

**ONTARIO
SUPERIOR COURT OF JUSTICE
IN BANKRUPTCY AND INSOLVENCY
IN THE MATTER OF THE PROPOSAL OF
CANNTRUST HOLDINGS INC.**

**SECOND AMENDED AND RESTATED PROPOSAL
November ~~3~~16, 2022**

CannTrust Holdings hereby submits the following second amended and restated proposal under the BIA which amends and restates the amended proposal dated ~~October 18~~ November 3, 2022. Capitalised terms used herein have the meanings ascribed to them in Section 1.1 below.

Recitals

- A. On March 31, 2020, CannTrust Holdings and certain of its subsidiaries commenced proceedings under the CCAA following a series of adverse events, including the suspension of cannabis licenses necessary to conduct their business and the issuance of the CTO, prohibiting any trading in the CannTrust Shares. They commenced the CCAA proceedings seeking to reinstate their licenses, resume operations, settle several class actions and other litigation brought against them, and explore a range of potential strategic transactions.
- B. On January 5, 2022, CannTrust Holdings implemented the CCAA Plan. Pursuant to the CCAA Plan and the related court order approving it, CannTrust Holdings compromised and was released from substantially all of the claims against it as of March 31, 2020.
- C. During the CCAA proceeding, CannTrust Holdings obtained court approval to create a new wholly-owned subsidiary, CannTrust Equity Inc. (now Phoena Holdings Inc.) and to transfer to Phoena Holdings the ownership of its wholly-owned subsidiary, Opco, which was the primary operating entity of the CannTrust group of companies.
- D. On February 25, 2022, CannTrust Holdings obtained court approval for the Strategic Transaction, which transaction was intended to secure new financing to enable Opco to continue to carry on business.
- E. On March 11, 2022, CannTrust Holdings, Phoena Holdings and Opco implemented the Strategic Transaction. As a result, the Strategic Investors invested \$11.2 million to acquire a 90% equity interest in Phoena Holdings (at a subscription price of approximately one cent (\$0.01) per Phoena Share) and provided a \$5.5 million loan (which is subordinated in payment to a pre-existing loan from Cortland Credit Lending Corporation), with CannTrust Holdings retaining Phoena Shares representing a 10% equity interest in Phoena Holdings.

- F. Prior to or in connection with the implementation of the Strategic Transaction, CannTrust Holdings satisfied any remaining liabilities of which it was aware, with the exception of claims that were to remain outstanding by agreement with the applicable creditors, such as the Secured Lenders.
- G. Despite the implementation of the CCAA Plan and the Strategic Transaction, CannTrust Holdings remains subject to the CTO. To obtain a discretionary order from the OSC revoking the CTO, CannTrust Holdings would be required to cure its disclosure defaults under applicable securities laws, which would include restating certain historical financial statements and obtaining an audit opinion thereon from a qualified independent auditor.
- H. CannTrust Holdings had hoped that, after emerging from the CCAA proceeding, it would be able to complete the steps necessary to either (i) hold an annual general meeting and apply to the OSC to have the CTO revoked or (ii) work with Phoena Holdings to obtain a stock exchange listing for the Phoena Shares and then distribute its Phoena Shares to CannTrust Shareholders pursuant to a plan of arrangement effected under the OBCA. Those steps included the need for CannTrust Holdings to either (i) restate some of its historical annual financial statements and prepare other annual and interim financial statements or (ii) prepare annual and interim financial statements in respect of Phoena Holdings.
- I. Because CannTrust Holdings is an “offering corporation” for purposes of the OBCA, it cannot convene an annual general meeting without providing certain annual financial statements to the CannTrust Shareholders, and any annual financial statements to be placed before the CannTrust Shareholders at such meeting would be required to be audited and satisfy the other requirements of applicable securities laws. To facilitate that effort, the court granted an order (as subsequently extended) that gave CannTrust Holdings until November 30, 2022 to hold its annual general meeting.
- J. CannTrust Holdings has determined that it is not feasible in the remaining time before November 30, 2022 to hold an annual general meeting and, in any event, CannTrust Holdings is insolvent and cannot afford to complete the audit and other work necessary to do so or to seek the revocation of the CTO, and Phoena is not currently in a position to become a “reporting issuer” under applicable securities laws by obtaining a stock exchange listing for the Phoena Shares.
- K. In the circumstances, CannTrust Holdings believes it is in the best interests of its stakeholders to make a proposal to its creditors under the BIA to allow it to address its remaining liabilities, dispose of its residual assets or the proceeds thereof, and dissolve in advance of November 30, 2022 or as soon thereafter as is reasonably achievable.
- L. [The original proposal dated October 18, 2022, was restated by the amended and restated proposal dated November 3, 2022, and which is further restated by this second amended and restated proposal dated as of the date first mentioned above.](#)

ARTICLE 1

DEFINITIONS

1.1 Definitions

In this Proposal, capitalized terms have the meanings set out below:

- (a) **“Administrative Fees and Expenses”** means:
- (i) the proper fees and expenses of the Proposal Trustee, including its legal fees and disbursements; and
 - (ii) the legal fees and disbursements of CannTrust Holdings incurred on or incidental to negotiations in connection with these proposal proceedings, the preparation of the Proposal and the transactions and agreements contemplated hereby;
- (b) **“Amendment”** is defined in Section 7.1;
- (c) **“Articles of Reorganization”** means articles of reorganization of CannTrust Holdings to effect, among other things, changes to the terms of the ~~CannTrust Shares~~articles to facilitate the distribution of the Phoena Shares to the applicable CannTrust Shareholders that is contemplated by Section 6.4, the form of which articles will be approved by the Proposal Approval Order;
- (d) **“BIA”** means the *Bankruptcy and Insolvency Act* (Canada);
- (e) **“Business Day”** means a day other than a Saturday, Sunday, statutory or civic holiday in Toronto, Ontario;
- (f) **“Canada Pension Plan”** means the *Canada Pension Plan* (Canada);
- (g) **“CannTrust D&O Trust”** means a trust that was created on December 17, 2019 to hold and disburse certain funds for the benefit of directors and officers of CannTrust Holdings in accordance with the terms of such trust;
- (h) **“CannTrust Holdings”** means CannTrust Holdings Inc., a corporation formed under the OBCA;
- (i) **“CannTrust Shareholders”** means the beneficial owners of CannTrust Shares;
- (j) **“CannTrust Shares”** means the ~~1,414,872,032~~ issued and outstanding common shares in the capital of CannTrust Holdings;
- (k) **“CCAA”** means the *Companies’ Creditors Arrangement Act* (Canada);
- (l) **“CCAA Plan”** means the fourth amended & restated plan of compromise, arrangement and reorganization of CannTrust Holdings, Opco and Elmclyffe Investments Inc. dated July 7, 2021;
- (m) **“Claim”** means “claim” as defined by the BIA;
- (n) **“Consent”** means, in respect of each Secured Creditor, the written consent of the Secured Creditor to (i) the distributions to Unsecured Creditors contemplated by Section 2.2, (ii) the distribution of the Phoena Shares held by CannTrust Holdings to CannTrust Shareholders that is contemplated by Section 6.4, (iii) the transfer of the Residual Assets to Phoena Holdings contemplated by Section 2.2, (iv) the release of its Claims against CannTrust Holdings and any related

security, and (v) the dissolution of CannTrust Holdings contemplated by Section 6.4;

- (o) **"Court"** means the Ontario Superior Court of Justice in bankruptcy and insolvency;
- (p) **"Court Approval Date"** means the date of the Proposal Approval Order;
- (q) **"Creditor"** means any Person having a Claim and may, if the context requires, mean a trustee, receiver, receiver-manager or similar officer acting on behalf or in the name of such Person;
- (r) **"Creditor Meeting"** means the meeting of Unsecured Creditors held to consider and vote on this Proposal;
- (s) **"Crown"** means His Majesty in right of Canada or a province;
- (t) **"CTI"** means CTI Holdings (Osoyoos) Inc.;
- (u) **"CTO"** means the cease trade order issued by the OSC on October 13, 2020, on behalf of all of the Canadian securities administrators except for Quebec's, in respect of the CannTrust Shares;
- (v) **"Directors"** means any Person who, as at the Effective Date, is a current director or officer of CannTrust Holdings or who by applicable law is deemed to be or is treated similarly to a director or officer of CannTrust Holdings or who currently manages or supervises the management of the business and affairs of CannTrust Holdings;
- (w) **"Effective Date"** means one Business Day after the Court Approval Date, or such later date as CannTrust Holdings requests and the Proposal Trustee approves;
- (x) **"Employment Insurance Act"** means the *Employment Insurance Act* (Canada);
- (y) **"Encumbrance"** means, with respect to any property of CannTrust Holdings, any mortgage, lien, pledge, charge, security interest or encumbrance of any kind whatsoever in respect of such property;
- (z) **"Filing Date"** means October 18, 2022;
- (aa) **"Income Tax Act"** means the *Income Tax Act* (Canada);
- (bb) **"OBCA"** means the *Business Corporations Act* (Ontario);
- (cc) **"Opco"** means Phoena Inc., a corporation existing under the OBCA;
- (dd) **"OSC"** means the Ontario Securities Commission;
- (ee) **"Person"** means any individual, partnership, joint venture, trust, corporation, unincorporated organization, government, or any agency or instrumentality thereof, or any other entity howsoever designated or constituted;

- (ff) **“Phoena Claims”** means the Claims of Phoena Holdings and its direct and indirect subsidiaries, including Opco and CTI;
- (gg) **“Phoena Holdings”** means Phoena Holdings Inc., a corporation formed under the OBCA;
- (hh) **“Phoena Shares”** means common shares in the capital of Phoena Holdings;
- (ii) **“Preferred Claim”** means any Unsecured Claim or portion thereof that is required by the BIA to be paid in priority to other Unsecured Claims under a proposal by a debtor, including the Claims of:
 - (i) employees and former employees of CannTrust Holdings, if any, for amounts equal to the amounts that they would be qualified to receive under paragraph 136(1)(d) of the BIA on the Filing Date, as well as wages, salaries, commissions or compensation for services rendered after that date and before the Court Approval Date, together with, in the case of travelling salespersons, disbursements properly incurred by those salespersons in and about CannTrust Holdings’ businesses during the same period;
 - (ii) the trustee or other administrator of a prescribed pension plan in which CannTrust Holdings participates, if any, for the amounts, if any, required to be paid pursuant to section 60(1.5) of the BIA; and
 - (iii) the Crown for all amounts that were outstanding as of the Filing Date and are of a kind that could be subject to a demand under:
 - (A) subsection 224(1.2) of the *Income Tax Act*;
 - (B) any provisions of the *Canada Pension Plan* or of the *Employment Insurance Act* that refers to subsection 224(1.2) of the *Income Tax Act* and provides for collection of a contribution, as defined in the *Canada Pension Plan*, or an employee’s premium, or employer’s premium, as defined in the *Employment Insurance Act*, and of any related interest, penalties or other amounts; or
 - (C) any provision of provincial legislation that has a similar purpose to subsection 224(1.2) of the *Income Tax Act*, or that refers to that subsection, to the extent that it provides for the collection of a sum, and of any related interest, penalties or other amounts, where the sum:
 - (I) has been withheld or deducted by a person from a payment to another person and is in respect of a tax similar in nature to the income tax imposed on individuals under the *Income Tax Act*; or
 - (II) is of the same nature as a contribution under the *Canada Pension Plan* if the province is a “province providing a comprehensive pension plan” as defined in subsection

3(1) of the *Canada Pension Plan* and the provincial legislation establishes a “provincial pension plan” as defined in that subsection;

- (jj) **“Preferred Creditor”** means a Creditor with a Preferred Claim;
- (kk) **“Proof of Claim”** shall mean the proof of claim required by the BIA to be mailed to each known Creditor prior to the Creditors’ Meeting;
- (ll) **“Proposal”** means this second amended and restated proposal dated November ~~3, 2022 which amends and restates the proposal dated October 18~~16, 2022, as may be further amended or supplemented from time to time in accordance with its terms;
- (mm) **“Proposal Approval Order”** means the Order of the Court approving this Proposal and the Articles of Reorganization, in form and content satisfactory to CannTrust Holdings and the Proposal Trustee;
- (nn) **“Proposal Funds”** means the aggregate amount, as of the Effective Date, required:
 - (i) to pay the Administrative Fees and Expenses (as estimated by the Proposal Trustee pursuant to Section 5.2);
 - (ii) to pay the Superintendent’s Levy; and
 - (iii) to make the payments to Creditors pursuant to Section 2.2,to be paid by CannTrust Holdings to the Proposal Trustee on or before the Effective Date;
- (oo) **“Proposal Trustee”** means Ernst & Young Inc.;
- (pp) **“Proposal Trustee’s Website”** means <http://www.ey.com/ca/canntrust>;
- (qq) **“Proven Claim”** means the amount of the Claim of any Creditor finally determined in accordance with the provisions of the BIA;
- (rr) **“Qualifying Jurisdiction”** means any Province or Territory of Canada or any other jurisdiction in respect of which an opinion has been received pursuant to Section 3.1(e) or 3.1(f) herein;
- (ss) **“Residual Assets”** means all of the property and other assets of CannTrust Holdings as of the Effective Date (or the proceeds thereof), other than the Phoenia Shares held by CannTrust Holdings, including:
 - (i) a potential HST refund of up to about \$1.4 million;
 - (ii) the potential residual value from CannTrust D&O Trust, but which has incurred trustee expenses and is subject to claims by beneficiaries that, if determined to be “eligible claims,” will exhaust the trust funds;

- (iii) the right to receive a payment from the securities claimants with whom CannTrust Holdings settled as part of the CCAA Plan, if the claimants' total recoveries exceed \$250 million;
 - (iv) a \$3 million unsecured promissory note owing by Opco to CannTrust Holdings;
 - (v) the indebtedness of \$40,000 owing by Opco to CannTrust Holdings;
 - (vi) the indebtedness of about \$4,718,616 owing by Elmcliffe Investments Inc. to CannTrust Holdings;
 - (vii) the indebtedness of about \$50,002 owing by Elmcliffe Investments [No. 2] Inc. to CannTrust Holdings; and
 - (viii) the surplus, if any, from the Proposal Funds as contemplated by Section 5.2.
- (tt) **"Secured Claim"** means any Claim to the extent that it is secured by a valid Encumbrance that is duly and properly registered or otherwise perfected in accordance with applicable law in the appropriate jurisdiction as of the Filing Date or thereafter to the extent permitted by the BIA;
- (uu) **"Secured Creditor"** means a Creditor with a Secured Claim;
- (vv) **"Secured Lenders"** means:
- (i) Cortland Credit Lending Corporation, as agent for and on behalf of the lenders pursuant to the credit agreement dated as of March 11, 2022 between, among others, Cortland Credit Lending Corporation, as agent for the lenders party thereto, in respect of which CannTrust Holdings is a guarantor, as such credit agreement is amended, restated, supplemented or otherwise modified from time to time; and
 - (ii) the Subordinate Lenders and Marshall Fields International B.V., as agent for and on behalf of the Subordinate Lenders, pursuant to the credit agreement dated as of March 11, 2022 in respect of which CannTrust Holdings is a guarantor, as such credit agreement is amended, restated, supplemented or otherwise modified from time to time;
- (ww) **"Shareholder Record Date"** means the Filing Date;
- (xx) **"Strategic Investors"** means collectively, Marshall Fields International B.V. and Daniel Koehn, Andrew Peppin Medicine Professional Corporation, Jeffrey Zietlow and Greg Guyatt;
- (yy) **"Strategic Transaction"** means, collectively, the transactions contemplated by the subscription agreements between Phoena Holdings and each of the Strategic Investors dated March 11, 2022 and the related transactions approved by the Court order dated February 25, 2022 in the CCAA proceedings;

- (zz) **“Subordinate Lenders”** means collectively, Marshall Fields International B.V., Andrew Peppin Medicine Professional Corporation, Dan Koehn and Cannacquisition Limited Partnership;
- (aaa) **“Superintendent’s Levy”** means the levy payable in respect of amounts distributed by the Proposal Trustee under this Proposal in accordance with section 147 of the BIA;
- (bbb) **“Transfer Agent”** means TSX Trust Company;
- (ccc) **“Transfer Documents”** means collectively, all assignment and other documentation required to be executed by CannTrust Holdings and Phoena Holdings to effect the transfer of the Residual Assets to Phoena Holdings, in form and content satisfactory to CannTrust Holdings and Phoena Holdings;
- (ddd) **“Unsecured Claim”** means any Claim other than a Secured Claim; and
- (eee) **“Unsecured Creditor”** means a Creditor with an Unsecured Claim.

1.2 Interpretation Matters

For the purposes of this Proposal:

- (a) any reference in this Proposal to a contract, instrument, release, indenture or other agreement or document being in a particular form or on particular terms and conditions means that such document will be substantially in such form or substantially on such terms and conditions;
- (b) any reference in this Proposal to an order, an existing agreement, or an agreement to be made or registration means such order, or agreement or registration as it may have been or may be amended, modified, joined by additional parties or supplemented (in accordance with its terms or this Proposal, if applicable);
- (c) unless otherwise specified, all references to currency are in Canadian dollars;
- (d) the division of this Proposal into “Articles” and “Sections” and the insertion of a table of contents are for convenience of reference only and do not affect the construction or interpretation of this Proposal, nor are the descriptive headings of “Articles” and “Sections” intended as complete or accurate descriptions of the content thereof;
- (e) the use of words in the singular or plural, or with a particular gender, including a definition, will not limit the scope or exclude the application of any provision of this Proposal to such Person (or Persons) or circumstances as the context otherwise permits;
- (f) the words “includes” and “including” and similar terms of inclusion will not, unless expressly modified by the words “only” or “solely”, be construed as terms of limitation, but rather will mean “includes but is not limited to” and “including but

not limited to”, so that references to included matters will be regarded as illustrative without being either characterizing or exhaustive;

- (g) unless otherwise specified, all references to time herein and in any document issued pursuant hereto mean local time in Toronto, Ontario and any reference to an event occurring on a Business Day means prior to 5:00 p.m. (Toronto time) on such Business Day;
- (h) unless otherwise specified, time periods within or following which any payment is to be made or act is to be done will be calculated by excluding the day on which the period commences and including the day on which the period ends and by extending the period to the next succeeding Business Day if the last day of the period is not a Business Day;
- (i) unless otherwise provided, any reference to a statute or other enactment of parliament or a legislature includes all regulations made thereunder, all amendments to or re enactments of such statute or regulations in force from time to time, and, if applicable, any statute or regulation that supplements or supersedes such statute or regulation; and
- (j) references to a specified “Article” or “Section” will, unless something in the subject matter or context is inconsistent therewith, be construed as references to that specified article or section of this Proposal, whereas the terms “this Proposal”, “hereof”, “herein”, “hereto”, “hereunder” and similar expressions will be deemed to refer generally to this Proposal and not to any particular article, section or other portion of this Proposal and includes any documents supplemental hereto.

1.3 Successor and Assigns

The Proposal will be binding on and will enure to the benefit of the heirs, administrators, executors, legal personal representatives, successors and assigns of the Creditors and any other Person named or referred to in the Proposal.

1.4 Statutory References

Any reference in this Proposal to a statute includes all regulations made thereunder and all amendments to such statutes or regulations in force from time to time.

1.5 Governing Law and Jurisdiction

This Proposal will be governed by and construed in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein. All questions as to the interpretation of or application of this Proposal and all proceedings taken in connection with the Proposal and its provisions will be subject to the exclusive jurisdiction of the Court.

1.6 Corporate Approvals

The execution, delivery, implementation and consummation of all matters contemplated under the Proposal involving corporate action of CannTrust Holdings, including pursuant to any provision of the OBCA, will be deemed to be authorized and approved under this Proposal and

by the Court as part of the Proposal Approval Order in all respects and for all purposes without any requirement of further action by any Person.

ARTICLE 2

CLASSIFICATION AND TREATMENT OF CLAIMS

2.1 Class of Unsecured Creditors

This Proposal is made to the Unsecured Creditors as a single class.

2.2 Treatment of Unsecured Claims

As of the Effective Date, Creditors holding the following Unsecured Claims will be entitled to receive the following treatment in respect of, and in full satisfaction of, their Unsecured Claims:

- (a) Preferred Claims (if any) that are Proven Claims will be paid in full from the Proposal Funds by the Proposal Trustee on behalf of CannTrust Holdings, in priority to all other Unsecured Claims in accordance with the scheme of distribution set forth in the BIA;
- (b) Unsecured Claims (if any) that are Proven Claims, other than the Phoena Claims, will be paid from the Proposal Funds by the Proposal Trustee on behalf of CannTrust Holdings in full, in priority to the Phoena Claims; and
- (c) Phoena Claims that are Proven Claims will be satisfied in full by the transfer of the Residual Assets to Phoena Holdings or as it may direct, pursuant to the Transfer Documents and such other arrangements as are satisfactory to CannTrust Holdings and Phoena Holdings.

2.3 Distributions

Distributions pursuant to Section 2.2 will be effected as soon as practical following the Effective Date.

To be eligible to receive a distribution under Section 2.2, a Creditor must have filed a Proof of Claim such that it is actually received by the Proposal Trustee in accordance with the BIA prior to the Effective Date and its Claim must be a Proven Claim. Each and every Creditor that fails to file a Proof of Claim with the Proposal Trustee before 5:00 p.m. on the day prior to the Effective Date will not be eligible to participate in the distributions from the Proposal Funds.

2.4 Secured Lenders

This Proposal does not affect the Secured Claims of the Secured Lenders. The Claims of the Secured Lenders will be addressed pursuant to the terms of the Consents or as otherwise agreed between CannTrust Holdings and the applicable Secured Lenders.

2.5 Different Capacities

Persons may be affected by this Proposal in more than one capacity. Unless expressly provided herein to the contrary, a Person is entitled to participate hereunder in each such capacity. Any action taken by a Person in one capacity will not affect such Person in any other capacity, unless expressly agreed by the Person in writing or unless its Claims overlap or are otherwise duplicative.

2.6 Set Off

The law of set-off shall be applied to all Claims.

ARTICLE 3 **CONDITIONS PRECEDENT**

3.1 Conditions Precedent

The performance of this Proposal by CannTrust Holdings is conditional upon the fulfillment or satisfaction of the following conditions:

- (a) CannTrust Holdings has received the Consent of each of the Secured Lenders and each consent remains in effect in accordance with its terms;
- (b) this Proposal has been accepted by the requisite majorities of the Unsecured Creditors;
- (c) the Proposal Approval Order has been issued and has not been appealed, set aside, varied or stayed;
- (d) the consensual termination of the unanimous shareholders agreement dated March 11, 2022 made between the Strategic Investors, CannTrust Holdings and Phoena Holdings, providing for the governance of Phoena Holdings;
- (e) the receipt by CannTrust Holdings, on or before the Effective Date, of an opinion from qualified and independent United States securities counsel (which includes Mayer Brown LLP), in form and substance satisfactory to the directors of CannTrust Holdings, confirming that the proposed distribution of Phoena Shares held by CannTrust Holdings to CannTrust Shareholders who are U.S. Persons will be exempt from the registration requirements under the United States *Securities and Exchange Act of 1933*; and
- (f) the receipt by CannTrust Holdings, on or before the Effective Date, of an opinion from qualified and independent securities counsel, in form and substance satisfactory to the directors of CannTrust Holdings, confirming that the proposed distribution of Phoena Shares held by CannTrust Holdings to any CannTrust Shareholder who is not a Canadian or a U.S. Person will be exempt from any requirement to prepare, file or deliver any registration statement, prospectus, financial statement, offering memorandum or similar disclosure document in connection with such distribution.

ARTICLE 4
RELEASE OF CLAIMS AND SECTIONS 95-101 OF THE BIA

- 4.1 Upon implementation of this Proposal on the Effective Date and subject to Section 4.2, each Director will be released from any and all demands, claims, debts, judgments, liens and other recoveries on account of any potential, contingent or actual statutory liability of whatsoever nature that any Person may be entitled to assert against such Director as at the Filing Date, including any and all claims howsoever related to any obligation of CannTrust Holdings where the Director(s) are or may be liable at law in their capacity as Director(s) for the payment of such obligation, whether known or unknown, existing or hereafter arising, based in whole or in part on any act of omission, transaction, dealing or other occurrence existing or taking place prior to the Filing Date or, with respect to any agreements of CannTrust Holdings that have been disclaimed, repudiated or terminated after the Filing Date in whole or in part which exist prior to or at the time of such disclaimer, repudiation or termination.
- 4.2 Notwithstanding Section 4.1, nothing in this Proposal will release or discharge any of the Directors from the exceptions set out in section 50(14) of the BIA.
- 4.3 Sections 95 to 101 of the BIA and any provincial statute relating to preferences, settlements, fraudulent conveyances, transfers at undervalue or similar impeachable transactions do not apply to any transactions or other dealings by CannTrust Holdings during the period prior to the Filing Date. The release of the Directors contemplated in Section 4.1 includes a release of all claims, actions and remedies available pursuant to sections 95 to 101 of the BIA and any provincial statute relating to preferences, settlements, fraudulent conveyances, transfers at undervalue or similar impeachable transactions.

ARTICLE 5
PROPOSAL TRUSTEE

- 5.1 Ernst & Young Inc. will be the Proposal Trustee under this Proposal.
- 5.2 CannTrust Holdings will pay the Administrative Fees and Expenses by including in the Proposal Funds the amount estimated by the Proposal Trustee prior to the Effective Date to be sufficient to pay such fees and expenses. The Proposal Trustee will use such funds to pay such fees and expenses on behalf of CannTrust Holdings as contemplated by Section 5.3 and if there is any surplus from the Proposal Funds after payment of the Administration Fees and Expenses, Creditor distributions, and the levy in full, such surplus will constitute Residual Assets and be paid by the Proposal Trustee to Phoena Holdings or as it may direct.
- 5.3 On or before the Effective Date, CannTrust Holdings will pay the Proposal Funds to the Proposal Trustee. The Proposal Trustee will make payments from the Proposal Funds, on behalf of CannTrust Holdings, of all payments and distributions of monies required to be made in accordance with the terms of this Proposal.
- 5.4 Any payments made by the Proposal Trustee to the Creditors hereunder shall be made by the Proposal Trustee net of any levies payable or due under the BIA.

- 5.5 The Proposal Trustee is acting in its capacity as Proposal Trustee and not in its personal capacity and no officer, director, employee or agent of the Proposal Trustee will incur any obligations or liabilities in connection with this Proposal or in respect of the business activities or liabilities of CannTrust Holdings.
- 5.6 Without limitation to Section 5.5, the Proposal Trustee will have no liability whatsoever for any Claims or other obligations of CannTrust Holdings arising before, on or after the Filing Date.

ARTICLE 6

FULL PERFORMANCE OF PROPOSAL

- 6.1 All obligations of CannTrust Holdings under this Proposal will commence as of the Effective Date. This Proposal will be fully performed by CannTrust Holdings after it has completed the following matters:
- (a) paid the Proposal Funds to the Proposal Trustee;
 - (b) filed the Articles of Reorganization and received the certificate of amendment issued under the OBCA in respect thereof; and
 - (c) executed the Transfer Documents and delivered them to Phoena Holdings.
- 6.2 When the Proposal has been fully performed by CannTrust Holdings, the Proposal Trustee will issue to CannTrust Holdings and the Official Receiver the Certificate of Full Performance as provided for in Section 65.3 of the BIA.
- 6.3 During the currency of this Proposal and until the Certificate of Full Performance referred to in Section 6.2 is issued by the Proposal Trustee, CannTrust Holdings will not amalgamate or otherwise change or reorganize its corporate structure without the approval of the Proposal Trustee (for greater certainty, other than by way of the Articles of Reorganization), unless the new or successor entity agrees to be bound by all terms and conditions of this Proposal.
- 6.4 Subject to approval by the Court in the Court Approval Order (including approval of the Articles of Reorganization), CannTrust Holdings intends to:
- (a) as soon as practicable following the issuance of the Certificate of Full Performance, deliver the Phoena Shares held by CannTrust Holdings to the Transfer Agent, together with a direction to distribute such Phoena Shares to CannTrust Shareholders as of the Shareholder Record Date on the following basis and in the following sequence, and subject to the exclusions set out in the Articles of Reorganization:
 - (i) subject to the other clauses of this Section 6.4(a), on or before the first anniversary of the Effective Date, the Transfer Agent will distribute and deliver one Phoena Share for each CannTrust Share held or beneficially owned by each CannTrust Shareholder on the Shareholder Record Date that, relying solely upon the records of the Transfer Agent, is the registered holder or beneficial owner of at least 10,000 CannTrust Shares;

- (ii) in the event that, prior to the Effective Date, Phoena Holdings consolidates or splits the outstanding common shares of Phoena, the 1:1 distribution ratio set forth in Section 6.4(a)(i) shall be adjusted proportionately, subject to the condition set out therein;
 - (iii) for any CannTrust Shareholder that, based upon and relying solely upon the records of the Transfer Agent, is not the registered holder or beneficial owner of at least 10,000 CannTrust Shares, no Phoena Shares will be distributed or delivered to such CannTrust Shareholder;
 - (iv) for any CannTrust Shareholder that, based upon and relying solely upon the records of the Transfer Agent or made available and certified to the satisfaction of the Transfer Agent (in the Transfer Agent's sole discretion), is a resident of a jurisdiction outside of any of the Qualifying Jurisdictions, no Phoena Shares will be distributed or delivered to such CannTrust Shareholder;
 - (v) if and to the extent that the Transfer Agent has not distributed all or any portion of the Phoena Shares held by CannTrust Holdings on or before the first anniversary of the Effective Date, whether as a consequence of the limitation set forth in Section 6.4(a)(ii) or 6.4(a)(iii) or for any other reason, then the Transfer Agent shall surrender all such undistributed Phoena Shares to Phoena Holdings for cancellation, without payment of any consideration to any CannTrust Shareholder in respect of such undistributed Phoena Shares, and all CannTrust Shareholders will be deemed to have finally and forever relinquished any action, cause of action, suit, claim or demand whatsoever in respect of this Proposal; and
- (b) as soon as practical following the transfer of the Residual Assets contemplated by Section 2.2(c) or at such other time as may be agreed between CannTrust Holdings and Phoena Holdings, dissolve [\(in accordance with the Articles of Reorganization\)](#).

ARTICLE 7

AMENDMENT OF PROPOSAL

- 7.1 At any time and from time to time prior to or at the Creditor Meeting, CannTrust Holdings may vary, amend, restate, modify or supplement this Proposal (in each case, an "**Amendment**") with the consent of the Proposal Trustee. If any such Amendment is made:
- (a) CannTrust Holdings or the Proposal Trustee will communicate the details of the Amendment to Creditors and other Persons present at the Creditor Meeting prior to any vote being taken at the Creditor Meeting;
 - (b) CannTrust Holdings will provide notice to the service list of the Amendment and file a copy thereof with the Court without delay and in any event prior to the hearing in respect of the Proposal Approval Order; and

- (c) the Proposal Trustee will post an electronic copy of the Amendment on the Proposal Trustee's Website without delay and in any event prior to the hearing in respect of the Proposal Approval Order.

7.2 At any time and from time to time after the Creditor Meeting, CannTrust Holdings may make an Amendment with the consent of the Proposal Trustee and approval of the Court. If any such Amendment is made:

- (a) CannTrust Holdings will provide notice to the service list of the Amendment and file a copy thereof with the Court without delay; and
- (b) the Proposal Trustee will post an electronic copy of the Amendment on the Proposal Trustee's Website without delay.

7.3 Without limitation to Section 7.2, at any time and from time to time after the Creditor Meeting, CannTrust Holdings may vary, amend, restate, modify or supplement this Proposal with the consent of the Proposal Trustee and without Court approval, provided that such Amendment concerns a matter that is of an administrative nature and is required to better give effect to the implementation of this Proposal and is not adverse to the financial interests of the Creditors. If any such Amendment is made:

- (a) CannTrust Holdings will provide notice to the service list of the Amendment and file a copy thereof with the Court without delay; and
- (b) the Proposal Trustee will post an electronic copy of the Amendment on the Proposal Trustee's Website without delay.

| Dated this 3rd 16th day of November, 2022.

CANNTRUST HOLDINGS INC.

Document comparison by Workshare Compare on Wednesday, November 16, 2022 11:12:04 PM

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