

## SALE AND INVESTMENT SOLICITATION PROCESS

### Introduction

On April 3, 2024, CannMart Labs Inc. (the “**Company**”) filed a Notice of Intention to make a Proposal under the *Bankruptcy and Insolvency Act* (Canada) (the “**BIA**”) with the Office of the Superintendent of Bankruptcy (the “**NOI Proceeding**”). Msi Spergel Inc. consented to act as the proposal trustee of the Company.

On May 2, 2024, pursuant to the Order granted by Justice Steele (as may be amended, restated or otherwise modified from time to time, the “**Initial Order**”) on the same date, among other things, the Company converted the NOI Proceedings into proceedings under the *Company’s Creditors Arrangement Act* (the “**CCAA**”). Pursuant to the Initial Order, MSI Spergel Inc. was appointed as Monitor of the Company (in such capacity, the “**Monitor**”).

On May 2, 2024, the Court granted an order (the “**SISP Order**”) approving this sale and investment solicitation process (the “**SISP**”). The purpose of the SISP is to identify one or more financiers for, purchasers of and/or investors in the Company, the Business and/or Assets (each as defined below) to make a binding offer (each a “**Binding Bid**”), and to complete the transaction contemplated by any such offer. Set forth below are the procedures (the “**SISP Procedures**”) that shall govern the SISP and any transactions consummated as a result thereof.

### 1. Defined Terms

The following capitalized terms have the following meanings when used in this SISP:

“**Acknowledgment of the SISP**” means an acknowledgment of the SISP in the form attached as Schedule “A”;

“**Aggregate Bid**” means a combination of Portion Bids that do not overlap for Assets sought to be purchased;

“**Assets**” means the assets, undertakings and property of the Company;

“**Back-Up Bid Expiration Date**” has the meaning given to it in Section 14;

“**Back-Up Bid**” has the meaning given to it in Section 12;

“**Back-Up Bidder**” has the meaning given to it in Section 12;

“**Bid Deadline**” has the meaning given to it in Section 9;

“**Binding Bid**” has the meaning given to it in the Introduction;

“**Business**” means the business carried on by the Company, which consists primarily of the production of cannabis 2.0 products including, but not limited to, edibles, concentrates and topicals and the wholesale distribution of recreational cannabis to Canadian provincial government control boards;

“**Business Day**” means any day, other than a Saturday, Sunday or statutory holiday in the Province of Ontario, on which commercial banks in Toronto, Ontario are open for business;

“**Company**” has the meaning given to it in the Introduction;

“**Confidentiality Agreement**” means the confidentiality agreement, upon terms satisfactory to the Company, in consultation with the Monitor, entered into between the Company and an Interested Party;

“**Court**” means the Ontario Superior Court of Justice (Commercial List);

“**Data Room**” means an electronic data room created and maintained by the Monitor, with the assistance of the Company, containing confidential information in respect of the Company, the Business and the Assets;

“**Form Purchase Agreement**” means the template share purchase agreement posted in the Data Room;

“**Interested Party**” has the meaning given to it in Section 2;

“**Investment Proposal**” has the meaning given to it in Section 9;

“**Known Potential Bidders**” has the meaning give to it in Section 5(a);

“**Monitor**” has the meaning given to it in the Introduction;

“**Notice**” has the meaning given to it in Section 5(b);

“**Outside Date**” means July 31, 2024, or such other date as the Company, the Monitor, and the Successful Bidder(s) or the Back-Up Bidder, if applicable, may agree, acting reasonably;

“**Participant Requirements**” has the meaning given to it in Section 10 hereof;

“**Portion Bid**” means a Binding Bid for less than all, or substantially all of the Assets, that is otherwise a Qualified Bid;

“**Portion Bidder**” means a Qualified Bidder that submits a Portion Bid;

“**Qualified Bid**” means a Binding Bid that satisfies the requirements set out in Section 11. For greater certainty, a Portion Bid may be a Qualified Bid if it forms part of an Aggregate Bid;

“**Qualified Bidder**” means a bidder submitting a Qualified Bid;

“**Sale Approval Hearing**” has the meaning given to it in Section 18;

“**Sale Proposal**” has the meaning given to it in Section 9;

“SISP” has the meaning given to it in the Introduction;

“SISP Procedures” has the meaning given to it in the Introduction;

“Successful Bid” has the meaning given to it in Section 12;

“Successful Bidder” has the meaning given to it in Section 12; and

“Teaser Letter” has the meaning given to it in Section 5(c).

2. **The SISP Procedures**

The SISP shall consist of one phase. Any interested party (an “Interested Party”) that meets the preliminary participant requirements set out herein, including executing a Confidentiality Agreement and an Acknowledgment of the SISP, shall be provided with access to the Data Room to prepare and submit a Binding Bid by the Bid Deadline.

The Monitor, in consultation with the Company, shall supervise the SISP Procedures, and each will generally consult with the other in respect of all matters arising out of this SISP. If there is disagreement as to the interpretation or application of this SISP, the Court will have the jurisdiction to hear and resolve such dispute.

3. **“As Is, Where Is”**

The sale of the Business or all or any part of the Assets or an investment in the Company will be on an “as is, where is” basis and without surviving representations or warranties of any kind, nature or description by the Company, the Monitor or any of their respective employees, officers, directors, agents or advisors, except to the extent set forth in the relevant definitive Sale Proposal or Investment Proposal agreement, as applicable, with a Successful Bidder.

By participating in this process, each Interested Party is deemed to acknowledge and represent that it has had an opportunity to conduct any and all due diligence regarding the Business, the Assets or the Company prior to making its Binding Bid, that it has relied solely on its own independent review, investigation, and/or inspection of any documents and/or regarding the Business, the Assets or the Company in making its Binding Bid, and that it did not rely on any written or oral statements, representations, promises, warranties, conditions or guaranties whatsoever, whether express, implied, by operation of law or otherwise, regarding the Business, the Assets or the Company or the completeness of any information provided in connection therewith, except as expressly stated in the terms of any definitive transaction documents.

4. **Timeline**

The following table sets out the key milestones under the SISP:

| Milestone | Deadline |
|-----------|----------|
|-----------|----------|

|   |   |
|---|---|
| Commencement of SISP  | May 2, 2024   |
| Distribution of the Notice, Teaser Letter Confidentiality Agreement and Acknowledgement of SISP | As soon as reasonably practicable following the date on which the SISP Order is granted     |
| Bid Deadline (5:00 PM (Eastern Time))   | June 17, 2024   |
| Selection of Successful Bid(s), Back-Up Bid(s)  | June 21, 2024   |
| Sale Approval Hearing   | As soon as practicable  |
| Closing Date Deadline   | A maximum of 4 weeks after the Sale Approval Hearing, but by no later than the Outside Date |

5. **Solicitation of Interest**

As soon as is reasonably practicable:

- (a) the Monitor, with the assistance of the Company, will prepare a list of potential bidders, including: (i) parties that have approached the Company or the Monitor indicating an interest in the opportunity; and (ii) strategic parties whom the Company or the Monitor believe may be interested in purchasing all or part of the Business and Assets, or investing in the Company, pursuant to the SISP (collectively, “**Known Potential Bidders**”);
- (b) the Monitor, with the assistance of the Company, will cause a notice of the SISP and such other relevant information that the Monitor, with the assistance of the Company, considers appropriate (the “**Notice**”) to be published in *The Globe and Mail* (National Edition) and *Insolvency Insider*, and any other newspaper, journal or industry publication as the Company and the Monitor consider appropriate, if any; and
- (c) the Monitor, in consultation with the Company, will prepare: (i) a process summary (the “**Teaser Letter**”) describing the opportunity, outlining the SISP Procedures, and inviting recipients of the Teaser Letter to express their interest pursuant to the SISP; and (ii) a Confidentiality Agreement, in each case in form and substance satisfactory to the Company.

The Monitor, with the assistance of the Company, will publish the Notice and send the Teaser Letter, Confidentiality Agreement, and Acknowledgement of the SISP to all Known Potential Bidders as soon as reasonably practicable following the date on which the SISP Order is granted and to any other party who requests a copy of the Teaser Letter, Confidentiality Agreement, and Acknowledgement of the SISP, or who is identified to the

Company or the Monitor as a potential bidder, as soon as reasonably practicable after such request or identification, as applicable.

6. **Role of Management of the Company**

If any party who is: (a) associated with the Board of Directors or management of the Company, (b) the DIP Lender, or (c) an affiliate of the Company, intends to submit a Binding Bid pursuant to the SISP, any such party must advise the Monitor of such intention in writing by May 17, 2024. Any such party(ies) shall be entitled to participate in the SISP as an Interested Party, provided that, and only to the extent that, such party(ies) shall: (a) be excluded from participating in the SISP in any manner or capacity that would be reasonably likely to create an unfair advantage for any party or otherwise jeopardize the integrity of the SISP, as determined by the Monitor in its sole discretion; and (b) be subject to such restrictions as the Monitor, in its sole discretion, determines to be necessary to ensure compliance with (a).

7. **Role of the Monitor**

The Monitor's responsibilities pursuant to the SISP include:

- (a) consulting with the Company in connection with the SISP Procedures and the closing of the transaction contemplated in the Successful Bid(s);
- (b) assisting the Company with supervision of the SISP Procedures;
- (c) reporting to the Court in connection with the SISP Procedures, including the bidding procedures described in this SISP, and the closing of the transaction contemplated in the Successful Bid(s); and
- (d) assisting the Company to facilitate information requests, including assisting the Company in preparing or modifying financial information to assist with the bidding procedures described in this SISP and the closing of the transaction contemplated in the Successful Bid(s).

8. **Access to Due Diligence Materials**

Only Interested Parties that satisfy the Participant Requirements will be eligible to receive access to the Data Room.

The Monitor, with the assistance of the Company, will be responsible for the coordination of all reasonable requests for additional information and due diligence access from Interested Parties. Neither the Company nor the Monitor shall be obligated to furnish any due diligence information after the Bid Deadline, provided however that the Company and the Monitor may, but are not obligated to, provide further information including, without limitation, financial information to the Successful Bidder. Neither the Company nor the Monitor are responsible for, and will bear no liability with respect to, any information

obtained by any party in connection with the sale of the Assets and the Business, or an investment in the Company.

9. **Bid Deadlines**

An Interested Party that wishes to make a Binding Bid to: (a) acquire the Business or all, substantially all or any part of the Assets, including any offer to acquire some or all of the Company' intellectual property, accounts receivable and furniture, fixtures and equipment (a "**Sale Proposal**"); or (b) make an investment in the Company by way of private issuances, sale or placement of newly issued or treasury equity, equity-linked or debt securities, instruments or obligations of the Company with one or more lenders and/or investors or security holders (an "**Investment Proposal**"), must deliver an executed copy of a Binding Bid to the Monitor, at the email address specified in Schedule "B", so as to be received by it **not later than 5:00 p.m. (Eastern Time) on June 17, 2024**, or such other later date or time as may be agreed by the Monitor, in consultation with the Company (the "**Bid Deadline**").

10. **Participant Requirements.**

To participate in the SISP and to otherwise be considered for any purpose hereunder, each Interested Party must provide the Company and the Monitor with an executed copy of each of the following prior to being provided with access to the Data Room: (a) a Confidentiality Agreement; and (b) an Acknowledgement of the SISP (collectively, the "**Participant Requirements**").

11. **Qualified Bid Requirements**

Only Interested Parties who submit a Qualified Bid shall be considered by the Monitor, in consultation with the Company. To be considered a Qualified Bid, a Binding Bid must satisfy all of the following requirements in form and substance satisfactory to the Monitor, in consultation with the Company:

- (a) **Irrevocable Bid:** A cover letter stating that the Binding Bid is irrevocable until Court approval of the Successful Bid(s), provided that if such bidder is selected as the Successful Bidder or the Back-Up Bidder, its Binding Bid shall remain irrevocable until the Back-Up Bid Expiration Date (as defined below), which cover letter includes:
  - (i) **Sale Proposal:** In the case of a Sale Proposal, a duly authorized and executed definitive purchase agreement, together with all completed schedules thereto substantially in the form of the Form Purchase Agreement, together with a blackline comparing the purchase agreement submitted to the Form Purchase Agreement; and
  - (ii) **Investment Proposal:** In the case of an Investment Proposal, a duly authorized and executed binding term sheet;

- (b) Unconditional Bid: Evidence that it is not conditioned on: (i) the outcome of unperformed due diligence; (ii) obtaining financing; and/or (iii) any other material closing conditions;
- (c) Proof of Financial Ability to Perform: Written evidence upon which the Company and the Monitor may reasonably conclude that the bidder has the necessary financial ability to fully fund and consummate the transaction contemplated by the Binding Bid, and satisfy its obligations under the definitive purchase agreement, including: (i) binding equity/debt commitment letters and/or guarantees (*i.e.*, bank guarantees) covering the full value of all cash consideration; (ii) evidence of the bidder's internal financial resources; and/or (iii) any such other form of financial disclosure or credit-quality support information or enhancement requested by and reasonably acceptable to the Company and the Monitor demonstrating that the bidder has the ability to close the contemplated transaction;
- (d) Acknowledgment: An acknowledgement and representation that the bidder: (i) has relied solely upon its own independent review, investigation and/or inspection of any documents regarding the Company, the Business and/or the Assets to be acquired, or liabilities to be assumed in making its Binding Bid; (ii) did not rely upon any written or oral statements, representations, promises, warranties conditions or guaranties whatsoever, whether express or implied (by operation of law or otherwise) by the Company, the Monitor or any of their respective employees, directors, officers, agents, advisors or other representatives, regarding the Company, the Business, the Assets to be acquired, liabilities to be assumed, or the completeness of any information provided in connection therewith, except as expressly provided in any definitive transaction documents; and (iii) promptly, at its own expense, will commence any governmental or regulatory review of the proposed transaction by the applicable competition, antitrust or other applicable governmental authorities, including those regulating in the cannabis sector;
- (e) Authorization: Evidence, in form and substance reasonably satisfactory to the Company and the Monitor, of authorization and approval from the Interested Party's board of directors (or comparable governing body) with respect to the submission, execution, delivery and closing of the transaction contemplated by the Binding Bid, and confirmation that any other required approvals have been obtained;
- (f) Employees: If applicable, full details of the proposed number of employees of the Company who will become employees of the bidder if determined to be the Successful Bidder and the proposed terms and conditions of employment to be offered to those employees;
- (g) Other: Such other information as may reasonably be requested by the Company or the Monitor; and
- (h) Bid Deadline: The Binding Bid is received by the Monitor, at the address specified in Schedule "B" hereto (including by email) on or before the Bid Deadline.

12. **Evaluation of Qualified Bids and Subsequent Actions**

The Monitor, in consultation with the Company, shall evaluate Qualified Bids on various grounds with a view to selecting the best or otherwise highest bid, including, but not limited to: (a) the purchase price or imputed or projected value, (b) the treatment of creditors and related implied recovery for creditors (in each case, as applicable), (c) the assumed liabilities, (d) the number of employees assumed, (e) the certainty of closing the transactions contemplated by the Qualified Bid on or before the Outside Date, (f) any delay or other risks (including closing risks) in connection with the Qualified Bids, and (g) any other factors considered to be relevant by the Monitor. The Qualified Bid selected by the Monitor, in consultation with the Company, as the best or highest bid based on the factors enumerated herein, shall constitute the “Successful Bid” and such Qualified Bidder, the “Successful Bidder”.

The Monitor, in consultation with the Company, shall have the option to aggregate Portion Bids into an Aggregate Bid.

The Company may conditionally accept one or more (if for distinct and compatible transactions that are Portion Bids) Qualified Bids, which acceptance will be conditional upon the failure of the transaction(s) contemplated by the Successful Bid to close (the “**Back-up Bid**”, and Qualified Bidder making such Back-up Bid being the “**Back-Up Bidder**”).

Following the selection of the Successful Bid, the Company shall take such steps as may be necessary to finalize definitive transaction documents for the Successful Bid(s) with the Successful Bidder(s) prior to Court approval of the Successful Bid.

As soon as reasonably practicable and by no later than June 21, 2024, the Monitor, in consultation with the Company, shall advise the Qualified Bidders if Successful Bid(s) and Back-Up Bid(s) have been accepted, or conditionally accepted, as the case may be.

**APPROVAL MOTION**

13. **Approval Motion**

The Company shall use reasonable efforts to bring a motion to the Court to approve the Successful Bid(s) and Back-Up Bid(s) as soon as practicable following the determination by the Monitor, in consultation with the Company, of the Successful Bidder(s) and the execution of definitive documents (the “**Sale Approval Hearing**”). The Company will be deemed to have accepted the Successful Bid(s) only when it has been approved by the Court. All Qualified Bids (other than the Successful Bid(s) and the Back-Up Bid(s)) shall be deemed rejected by the Company on and as of the date of approval of the Successful Bid(s) by the Court.

14. **Back-Up Bidder**

If a Successful Bidder fails to close the transaction contemplated by the Successful Bid(s) on or before the Outside Date for any reason, then the Company will be deemed to have



accepted the Back-Up Bid(s) and will proceed with the transaction pursuant to the terms thereof. The Back-Up Bid(s) shall remain open for acceptance until the closing of the Successful Bid(s), or such other later date as the Company and the Back-Up Bidder may agree, acting reasonably (the “**Back-Up Bid Expiration Date**”).

## **MISCELLANEOUS**

### 15. **Information From Interested Parties**

Each Interested Party shall comply with all reasonable requests for additional information by the Company or the Monitor regarding such Interested Party and its proposed transaction. Failure by an Interested Party to comply with requests for additional information will be a basis for the Monitor, in consultation with the Company, to determine that the Interested Party is not a Qualified Bidder.

### 16. **Deposits**

All deposits shall be held by the Monitor in a single interest-bearing account designated solely for such purpose. A deposit made by a Successful Bidder shall be dealt with in accordance with the definitive documents for the transactions contemplated by the Successful Bid. Deposits, and any interest earned thereon, paid by Qualified Bidders not selected as either a Successful Bidder or a Back-Up Bidder shall be returned to such Bidders as soon as practicable, and in any event no later than seven (7) Business Days following Court approval of the Successful Bid. In the case of Back-Up Bid(s), the deposit and any interest earned thereon shall be retained by the Monitor until the Back-Up Bid Expiration Date and returned to the Back-Up Bidder as soon as practicable, and in any event no later than seven (7) Business Days thereafter or, if a Back-Up Bid becomes a Successful Bid, shall be dealt with in accordance with the definitive documents for the Back-Up Bid.

### 17. **Modifications and Termination**

The Monitor, in consultation with the Company, shall have the right to adopt such other rules for the SISP Procedures (including rules that may depart from those set forth herein) that will better promote the sale of the Business or all or any part of the Assets or investment in the Company under this SISP. The Company, in consultation with the Monitor, shall apply to the Court if it wishes to materially modify or terminate the process set out in this SISP. For certainty, any amendments to the Bid Deadline or other dates set out in this SISP shall not constitute a material modification, provided that any extensions to the Bid Deadline are not longer than seven calendar days.

### 18. **Other**

Neither the Company nor the Monitor shall be liable for any claim for a brokerage commission, finder's fee or like payment in respect of the consummation of any of the transactions contemplated under the SISP arising out of any agreement or arrangement entered into by the parties that submitted the Successful Bid(s) and Back-Up Bid(s). Any

such claim shall be the sole liability of the parties that submitted such Successful Bid(s) and Back-Up Bid(s).

Neither the Company nor the Monitor shall have any liability whatsoever to any person or party, including without limitation, to any Known Potential Bidder, Interested Party, Qualified Bidder, a Successful Bidder or Back-Up Bidder, or any creditor, or other stakeholder, for any act or omission related to this SISP. By submitting a Binding Bid, each Interested Party shall be deemed to have agreed that it has no claim against the Company or the Monitor for any reason, matter or thing whatsoever related to this SISP.

## SCHEDULE "A"

### Acknowledgement of the SISP

The undersigned hereby acknowledges receipt of the Sale and Investor Solicitation Process approved by the Order of the Honourable Justice Steele of the Ontario Superior Court of Justice (Commercial List) dated May 2, 2024 (the "SISP") and that compliance with the terms and provisions of the SISP is required in order to participate in the SISP and for any Bids to be considered by the Company.

This \_\_\_\_ day of \_\_\_\_\_, 2024.

[NAME]

By:

\_\_\_\_\_  
[Signing Officer]

**SCHEDULE "B"**  
**ADDRESS PARTICULARS**

**msi Spergel Inc.**

200 Yorkland Blvd., Suite 1100  
Toronto, Ontario M2J 5C1

Attention: Frank Kisluk | Mukul Manchanda  
Phone: (647) 288-7636 | (416) 498-4314  
Email: [fkisluk@spergel.ca](mailto:fkisluk@spergel.ca) | [mmanchanda@spergel.ca](mailto:mmanchanda@spergel.ca)

**With a copy to:**

**Reconstruct LLP**

200 Bay Street Suite 2305  
Toronto, Ontario M5J 2J3

Attention: Caitlin Fell | Jared Rosenbaum  
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