

**ESTATE NO: 11-2960200
COURT FILE: B-230269
VANCOUVER REGISTRY**

IN THE SUPREME COURT OF BRITISH COLUMBIA

**IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF
TANTALUS LABS LTD.**

SECOND REPORT OF THE PROPOSAL TRUSTEE

ERNST & YOUNG INC.

July 26, 2023

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INTRODUCTION

1. On June 28, 2023 (the “**Filing Date**”), Tantalus Labs Ltd. (the “**Company**” or “**Tantalus**”) filed a Notice of Intention to make a Proposal (“**NOI**”) pursuant to section 50.4(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B.-3, as amended (the “**BIA**”).
2. Ernst & Young Inc. consented to act as the trustee under the NOI and as proposal trustee in this matter (collectively, the “**Proposal Trustee**”).
3. Pursuant to Section 69(1) of the BIA, a stay of proceedings has been in effect with respect to the Company since the filing of the NOI (the “**Stay**”).
4. In accordance with paragraph 62(1) of the BIA, the Company has until July 28, 2023 to file a proposal (the “**Stay Period**”), unless the Company applies to this Honourable Court for an extension of that deadline.

Previous Orders of this Honourable Court

5. On July 10, 2023, this Honourable Court granted the following:
 - a) an Order (the “**Status Quo Order**”) approving, *inter alia*:
 - I. The status quo in respect of the cannabis Excise License shall be maintained and renewed to July 27, 2023;
 - II. The status quo shall include the following:
 1. CRA shall be stayed from taking any actions against Tantalus with respect to the cannabis stamps and cannabis inventory;

2. Tantalus shall be permitted to continue selling its cannabis inventory in the ordinary course under the Excise License, which Tantalus held at the time of commencement of these NOI proceedings; and
3. The Proposal Trustee shall approve every sale of the cannabis inventory in the ordinary course of business.

b) an Order (the “**Bulk Cannabis Inventory Sale Order**”)

- I. approving the sale transaction for the sale of the Bulk Cannabis Inventory (the “**Bulk Cannabis Inventory**”) pursuant to the Sale Agreement between the Company and Atlantic Cultivation Ltd., (the “**Purchaser**”); and
- II. that upon delivery by the Proposal Trustee to the Purchaser of a certificate (the “**Proposal Trustee’s Certificate**”) confirming the payment for the Bulk Cannabis Inventory sale was received and the transaction has been completed to the satisfaction of the Proposal Trustee, all of the vendor’s right, title and interest in and to the Bulk Cannabis Inventory vest with the Purchaser, in fee simple, free and clear of any claims.

c) the sealing of the Fourth Sutton Affidavit, which contains confidential information relating to the Bulk Cannabis Inventory Sale Transaction.

6. On July 13, 2023, this Honourable Court granted an Order approving, *inter alia*:

- a) the following priority charges over Tantalus' current and future assets, undertakings and properties of every nature and kind, including all proceeds thereof (the "**Property**"):
- I. an Administration Charge in the amount of \$200,000 in favour of counsel for Tantalus, MLT Aikins LLP, Ernst & Young Inc., in its capacity as Proposal Trustee, and counsel for the Proposal Trustee, Nathanson Schachter & Thompson LLP;
 - II. a Directors' Charge in the amount of \$175,000 in favour of current directors and officers of Tantalus;
 - III. a key employee retention plan ("**KERP**") Charge (as defined below) in the amount of \$350,000 in favour of certain employees of Tantalus deemed critical to completion of a restructuring under these NOI proceedings;
- b) approving the KERP and authorizing and directing Tantalus to make the payments under the KERP;
- c) approving the Success Fee and authorizing and directing Tantalus to make payment of the Success Fee, if applicable;
- d) declaring that pursuant to section 5(5) of the *Wage Earner Protection Program Act*, SC 2005, c 47, s 1 ("**WEPPA**"), Tantalus and its former employees meet the criteria established by section 3.2 of the *Wage Earner Protection Program Regulations* SOR 12008-222; and

- e) sealing the Second Sutton Affidavit, which contains confidential exhibits relating to the KERP, the KERP Charge, and valuations for the assets and inventory of Tantalus.

Current Relief Sought

- 7. On July 25, 2023, the Company delivered unfiled motion materials (the “**Company’s Application**”) for a hearing scheduled in this Honourable Court on Thursday, July 27, 2023, including the fifth affidavit of Dan Sutton (the “**Fifth Sutton Affidavit**”) and the sixth affidavit of Dan Sutton (the “**Sixth Sutton Affidavit**”), requesting that this Honourable Court make an Order granting, *inter alia*, the following relief:
 - a) extending the Stay Period for an additional 30 days to August 27, 2023, in order for Tantalus to file a viable proposal to its creditors;
 - b) approving the sales transaction for the remaining cannabis inventory held by Tantalus (the “**Remaining Cannabis Inventory Transaction**”) contemplated by a purchase order, dated July 19, 2023, closing July 27, 2023 (the “**Purchase Order**”) for the sale of the remaining cannabis and cannabis-related inventory of Tantalus (the “**Remaining Cannabis Inventory**”) to Atlantic Cultivation Ltd. (the “**Purchaser**”);
 - c) vesting in the Purchaser all of Tantalus’ right, title, and interest in and to the Remaining Cannabis Inventory free and clear of any and all liens, charges and security interests and other encumbrances;

- d) approving the sales transactions (the “**Employee Transactions**”) for the sale of the Employee Equipment (as defined below) to the employees of Tantalus seeking to purchase the Employee Equipment (the “**Purchasing Employees**”);
- e) vesting in the Purchasing Employees all of Tantalus’ right, title and interest in and to the Tantalus Employee Equipment free and clear of any and all liens, charges and security interests and other encumbrances;
- f) approving the sale transaction (the “**Paxiom Transaction**”) contemplated by the purchase order dated July 17, 2023 (the “**Paxiom Agreement**”) for sale of the Paxiom Machine (as defined below) to Revelation Machinery, LC (“**Revelation**”);
- g) vesting in Revelation all of Tantalus’ right, title and interest in and to the Paxiom Machine free and clear of any and all liens, charges and security interests and other encumbrances;
- h) authorizing Tantalus to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Paxiom Transaction, the Employee Transactions, and the Remaining Cannabis Inventory Transaction;
- i) amending the terms of the Success Fee granted by this Honourable Court on July 13, 2023; and
- j) sealing the Sixth Sutton Affidavit, which contains Confidential Exhibit “A” and Confidential Exhibit “B”.

PROPOSAL TRUSTEE'S REPORTS AND PURPOSE

8. The Proposal Trustee has previously filed its first report and a supplement to the first report in these NOI proceedings, (the “**First Report**” and the “**Supplement to the First Report**”, together the “**Proposal Trustee’s Reports**”) all of which are posted on the Proposal Trustee’s website at www.ey.com/ca/tantalus.
9. The purpose of this second report of the Proposal Trustee (the “**Second Report**”) is to advise this Honourable Court with respect to, *inter alia*, the following:
 - a) an update on the Bulk Inventory Sales Transaction and completion of the Proposal Trustee’s Certificate;
 - b) an update on the sales and investment process related to the Property of the Company (the “**SISP**”), as detailed in the First Report, the Supplement to the First Report, and the Fifth Sutton Affidavit;
 - c) the proposed Remaining Cannabis Inventory Sale Transaction relating to the Remaining Cannabis Inventory, and the future sale of the Brand and Other Assets (defined below) to the Purchaser;
 - d) the proposed sale of the Paxiom Machine (as defined below);
 - e) the proposed sale of the Employee Equipment (defined below) to the Purchasing Employees of Tantalus;
 - f) engagement of BC Farm & Ranch Realty Corp. (the “**Broker**”) to assist in the sale of the Facility and related amendment to the Success Fee;
 - g) budget to actual variance for the period June 28, 2023 to July 19, 2023 (the “**Variance Analysis**”);

- h) the Company's projected cash flows (the "**Second Report Cash Flow Forecast**") for the 13-week the period from July 20, 2023 to October 18, 2023 (the "**Cash Flow Period**");
- i) the request for an extension to file a proposal and stay extension for 30 days to August 27, 2023 (the "**Proposed Stay Period**"); and
- j) the Proposal Trustee's Recommendations.

TERMS OF REFERENCE

- 10. The Proposal Trustee refers readers to the terms of reference noted in the First Report. In addition, all capitalized terms not otherwise defined herein have the meanings defined in the Proposal Trustee's Reports.
- 11. All references to dollars are in Canadian currency unless otherwise noted.

UPDATE ON THE BULK INVENTORY SALE TRANSACTION

- 12. As set out above, On July 10, 2023, this Honourable Court approved the sale of the Bulk Cannabis Inventory. The Bulk Cannabis Inventory was removed from Tantalus' premises the same day.
- 13. On July 25, 2023, the Proposal Trustee received a statement of account from Tantalus showing the balance payable, as detailed in the sealed Fourth Sutton Affidavit, was received by Tantalus.
- 14. On July 25, 2023, the Proposal Trustee provided a copy of a Proposal Trustee's Certificate (as defined in the Bulk Cannabis Inventory Sale Order) to Tantalus and Sungrown certifying completion of the Bulk Cannabis Inventory Sale Transaction

and receipt by the Company of the proceeds. A copy of the Proposal Trustee’s Certificate is attached hereto at **Appendix “A”**.

15. On July 26, 2023, the Trustee filed a copy of the Proposal Trustee’s Certificate with this Honourable Court.

UPDATE ON THE SALES AND INVESTMENT PROCESS FOR COMPANY

16. As discussed in the First Report, the agreement between Tantalus and Sungrown required the Company to market and sell the assets or shares of Tantalus prior to July 26, 2023, which required the Company to commence marketing the Property and Business of the Company immediately after filing the NOI.

17. The SISP was outlined in the First Report and the Supplement to the First Report and is detailed in the Fifth Sutton Affidavit. The Fifth Sutton Affidavit describes the concurrent sale of cannabis inventory remaining at the premises prior to the expiry of the Excise License on July 27, 2023, and the broader sales process for all other assets, consisting primarily of the brand, the stock keeping units (“**SKUs**”), the Facility, and equipment.

18. The following table summarizes actions taken to date within the SISP:

| | |
|------------------|---|
| June 28 | <ul style="list-style-type: none"> Filing of the NOI. |
| June 30 | <ul style="list-style-type: none"> Tantalus commences the SISP and circulates the Teaser to over 80 prospective LPs and financial buyers. |
| July 6 | <ul style="list-style-type: none"> CRA’s final confirmation that it will not renew the Excise License. |
| June 30 – July 6 | <ul style="list-style-type: none"> Tantalus communicates with all prospective buyers regarding all the cannabis Inventory held by the Company at this date. |
| July 10 | <ul style="list-style-type: none"> Status Quo Order and Bulk Cannabis Inventory Sale Order is approved by this Honourable Court and the Bulk Cannabis Inventory is shipped to the Purchaser. |

| | |
|-------------------------|---|
| June 30 to July 14 | <ul style="list-style-type: none"> • Cannabis inventory remaining on site continues to be sold in the ordinary course. • Tantalus communicated with several known potential bidders (“Potential Bidders”) and received seven (7) bids (“Asset Bids”) by the bid deadline of July 14, 2023 (the “Bid Deadline”). • Two additional bidders (“Late Bidders”) request extension of time to submit and Asset Bid due to the short timeline. Tantalus agrees to receive bids but informs the Late Bidders that their bids may not be considered as they are not compliant with the SISP. |
| July 14 – July 20 | <ul style="list-style-type: none"> • Tantalus and the Proposal Trustee review all Asset Bids and bids from Late Bidders (attached as Confidential Exhibit “A” to the sealed Sixth Sutton Affidavit) and all bids received, which are summarized in the spreadsheet attached as Confidential Exhibit “B” to the Sixth Sutton Affidavit. |
| July 24 | <ul style="list-style-type: none"> • Sale proceeds from the Bulk Cannabis Inventory Sale is received by the Company. |
| July 26 | <ul style="list-style-type: none"> • The Proposal Trustee’s Certificate relating to the Bulk Cannabis Inventory Sale Transaction is issued and filed. |
| July 20 – 25 | <ul style="list-style-type: none"> • Tantalus, in consultation with the Proposal Trustee and Sungrown, select the best Asset Bid for the sale of the Remaining Cannabis Inventory and the Brand and Other Assets (as defined below) to the Purchaser. |
| July 27, 2023 – ongoing | <ul style="list-style-type: none"> • Tantalus continues to complete the sale of the Remaining Cannabis Inventory, the sale of the Paxiom Machine, and the sale of the Employee Equipment. • Tantalus continues to work with the Purchaser to close a sale of the Brand and Other Assets. • Tantalus engages the Broker to sell the Facility and related assets and an auctioneer to sell all remaining assets. |

PROPOSED SALE OF THE REMAINING CANNABIS INVENTORY

The Remaining Cannabis Inventory

19. The Remaining Cannabis Inventory as at July 25, 2023 consists of 70,853 units of packaged and unstamped inventory, including dried flower, pre-rolls and infused pre-rolls, and 33,919 units of seeds.

20. All inventory must be sold and removed from Tantalus' premises prior to the expiry of the Excise License, which is set to expire, pursuant to the Status Quo Order, on July 27, 2023.
21. The Trustee understands from the Company, and it is confirmed in the Fifth Sutton Affidavit, that, in the ordinary course, the Remaining Cannabis Inventory would have a value of approximately \$500,000 if it could be stamped and sold over a period of time to provincial boards. The Company has already fulfilled all current purchase orders for the month from the provincial boards so selling to the provincial boards in the limited time left before expiry of the Excise License is not an option.
22. The only bid for purchase of the Remaining Cannabis Inventory is from the Purchaser pursuant to the Purchase Order for proceeds of \$10,000 plus applicable taxes, which is considerably less than what it could have been sold for had the Company been able to sell it in the ordinary course to provincial boards. A copy of the Purchase Order is attached at Exhibit "A" of the Fifth Sutton Affidavit. The Purchaser is able to remove the inventory from the premises and close the transaction on July 27, 2023.
23. As detailed in the Fifth Sutton Affidavit, there is a potential sale transaction for proceeds of \$1,000,000 between Tantalus and the Purchaser for the goodwill, trademarks, brand assets, marketing materials, intellectual property of Tantalus, SKUs for identifying the associated products and services of Tantalus, and the Kung Tech Pre-roll Machine (collectively, the "**Brand and Other Assets**"), that it understands is contingent on the Purchaser and Tantalus closing on the

Remaining Cannabis Inventory Transaction for the purchase priced detailed in the Purchase Order.

24. The Company does not have another offer in hand to purchase the Remaining Cannabis Inventory and remove it from the premises prior to July 27, 2023.

Proposal Trustee's Comments on the Remaining Cannabis Inventory Transaction

25. In accordance with section 65.13(1) of the BIA, this Honourable Court will take into consideration the following factors when determining whether to approve the Remaining Cannabis Inventory Sale Transaction:

- a) whether the process leading to the proposed sale or disposition was reasonable in the circumstances;
- b) whether the trustee approved the process leading to the proposed sale or disposition;
- c) whether the trustee filed with the court a report stating that in their opinion the sale or disposition would be more beneficial to the creditors than a sale or disposition under a bankruptcy;
- d) the extent to which the creditors were consulted;
- e) the effects of the proposed sale or disposition on the creditors and other interested parties;
- f) whether the consideration to be received for the assets is reasonable and fair, considering their market value; and

g) if the proposed sale or disposition is to a person who is related to the insolvent person.

26. The Fifth Sutton Affidavit and the Sixth Sutton Affidavit are meant to support Tantalus' application with respect to the Remaining Cannabis Inventory Transaction and in particular to provide support in respect of the factors outlined in section 65.13(1) of the BIA. The Proposal Trustee's comments on each of the factors is detailed below:

Whether the process leading to the proposed sale or disposition was reasonable in the circumstances

27. As noted in the Supplement to the First Report, this was not a court-ordered SISF, and certain aspects of the SISF are, in the Proposal Trustee's view, atypical. In the Proposal Trustee's view, it is important to place weight on the fact that the criteria in 65.13(1) of the BIA specifically refers to the circumstances surrounding the process.

28. In this case the circumstances are themselves atypical. The upcoming expiry of the Excise License meant that the SISF has tight timelines, which inherently limited the pool of buyers that are able to close the transaction and remove the inventory from the premises prior to July 27, 2023. In addition, the condition placed on the Company by the Purchaser to close the Remaining Cannabis Inventory Transaction or risk losing the potential \$1,000,000 sale of the Brand and Other Assets, made a sale to the Purchaser the most reasonable option in the circumstances. There are no other comparable Asset Bids for the Brand and Other Assets.

29. Even though the circumstances were atypical, and as detailed in the Supplement to the First Report, the Proposal Trustee is of the view that the SISP was reasonable in the circumstances as it included experienced dealmakers in the cannabis space, marketing to a broad base of cannabis and financial buyers, a fully-equipped data room, and specific instructions to each of the buyers.
30. In light of the circumstances noted below and explained in greater detail in Fifth Sutton Affidavit, the Proposal Trustee is of the view that the SISP was reasonable in the circumstances.

Whether the trustee approved the process leading to the proposed sale or disposition

31. With respect to the Proposal Trustee's involvement in the SISP, the Proposal Trustee advised Tantalus with respect to potential options under the SISP and NOI process and held discussions with management with respect to the communications with the potential purchasers. The Proposal Trustee did not engage directly in discussions with the Purchaser, as the Proposal Trustee was not tasked with running the SISP.

Whether the trustee filed with the court a report stating that in their opinion the sale or disposition would be more beneficial to the creditors than a sale or disposition under a bankruptcy

32. The Proposal Trustee is of the view that the Sale Transaction provides a greater return than would be available to creditors in a bankruptcy because if a bankruptcy were to occur at this point, there would be insufficient time, considering the time it

would take to initiate and administer the bankruptcy, to sell the inventory prior to the expiry of the Excise License;

The extent to which the creditors were consulted and the effects of the proposed sale or disposition on the creditors and other interested parties

33. The only secured creditor in these proceedings is Sungrown and any sale of the Remaining Cannabis Inventory would be insufficient for Sungrown to recover the entirety of its debt.
34. The Proposal Trustee has engaged independent counsel to review the validity and enforceability of the security held by Sungrown. The Trustee is not aware of any opposition to the security status of Sungrown.
35. The Proposal Trustee did discuss the Remaining Cannabis Inventory Transaction with counsel to Sungrown and understands, and as detailed in the Fifth Sutton Affidavit, that Sungrown is supportive of the Remaining Cannabis Inventory Transaction. As detailed in the Third Sutton Affidavit, CRA was informed that if it refused to renew the Excise License, Tantalus would be forced to sell the Remaining Cannabis Inventory. Given the time constraints and the value of the inventory as compared to the Sungrown debt of \$5,586,808, it was not practical or necessary to consult any other unsecured creditors.

Whether the consideration to be received for the assets is reasonable and fair, considering their market value

36. The Proposal Trustee is of the view that the consideration under the Remaining Cannabis Inventory Transaction is reasonable and fair, considering the time

constraints on marketing and due diligence, the experience of management in understanding the constraints and nuances in selling cannabis inventory, and that the alternative would be either a) not to sell the inventory which would lead to its eventual destruction, resulting in nil recovery for creditors, or b) attempt to offload the inventory to another purchaser (if possible), which would eliminate the possibility of the wider transaction for the Brand and Other Assets.

If the proposed sale or disposition is to a person who is related to the insolvent person

37. The Purchaser is the same purchaser that purchased the Bulk Cannabis Inventory and is not a related party to the Tantalus.

PROPOSED SALE OF THE PAXIOM EQUIPMENT

38. The Company owns a used Paxiom filling machine with a conveyor and scale (the “**Paxiom Machine**”). The Paxiom Machine is used to carry cannabis through a conveyor belt, a funnel and into containers for sale. The scale is used to weigh the appropriate amount of cannabis for each container. The Paxiom Machine is no longer being used by Tantalus.
39. On January 27, 2023, Tantalus listed the Paxiom Machine with Revelation. The equipment was listed for six months, and no offers were received.
40. On July 17, 2023, Revelation agreed to purchase the Paxiom Machine for \$50,000 USD (approximately \$67,500 CAD).
41. The Proposal Trustee spoke to an auctioneer familiar with insolvency proceedings and the Paxiom Machine and confirmed that the equipment would not likely sell for more than \$50,000 USD in a live auction, which would likely be the avenue for sale

in a bankruptcy. The Proposal Trustee is of the view that the consideration is fair and reasonable in the circumstances.

42. The Proposal Trustee believes that the process leading to the sale of the Paxiom Machine, given the value of the Paxiom Machine and the length of time it was listed, was reasonable in the circumstances. The sale process was commenced prior to the NOI so was not approved by the Proposal Trustee.
43. Revelation is not a related party to Tantalus.
44. Sungrown, the secured creditor, has approved the proposed transaction. Due to the small value of the assets compared to the Sungrown debt, the Proposal Trustee did not contact any other unsecured creditors.

PROPOSED SALE OF THE EMPLOYEE EQUIPMENT

45. The Company owns the following laptops and miscellaneous equipment (“**Employee Equipment**”) it would like to sell to Purchasing Employees:
 - a) 35 laptops, primarily MacBook Airs, valued in the normal course at \$20,900 based on used market prices; and
 - b) 24 other pieces of miscellaneous equipment, tools and electronics valued in the normal course at \$2,789 based on used market prices;
46. The Company is requesting approval from this Honourable Court to sell the Employee Equipment on the following terms:
 - a) sale of 18 of the 35 the laptops to the Purchasing Employees for a total of \$6,075, representing a 50% discount on used laptop market prices; and

- b) sale of all 24 pieces of miscellaneous equipment, tools and electronics to the Purchasing Employees for a total of \$1,390, representing a 50% discount on used market prices.
47. In the Proposal Trustee's experience, it is difficult to extract market value from sale of used laptops and equipment through an auction process or selling them online as the costs involved usually outweigh the benefit of sale. Tantalus has not made any other efforts to sell the laptops or other equipment as it was not deemed efficient but, in the circumstances, and considering the relatively small value and nature of the assets, the Proposal Trustee is of the opinion that a 50% discount on normal course market prices is reasonable in the circumstances.
48. The Purchasing Employees are related parties to Tantalus as they are current or former employees of Tantalus.
49. Sungrown, the secured creditor, has approved the proposed transaction. Due to the small value of the assets compared to the Sungrown debt, the Proposal Trustee did not contact any other unsecured creditors.

ENGAGEMENT OF THE BROKER AND AMENDMENT TO THE SUCCESS FEE

50. As detailed above, although there are Bidders for the Facility and related assets, the Company has decided to list the Facility with the Broker, an acreage and agriculture broker.
51. As detailed in the Fifth Sutton Affidavit, the Company, after a review of the Asset Bids, believes that it may be in the best interest of Tantalus and its stakeholder to engage the Broker in order to assist with the sale of the Facility and related assets.

52. Listing with the Broker will lead to an even larger prospective purchaser base by reaching out to buyers that may use the Facility for an alternate purpose such as farmland or to grow different types of agricultural products.
53. The Proposal Trustee has reviewed the listing agreement with the Company and is of the opinion that the terms of the listing agreement are reasonable and the fee payable to the Broker is reasonable based on broker fees on similar sized deals. The Proposal Trustee is of the opinion it is reasonable in the circumstances to engage the Broker.
54. The Company is also requesting an Order that the Success Fee granted by this Honourable Court on July 13, 2023, be amended to reduce the Success Fee by the amount of any commissions or fees of a third-party selling agent.
55. At the time the Success Fee was granted, Tantalus did not intend to engage any third-party selling agents. As described above, the Company now wishes to engage the Broker.
56. The Proposal Trustee is of the view that the amendment to the Success Fee is reasonable, in the circumstances.

BUDGET TO ACTUAL VARIANCE ANALYSIS

57. The Company, in consultation with the Proposal Trustee, has prepared the following variance analysis (the “**Variance Analysis**”), comparing the actual cash flow activity of the Company against the First Report Cash Flow Forecast under the Ordinary Liquidation Scenario for the period from June 28, 2023 to July 19, 2023 (the “**Variance Period**”). A copy of the weekly Variance Analysis is attached at **Appendix “B”**.

| | First Report Cash Flow Projections (Ordinary Liquidation Scenario) | Actuals | Variance |
|---|---|---------------------|--------------------|
| Cash Inflows | | | |
| Accounts Receivable Collections | 578,640 | 572,814 | (5,826) |
| Inventory - Packaged | - | - | - |
| Inventory - Bulk | 379,248 | - | (379,248) |
| Receipt from sale of shares in Elevated Signals | - | - | - |
| | \$ 957,888 | \$ 572,814 | \$(385,074) |
| Cash Outflows | | | |
| <u>Facility Operating Costs</u> | | | |
| <i>Shipping</i> | (10,215) | (20,670) | (10,455) |
| <i>Lab Testing</i> | (500) | (4,817) | (4,317) |
| <i>Employee Expense Reimbursements</i> | (5,000) | - | 5,000 |
| <i>Hydro</i> | - | - | - |
| <i>Fortis</i> | - | - | - |
| <i>Internet</i> | - | - | - |
| <i>Misc operating costs</i> | (5,295) | (4,890) | 405 |
| Labour Costs (retained Tantalus employees) | (88,954) | (198,312) | (109,358) |
| SunLife Employee Benefits (July 2023) | - | (12,222) | (12,222) |
| GST payable | - | - | - |
| Excise Taxes Payable (July 2023 sales) | - | - | - |
| Insurance (Property coverage extension) | (45,000) | (75,000) | (30,000) |
| Total Operating Costs | \$ (154,964) | \$ (315,911) | \$(160,947) |
| <u>Restructuring Costs</u> | | | |
| Receiver/ Trustee Cost (+ Legal) | (55,000) | (35,000) | 20,000 |
| Legal Fees | (110,000) | (173,485) | (63,485) |
| KERP | - | - | - |
| Sungrown Restructuring Support Fee | (50,000) | (50,000) | - |
| Total Restructuring Costs | \$ (215,000) | \$ (258,485) | \$(43,485) |
| Net Cash Flow | \$ 587,924 | \$ (1,582) | \$(589,506) |
| Cash Balance, Beginning | 1,538,551 | 1,538,551 | - |
| Net Cash Flow | 587,924 | (1,582) | (589,506) |
| Cash Balance, Ending | \$ 2,126,475 | \$ 1,536,969 | \$(589,506) |

58. Key variances in the cash flow are as follows and relate to timing differences:

- a) **Bulk Cannabis Inventory** – receipts are less than contemplated as the receipt of the proceeds related to the Bulk Cannabis Inventory Sale were received after the variance period, on July 24, 2023;
- b) **Shipping** – shipping costs were greater than contemplated due to shipping the entirety of the Bulk Cannabis Inventory prior to July 10, 2023 due to the pending potential expiry of the Excise License on the same date. The First Report Cash Flow Projections contemplated shipping costs would be spent evenly throughout the Stay Period;
- c) **Labour Costs** – Tantalus sent funds to its payment processor to pay labour costs for the period from July 16 to July 31 on July 18, 2023, which was a week earlier than was contemplated in the First Report Cash Flow Projections. The funds were sent to the payment processor a week earlier than contemplated in order to ensure the payment processor would have sufficient time to process the payment prior to the end of the month;
- d) **Insurance** – the Insurance provider originally requested an approximate payment of \$75,000 for insurance premiums for a 3-month extension. The Company has since negotiated the insurance premiums and is expecting a \$30,000 refund during the week ending July 26, 2023. The First Report Cash Flow Projections contemplated that it would be received during the Variance Period; and

e) **Restructuring Professional Fees** – Restructuring fees are higher than expected due to additional materials, report writing, and court attendance relating to the Excise License issue. The variance for the fees and disbursements of the Trustee and its counsel is related to a timing difference as these fees were not invoiced until after the Variance Period.

CASH FLOW FORECAST FOR JULY 20, 2023 TO OCTOBER 18, 2023

59. The Second Report Cash Flow Forecast (attached as **Appendix “C”** to this report) is summarized in the table below:

| Second Report Cash Flow Projections | |
|--|---|
| For the 13-week period from July 20, 2023 to October 18, 2023 | |
| | 13 Week Period July 20, 2023 to October 18, 2023 |
| Cash Inflows | |
| Accounts Receivable Collections | 277,410 |
| Inventory - Packaged | 1,447,956 |
| Inventory - Bulk | 300,000 |
| Receipt from sale of shares in Elevated Signals | 212,366 |
| | <u>\$ 2,237,732</u> |
| Cash Outflows | |
| <u>Facility Operating Costs</u> | |
| <i>Shipping</i> | (5,000) |
| <i>Lab Testing</i> | (1,500) |
| <i>Employee Expense Reimbursements</i> | (5,600) |
| <i>Hydro</i> | (22,500) |
| <i>Fortis</i> | (10,500) |
| <i>Internet</i> | (1,950) |
| <i>Misc operating costs</i> | (32,500) |
| <i>Property Taxes</i> | (18,000) |
| Labour Costs (retained Tantalus employees) | (75,830) |
| SunLife Employee Benefits (July 2023) | - |
| GST payable | (40,000) |
| Excise Taxes Payable (July 2023 sales) | (427,982) |
| Insurance (Property coverage extension - 3-months) | 30,000 |
| Total Operating Costs | <u>\$ (611,362)</u> |
| <u>Restructuring Costs</u> | |
| Receiver/ Trustee Cost (+ Legal) | (215,000) |
| Legal Fees | (170,000) |
| KERP | (350,000) |
| Sungrown Restructuring Support Fee | - |
| Total Restructuring Costs | <u>\$ (735,000)</u> |
| Net Cash Flow | <u>\$ 891,370</u> |
| Cash Balance, Beginning | 1,536,969 |
| Net Cash Flow | 891,370 |
| Cash Balance, Ending | <u>\$ 2,428,339</u> |

60. The major probable and hypothetical assumptions underpinning the Second Report Cash Flow Forecast are:

- a) all cannabis production is halted. Receipts of \$10,000 from the sale of the Remaining Cannabis Inventory to the Purchaser was not included in the Second Report Cash Flow Forecast as, at the time of preparation of the Second Report Cash Flow Forecast, the purchase price was not confirmed. Receipts for packaged goods will be collected from provincial boards on the usual payment terms between the parties;
- b) receipt of the \$1,000,000 Asset Bid from the Purchaser for the Brand and Other Assets is not included in the Second Report Cash Flow Forecast as an agreement has not yet been executed between the Purchaser and Tantalus;
- c) with the exception of the CEO and CFO, all 19 remaining staff will be terminated on July 31, 2023. If required to maintain the facility, the CTO, the VP of Production and the VP of Operations may be placed on hourly contract throughout the proposed extension;
- d) the Company's suppliers continue to support and work with the Company after the NOI Filing Date;
- e) facility expenses, delivery costs, and other expenditures remain in line with historical averages.

Cash receipts

61. Accounts receivable pre-filing and packaged inventory are primarily due from provincial governments across Canada pursuant to cannabis supply agreements and certain other licensed producers in Saskatchewan for the sale of wholesale cannabis. All customers have a good history for timely payment and will be collected based on usual terms between the parties.
62. Tantalus sold approximately 1,300 kilograms of bulk unpackaged cannabis inventory (trimmed and dried) to the Purchaser pursuant to the Bulk Cannabis Inventory Sale Transaction. Sale proceeds were received on July 24, 2023.
63. The Company owns shares in a private company called Elevated Signals and based on a recent transaction and current interest in the shares that it can obtain approximately 75% of its market value.

Cash disbursements

64. Shipping and lab testing consist of invoices for the final shipping and testing of the Remaining Cannabis Inventory and will not continue to be incurred during the Cash Flow Period.
65. Management cell phone costs for the month of July amount to \$5,600. Cell phone costs will not continue to be incurred during the Cash Flow Period.
66. Other Operating costs, including hydro, fortis, internet costs and miscellaneous operating costs (security monitoring, fire monitoring, generator fuel etc.), are required to operate the facilities and wind down the operations during the Cash Flow Period.

67. Property taxes contemplated are for the period from June 28, 2023 to December 31, 2023.
68. Labour costs include monthly salaries, wages, and source deductions totalling \$42,083 for the 2 employees (CFO and CEO) and an estimated monthly total of \$6,062 for the CTO, the VP Production, and the VP Operations, which remain at Tantalus to wind-down operations during the Cash Flow Period.
69. GST is the net GST expected to be paid during the Cash Flow Period on sales made during the NOI proceedings.
70. Excise taxes payable are estimated to be approximately 28% of total sales of packaged inventory. Excise taxes are not payable on sales of bulk unpackaged inventory.
71. Insurance refund of \$30,000 for overpayment of insurance premiums (as detailed above).

The Proposal Trustee's Comments on the Cash Flows

72. The Second Report Cash Flow Forecast illustrates that the Company has sufficient cash flows to fund the NOI proceedings, sale of assets, and wind down of operations during the Cash Flow Period.
73. Appendix C also illustrates that the Company will have approximately \$2,321,496 at the end of the 30-day Proposed Stay Period, excluding and receipts from the sale of the Remaining Cannabis Inventory and the Brand and Other Assets.

THE REQUEST FOR AN EXTENSION OF THE DEADLINE TO FILE PROPOSALS

74. As detailed in the Company's Application, the Company has applied for a 30-day extension of the Stay Period until and including, August 27, 2023.
75. The Second Report Cash Flow Forecast, as presented, confirms that the Company will have sufficient liquidity to continue to operate during the Proposed Stay Period.
76. The Proposal Trustee has considered the burden of evidence pursuant to section 50.4(9) of the BIA that resides with the Company to demonstrate that an extension of the Stay Period by this Honourable Court, is warranted, having regard to: a) the insolvent person has acted, and is acting, in good faith and with due diligence; b) the insolvent person would likely be able to make a viable proposal if the extension being applied for were granted; and c) no creditor would be materially prejudiced if the extension being applied for were granted.

Good Faith Efforts and Due Diligence

77. During these proceedings, the Company, with assistance from the Proposal Trustee, has been working in good faith and with due diligence with respect to, *inter alia*, the following activities:
 - a) created the Sales Process, a data room, and Teaser and sent the Teaser to over 80 prospective purchasers,
 - b) worked with CRA to attempt to extract maximum value from the inventory by extending the Excise License and made significant efforts to 'fire sale' the Bulk Cannabis Inventory after the Company was notified by CRA that the Excise License would not be renewed;

- c) worked with several prospective purchasers to formalize their Asset Bids and negotiated terms of sale for the Remaining Cannabis Assets, the Paxiom Machine, and the Employee Equipment;
 - d) worked with the Purchaser to negotiated terms of sale for the Brand and Other Assets;
 - e) continued with the orderly hibernation of the Facility;
 - f) held several discussions with various customers, creditors, employees, and other stakeholders to help them navigate through these NOI proceedings,
 - g) worked with the Proposal Trustee regarding payment approval protocols and general monitoring and other matters related to the obligations of the Company and ongoing operational requirements;
 - h) continued discussions with the Proposal Trustee with respect to the payment of wages, vacation, severance and WEPPA amounts; and
 - i) with the assistance of the Proposal Trustee, prepared updated cash flow projections and prepared budget to actual information for prior period projections.
78. The Company regularly updates the Proposal Trustee and consults on every material matter with Sungrown. It is the Proposal Trustee's view that the Company is acting in good faith and with due diligence.

Likelihood of a Viable Proposal

79. The Company's management has made considerable efforts, including pivoting to 'fire sale' the remaining Bulk Inventory Assets within four days, to try and maximize

recoveries for the estate in the attempt to ensure that it can make a viable proposal to its creditors. The extension of the deadline to file a proposal will allow for the Company to close the sale of the Paxiom Machine, the sale of the Remaining Cannabis Inventory, the sale of the Employee Equipment, the sale of the Brand and Other Asses, and continue the wider SISP relating to the remaining Property, primarily the Facility and related assets.

No Creditor Materially Prejudiced

80. In the Proposal Trustee's view, there will be no material prejudice to creditors if the extension is granted.
81. The Proposal Trustee has been in discussions with Sungrown and understands that Sungrown supports the extension.

PROPOSAL TRUSTEE'S RECOMMENDATIONS

82. Based on the foregoing, the Proposal Trustee recommends that this Honourable Court grant the requested Orders.

All of which is respectfully submitted this 26th day of July, 2023.

ERNST & YOUNG INC.,
in its capacity as Proposal Trustee
under the notice of intention to make a proposal of Tantalus Labs Ltd.
and not in its personal capacity

Per:



Holly Palmer, CIRP, LIT
Senior Vice President

Appendix A

FORM OF PROPOSAL TRUSTEE'S CERTIFICATE

IN THE SUPREME COURT OF BRITISH COLUMBIA

**IN THE MATTER OF THE *BANKRUPTCY AND INSOLVENCY ACT*,
RSC 1985, c. B-3, AS AMENDED**

AND

**IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A
PROPOSAL OF TANTALUS LABS LTD.**

PROPOSAL TRUSTEE'S CERTIFICATE

RECITALS

- A. Tantalus Labs Ltd. (the “**Vendor**”) commenced these proceedings by filing a notice of intention to make a proposal under the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended on June 28, 2023 (the “**NOI**”).
- B. Ernst & Young Inc. was appointed as trustee in re the Proposal of the Vendor (in such capacity, the “**Proposal Trustee**”) under the NOI;
- C. Pursuant to an Order of the Honourable Madam Justice Fitzpatrick of the Supreme Court of British Columbia (the “**Court**”) dated July 10, 2023 (the “**Approval and Vesting Order**”), the Court approved the sale transaction (the “**Transaction**”) contemplated by the purchase order effective July 7, 2023 (the “**Sale Agreement**”) between the Vendor and Atlantic Cultivation Ltd. (the “**Purchaser**”), a copy of which is attached as Confidential Exhibit “C” to the Fourth Sutton Affidavit and provided for the vesting in the Purchaser of the Vendor’s right, title and interest in and to the Purchased Assets, which vesting is to be effective with respect to the Purchased Assets upon the delivery by the Proposal Trustee to the Purchaser of a certificate confirming: (i) the payment by the Purchaser of the purchase price outlined in the Sales Agreement for the Purchased Assets; and (ii) the Transaction has been completed to the satisfaction of the Proposal Trustee.
- D. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Sale Agreement.

THE PROPOSAL TRUSTEE CERTIFIES the following:

1. The payment by the Purchaser of the purchase price outlined in the Sales Agreement for the Purchased Assets was made;
2. The Transaction has been completed to the satisfaction of the Proposal Trustee; and
3. This Certificate was delivered by the Proposal Trustee at 2:15pm on July 23, 2023.

**Ernst & Young Inc., solely in its capacity as the
Proposal Trustee of Tantalus Labs Ltd.**

Per:



Name: Holly Palmer

Title: Senior Vice President

Appendix B

| BUDGET TO ACTUAL | | | | | | | | | | | |
|--|---------------------|--|-----------------------------------|--------------|-----------------|------------------------------------|--------------|-----------------|------------------------------------|--------------|-----------------|
| Week | | | Week 1 (Week ending July 5, 2023) | | | Week 2 (Week Ending July 12, 2023) | | | Week 3 (Week Ending July 19, 2023) | | |
| Dates (Week Ending) | Total Cash Variance | | Budget | Actuals | Weekly Variance | Budget | Actuals | Weekly Variance | Budget | Actuals | Weekly Variance |
| Cash Inflows | | | | | | | | | | | |
| Accounts Receivables Collections | \$ (283,236) | | \$ 63,705 | \$ 63,649 | \$ (56) | \$ 220,000 | \$ 216,415 | \$ (3,585) | \$ 294,935 | \$ 292,751 | \$ (2,184) |
| Inventory - Packaged | \$ (90,000) | | | \$ - | \$ - | | \$ - | \$ - | | \$ - | \$ - |
| Inventory - Bulk | \$ (568,872) | | | \$ - | \$ - | \$ 189,624 | \$ - | \$ (189,624) | \$ 189,624 | \$ - | \$ (189,624) |
| SKU Portfolio Value | \$ - | | | \$ - | \$ - | | \$ - | \$ - | | \$ - | \$ - |
| OMNI Software Value | \$ - | | | \$ - | \$ - | | \$ - | \$ - | | \$ - | \$ - |
| Elevated Signals Shares Liquidation | \$ (212,366) | | | \$ - | \$ - | | \$ - | \$ - | | \$ - | \$ - |
| Facility value | \$ - | | | \$ - | \$ - | | \$ - | \$ - | | \$ - | \$ - |
| Cash Outflows | | | | | | | | | | | |
| Facility Operating Costs | | | | | | | | | | | |
| <i>Shipping</i> | \$ (5,455) | | \$ (215) | \$ (215) | \$ (0) | \$ (5,000) | \$ (239) | \$ 4,761 | \$ (5,000) | \$ (20,215) | \$ (15,215) |
| <i>Lab Testing</i> | \$ (3,817) | | | \$ - | \$ - | \$ (500) | \$ - | \$ 500 | | \$ (4,817) | \$ (4,817) |
| <i>Mgmt Phones</i> | \$ 5,000 | | | \$ - | \$ - | \$ (5,000) | \$ - | \$ 5,000 | | \$ - | \$ - |
| <i>Hydro</i> | \$ 7,500 | | | \$ - | \$ - | | \$ - | \$ - | | \$ - | \$ - |
| <i>Fortis</i> | \$ 3,500 | | | \$ - | \$ - | | \$ - | \$ - | | \$ - | \$ - |
| <i>Internet</i> | \$ 650 | | | \$ - | \$ - | | \$ - | \$ - | | \$ - | \$ - |
| <i>Misc operating costs (mgmt phones, Rose security monitoring, Telus fire monitoring)</i> | \$ 2,868 | | \$ (295) | \$ (238) | \$ 20 | \$ (2,500) | \$ (1,036) | \$ 1,464 | \$ (2,500) | \$ (3,615) | \$ (1,115) |
| Labour Costs (retained Tantalus emp) | \$ (20,404) | | | \$ - | \$ - | \$ (88,954) | \$ - | \$ 88,954 | | \$ (198,312) | \$ (198,312) |
| SunLife Employee Benefits (July 2023) | \$ 1,778 | | | \$ - | \$ - | | \$ (12,222) | \$ (12,222) | | \$ - | \$ - |
| GST payable | \$ - | | | \$ - | \$ - | | \$ - | \$ - | | \$ - | \$ - |
| Excise Taxes Payable (July 2023 sal) | \$ (91,983) | | | \$ - | \$ - | | \$ - | \$ - | | \$ - | \$ - |
| Insurance (Property coverage extens) | \$ (30,000) | | \$ (75,000) | \$ (75,000) | \$ - | \$ 30,000 | \$ - | \$ (30,000) | | \$ - | \$ - |
| | | | | \$ - | \$ - | | \$ - | \$ - | | \$ - | \$ - |
| | | | | \$ - | \$ - | | \$ - | \$ - | | \$ - | \$ - |
| <i>Restructuring Costs</i> | | | | | | | | | | | |
| Receiver/ Trustee Cost (+ Legal) | \$ 30,000 | | \$ (35,000) | \$ (35,000) | \$ - | \$ (10,000) | \$ - | \$ 10,000 | \$ (10,000) | \$ - | \$ 10,000 |
| Legal Fees | \$ (33,485) | | \$ (50,000) | \$ (50,000) | \$ - | \$ (30,000) | \$ - | \$ 30,000 | \$ (30,000) | \$ (123,485) | \$ (93,485) |
| KERP | \$ - | | | \$ - | \$ - | | \$ - | \$ - | | \$ - | \$ - |
| Sungrown Fee for filing NOI | \$ (0) | | \$ (50,000) | \$ (50,000) | \$ (0) | | \$ - | \$ - | | \$ - | \$ - |
| | | | | \$ - | \$ - | | \$ - | \$ - | | \$ - | \$ - |
| Net Cash Flow | \$ (1,288,322) | | \$ (146,805) | \$ (146,806) | \$ (37) | \$ 297,670 | \$ 202,917 | \$ (94,753) | \$ 437,059 | \$ (57,695) | \$ (494,754) |
| | | | | | | | | | | | |
| Cash Balance, Beginning | \$ 1,538,551 | | \$ 1,538,551 | \$ 1,538,551 | \$ - | \$ 1,391,746 | \$ 1,391,745 | \$ (1) | \$ 1,689,416 | \$ 1,594,663 | \$ (94,753) |
| Net Cash Flow | \$ (1,288,322) | | \$ (146,805) | \$ (146,806) | \$ (1) | \$ 297,670 | \$ 202,917 | \$ (94,753) | \$ 437,059 | \$ (57,695) | \$ (494,754) |
| Cash Balance, Projected | \$ 250,229 | | \$ 1,391,746 | \$ 1,391,745 | \$ (1) | \$ 1,689,416 | \$ 1,594,663 | \$ (94,753) | \$ 2,126,475 | \$ 1,536,968 | \$ (589,507) |

Appendix C

