

ON READING Ayanda's Notice of Motion, the Sioen Affidavit, the affidavit of David Hyde sworn February 22, 2022 and the First Report of the Proposal Trustee, dated February 24, 2022 ("**First Report**"), and on hearing the submissions of counsel for the Company, counsel for the Proposal Trustee, and counsel for those other parties appearing as indicated by the counsel slip, no one appearing for any other party, although duly served as appears from the affidavit of service of Darlene Moffett, filed.

SERVICE

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

PRE-FILING AMOUNTS

2. **THIS COURT ORDERS** that Ayanda shall be entitled but not required to pay all reasonable amounts incurred by Ayanda in the ordinary course prior to, on or after the making of this Order, provided that such amounts are consistent with the cash flow forecast appended to the First Report or are approved by the Proposal Trustee.

ADMINISTRATION CHARGE

3. **THIS COURT ORDERS** that the Proposal Trustee, Thornton Grout Finnigan LLP, and Miller Thomson LLP (collectively, the "**Professional Group**") shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges, by Ayanda as part of the costs of these proceedings, both before and after the making of this Order in respect of these proceedings and related matters. Ayanda is hereby authorized to pay the accounts of the Professional Group on a bi-weekly basis.

4. **THIS COURT ORDERS** that the Professional Group shall pass their accounts from time to time, and for this purpose, the accounts of the Professional Group are hereby referred to a judge of the Ontario Superior Court of Justice (Commercial List) at Toronto, Ontario.

5. **THIS COURT ORDERS** that the Professional Group shall be entitled to the benefit of and are hereby granted a charge (“**Administration Charge**”) on the current and future assets, undertakings, and property of Ayanda, of every nature and kind whatsoever (including all real and personal property), and wherever situate including all proceeds thereof (collectively, the “**Property**”), which charge shall not exceed an aggregate amount of \$300,000, as security for their professional fees and disbursements incurred at the standard rates and charges of the Professional Group, both before and after the making of this Order with respect to and incidental to these proceedings, including the reasonable fees and disbursements of the Professional Group incurred in preparation of the filing of Ayanda’s notice of intention to make a proposal pursuant to section 50 of the BIA. The Administration Charge shall have the priority set out in paragraphs 12 and 14 of this Order.

DIP FINANCING

6. **THIS COURT ORDERS** that Ayanda is hereby authorized and empowered to obtain and borrow under a credit facility (“**DIP Facility**”) from Cardinal Advisory Limited (“**DIP Lender**”), provided that borrowings under the DIP Facility shall not exceed \$400,000 unless permitted by further Order of the Court.

7. **THIS COURT ORDERS** that the DIP Facility shall be on the terms and subject to the conditions set forth in the DIP Term Sheet between Ayanda and the DIP Lender,

dated as of February 16, 2022 (“**DIP Term Sheet**”), attached as Exhibit “S” to the Sioen Affidavit, subject to such minor amendments as may be acceptable to Ayanda and the DIP Lender, and approved by the Proposal Trustee.

8. **THIS COURT ORDERS** that Ayanda is hereby authorized and empowered to execute and deliver such credit agreements, mortgages, charges, hypothecs and security documents, guarantees and other definitive documents (collectively, the “**Definitive Documents**”), as are contemplated by the DIP Term Sheet or as may be reasonably required by the DIP Lender pursuant to the terms thereof, and Ayanda is hereby authorized and directed to pay and perform all of its indebtedness, interest, fees, costs, liabilities and obligations to the DIP Lender under and pursuant to the DIP Term Sheet and the Definitive Documents as and when the same become due and are to be performed, notwithstanding any other provision of this Order.

9. **THIS COURT ORDERS** that the DIP Lender shall be entitled to the benefit of and is hereby granted a charge (“**DIP Lender’s Charge**”) on the Property as security for Ayanda’s obligations to the DIP Lender under the DIP Term Sheet, which obligations include, without limitation, principal, interest, costs, and fees. The DIP Lender’s Charge shall not secure an obligation that exists before this Order is made. The DIP Lender’s Charge shall have the priority set out in paragraphs 12 and 14 of this Order.

10. **THIS COURT ORDERS** that, notwithstanding any other provision of this Order, the DIP Lender may take such steps from time to time as it may deem necessary or appropriate to file, register, record or perfect the DIP Lender’s Charge or any of the Definitive Documents.

11. **THIS COURT ORDERS AND DECLARES** that the DIP Lender shall be treated as unaffected in any proposal filed by Ayanda under the BIA with respect to any advances made under the Definitive Documents.

VALIDITY AND PRIORITY OF CHARGES CREATED BY THIS ORDER

12. **THIS COURT ORDERS** that the priorities of the Administration Charge and the DIP Lender's Charge, (together, the "**Charges**") as among them, shall be as follows:

First – Administration Charge (up to the maximum of \$300,000); and

Second – DIP Lender's Charge (up to the maximum amount of \$400,000).

13. **THIS COURT ORDERS** that the filing, registration, or perfection of the Charges shall not be required, and that the Charges shall be valid and enforceable for all purposes, including as against any right, title, or interest filed, registered, recorded or perfected subsequent to the Charges coming into existence, notwithstanding any such failure to file, register, record or perfect.

14. **THIS COURT ORDERS** that each of the Charges shall constitute a charge on the Property and such Charges shall rank in priority to all other security interests, trusts, liens, charges and encumbrances, claims of secured creditors, statutory or otherwise (collectively, "**Encumbrances**") in favour of any individual, firm, corporation, governmental body or agency, or any other entities (all of the foregoing, collectively being "**Persons**" and each being a "**Person**").

15. **THIS COURT ORDERS** that except as otherwise expressly provided for herein, or as may be approved by this Court, Ayanda shall not grant any Encumbrances over any Property that rank in priority to, or *pari passu* with, any of the Charges, unless

Ayanda also obtains the prior written consent of the Proposal Trustee and the beneficiaries of the Charges affected thereby (collectively, the “**Chargees**”), or further Order of this Court.

16. **THIS COURT ORDERS** that the Charges, the DIP Term Sheet, and the Definitive Documents shall not be rendered invalid or unenforceable and the rights and remedies of the Chargees thereunder shall not otherwise be limited or impaired in any way by: (a) the pendency of these proceedings and the declarations of insolvency made herein; (b) any application(s) for bankruptcy order(s) issued pursuant to BIA, or any bankruptcy order made pursuant to such applications; (c) the filing of any assignments for the general benefit of creditors made pursuant to the BIA; (d) the provisions of any federal or provincial statutes; or (e) any negative covenants, prohibitions or other similar provisions with respect to borrowings, incurring debt or the creation of Encumbrances, contained in any existing loan documents, lease, sublease, offer to lease or other agreement (collectively, an “**Agreement**”) which binds Ayanda and notwithstanding any provision to the contrary in any Agreement:

- (a) neither the creation of the Charges nor the execution, delivery, perfection, registration or performance of the DIP Term Sheet or the Definitive Documents shall create or be deemed to constitute a breach by Ayanda of any Agreement to which it is a party;
- (b) none of the Chargees shall have any liability to any Person whatsoever as a result of any breach of any Agreement caused by or resulting from Ayanda entering into the DIP Term Sheet, the creation of the Charges, or the execution, delivery, or performance of the Definitive Documents; and

- (c) the payments made by Ayanda pursuant to this Order, the DIP Term Sheet or the Definitive Documents, and the granting of the Charges, do not and will not constitute preferences, fraudulent conveyances, transfers at undervalue, oppressive conduct, or other challengeable or voidable transactions under any applicable law.

17. **THIS COURT ORDERS** that any Charge created by this Order over leases of real property in Canada shall only be a Charge on Ayanda's interest in such real property leases.

EXTENSION OF TIME TO MAKE A PROPOSAL

18. **THIS COURT ORDERS** that the time to make a proposal is extended up to and including April 20, 2022.

RETURN OF COMPANY RECORDS

19. **THIS COURT ORDERS AND DIRECTS** that Shanil "Shaun" Ramdhany and Natalie Cain forthwith return any and all Company records, books, and documents in their possession and control to Ayanda.

SEALING

20. **THIS COURT ORDERS** that Confidential Exhibits "A", "B", "C", "D", and "E" to the Sioen Affidavit shall be sealed and kept confidential pending closing of the transactions contemplated by the share purchase agreement between Ayanda and 12830353 Canada Inc., dated February 2, 2022.

APPROVAL OF ACTIVITIES OF THE PROPOSAL TRUSTEE

21. **THIS COURT ORDERS** that the First Report and the activities, decisions, and conduct of the Proposal Trustee as set out in the First Report are hereby authorized and approved; provided, however, that only the Proposal Trustee, in its personal capacity and only with respect to its own personal liability, shall be entitled to rely upon or utilize in any way such approval.

GENERAL

22. **THIS COURT ORDERS** that the E-Service Protocol of the Commercial List (the “**Protocol**”) is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Protocol (which can be found on the Commercial List website at <http://www.ontariocourts.ca/scj/practice/practice-directions/toronto/eservice-commercial>) shall be valid and effective service. Subject to Rule 17.05, this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the Rules of Civil Procedure. Subject to Rule 3.01(d) of the *Rules of Civil Procedure* and paragraph 21 of the Protocol, service of documents in accordance with the Protocol will be effective on transmission. This Court further orders that a Case Website shall be established in accordance with the Protocol with the following URL: <https://www.richter.ca/insolvencycase/ayanda-cannabis-corporation/>

23. **THIS COURT ORDERS** that Ayanda and the Proposal Trustee and their respective counsel are at liberty to serve or distribute this Order, and other materials and orders as may be reasonably required in these proceedings, including any notices, or other correspondence, by forwarding true copies thereof by electronic message to Ayanda’s creditors or other interested parties and their advisors. For greater certainty,

any such distribution or service shall be deemed to be in satisfaction of a legal or judicial obligation, and notice requirements within the meaning of clause 3(c) of the *Electronic Commerce Protection Regulations*, Reg. 81000-2-175 (SOR/DORS).

24. **THIS COURT ORDERS** that this Order and all of its provisions are effective as of 12:01 a.m. Toronto time on the date of this Order, and this Order is enforceable without the need for entry and filing.

25. **THIS COURT REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Proposal Trustee and its 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 Proposal Trustee, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Proposal Trustee and its agents in carrying out the terms of this Order.



**IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF
AYANDA CANNABIS CORPORATION**

Court File No.: BK-22-02802344-0035

**ONTARIO
SUPERIOR COURT OF JUSTICE
(IN BANKRUPTCY AND INSOLVENCY)
COMMERCIAL LIST**

Proceeding commenced at Toronto

**ORDER
(Approval of Interim Financing,
Administration Charge, and Stay Extension)**

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