

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

THE HONOURABLE MADAM) TUESDAY, THE 13th
)
JUSTICE CONWAY) DAY OF SEPTEMBER, 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 **SPROUTLY, INC.** and **TORONTO
HERBAL REMEDIES INC.**

(each an “Applicant” and collectively the “Applicants”)

CCAA Termination Order

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 (the “**Order**”), among other things, (i) authorizing the destruction of cannabis, (ii) approving the activities, conduct and report of BDO Canada Limited (“**BDO**”) in its capacity as Monitor, (iii) approving the fees and disbursements of the Monitor and the Monitor’s legal counsel, as described in the Second Report of the Monitor dated September 8, 2022 (the “**Second Report**”) including the affidavits attached thereto and sworn in support of, (iv) terminating these CCAA proceedings and discharging the Monitor at the CCAA Termination Time (as defined below), (v) terminating the Court-ordered charges approved in these CCAA proceedings effective as at the CCAA Termination Time, (vi) permitting the Applicants to file for bankruptcy and consolidating these estates; and (vii) granting certain related relief, was heard this day via video conference due to the COVID-19 pandemic.

ON READING the Second Report, the Affidavit of Craig Loverock sworn September 8, 2022 and the exhibits thereto, the Affidavit of Clark Lonergan sworn September 8, 2022 in connection with the Monitor’s fees (the “**Lonergan Affidavit**”), the Affidavit of Kyle Peterson sworn September 1, 2022 in connection with the fees of the counsel to the Monitor (the “**Peterson**

Affidavit) and such further materials as counsel may advise, and on hearing the submissions of counsel for the Applicant, counsel for the Monitor and such other counsel as were present, and no one else appearing for any other interested person, although duly served as evidenced by the Affidavit of Service of Khadija Waqqas sworn September 8, 2022, filed.

SERVICE

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

DEFINED TERMS

2. **THIS COURT ORDERS** that, unless otherwise defined herein, capitalized terms used in this Order shall have the meaning given to them in the Amended and Restated Initial Order of the Honourable Justice Penny dated July 4, 2022 made in these proceedings (the “**Initial Order**”).

DESTRUCTION

3. **THIS COURT ORDERS** that the Applicants shall arrange for the orderly, expeditious and lawful disposal or destruction of cannabis or cannabis products that form part of the Property in compliance with applicable law.

TERMINATION OF CCAA PROCEEDINGS

4. **THIS COURT ORDERS** that, upon service by the Monitor of an executed certificate substantially in the form attached hereto as **Schedule “A”** (the “**Termination Certificate**”) on the service list in these CCAA proceedings certifying that, to the best of the knowledge and belief of the Monitor, all matters to be attended to in connection with the CCAA proceedings have been completed, the within CCAA proceedings shall be terminated without any other act or formality (the “**CCAA Termination Time**”), save and except as provided in this Order, and provided that nothing herein impacts the validity of any Orders made in these CCAA proceedings or any action or steps taken by any Person pursuant thereto.

5. **THIS COURT ORDERS** that the Monitor is hereby directed to file a copy of the Termination Certificate with the Court as soon as is practicable following the service thereof on the service list in these CCAA proceedings.

6. **THIS COURT ORDERS** that the Administration Charge, the DIP Lender's Charge, and the Directors' Charge shall be and are hereby terminated, released and discharged at the CCAA Termination Time without any further act or formality.

DISCHARGE OF MONITOR

7. **THIS COURT ORDERS** that effective at the CCAA Termination Time, BDO shall be and is hereby discharged from its duties as the Monitor and shall have no further duties, obligations or responsibilities as Monitor from and after the CCAA Termination Time, provided that, notwithstanding its discharge as Monitor, BDO shall have the authority to carry out, complete or address any matters in its role as Monitor that are ancillary or incidental to these CCAA proceedings following the CCAA Termination Time, as may be required or appropriate ("**Monitor Incidental Matters**").

8. **THIS COURT ORDERS** that, notwithstanding any provision of this Order, the Monitor's discharge or the termination of these CCAA proceedings, nothing herein shall affect, vary, derogate from, limit or amend, and the Monitor shall continue to have the benefit of, all of the rights, approvals and protections in favour of the Monitor at law or pursuant to the CCAA, the Initial Order, or any other Order of this Court in these CCAA proceedings or otherwise, all of which are expressly continued and confirmed following and after the CCAA Termination Time, including in connection with any Monitor Incidental Matters and other actions taken by the Monitor following the CCAA Termination Time with respect to the Applicants or these CCAA proceedings.

9. **THIS COURT ORDERS** that effective at the CCAA Termination Time, in addition to the protections in favour of the Monitor in any Order of this Court in the CCAA proceedings or the CCAA, the Monitor, its counsel, and each of their respective affiliates, officers, directors, partners, employees and agents, as applicable, (collectively, the "**Released Parties**") are hereby released and forever discharged from any and all liability that the Released Persons now or may hereafter have by reason of

any act, omission, transaction, dealing or other occurrence in any way relating to arising out of, or in respect of these CCAA proceedings, including in carrying out any Monitor Incidental Matters, whether known or unknown, matured or unmatured, foreseen or unforeseen, relating to matters that were raised, or could have been raised, in the within proceedings, save and except for any gross negligence or wilful misconduct.

APPROVAL OF ACTIVITIES AND FEES

10. **THIS COURT ORDERS** that the Second Report of the Monitor and the activities described therein are hereby approved.

11. **THIS COURT ORDERS** that the fees and disbursements of the Monitor, as set out in the Second Report and as detailed in the Lonergan Affidavit, are hereby approved.

12. **THIS COURT ORDERS** that the fees and disbursements of the counsel for the Monitor, as set out in the Second Report and as detailed in the Peterson Affidavit, are hereby approved.

13. **THIS COURT ORDERS** that the fees and disbursements of the Monitor and its counsel estimated not to exceed \$57,000 (exclusive of HST) for the completion of remaining activities in connection with these CCAA proceedings, are hereby approved.

ASSIGNMENT IN BANKRUPTCY

14. **THIS COURT ORDERS** that at such time as the Applicants determine that it is necessary or desirable to do so, including for greater certainty at a time prior to the CCAA Termination Time:

- (a) The Applicants are hereby authorized to make an assignment in bankruptcy pursuant to *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3 as amended (“**BIA**”); and
- (b) BDO Canada Limited is hereby authorized and empowered, but not obligated, to act as trustee in bankruptcy in respect of the Applicants.

PROCEDURAL CONSOLIDATION

15. **THIS COURT ORDERS** that, upon the Applicants filing in bankruptcy pursuant to the BIA, the trustee in bankruptcy (the “**Trustee**”) may administer the bankruptcy estates of the Applicants as follows:

- (a) A single court file number and title of proceeding of “In the Matter of the Bankruptcy of Sproutly, Inc. and Toronto Herbal Remedies Inc.”;
- (b) The Trustee is authorized to administer the bankrupt estates of the Applicants as if such estates were a single bankrupt estate for the purpose of carrying out its administrative duties and responsibilities as trustee under the BIA with respect to the administration of bankrupt estates generally, including without limitation as follows:
 - i) the Trustee is authorized to send a notice of the first meeting of creditors (the “**Notice**”) in the manner prescribed by section 102 of the BIA by sending a consolidated Notice for all of the Applicants, together with directions to download documents to accompany the Notice set out in section 102(2) of the BIA (the “**Forms**”);
 - ii) meetings of creditors and inspectors in the bankrupt estates of the Applicants may be convened through one combined advertisement and conducted jointly provided that the results of any creditors’ vote shall be separately tabulated for each such bankrupt estate;
 - iii) the Trustee is authorized to use a consolidated form of proof of claim that directs creditors to identify the bankrupt estate in which a claim is made for voting and for distribution purposes;
 - iv) the Trustee is authorized to maintain a consolidated bank account with respect to the Applicants’ respective bankruptcy estates;
 - v) the Trustee is authorized to issue consolidated reports in respect of the bankruptcy estates of the Applicants;

- vi) the Trustee is authorized to perform a consolidated making, filing, advertising and distribution of all filings and notices in the bankrupt estates of the Applicants required under the BIA; and
- vii) a single group of inspectors shall be the inspectors, if appointed, for the consolidated bankruptcy estates of the Applicants.

16. **THIS COURT ORDERS** that this procedural consolidation is not a substantive consolidation of the bankrupt estates of the Applicants and will automatically terminate if the Trustee is replaced as licensed insolvency trustee of any, but not all, of the estates of the Applicants.

GENERAL

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

18. **THIS COURT ORDERS** that this Order and all of its provisions are effective as of 12:01 a.m. Eastern Standard/Daylight Time on the date of this Order without any need for filing or entry.



SCHEDULE “A”

FORM OF TERMINATION CERTIFICATE

Court File No. CV-22-00683056-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

IN THE MATTER OF THE *COMPANIES' CREDITORS
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TERMINATION CERTIFICATE

RECITALS

1. BDO Canada Limited (“**BDO**”) was appointed as the Monitor of the Applicants in the within proceedings commenced under the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the “**CCAA**”) pursuant to an Initial Order of the Ontario Superior Court of Justice (Commercial List) (the “Court”) dated June 24, 2022 (as amended, the “**Initial Order**”).
2. Pursuant to an Order of this Court dated September 13, 2022 (the “**CCAA Termination Order**”), among other things, BDO shall be discharged as the Monitor and the Applicants’ CCAA proceedings shall be terminated upon the service of this Termination Certificate on the service list in these CCAA proceedings, all in accordance with the terms of the CCAA Distribution and Termination Order.
3. Unless otherwise indicated herein, capitalized terms used in this Termination Certificate shall have the meaning given to them in the Initial Order or the Termination Order, as applicable.

THE MONITOR CERTIFIES the following:

4. To the knowledge of the Monitor, all matters to be attended to in connection with the Applicants' CCAA Proceedings (Court File No. CV-22-00683056-00C) have been completed.

ACCORDINGLY, the CCAA Termination Time as defined in the CCAA Termination Order has occurred.

DATED at Toronto, Ontario this _____ day of _____, 2022.

**BDO Canada Limited, in its capacity of the
Monitor of the Applicants, and not in its
personal or corporate capacity**

Per: _____
Name:
Title:

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

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Court File No.: CV-22-00683056-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

Proceedings commenced at Toronto, Ontario

CCAA TERMINATION ORDER

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