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

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

THE HONOURABLE	)	MONDAY, THE 31ST
	)	
MADAM JUSTICE CONWAY	)	DAY OF JANUARY, ~~2021~~ 2022

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

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

Applicants

APPROVAL AND VESTING ORDER
(Sale of Cannatrek Interest)

THIS MOTION, made by the Applicants pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**") for an order approving the transaction (the "**Cannatrek Transaction**") contemplated by the call option agreement dated as of January 18, 2022 (the "**Call Option Agreement**") between CannTrust Inc. ("**Opco**"), David Oshlack (the "**Optionholder**") and Cannatrek Limited ("**Cannatrek**"), appended as Exhibit "F" to the Affidavit of Greg Guyatt sworn January 25, 2022 (the "**Guyatt Affidavit**"), and vesting Opco's right, title and interest in and to the Option Shares (as defined in the Call Option Agreement) (the "**Cannatrek Option Shares**") as set out herein, was heard this day by way of judicial video conference via Zoom in Toronto, Ontario due to the COVID-19 pandemic.

ON READING the Guyatt Affidavit, the Seventeenth Report of Ernst & Young Inc. in its capacity as the monitor of the Applicants (the "**Monitor**") dated January 27, 2022 (the "**Seventeenth Report**"), and on hearing the submissions of counsel for the Applicants, the Monitor and any such other counsel that were present as listed on the participant information sheet, no one appearing for any other person on the service list, although properly served as appears from the affidavit of service, filed:

SERVICE

1. **THIS COURT ORDERS** that the time for service and filing of the Notice of Motion and the Motion Record of the Applicants in support of this motion and the Seventeenth Report is hereby abridged and validated such that this motion is properly returnable today and hereby dispenses with further service thereof.

DEFINITIONS

2. **THIS COURT ORDERS** that all capitalized terms used in this Order and not otherwise defined herein shall have the meanings ascribed to them in the Call Option Agreement.

APPROVAL OF AGREEMENT AND TRANSACTION

3. **THIS COURT ORDERS AND DECLARES** that the Cannatrek Transaction is hereby approved, and the execution of the Call Option Agreement by Opco is hereby authorized and approved with such minor amendments as Opco, in consultation with the Monitor, may deem necessary. Opco is hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Cannatrek Transaction and for the conveyance of the CannaTrek Option Shares in accordance with the Call Option Agreement and this Order.

4. **THIS COURT ORDERS AND DECLARES** that a Monitor's certificate substantially in the form attached as Schedule "A" hereto (the "**Monitor's Certificate**") shall, in each instance, specify in its preamble the Cannatrek Option Shares to be transferred (the "**Exercised Cannatrek Option Shares**") and the name of the transferee, regardless of whether that is the Optionholder or a nominee (as specified in the Monitor's Certificate, the "**Buyer**"), in respect of each sale transaction when an option is exercised pursuant to the Call Option Agreement, and upon the delivery of each Monitor's Certificate, all of Opco's right, title and interest in and to the Exercised Cannatrek Option Shares specified in such Monitor's Certificate shall vest absolutely in the Buyer specified in such Monitor's Certificate, free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the "**Claims**"),

including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by any order in these proceedings, including in the Amended and Restated Initial Order dated April 9, 2020 (as amended and restated from time to time) and the DIP Approval Order dated April 30, 2021; and (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario), the *Personal Property Security Act* (British Columbia) or any other personal property registry system (all of which are collectively referred to as the "**Encumbrances**" and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Exercised Cannatrek Option Shares specified in a Monitor's Certificate are hereby expunged and discharged as against those Exercised Cannatrek Option Shares, effective upon delivery of the Monitor's Certificate in respect of such Exercised Cannatrek Option Shares.

5. **THIS COURT ORDERS** that for the purposes of determining the nature and priority of Claims, the net proceeds from the sale of all Exercised Cannatrek Option Shares shall stand in the place and stead of such Exercised Cannatrek Option Shares, and that from and after the delivery of each Monitor's Certificate, all Claims and Encumbrances that are expunged and discharged as against the Exercised Cannatrek Option Shares specified in such Monitor's Certificate shall attach to the net proceeds from the sale of such Exercised Cannatrek Option Shares with the same priority as they had with respect to such Exercised Cannatrek Option Shares immediately prior to the sale, as if such Exercised Cannatrek Option Shares had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale.

6. **THIS COURT ORDERS AND DIRECTS** the Monitor, in respect of each Monitor's Certificate, to file with the Court a copy of such Monitor's Certificate, forthwith after delivery thereof.

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

(a) the pendency of these proceedings;

(b) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) in respect of Opco and any bankruptcy order issued pursuant to any such applications; and

(c) any assignment in bankruptcy made in respect of Opco;

the vesting of the Exercised Cannatrek Option Shares in the Buyer, in each case as specified in the Monitor's Certificate, pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of Opco and shall not be void or voidable by creditors of Opco, nor shall it constitute nor be deemed to be a fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue, or other reviewable transaction under the *Bankruptcy and Insolvency Act* (Canada) or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

GENERAL

8. **THIS COURT ORDERS** that this Order shall have full force and effect in all provinces and territories in Canada, outside Canada and against all Persons against whom it may be enforceable.

9. **THIS COURT ORDERS** that this Order is effective from the date that it is made and is enforceable without any need for entry and filing.

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

Conway J.

SCHEDULE "A"

FORM OF MONITOR'S CERTIFICATE

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.

Applicants

MONITOR'S CERTIFICATE

RECITALS

A. Pursuant to an Order of the Honourable Mr. Justice Hainey of the Ontario Superior Court of Justice (Commercial List) (the "**Court**") dated March 31, 2020, as amended, Ernst & Young Inc. was appointed as monitor (in such capacity, the "**Monitor**") of the Applicants.

B. Pursuant to an Order of the Court dated January 31, 2022, the Court approved the transaction contemplated by the Call Option Agreement dated January 18, 2022 (the "**Agreement**") between CannTrust Inc. ("**Opco**"), David Oshlack (the "**Optionholder**") and Cannatrek Limited ("**Cannatrek**"), appended as Exhibit "E" to the Affidavit of Greg Guyatt sworn January 25, 2022 (the "**Guyatt Affidavit**"), for the vesting in the Buyer (as defined below), of Opco's right, title and interest in and to the Exercised Cannatrek Option Shares (defined below), which vesting is to be effective with respect to such Exercised Cannatrek Option Shares upon the delivery by the Monitor of a certificate that specifies the Exercised Cannatrek Option Shares and name of the Buyer, and confirms: (i) that Opco has received payment of the relevant Exercise Price (as defined in the Call Option Agreement, the "**Exercise Price**") for the Exercised Cannatrek Option Shares payable on the relevant Exercise Completion Date pursuant to the Call Option Agreement; (ii) that the Closing Conditions (as defined in the Call Option Agreement, the "**Closing Conditions**"), Obligations of the Shareholder set out in section 7.1 of the Call Option Agreement and Obligations of the Optionholder set out in section 7.2 of the Call Option Agreement have been satisfied or waived by Opco and the Optionholder; and (iii) the transaction in respect of the Exercised Cannatrek Option Shares set out below (the "**Transaction**") has been completed to the satisfaction of the Monitor.

C. The Monitor has been advised by Opco or the Optionholder, as applicable, that:

i. **[NUMBER OF SHARES]** (the "**Exercised Cannatrek Option Shares**") will be transferred to **[NAME]** (the "**Buyer**");

ii. Opco has received payment of the relevant Exercise Price for the Exercised Cannatrek Option Shares payable on the relevant Exercise Completion Date pursuant to the Call Option Agreement;

iii. that the Closing Conditions, Obligations of the Shareholder set out in section 7.1 of the Call Option Agreement and Obligations of the Optionholder set out in section 7.2 of the Call Option Agreement have been satisfied or waived by Opco and the Optionholder, as applicable; and

iv. aside from the delivery of this certificate, the Transaction has been completed to the satisfaction of Opco or the Optionholder.

D. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Agreement.

THE MONITOR CERTIFIES the following:

1. Opco has received payment of the relevant Exercise Price for the Exercised Cannatrek Option Shares payable on the relevant Exercise Completion Date pursuant to the Call Option Agreement

2. The Closing Conditions, Obligations of the Shareholder set out in section 7.1 of the Call Option Agreement and Obligations of the Optionholder set out in section 7.2 of the Call Option Agreement have been satisfied or waived by Opco and the Optionholder, as applicable.

3. The Transaction has been completed to the satisfaction of the Monitor.

4. This Certificate was delivered by the Monitor at _______ [TIME] on ___________ [DATE].

ERNST & YOUNG INC., solely in its capacity as court-appointed monitor of the Applicants, and not in its personal capacity or in any other capacity

Per: ____________________________________

Name:

Title:

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.

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ORDER
(Approval and Vesting Order)
(Sale of Cannatrek Interest)

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