter Aceto is the former chief executive officer of CannTrust Holdings. Peter Aceto faces both Secondary Market Claims and Prospectus Claims.

6. The CCAA Representatives, Peter Aceto, and the CannTrust Group have reached an agreement in principle (the "**Aceto Settlement**"), to be memorialized in an Additional RSA, pursuant to which, among other things: (i) Peter Aceto will provide cooperation to the plaintiffs

in the continuing litigation; (ii) Peter Aceto will support the CCAA Plan in a manner consistent with the RSA; and (iii) Peter Aceto will provide a release of all claims against the Insurers.

7. CCAA Representative Counsel believe the claims against Peter Aceto are strong. The settlement with Mr. Aceto was driven primarily by the effect of his settlement on the negotiation with the Insurers, his ability to make a meaningful monetary contribution, and the value of his cooperation in the litigation against KPMG.

8. Because Aceto is releasing his rights to insurance coverage that would respond to regulatory or criminal proceedings, the Securities Claimant Trust will reserve $1 million in respect of legal costs to defend against any such proceedings. Any such funds remaining after the final disposition of such proceedings would revert back to the Securities Claimant Trust.

9. For the reasons set out above, CCAA Representative Counsel believe that the Aceto Settlement is fair and reasonable in the circumstances.

B. Insurers Settlement

10. As indicated in previous affidavits filed in these proceedings, CannTrust Holdings' Insurer has denied it coverage and certain of the Insurers have denied coverage to some of the directors and officers.

11. The negotiations with the Insurers were extremely complex, involving multiple layers of Insurers with differing positions and interests. Because of the Insurers' denial of coverage, CCAA Representative Counsel considered not only the strength of the claims against the various

insured defendants, but also the positions and arguments of the Insurers in respect of their liability under the policies.

12. The CCAA Representatives, the Insurers, and the CannTrust Group have reached an agreement in principle (the "**Insurer Settlement**"), to be memorialized in an Additional RSA, pursuant to which the Insurers will collectively pay approximately USD $36,900,000 to the Securities Claimant Trust in exchange for, among other things, full policy releases from all insureds.

13. For the reasons set out above, CCAA Representative Counsel believe that the Insurer Settlement is fair and reasonable in the circumstances.

C. Supplement to Abramowitz Settlement

14. As detailed in the First Affidavit, pursuant to the Abramowitz Settlement, Ian Abramowitz agreed to assign to the Securities Claimant Trust any Assigned Claims that he may have against Insurers except rights to coverage for criminal, regulatory, or administrative proceedings.

15. In order to provide the Insurers with the full policy releases they require under the Insurer Settlement, CCAA Representative Counsel determined that it is necessary and appropriate to enter into an agreement (the "**Abramowitz Settlement Supplement**"), to be memorialized in a supplemental Additional RSA, that supplements the Abramowitz Settlement to indemnify Mr. Abramowitz in respect of costs for criminal, regulatory, administrative and/or other costs.

16. For the reasons set out above, CCAA Representative Counsel believe that the Abramowitz Settlement Supplement is fair and reasonable in the circumstances.

AFFIRMED BEFORE ME over video-teleconference in accordance with Ontario Regulation 431/20, this 16th day of June, 2021.

J Smith

A Commissioner for taking Affidavits *(or as may be)*

LSO 75275W
JUSTIN SMITH

Serge Kalloghlian

TAB 2-A3

This is Exhibit “A-3” referred to in the Affidavit

of Serge Kalloghlian, sworn before me this

day of December 6th, 2021

____

A Commissioner, etc

Court File No. CV-20-00638930-00CL

ONTARIO

SUPERIOR COURT OF JUSTICE

(COMMERCIAL LIST)

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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF CANNTRUST HOLDINGS INC., CANNTRUST INC., CTI HOLDINGS (OSOYOOS) INC. AND ELMCLIFFE INVESTMENTS INC.

AFFIDAVIT OF SERGE KALLOGHLIAN
(Additional RSAs, Notice, and Claims Administration)
(Affirmed December 6, 2021)

I, SERGE KALLOGHLIAN, of the City of Toronto, in the Province of Ontario, AFFIRM:

1. I am a partner at Kalloghlian Myers LLP, co-counsel to Patrick Hrusa and Dharambir Singh in their capacity as court-appointed representatives ("**CCAA Canadian Representatives**") in these proceedings and representatives in the proposed class action against CannTrust Holdings Inc. ("**CannTrust Holdings**") and others bearing (Toronto) Court File No. 19-000625181-00CP/CV-19-00623567-00CP in the Ontario Superior Court of Justice ("**Ontario Class Action**").

2. I affirmed affidavits dated June 2, 2021 ("**First Affidavit**") and June 16, 2021 ("**Second Affidavit**") in support of the Applicants' motion for an order approving the plan of compromise, arrangement and reorganization of CannTrust Holdings, CannTrust Inc. and Elmcliffe Investments Inc. under the *Companies' Creditors Arrangement Act* (the "**CCAA**") dated April

16, 2021 (as amended from time to time) ("**CCAA Plan**") in these proceedings (the "**CCAA Proceedings**"). The First Affidavit is attached hereto (without exhibits) as **Exhibit "A"**. The Second Affidavit is attached hereto (without exhibits) as **Exhibit "B"**. I adopt the content of those affidavits in respect of my views expressed herein.

3. Unless otherwise defined, capitalized terms in this affidavit have the meanings ascribed to them in the First Affidavit or, if not defined in the First Affidavit, in the CCAA Plan.

4. I swear this affidavit in support of the motion for authorization to enter into certain additional settlements related to the CCAA Plan, for appointment of the Claims Administrator, and for approval of Notice to the Securities Claimants and ancillary relief.

5. No portion of this affidavit is meant to waive, nor should it be construed as a waiver of, solicitor-client, litigation, or any other privilege.

6. All dollar amounts are indicated herein in Canadian currency, unless otherwise stated.

I. ADDITIONAL RSAs

7. As detailed in the Second Affidavit, prior to the issuance of the Sanction Order, the CCAA Representatives and the CannTrust Group reached settlements in principle with: (i) Peter Aceto, CannTrust Holdings' former chief executive officer; and (ii) the Insurers that provided policies of insurance to CannTrust Holdings and its directors and officers. The CCAA Representatives also entered an agreement with Ian Abramowitz to supplement the Additional RSA with him described in the First Affidavit.

8. Paragraph 14 of the Sanction Order authorized the Applicants and CCAA Representatives to enter into one or more Additional RSAs with the Insurers and Peter Aceto, and a supplemental Additional RSA with Ian Abramowitz, in each case on terms substantially consistent with the proposed arrangements in the Second Affidavit. These settlements have since been finalized.

9. The Sanction Order appending the CCAA Plan is attached and marked as **Exhibit "C"**.

A. The Aceto Settlement

10. Peter Aceto is the former chief executive officer of CannTrust Holdings. Peter Aceto faces both Secondary Market Claims and Prospectus Claims in the proposed class actions.

11. The CCAA Representatives, Peter Aceto, and the CannTrust Group entered into Minutes of Settlement effective as of June 11, 2021 pursuant to which:

(a) Peter Aceto will provide cooperation to the plaintiffs in the continuing litigation;

(b) Peter Aceto will support the CCAA Plan in a manner consistent with the RSA; and

(c) Peter Aceto will provide a release of all claims against the Insurers.

12. As explained in the Second Affidavit, because Mr. Aceto is releasing his rights to insurance coverage that would respond to regulatory or criminal proceedings, the Securities Claimant Trust will reserve $1 million to indemnify him in respect of legal costs incurred to defend against any such proceedings. Any such funds remaining after the final disposition of such proceedings would revert to the Securities Claimant Trust.

13. The Securities Claimant Trust will also separately agree to indemnify Mr. Aceto for $125,000 in legal defense costs incurred prior to execution of the Aceto Settlement and which had not been reimbursed by the Insurers.

14. A copy of the Minutes of Settlement is attached as **Exhibit "D"**. The agreements set out in the Minutes of Settlements and described at paragraph 13 herein are collectively referred to as the "**Aceto Settlement.**"

15. The Aceto Settlement was driven primarily by the effect of his settlement on the negotiation with the Insurers, his ability to make a meaningful monetary contribution, and the value of his cooperation in pursuing claims against KPMG.

16. For the reasons set out above, the Aceto Settlement is fair and reasonable in the circumstances.

B. The Insurers Settlement

17. As indicated in previous affidavits filed in these proceedings, CannTrust Holdings' Insurers denied coverage to CannTrust Holdings, and certain of the Insurers denied coverage to some of the directors and officers.

18. The negotiations with the Insurers were extremely complex, involving multiple layers of Insurers, each having differing positions and interests and each represented by different counsel. Because of the Insurers' denial of coverage, CCAA Representative Counsel considered not only the strength of the claims against the various insured defendants, but also the positions and arguments of the Insurers in respect of their liability under the policies.

19. The CCAA Representatives and the CannTrust Group have entered into two separate agreements to resolve claims against Insurers under two policy "towers": the ABC Policies and the DIC Policies. CCAA Representative Counsel believe that the settlements are fair and reasonable in all the circumstances.

i. The ABC Settlement and Supplement

20. Allianz Global Risks US Insurance Company, Markel Bermuda Limited, Ascot Bermuda Limited f/k/a Ascot Reinsurance Company Limited Bermuda, Aspen Bermuda Limited, Assicurazioni Generali S.p.A., and XL Specialty Insurance, (collectively, "**ABC Insurers**") each issued a policy of insurance to CannTrust Holdings for the period February 25, 2019 to February 25, 2020, (collectively, the "**ABC Policies**").

21. The CCAA Representatives, the ABC Insurers, the CannTrust Group and certain insureds under the ABC Policies have reached an agreement (the "**ABC Settlement**"), attached hereto as **Exhibit "E"**, pursuant to which, on the Plan Implementation Date:

(a) the ABC Insurers will collectively pay USD $30,000,000 to the Securities Claimant Trust; and

(b) the ABC Insurers will be released from all claims concerning the ABC Policies.

22. Section 1.7 of the ABC settlement has been redacted in the copy attached as Exhibit "E". In connection with the ABC Settlement, the parties have also entered into a supplemental agreement ("**ABC Supplement**") containing a limited number of confidential terms. The disclosure of the ABC Supplement or section 1.7 of the ABC Settlement could prejudice the parties.

ii. The DIC Settlement

23. Chubb Insurance Company of Canada, Newline Canada Insurance Limited, Allied World Assurance Company, and Arch Insurance Canada Limited (collectively, "**DIC Insurers**") each issued a policy of insurance to CannTrust Holdings effective February 25, 2019 (collectively, the "**DIC Policies**").

24. The CCAA Representatives, the DIC Insurers, the CannTrust Group and certain insureds under the ABC Policies have reached an agreement (the "**DIC Settlement**"), attached hereto as **Exhibit "F"**, pursuant to which, on the Plan Implementation Date

(a) the DIC Insurers will collectively pay USD $6,900,000 to the Securities Claimant Trust; and

(b) the DIC Insurers will be released from all claims concerning the DIC Policies.

C. The Abramowitz Settlement Supplement

25. As explained in the First Affidavit, the CCAA Representatives, Ian Abramowitz, and the CannTrust Group entered into the Abramowitz Settlement on May 5, 2021 pursuant to which, among other things: (i) Mr. Abramowitz agreed to assign any Assigned Claims against Insurers that he may have to the Securities Claimant Trust, excluding any claims, rights or entitlement that he may have to insurance coverage for criminal, regulatory or administrative proceedings; (ii) Mr. Abramowitz will provide cooperation to the plaintiffs; and (iii) Mr. Abramowitz agreed to support the CCAA Plan in a manner consistent with the RSA.

26. As explained in the Second Affidavit, in order to provide the Insurers with the full policy releases they required under their settlements, CCAA Representative Counsel determined that it

was necessary and appropriate to enter into an agreement (the "**Abramowitz Settlement Supplement**"), memorialized in a supplemental Additional RSA, that supplements the Abramowitz Settlement to indemnify Mr. Abramowitz in respect of costs for criminal, regulatory, administrative and/or other costs.

27. The Abramowitz Settlement Supplement is attached hereto as **Exhibit "G"**. Pursuant to this agreement, the Securities Claimant Trust will agree to reserve $1 million to indemnify Abramowitz for costs incurred in defense of criminal or regulatory proceedings and certain civil defense costs. It will also pay certain counsel fees, capped at $25,000.00, incurred prior to the Plan Implementation date.

28. For the reasons set out above, the Abramowitz Settlement Supplement is fair and reasonable in the circumstances.

II. Claims Administration

29. The $126 million in settlement funds will be held in a trust account ("**Trust Account**") for the benefit of the Securities Claimants.

30. The CCAA Representatives seek an order confirming the appointment of Epiq Class Action Services Canada Inc. ("**Epiq**") as the Claims Administrator to administer the Allocation & Distribution Scheme and to manage the Trust Account under the direction of the Trustees or their successors.

31. Attached and marked as **Exhibit "H"** is a description of Epiq's experience in class action notice and administration services. I am advised by Laura Bruneau, a representative of Epiq, and believe the following:

> Epiq is a subsidiary of Epiq Global, an international legal services firm.
>
> Epiq is a recognized leader in the legal notice and administrative services industry, with offices located in Canada; the Unites States of America; Europe and Asia. Epiq has thousands of employees, including attorneys with experience in class action litigation, paralegals, finance and banking experts, software engineers, in-house legal advertising specialists, graphic artists with extensive website design experience, and call center professionals.
>
> Epiq Canada operates out of offices located in Ottawa, Toronto, Ontario, and provides services nationwide in both official languages.
>
> Drawing on the expertise and experience of lawyers, project managers, financial personnel, IT managers, and others, Epiq and Epiq Canada provide class action legal noticing and settlement administration services. Epiq and Epiq Canada use a number of resources to study available class demographics, applicable guidelines, previous practices, and court rulings to ensure that legal noticing and administration programs that they design are optimally suited and properly administered.

32. Epiq has established a website at www.canntrustsecuritiessettlement.ca for the purpose of receiving and processing claims and providing information to Securities Claimants about the settlements.

33. I believe that Epiq has the requisite expertise and capability to effectively execute its duties as the Claims Administrator.

III. Notice

34. The CCAA Representatives seek an order authorizing the form and method of distributing the notice to Securities Claimants of the method of filing claims and the deadline for doing so.

35. The proposed Notice is attached as Schedule “A” to the draft Order. The Notice advises Securities Claimants of the procedure to file claims and the deadline for doing so.

36. The Notice will be disseminated in accordance with the proposed Notice Plan at Schedule “B” of the draft Order.

37. The Notice Plan is designed to reach Canadian and Non-US Securities Claimants (as defined in the CCAA Representation Order). This is because a notice has already been issued and targeted to U.S investors regarding the claims filing procedure. As contemplated by the CCAA Plan, on September 2, 2021, the court supervising the U.S. Class Action issued an order preliminarily certifying a U.S. settlement class and approving notice of the settlement approval hearing and claims filing procedure. A copy of the U.S. Court’s September 2, 2021 order is marked and attached as **Exhibit “I”.** A copy of the U.S. Court’s December 2, 2021 judgment approving the settlements and confirming compliance with the notice plan is marked and attached as **Exhibit “J”**.

38. In my professional experience, the Notice Plan is similar to notice plans approved by Ontario courts in the context of securities class action settlements and will reach a substantial majority of the Canadian and Non-US Securities Claimants.

IV. Holdback

39. The Sanction Order approved the Allocation and Distribution Scheme (“**A&DS**”), which sets out the methodology by which settlement funds will be distributed to Securities Claimants. The A&DS contemplates a “**Holdback**” of settlement funds to fund litigation expenses, disbursements, taxes, adverse costs awards, and/or other liabilities.

40. The CCAA Representatives seek an order that the amount of the Holdback may be up to $10,000,000.00. The Holdback will be used to fund (i) continuing litigation against KPMG LLP; (ii) indemnities provided by the Securities Claimants Trust to certain directors and officers; (iii) costs and expenses of cooperating parties pursuant to the cooperation agreements with certain settling defendants; and (iv) other reasonable costs, expenses, and taxes of the Trustees and Securities Claimant Trust in accordance with the Trust Declaration.

A. Litigation with KPMG LLP

41. On the Plan Implementation Date, the Securities Claimant Trust will assume the rights to CannTrust Holdings' claim against KPMG LLP. The intention is to prosecute that claim concurrently with the Class Actions in parallel managed proceedings on the Commercial List for the benefit of Securities Claimants.

42. We expect vigorous procedural and substantive defences by KPMG LLP in respect of all claims against it. For example, KPMG LLP has already announced its intention to attempt to force CannTrust Holdings' claim into private arbitration and therefore require two separate proceedings to occur in two separate forums. Such an occurrence could substantially increase litigation expenses and increase the Securities Claimants' exposure to adverse costs.

43. In the circumstances CCAA Representative Counsel believe a reserve of $6,000,000.00 is appropriate to fund litigation expenses and adverse costs awards.

B. Indemnities

44. The CCAA Representatives' agreements with Peter Aceto, Eric Paul, and Ian Abramowitz each require the Securities Claimant Trust to maintain a reserve of $1,000,000 million to fund

indemnification for legal defense costs. Accordingly, $3,000,000.00 are necessary to hold back to satisfy these obligations.

C. Cooperation Expenses

45. Certain settling parties have agreed to cooperate with the plaintiffs in the continuing litigation. The cooperation agreements require the Securities Claimant Trust to cover certain legal cost and other expenses related to the cooperating parties' obligations.

46. CCAA Representative Counsel believe a reserve of $500,000.00 is sufficient to fund these obligations.

D. Trust Expenses

47. The Trustees will incur expenses in the administration of the Securities Claimant Trust as contemplated by the draft Trust Declaration, which is marked and attached as **Exhibit "K".** The parties expect the final Trust Declaration to be substantially in the form of the attached draft and to be finalized and executed before the Plan Implementation Date.

48. CCAA Representative Counsel believe a reserve of $500,000.00 is sufficient to fund these obligations.

49. Apart from the $3 million required to comply with the Securities Claimant Trust's indemnity obligations, the figures set out above for litigation, cooperation, and trust expenses are estimates and the funds actually used for those purposes may deviate from those estimates. The order sought will permit the Trustees to use those $7 million in Holdback funds for any of the purposes identified in this section without regard to the estimates set out above.

AFFIRMED BEFORE ME over video-teleconference in accordance with Ontario Regulation 431/20, with the affiant and the commissioner being located in the City of Toronto, in the Province of Ontario, this 6th day of December, 2021.

A Commissioner for taking Affidavits *(or as may be)*

Serge Kalloghlian

TAB 2-B1

This is Exhibit “B-1” referred to in the Affidavit

of Serge Kalloghlian, sworn before me this

day of December 6th, 2021

A Commissioner, etc

CONTINGENCY FEE RETAINER AGREEMENT

Date: October 10, 2019

Between:

Patrick Hrusa (**"you"**)

-and-

Kalloghlian Professional Corporation (**"KPC"**), A. Dimitri Lascaris Law Professional Corporation ("**LPC**"), Henein Hutchison LLP ("**HHLLP**"), and Strosberg Sasso Sutts LLP ("**SSS**")

Dear Mr. Hrusa:

Thank you for selecting KPC, LPC, HHLLP, and SSS ("together **"Counsel**") to serve as your counsel. The purpose of this contingency fee retainer agreement (**"Agreement"**) is to outline the nature of the engagement, our respective responsibilities and expectations, and the terms upon which you have retained Counsel.

Retainer and Scope of Engagement

1. You have retained Counsel to prosecute claims by way of a class proceeding pursuant to the *Class Proceedings Act, 1992*, or equivalent legislation of other provinces ("***CPA***"). The class proceeding will be brought on behalf of yourself and others that acquired securities of CannTrust Holdings Inc. ("**CannTrust**") between June 1, 2018 and September 17, 2019, or such other dates to be determined ("**Class**"). The class proceeding will seek remedies for losses suffered by the Class in connection with their trades in CannTrust securities.

2. You have agreed to seek status as representative of the Class ("**Class Representative**"). You understand that, pursuant to the *CPA*, the proposed class proceeding must be certified by a court for you to act as the Class Representative.

3. You authorize Counsel, on behalf of yourself and the proposed Class, to take such actions and conduct such proceedings against CannTrust and other parties in such jurisdiction(s) as Counsel deems appropriate. However, you will retain the right to make all critical decisions regarding the conduct of the class proceeding, but always with a view to the best interests of the Class. If you make a decision regarding the conduct of the class proceeding that Counsel does not consider to be in the best interests of the Class, Counsel will seek directions from the Ontario Superior Court of Justice ("**Court**") on the issue.

4. You further acknowledge that the amount of a reasonable settlement or judgment in this class proceeding will depend on several factors, including the strength of the evidence that is obtained in the course of prosecuting the proceedings, and the defendants' capacity to pay.

Contingency Fee

5. You understand and agree that Counsel will pursue this litigation on a contingency fee basis; that is, legal fees, disbursements, and applicable taxes will be payable only in the event of "success" which (under the *CPA* and this Agreement) includes:

   a. judgment on the common issues in favour of some or all of the Class; and

   b. a settlement, including a partial settlement with less than all named defendants where the proceeding is ongoing against non-settling defendants, that benefits one or more class members.

6. You understand and agree that legal fees will be charged on a percentage basis. You understand that, in accordance with this Agreement, Counsel may request approval from the Court of a legal fee at the applicable percentage rate(s) determined in accordance with the paragraphs below.

7. The percentage legal fee will be calculated based on all benefits obtained for the Class as a result of proceedings brought in this matter, including, without limitation, settlement funds, damages awards pre-judgment interest and/or post-judgment interest, plus interest earned on such benefits while held in trust, regardless of the structure, form or mechanism by which such benefit is conferred upon the Class (**"Recovery"**). The Recovery excludes any amounts paid by the defendant(s) that are separately specified as being in respect of costs and disbursements. If the Recovery is provided by way of structured settlement, Counsel's fee will be calculated exactly as indicated above and based on the same percentage, using the cost of the structure upon which to base the percentage of the fee and calculate the fee.

8. Subject to paragraph 9, in the event of success, Counsel's legal fee shall be calculated as:

   a. Twenty-five percent (25%) of the Recovery if such recovery occurs before a decision is rendered by the Court on a contested certification motion;

   b. Twenty-seven and one-half percent (27.5%) of the Recovery if such recovery occurs after a decision is rendered by the Court on a contested certification motion, but before the date that is six weeks preceding the date set for the commencement of the common issues trial; and

   c. Thirty percent (30%) of the Recovery if such recovery occurs after the date that is six weeks preceding the date set for the commencement of the common issues trial.

9. Notwithstanding paragraph 8:

   a. If the Recovery is $20 million or less, the percentage rate that applies to the Recovery shall be the applicable percentage rate under paragraph 8 above;

b. If the Recovery is between $20 million and $40 million, the percentage rate that applies to the first $20 million of the Recovery shall be the applicable percentage rate under paragraph 8, and the percentage rate that applies to the Recovery in excess of $20 million shall be the applicable percentage rate under paragraph 8 less five percent (5%);

c. If the Recovery is between $40 million and $60 million, the percentage rate that applies to the first $20 million of the Recovery shall be the applicable percentage rate under paragraph 8, and the percentage rate that applies to the Recovery between $20 million and $40 million shall be the applicable percentage rate under paragraph 8 less five percent (5%); and the percentage rate that applies to the Recovery in excess of $40 million shall be the applicable percentage rate under paragraph 8 less ten percent (10%); and

d. If the Recovery exceeds $60 million, the percentage rate that applies to the first $20 million of the Recovery shall be the applicable percentage rate under paragraph 8, and the percentage rate that applies to the Recovery between $20 million and $40 million shall be the applicable percentage rate under paragraph 8 less five percent (5%), and the percentage rate that applies to the Recovery between $40 million and $60 million shall be the applicable percentage rate under paragraph 8 less ten percent (10%); and the percentage rate that applies to the Recovery in excess of $60 million shall be the applicable percentage rate under paragraph 8 less fifteen percent (15%).

10. In the event that no recovery is made in the litigation, you understand that you will not be indebted to Counsel for the fees, disbursements and applicable taxes incurred by Counsel in advancing the Class's interests. In the event that Recovery is obtained, any fees, disbursements, and applicable taxes incurred by Counsel will be paid solely from the recovery in the class proceeding.

11. You acknowledge that:

a. you have discussed with Counsel your options for retaining Counsel other than on a contingency basis, including on an hourly-rate retainer;

b. you have been advised that hourly rates may vary among lawyers and you have been given the opportunity to compare rates;

c. you understand that hourly rates of the lawyers working on this matter range from $550 to $1150 and may increase over the course of this matter, and that other lawyers charging different rates may also work on this matter;

d. you have explicitly chosen to retain Counsel by way of a contingency fee arrangement;

e. you understand that all protections and controls on retainers between lawyers and clients as defined by the Law Society of Ontario and the common law apply to contingency fee agreements; and

f. you have had the opportunity to obtain independent legal advice regarding the terms of the retainer.

12. You understand and agree that Counsel may associate, or enter into co-counsel arrangements with, other lawyers or law firms in Canada and/or the United States in the prosecution of this matter, and you authorize Counsel to do so at its discretion. You understand that no additional fees will be payable by the Class to such firms in respect of their assistance in the prosecution of the proceedings.

13. Counsel has advised, and you understand that the outcome of any proceedings is subject to inherent risks and other factors beyond Counsel's control. Counsel has therefore not made, and cannot make, any guarantees or promises concerning the outcome of this matter, the length of time it may take, or the potential costs involved. All estimates of fees and disbursements that have been or may be given, whether orally or in writing, are estimates only.

14. You acknowledge that Counsel has undertaken legal professional work in connection with this class proceeding prior to the date of this agreement. You acknowledge and agree that in the event of success, Counsel shall be entitled to be paid for its past fees and disbursements incurred in connection with the prosecution of this class proceeding.

Negotiations

15. You authorize Counsel, in their discretion, to enter into negotiations with any or all of the defendants for the purpose of reaching a settlement. You understand that any settlement affecting the Class is subject to approval of the Court. You agree and acknowledge that any negotiations are for the purpose of reaching a settlement of the claims of the Class, not simply for your individual claim.

Taxes and Disbursements

16. HST and other applicable taxes is payable on legal fees and disbursements, at the prevailing rate (currently 13%).

17. You will not be responsible for funding disbursements. Counsel will fund (or arranging funding for) disbursements in this action and will seek reimbursement for such expenses in the event there is a Recovery, as set out below. You have been advised and understand that disbursements will include the costs of printing, photocopying, delivery services, telephone usage, postage, fax transmissions, document binding, computerized legal research, deposition fees, court costs, filing fees, court reporter fees, transcript costs, expert and non-expert witness fees, e-discovery vendor and litigation support professional fees, mediation costs, travel, lodging, meals, and other miscellaneous expenses, plus applicable taxes. You authorize Counsel to incur such expenses as it finds advisable.

18. You understand that the *CPA* permits Counsel to charge interest on disbursements incurred, as totaled at the end of each six-month period following the date of this Agreement. Interest charged on disbursements will be calculated in accordance with the post-judgment interest rate set by the Ministry of the Attorney General, as required under the *Courts of Justice Act* and the *Publication of Postjudgment and Prejudgment Interest Rates* regulation.

19. You confirm that Counsel is authorized to retain such experts as may be advisable to advance the action.

Payment of Fees, Disbursements, and Taxes

20. You understand that in the event of success, Counsel is entitled to be reimbursed for payments of disbursements or taxes as a first charge on any funds received as a result of a judgment or settlement in the proceeding (subject to section 47 of the *Legal Aid Services Act, 1998*, SO 1998, c 26.)

21. You further understand that, if the proceedings are successful, the legal fees, disbursements, and taxes of Counsel are subject to the approval of the court. You understand that, in considering Counsel's fee request, the Court may consider, among other things, this Agreement, the results achieved in the proceeding, the risk assumed by Counsel in prosecuting the case, and the time and expense incurred by Counsel in prosecuting the case.

22. Counsel undertakes to seek approval of legal fees, disbursements and taxes in accordance with the terms of this Agreement. If you are concerned that the fees sought for approval are not in compliance with this Agreement, you are entitled to raise this objection at the fee approval hearing.

23. You understand that Counsel will not recover more in fees than the amount of the Recovery. Notwithstanding the foregoing, you understand that in the event of a success, subject to court approval, Counsel can retain settlement funds to finance already incurred disbursements, ongoing disbursements incurred for the benefit of the Class, and/or any future adverse costs awards.

Payment of Funds Received

24. You authorize and irrevocably direct Counsel to receive in trust on your or the Class's behalf any or all Recovery or other monies to which they may become entitled in connection with the subject matter of this Agreement. You agree and direct that all funds claimed by Counsel for legal fees, costs, taxes and disbursements shall be paid to Counsel in trust from any Recovery prior to settlement funds being distributed to the Class.

Costs, Insurance, and Funding

25. At any step in the proceeding, the Court has the discretion to order a costs award. Costs awards are generally made by the court to the party that is successful in a proceeding or step in a proceeding and are meant to indemnify the party for part of the expenses incurred by them. Substantial indemnity costs will reimburse a greater proportion of the costs than will partial indemnity costs. Payment of costs awards may be a prerequisite of continuing with the action.

26. If you, on behalf of the Class, are the party entitled to costs, unless otherwise ordered by a judge, you are entitled to receive any costs contribution or award, on a partial indemnity or substantial indemnity scale. You acknowledge and agree that, in the event of a favorable costs award (i.e., if the Court orders that the defendants are required to pay some or all of the costs incurred by the Class in this proceeding), Counsel can retain such costs awards to finance already incurred disbursements, ongoing disbursements incurred for the benefit of the Class and/or any future adverse costs award(s). You understand that, if Counsel retains a costs award for these purposes, Counsel will account for this on any subsequent fee application. If some or all of the costs award is not retained by Counsel in accordance with this provision, the costs award will be held in trust for the benefit of the Class, pending the direction of the Court.

27. If you, on behalf of the Class, are ordered by the Court to pay costs incurred by the defendant(s) in the proceeding, on a partial indemnity or substantial indemnity scale, ("**Adverse Costs**"), you will not personally have to satisfy such award. Counsel will indemnify you against an Adverse Costs award made while Counsel is counsel of record. In no circumstances will you be required to pay any funds, including costs awards, while Counsel is counsel of record.

28. You agree that Counsel may, on your behalf, obtain insurance or other indemnification against Adverse Costs from a third party in the event that it is appropriate and/or necessary for the purposes of advancing the litigation strategy. You understand that such third party might be entitled to a fixed or percentage fee to be paid from the Recovery. You authorize Counsel, in its discretion, to seek such indemnification funding, and to disclose information regarding this matter or proceeding to such third parties as Counsel determines is necessary to secure such insurance, indemnity, and/or funding.

Example Fee Calculation

29. In the event of success, Counsel's fee will be calculated by multiplying the Recovery by the applicable percentage under paragraphs 8 and 9 plus disbursements, interests on disbursements and applicable taxes. By way of example, if:

    a. the action settles for damages and prejudgment interest of $25,000,000 before a decision is rendered by the court on a contested certification motion;

    b. Counsel has incurred $50,000 in disbursements, on which interest is $1000;

    c. and the defendants pay an additional $100,000 in partial indemnity costs,

    then Counsel's account will be calculated as follows:

Counsel's fee (25% of $20,000,000 plus 20% of	$6,000,000
HST on fee ($6,000,000 x 13%)	$780,000
Disbursements	$50,000
Interest on disbursements	$1,000
HST on disbursements ($50,000 x 13%)	$6,500
Total Counsel Account:	**$6,837,500**

30. In this example, the net recovery after the legal fee, HST and disbursements would be $18,262,500 calculated as follows:

Total settlement (inclusive of damages, prejudgment interest and defence contribution to costs)	$25,100,000
Counsel account	$6,837,500
Net proceeds of settlement:	**$18,262,500**

31. You and Counsel have discussed and you understand that many factors and variables will affect the ultimate Recovery in this matter, and it is not possible at this time to predict the expected Recovery or legal fee with any certainty. If the Recovery is as in the example above, it would result in a legal fee (excluding disbursements, interest and taxes) of $6,000,000.

Right to Assessment of Contingency Fee:

32. You have the right to apply to the Ontario Superior Court of Justice for an assessment of Counsel's bill: (i) in the case of contingency fee agreements that do not require court approval, within 30 days after its delivery or within one year after its payment; and (ii) in the case of contingency fee agreements that require court approval pursuant to the *Solicitors Act*, within six months of its delivery.

Discontinuance, Abandonment and Settlement of the Class Proceeding

33. You understand that, in accordance with the *CPA*, the discontinuance, abandonment and settlement of class proceedings require approval of the Court, on such terms as the Court considers appropriate.

Termination of the Representation:

34. Either you or Counsel may terminate this Agreement at any time prior to the commencement of an action or proceeding.

35. Following the commencement of an action, you understand that, if either you or Counsel wishes to terminate this Agreement, you or Counsel shall immediately move before the Court for directions. If you wish to withdraw as Class Representative, you must (i) notify Counsel in writing, and (ii) take reasonable steps to assist in securing a substitute Class Representative. Notwithstanding the foregoing, you may not withdraw as Class representative if doing so will or might harm the Class in any way. You understand that a Court order might be required in order to withdraw as Class Representative and, if so, you will take no steps to withdraw, other than seeking such an order, until such an order is finally granted.

36. You understand and acknowledge that Counsel has incurred and will continue to incur significant time and financial risk in the prosecution of this proceeding. Accordingly, if you engage another lawyer to act in this proceeding or otherwise terminate this Agreement and the proceeding is successful, Counsel will be paid fees, disbursements, applicable taxes and interest in accordance with the terms of this Agreement. In the event of termination, you will consent to an order to remove Counsel as lawyers of record.

Solicitor's lien on file

37. If either you or Counsel terminate this Agreement before this matter is settled or judgment is obtained on it, you agree that Counsel has the right to retain the file in this matter and its contents until Counsel's account has been paid or security acceptable to Counsel for its accounts has been provided.

Choice of Law and Forum

38. This Agreement, and all questions relating to its validity, interpretation, performance, and enforcement, is governed by Ontario law without regard to its principles of conflicts of law.

39. In the event that a dispute arises between us, all such matters shall be resolved by a court. You agree that the courts of Ontario shall be the exclusive forums for litigation concerning this Agreement or any aspect of our engagement. You consent to personal jurisdiction in such courts as well as service of process by notice sent by regular mail to the address set forth above and/or by any means authorized by Ontario law.

Privacy

40. In the course of providing legal services to you, Counsel may receive nonpublic personal information about you. All such information will be held in confidence and will not be disseminated to any person or entity outside this law firm without your consent, unless such disclosure is required under the applicable law.

41. Counsel may store some or all of your files on a variety of platforms, including third-party cloud-based servers. Although Counsel believes these servers are encrypted and secure, there still is a risk that your confidential or privileged information may be disclosed. By signing below, you consent to our use of such storage services.

42. Regarding electronic transmission of personal information (i.e. email), you acknowledge that there is no method of transmitting or storing data that is completely secure and that, notwithstanding precautions taken by Counsel, all Internet transmissions are susceptible to possible loss, misrouting, interception and misuse, and potential viruses. You understand that in the course of acting on your behalf it will be necessary for Counsel to communicate sensitive information to other persons including other lawyers, various experts, witnesses and the courts. Notwithstanding the potential risk, you specifically consent to Counsel transmitting your personal information electronically.

43. Counsel may receive and act on information and instructions provided by email.

General

44. This agreement may be amended from time to time, in writing, by you and Counsel, before it is approved by the Court.

Entire Agreement

45. This Agreement constitutes the sole and entire agreement between us with respect to the subject matter of this Agreement, and supersedes all prior and contemporaneous understandings, agreements, representations, and warranties, both written and oral, with respect to the subject matter.

[Agreement Continues on Following Page]

Counterparts

46. This Agreement may be executed in any number of counterparts, each of which is deemed an original, and all of which taken together constitute one and the same agreement.

Please review this letter carefully and let us know if you have any questions or concerns. If you agree to the terms of this letter, please sign and date below in the presence of a witness and return a copy to us.

Signed at Mississauga , Ontario, this 10th day of October 2019.

Witness

Name: Sabine Hrusa

Patrick Hrusa

[redacted]

Signed at Windsor ~~Toronto~~, Ontario, this 10th day of October 2019.

Witness

Name: Meghan Matthews

"Serge Kalloghlian" per Justin Smith

Kalloghlian Professional Corporation

Per: Serge Kalloghlian

Tel: 647 812 5615

Address: Suite 200, 150 King St. W. Toronto, ON, M5H 1J9

Signed at windsor, ontario , this 10th day of October 2019.

Witness

Name: Meghan Matthews

"A. Dimitri Lascaris" per Justin Smith

A. Dimitri Lascaris Law Professional Corporation

Per: A. Dimitri Lascaris

Tel: 514 941 5991

Address: G101-360 Rue Saint-Jacques, Montreal, QC H2Y 1P5

Signed at Toronto, Ontario, this day of 2019.

Witness

Name:

Henein Hutchison LLP

Per:

Tel: 416 368 5000

Address: 235 King Street East, First Floor, Toronto, ON M5A 1J9

Signed at Windsor, Ontario, this 10th day of October 2019.

Witness

Name: Meghan Matthews

Strosberg Sasso Sutts LLP

Per: Jay Strosberg

Tel: 519 258 9333

Address: 1561 Ouellette Ave, Windsor, ON N8X 1K5

TAB 2-B2

This is Exhibit “B-2” referred to in the Affidavit

of Serge Kalloghlian, sworn before me this

day of December 6th, 2021

____

A Commissioner, etc

CONTINGENCY FEE RETAINER AGREEMENT

Date: October 10, 2019

Between:

Dharambir Singh and WellGroomed Designs Inc. (**"you"**)

-and-

Kalloghlian Professional Corporation (**"KPC"**), A. Dimitri Lascaris Law Professional Corporation ("**LPC**"), Henein Hutchison LLP ("**HHLLP**"), and Strosberg Sasso Sutts LLP ("**SSS**")

Dear Mr. Singh:

Thank you for selecting KPC, LPC, HHLLP, and SSS ("together **"Counsel"**) to serve as your counsel. The purpose of this contingency fee retainer agreement (**"Agreement"**) is to outline the nature of the engagement, our respective responsibilities and expectations, and the terms upon which you have retained Counsel.

Retainer and Scope of Engagement

1. You have retained Counsel to prosecute claims by way of a class proceeding pursuant to the *Class Proceedings Act, 1992*, or equivalent legislation of other provinces ("***CPA***"). The class proceeding will be brought on behalf of yourself and others that acquired securities of CannTrust Holdings Inc. ("**CannTrust**") between June 1, 2018 and September 17, 2019, or such other dates to be determined ("**Class**"). The class proceeding will seek remedies for losses suffered by the Class in connection with their trades in CannTrust securities.

2. You have agreed to seek status as representative of the Class ("**Class Representative**"). You understand that, pursuant to the *CPA*, the proposed class proceeding must be certified by a court for you to act as the Class Representative.

3. You authorize Counsel, on behalf of yourself and the proposed Class, to take such actions and conduct such proceedings against CannTrust and other parties in such jurisdiction(s) as Counsel deems appropriate. However, you will retain the right to make all critical decisions regarding the conduct of the class proceeding, but always with a view to the best interests of the Class. If you make a decision regarding the conduct of the class proceeding that Counsel does not consider to be in the best interests of the Class, Counsel will seek directions from the Ontario Superior Court of Justice ("**Court**") on the issue.

4. You further acknowledge that the amount of a reasonable settlement or judgment in this class proceeding will depend on several factors, including the strength of the evidence that is obtained in the course of prosecuting the proceedings, and the defendants' capacity to pay.

Contingency Fee

5. You understand and agree that Counsel will pursue this litigation on a contingency fee basis; that is, legal fees, disbursements, and applicable taxes will be payable only in the event of "success" which (under the *CPA* and this Agreement) includes:

    a. judgment on the common issues in favour of some or all of the Class; and

    b. a settlement, including a partial settlement with less than all named defendants where the proceeding is ongoing against non-settling defendants, that benefits one or more class members.

6. You understand and agree that legal fees will be charged on a percentage basis. You understand that, in accordance with this Agreement, Counsel may request approval from the Court of a legal fee at the applicable percentage rate(s) determined in accordance with the paragraphs below.

7. The percentage legal fee will be calculated based on all benefits obtained for the Class as a result of proceedings brought in this matter, including, without limitation, settlement funds, damages awards pre-judgment interest and/or post-judgment interest, plus interest earned on such benefits while held in trust, regardless of the structure, form or mechanism by which such benefit is conferred upon the Class (**"Recovery"**). The Recovery excludes any amounts paid by the defendant(s) that are separately specified as being in respect of costs and disbursements. If the Recovery is provided by way of structured settlement, Counsel's fee will be calculated exactly as indicated above and based on the same percentage, using the cost of the structure upon which to base the percentage of the fee and calculate the fee.

8. Subject to paragraph 9, in the event of success, Counsel's legal fee shall be calculated as:

    a. Twenty-five percent (25%) of the Recovery if such recovery occurs before a decision is rendered by the Court on a contested certification motion;

    b. Twenty-seven and one-half percent (27.5%) of the Recovery if such recovery occurs after a decision is rendered by the Court on a contested certification motion, but before the date that is six weeks preceding the date set for the commencement of the common issues trial; and

    c. Thirty percent (30%) of the Recovery if such recovery occurs after the date that is six weeks preceding the date set for the commencement of the common issues trial.

9. Notwithstanding paragraph 8:

    a. If the Recovery is $20 million or less, the percentage rate that applies to the Recovery shall be the applicable percentage rate under paragraph 8 above;

b. If the Recovery is between $20 million and $40 million, the percentage rate that applies to the first $20 million of the Recovery shall be the applicable percentage rate under paragraph 8, and the percentage rate that applies to the Recovery in excess of $20 million shall be the applicable percentage rate under paragraph 8 less five percent (5%);

c. If the Recovery is between $40 million and $60 million, the percentage rate that applies to the first $20 million of the Recovery shall be the applicable percentage rate under paragraph 8, and the percentage rate that applies to the Recovery between $20 million and $40 million shall be the applicable percentage rate under paragraph 8 less five percent (5%); and the percentage rate that applies to the Recovery in excess of $40 million shall be the applicable percentage rate under paragraph 8 less ten percent (10%); and

d. If the Recovery exceeds $60 million, the percentage rate that applies to the first $20 million of the Recovery shall be the applicable percentage rate under paragraph 8, and the percentage rate that applies to the Recovery between $20 million and $40 million shall be the applicable percentage rate under paragraph 8 less five percent (5%), and the percentage rate that applies to the Recovery between $40 million and $60 million shall be the applicable percentage rate under paragraph 8 less ten percent (10%); and the percentage rate that applies to the Recovery in excess of $60 million shall be the applicable percentage rate under paragraph 8 less fifteen percent (15%).

10. In the event that no recovery is made in the litigation, you understand that you will not be indebted to Counsel for the fees, disbursements and applicable taxes incurred by Counsel in advancing the Class's interests. In the event that Recovery is obtained, any fees, disbursements, and applicable taxes incurred by Counsel will be paid solely from the recovery in the class proceeding.

11. You acknowledge that:

a. you have discussed with Counsel your options for retaining Counsel other than on a contingency basis, including on an hourly-rate retainer;

b. you have been advised that hourly rates may vary among lawyers and you have been given the opportunity to compare rates;

c. you understand that hourly rates of the lawyers working on this matter range from $550 to $1150 and may increase over the course of this matter, and that other lawyers charging different rates may also work on this matter;

d. you have explicitly chosen to retain Counsel by way of a contingency fee arrangement;

e. you understand that all protections and controls on retainers between lawyers and clients as defined by the Law Society of Ontario and the common law apply to contingency fee agreements; and

f. you have had the opportunity to obtain independent legal advice regarding the terms of the retainer.

12. You understand and agree that Counsel may associate, or enter into co-counsel arrangements with, other lawyers or law firms in Canada and/or the United States in the prosecution of this matter, and you authorize Counsel to do so at its discretion. You understand that no additional fees will be payable by the Class to such firms in respect of their assistance in the prosecution of the proceedings.

13. Counsel has advised, and you understand that the outcome of any proceedings is subject to inherent risks and other factors beyond Counsel's control. Counsel has therefore not made, and cannot make, any

guarantees or promises concerning the outcome of this matter, the length of time it may take, or the potential costs involved. All estimates of fees and disbursements that have been or may be given, whether orally or in writing, are estimates only.

14. You acknowledge that Counsel has undertaken legal professional work in connection with this class proceeding prior to the date of this agreement. You acknowledge and agree that in the event of success, Counsel shall be entitled to be paid for its past fees and disbursements incurred in connection with the prosecution of this class proceeding.

Negotiations

15. You authorize Counsel, in their discretion, to enter into negotiations with any or all of the defendants for the purpose of reaching a settlement. You understand that any settlement affecting the Class is subject to approval of the Court. You agree and acknowledge that any negotiations are for the purpose of reaching a settlement of the claims of the Class, not simply for your individual claim.

Taxes and Disbursements

16. HST and other applicable taxes is payable on legal fees and disbursements, at the prevailing rate (currently 13%).

17. You will not be responsible for funding disbursements. Counsel will fund (or arranging funding for) disbursements in this action and will seek reimbursement for such expenses in the event there is a Recovery, as set out below. You have been advised and understand that disbursements will include the costs of printing, photocopying, delivery services, telephone usage, postage, fax transmissions, document binding, computerized legal research, deposition fees, court costs, filing fees, court reporter fees, transcript costs, expert and non-expert witness fees, e-discovery vendor and litigation support professional fees, mediation costs, travel, lodging, meals, and other miscellaneous expenses, plus applicable taxes. You authorize Counsel to incur such expenses as it finds advisable.

18. You understand that the *CPA* permits Counsel to charge interest on disbursements incurred, as totaled at the end of each six-month period following the date of this Agreement. Interest charged on disbursements will be calculated in accordance with the post-judgment interest rate set by the Ministry of the Attorney General, as required under the *Courts of Justice Act* and the *Publication of Postjudgment and Prejudgment Interest Rates* regulation.

19. You confirm that Counsel is authorized to retain such experts as may be advisable to advance the action.

Payment of Fees, Disbursements, and Taxes

20. You understand that in the event of success, Counsel is entitled to be reimbursed for payments of disbursements or taxes as a first charge on any funds received as a result of a judgment or settlement in the proceeding (subject to section 47 of the *Legal Aid Services Act, 1998*, SO 1998, c 26.)

21. You further understand that, if the proceedings are successful, the legal fees, disbursements, and taxes of Counsel are subject to the approval of the court. You understand that, in considering Counsel's fee request,

the Court may consider, among other things, this Agreement, the results achieved in the proceeding, the risk assumed by Counsel in prosecuting the case, and the time and expense incurred by Counsel in prosecuting the case.

22. Counsel undertakes to seek approval of legal fees, disbursements and taxes in accordance with the terms of this Agreement. If you are concerned that the fees sought for approval are not in compliance with this Agreement, you are entitled to raise this objection at the fee approval hearing.

23. You understand that Counsel will not recover more in fees than the amount of the Recovery. Notwithstanding the foregoing, you understand that in the event of a success, subject to court approval, Counsel can retain settlement funds to finance already incurred disbursements, ongoing disbursements incurred for the benefit of the Class, and/or any future adverse costs awards.

Payment of Funds Received

24. You authorize and irrevocably direct Counsel to receive in trust on your or the Class's behalf any or all Recovery or other monies to which they may become entitled in connection with the subject matter of this Agreement. You agree and direct that all funds claimed by Counsel for legal fees, costs, taxes and disbursements shall be paid to Counsel in trust from any Recovery prior to settlement funds being distributed to the Class.

Costs, Insurance, and Funding

25. At any step in the proceeding, the Court has the discretion to order a costs award. Costs awards are generally made by the court to the party that is successful in a proceeding or step in a proceeding and are meant to indemnify the party for part of the expenses incurred by them. Substantial indemnity costs will reimburse a greater proportion of the costs than will partial indemnity costs. Payment of costs awards may be a prerequisite of continuing with the action.

26. If you, on behalf of the Class, are the party entitled to costs, unless otherwise ordered by a judge, you are entitled to receive any costs contribution or award, on a partial indemnity or substantial indemnity scale. You acknowledge and agree that, in the event of a favorable costs award (i.e., if the Court orders that the defendants are required to pay some or all of the costs incurred by the Class in this proceeding), Counsel can retain such costs awards to finance already incurred disbursements, ongoing disbursements incurred for the benefit of the Class and/or any future adverse costs award(s). You understand that, if Counsel retains a costs award for these purposes, Counsel will account for this on any subsequent fee application. If some or all of the costs award is not retained by Counsel in accordance with this provision, the costs award will be held in trust for the benefit of the Class, pending the direction of the Court.

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28. You agree that Counsel may, on your behalf, obtain insurance or other indemnification against Adverse Costs from a third party in the event that it is appropriate and/or necessary for the purposes of advancing

the litigation strategy. You understand that such third party might be entitled to a fixed or percentage fee to be paid from the Recovery. You authorize Counsel, in its discretion, to seek such indemnification funding, and to disclose information regarding this matter or proceeding to such third parties as Counsel determines is necessary to secure such insurance, indemnity, and/or funding.

<u>Example Fee Calculation</u>

29. In the event of success, Counsel's fee will be calculated by multiplying the Recovery by the applicable percentage under paragraphs 8 and 9 plus disbursements, interests on disbursements and applicable taxes. By way of example, if:

   a. the action settles for damages and prejudgment interest of $25,000,000 before a decision is rendered by the court on a contested certification motion;
   b. Counsel has incurred $50,000 in disbursements, on which interest is $1000;
   c. and the defendants pay an additional $100,000 in partial indemnity costs,

   then Counsel's account will be calculated as follows:

Counsel's fee (25% of $20,000,000 plus 20% of $5,000,000)	$6,000,000
HST on fee ($6,000,000 x 13%)	$780,000
Disbursements	$50,000
Interest on disbursements	$1,000
HST on disbursements ($50,000 x 13%)	$6,500
Total Counsel Account:	**$6,837,500**

30. In this example, the net recovery after the legal fee, HST and disbursements would be $18,262,500 calculated as follows:

Total settlement (inclusive of damages, prejudgment interest and defence contribution to costs)	$25,100,000
Counsel account	$6,837,500
Net proceeds of settlement:	**$18,262,500**

31. You and Counsel have discussed and you understand that many factors and variables will affect the ultimate Recovery in this matter, and it is not possible at this time to predict the expected Recovery or legal fee with

any certainty. If the Recovery is as in the example above, it would result in a legal fee (excluding disbursements, interest and taxes) of $6,000,000.

Right to Assessment of Contingency Fee:

32. You have the right to apply to the Ontario Superior Court of Justice for an assessment of Counsel's bill: (i) in the case of contingency fee agreements that do not require court approval, within 30 days after its delivery or within one year after its payment; and (ii) in the case of contingency fee agreements that require court approval pursuant to the *Solicitors Act*, within six months of its delivery.

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Termination of the Representation:

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36. You understand and acknowledge that Counsel has incurred and will continue to incur significant time and financial risk in the prosecution of this proceeding. Accordingly, if you engage another lawyer to act in this proceeding or otherwise terminate this Agreement and the proceeding is successful, Counsel will be paid fees, disbursements, applicable taxes and interest in accordance with the terms of this Agreement. In the event of termination, you will consent to an order to remove Counsel as lawyers of record.

Solicitor's lien on file

37. If either you or Counsel terminate this Agreement before this matter is settled or judgment is obtained on it, you agree that Counsel has the right to retain the file in this matter and its contents until Counsel's account has been paid or security acceptable to Counsel for its accounts has been provided.

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38. This Agreement, and all questions relating to its validity, interpretation, performance, and enforcement, is governed by Ontario law without regard to its principles of conflicts of law.

39. In the event that a dispute arises between us, all such matters shall be resolved by a court. You agree that the courts of Ontario shall be the exclusive forums for litigation concerning this Agreement or any aspect of our engagement. You consent to personal jurisdiction in such courts as well as service of process by notice sent by regular mail to the address set forth above and/or by any means authorized by Ontario law.

Privacy

40. In the course of providing legal services to you, Counsel may receive nonpublic personal information about you. All such information will be held in confidence and will not be disseminated to any person or entity outside this law firm without your consent, unless such disclosure is required under the applicable law.

41. Counsel may store some or all of your files on a variety of platforms, including third-party cloud-based servers. Although Counsel believes these servers are encrypted and secure, there still is a risk that your confidential or privileged information may be disclosed. By signing below, you consent to our use of such storage services.

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Entire Agreement

45. This Agreement constitutes the sole and entire agreement between us with respect to the subject matter of this Agreement, and supersedes all prior and contemporaneous understandings, agreements, representations, and warranties, both written and oral, with respect to the subject matter.

[Agreement Continues on Following Page]

Counterparts

46. This Agreement may be executed in any number of counterparts, each of which is deemed an original, and all of which taken together constitute one and the same agreement.

Please review this letter carefully and let us know if you have any questions or concerns. If you agree to the terms of this letter, please sign and date below in the presence of a witness and return a copy to us.

Signed at Surrey, British Columbia, this 10th day of October 2019.

Aanchal Ghai

Witness

Name: AANCHAL GHAI

Dharambir Singh

[redacted]

Signed at Surrey, British Columbia, this 10th day of October 2019.

Aanchal Ghai

Witness

Name: AANCHAL GHAI

WellGroomed Designs Inc.

(per Dharambir Singh)

[redacted]

Signed at Toronto, Ontario, this 10th day of October, 2019.

Witness

Name: Alexander Jay Freedman

Kalloghlian Professional Corporation

Per: Serge Kalloghlian

Tel: 647 812 5615

Address: Suite 200, 150 King St. W. Toronto, ON, M5H 1J9

Signed at Toronto, Ontario, this 10th day of October, 2019.

Witness

Name: Alexander Jay Freedman

A. Dimitri Lascaris Law Professional Corporation

Per: Serge Kalloghlian for A. Dimitri Lascaris

Tel: (514) 941-5991

Address: G101-360 Rue Saint-Jacques, Montreal, QC H2Y 1P5

Signed at Toronto, Ontario, this 10th day of October, 2019.

Witness

Name: Alexander Jay Freedman

Henein Hutchison LLP

Per: Serge Kalloghlian for Scott Hutchison.

Tel: (416) 368-5000

Address: 235 King Street East, First Floor, Toronto, ON M5A 1J9

Signed at Toronto, Ontario, this 10th day of October, 2019.

Witness

Name: Alexander Jay Freedman

Strosberg Sasso Sutts LLP

Per: Serge Kalloghlian for Jay Strosberg

Tel: (519) 561-6285

Address: 1561 Ouellette Avenue, Windsor, ON N8X 1K5

TAB 2-C

This is Exhibit “C” referred to in the Affidavit

of Serge Kalloghlian, sworn before me this

day of December 6th, 2021

____

A Commissioner, etc

TGF
Thornton Grout Finnigan LLP
RESTRUCTURING + LITIGATION

Toronto-Dominion Centre
100 Wellington Street West
Suite 3200, P.O. Box 329
Toronto, ON Canada M5K 1K7
T 416.304.1616 F 416.304.1313

CONTINGENCY FEE RETAINER AGREEMENT

Retainer

1. I, **STEPHEN ROSEN**, of Thornhill, Ontario hereby retain and employ the law firm of **Thornton Grout Finnigan LLP** ("**TGF**") as my lawyers and hereby authorize them to institute, in their discretion, a Class Action pursuant to the *Class Proceedings Act*, 1992 naming me as proposed representative plaintiff on behalf of all persons, wherever they may reside or be domiciled, who acquired the common shares of CANNTRUST HOLDINGS INC. ("**CannTrust**") from and including October 1, 2018 through and including July 8, 2019, or such other class as may be proposed by TGF or certified by the Court (the "**Class**"), and to take such actions and conduct such proceedings as they may consider necessary or proper for the conduct of the proceeding. The defendants to any claim will be determined by TGF, in its sole discretion, and may include, but not be limited to, CannTrust, its current or former officers or directors, its auditors and it underwriters.

2. I understand and agree that TGF, in its discretion, may join with another law firm or law firms to act as co-counsel representing me in the prosecution of any Class Action contemplated by this Retainer Agreement, and if such a co-counsel arrangement is entered into between TGF and another law firm or law firms, references to "TGF" herein will refer to TGF and any other law firm or law firms with whom TGF has entered into such a co-counsel arrangement.

3. I understand and agree that if such a co-counsel arrangement is entered, then a new retainer agreement between me and the co-counsel group (including TGF) may be entered, with substantially the same terms as set out herein.

Commitments

4. I understand and agree that this litigation is to be pursued on a contingency fee basis such that legal fees, disbursements and HST with respect to the common issues will be payable only in the event of success in the class proceeding. Legal fees, disbursements and HST will not be charged unless the litigation is successful, and those amounts will be paid from the litigation proceeds and will not be payable directly by me. Under no circumstance will I be personally liable for any legal fees, disbursements or HST. If the litigation is not successful, either following trial or appeal or as a result of a settlement, TGF will not receive any payment for legal fees incurred, disbursements or HST. If the litigation is successful, then TGF will be paid out of the litigation proceeds and not by me personally.

5. I understand and agree that TGF shall be entitled to a legal fee which is a percentage of the total value of any settlement or judgment to the Class, over and above any award of court costs, or claim for disbursements and HST incurred by TGF. I agree that the above legal fee, exclusive of HST, (**"Base Fee"**)[1] will be calculated on the following basis:

   (a) If settlement is achieved before the plaintiff files a Notice of Motion for certification pursuant to section 5 of the *Class Proceedings Act, 1992* (**"Certification Motion"**), and, or the plaintiff files a Notice of Motion for leave to proceed pursuant to section 138.8 of the Ontario

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[1] **"Base Fee"** is the fee to be paid before adjustment, if any, pursuant to paragraph 6 herein.

Securities Act (**"Leave Motion"**), whichever is earlier, then the Base Fee will be 20% of the total Settlement Amount;

(b) If settlement is achieved after the plaintiff files a Notice of Motion on the Certification Motion and, or on the Leave Motion but before the commencement of examinations for discovery of any party, then the Base Fee will be 25% of the total Settlement Amount;

(c) If settlement is achieved after the commencement of examinations for discovery of any party but before any party files a Trial Record, then the Base Fee will be 27.5% of the total Settlement Amount;

(d) If settlement is achieved after the filing of a Trial Record, then the Base Fee will be 30% of the total Settlement Amount or Judgement;

(e) Regardless of the foregoing, if settlement is achieved after the defendants have filed a Notice of Motion to dismiss the action in whole or in substantial part, then the Base Fee will be 30% of the total settlement amount.

6. I understand and agree that, in addition to any legal fee, TGF shall be entitled to recover from any settlement or judgment all disbursements incurred along with interest which has accrued on such disbursements, and HST.

7. The amount of the TGF legal fee calculated pursuant to paragraph 5 above will be subject to the following upper limits (exclusive of HST and disbursements) based on the amount recovered in any settlement or judgment:

(a) for amounts recovered in settlement or judgment up to $50 million, the maximum contingency fee (exclusive of HST and disbursements) will not exceed 30% of that amount recovered;

(b) for amounts recovered in settlement or judgment above $50 million and up to $100 million, the maximum contingency fee (exclusive of

HST and disbursements) will not exceed 25% of that amount recovered;

(c) for amounts recovered in settlement or judgment in excess of $100 million, the maximum contingency fee (exclusive of HST and disbursements) will not exceed 22.5% of that amount recovered.

8. I understand and agree that the total legal fee will vary according to the total value of any settlement or judgment which may result from this litigation. I understand that any such settlement or judgment could vary greatly depending on several factors, including the total number of damaged CannTrust security holders and damaged CannTrust securities, the risk of CannTrust potentially becoming insolvent, additional information which comes to light during the course of the litigation, and the nature of any settlement or judgment. By way of illustration, the following legal fees (exclusive of HST and disbursements) would be payable to TGF under the following 12 scenarios calculated as per Schedule "A" to this Agreement:

	Amount of settlement or judgment	When settlement or judgment achieved	Fee (exclusive of HST)	Percentage of total recovery
1.	$90 million	Before the filing of a Notice of Motion on Certification and, or Leave motions	$18 million	20%
2.	$90 million	After filing of Notice of Motion on Leave and, or Certification motions and before the commencement of examinations for discovery	$22.5 million	25%
3.	$90 million	After commencement of examinations for discovery and before the filing of a Trial Record	$24.75 million	27.5%
4.	$90 million	After the filing of a Trial Record	$25 million	27.78%

5.	**$230 million**	**Before the filing of a Notice of Motion on Certification and, or Leave motions**	**$46 million**	**20%**
6.	**$230 million**	**After filing of Notice of Motion on Leave and, or Certification motions and before the commencement of examinations for discovery**	**$56.75 million**	**24.6%**
7.	**$230 million**	**After commencement of examinations for discovery and before the filing of a Trial Record**	**$56.75 million**	**24.6%**
8.	**$230 million**	**After the filing of a Trial Record**	**$56.75 million**	**24.6%**

9.	**$500 million**	**Before the filing of a Notice of Motion on Certification and or Leave motions**	**$100 million**	**20%**
10.	**$500 million**	**After filing of Notice of Motion on Leave and, or Certification motions and before the commencement of examinations for discovery**	**$117.5 million**	**23.5%**
11.	**$500 million**	**After commencement of examinations for discovery and before the filing of a Trial Record**	**$117.5 million**	**23.5%**
12.	**$500 million**	**After the filing of a Trial Record**	**$117.5 million**	**23.5%**

9. I understand and agree that the legal fee payable to TGF could be lower than these amounts, or higher than these amounts, depending upon the size of the damages awarded to the Class or settlement achieved.

10. In terms of disbursements plus HST, by way of illustration only, I understand and agree that if the disbursements are $1 million plus HST, then $1 million plus HST is payable to TGF from any settlement or judgment in addition to legal fees. I understand that in the event no judgment or settlement results, no legal fees, disbursements or HST will be payable.

11. I understand that this Retainer Agreement, and any fees awarded pursuant to the Retainer Agreement, shall be subject to approval of the Court, which must be satisfied that the overall fees awarded are fair and reasonable having regard to a number of factors, including the risk of taking the case on a contingency basis, the