

ONTARIO
SUPERIOR COURT OF JUSTICE
(IN BANKRUPTCY AND INSOLVENCY)

THE HONOURABLE
JUSTICE MACLEOD

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FRIDAY, THE 13TH
DAY OF NOVEMBER, 2020

**IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF
EUREKA 93 INC. OF THE CITY OF OTTAWA IN THE PROVINCE OF ONTARIO**

**AND IN THE MATTER OF THREE RELATED INTENDED PROPOSALS (LIVEWELL
FOODS CANADA INC., ARTIVA INC., AND VITALITY CBD NATURAL HEALTH
PRODUCTS INC.)**

AMENDED ORDER
(Approving Proposal)

THIS MOTION, made by Deloitte Restructuring Inc. (“**Deloitte**”, or the “**Proposal Trustee**”), in its capacity as proposal trustee for LiveWell Foods Canada Inc. (“**LiveWell**”) and Artiva Inc. (“**Artiva**”) (collectively, the “**Proposal Debtors**”) for an Order approving their joint proposal dated June 12, 2020, as amended on August 26, 2020 (the “**Amended Joint Proposal**”), was heard this day via video conference due to the COVID-19 crisis.

ON READING the Notice of Motion, the Ninth Report of the Proposal Trustee dated September 9, 2020 (the “**Ninth Report**”), the Proposal Trustee’s Report on Proposal dated July 15, 2020 (the “**Report on Proposal**”), the Proposal Trustee’s Supplemental Report on Amended Joint Proposal dated August 27, 2020 (the “**Supplemental Report on Proposal**”), and Form 40 - Report of Trustee on Proposal dated October 22, 2020 (the “**Form 40**”), and the appendices thereto, and on hearing the submissions of counsel for the Proposal Trustee, counsel for the Proposal Debtors and counsel for those other parties in attendance, no one appearing for any other person on the Service List although properly served as appears from the Affidavit of Service of Eric Golden, sworn November 10, 2020, 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 capitalized terms not otherwise defined herein shall have the meanings given to them in the Amended Joint Proposal.

APPROVAL OF PROPOSAL

3. **THIS COURT ORDERS** that, being satisfied that the required majorities of creditors duly accepted the Amended Joint Proposal and the terms thereof, a complete copy of which is attached as Appendix "A" hereto, and being satisfied that the terms of the Amended Joint Proposal are reasonable and calculated to benefit the general body of creditors and that no offences or facts have been proved to justify the Court in withholding its approval, the Amended Joint Proposal, as amended by this Order, be and is hereby approved and shall be binding and effective on all Persons affected thereby in accordance with the terms of the Amended Joint Proposal, as amended by this Order.

4. **THIS COURT ORDERS AND DECLARES** that, pursuant to paragraph 8.1 and 8.3(d) of the Amended Joint Proposal, the Unsecured Creditors and the Related Creditors will be deemed to have released and discharged all claims that arose prior to the Proposal Date against the Proposal Debtors' current directors and such claim shall be deemed to have been satisfied, to the extent that these claims relate to the obligations of the Proposal Debtors where these current directors of the Proposal Debtors, as applicable, are liable in their capacity as directors of the Proposal Debtors for the payment of such obligations, but shall exclude any such claims as described in s.50(14) of the BIA and set out in the Amended Joint Proposal.

5. **THIS COURT ORDERS AND DECLARES** that for the purpose of clarity the releases set out in the said paragraphs 8.1 and 8.3(d) relate only to acts or omissions in the capacity of director, officer, or advisor to the Proposal Debtors or to the steps taken in these insolvencies and not to any acts or omissions in relation to Eureka 93 Inc. or any other entity currently involved in other bankruptcy proceedings. The release does not affect any rights arising between any of the creditors and any such person in relation to rights or obligation arising in Ontario or elsewhere in

any other manner and without limiting the generality of this provision, does not affect court proceedings CV-20-637139 (Toronto) or CV-19-81852 (Ottawa) insofar as any of those persons are parties.

CBCA ARRANGEMENT

6. **THIS COURT ORDERS** that the CBCA reorganization as described in Article 5.3 and Schedule “B” to the Amended Joint Proposal, and each of the matters and transactions provided for in Section 2 of Schedule “B” to the Amended Joint Proposal, including:

- (a) the amendment of the Articles for New Artiva to: (i) re-designate the Common Shares of New Artiva as Redeemable Shares and to provide that the newly designated Redeemable Shares may be redeemed and exchanged by New Artiva on payment of \$0.01 per share; and (ii) create a new class of shares consisting of an unlimited number of Common Shares having the right to vote, the right to receive dividends and the right to receive a distribution on the winding-up of New Artiva;
- (b) the redemption and cancellation of the Redeemable Shares such that: (i) the existing shareholder of Artiva shall no longer be a shareholder of New Artiva and shall have no rights as a shareholder except the right to receive the \$1.00 payable by New Artiva to redeem the Redeemable Shares, and (ii) there shall be no remaining issued and outstanding Redeemable Shares; and
- (c) the amendment of the Articles for New Artiva to delete all reference to the Redeemable Shares such that the only shares of New Artiva will be Common Shares.

be and are hereby approved pursuant to s 191 of the *Canada Business Corporations Act*, RSC 1985, c. C-44.

7. **THIS COURT ORDERS** that the Proposal Debtors are entitled to: (a) seek to vary this Order upon such terms and upon giving such notice as this Court may direct; (b) seek the advice and directions of this Court as to the implementation of this Order, and (c) apply for such further order or orders as may be appropriate.

GENERAL

8. **THIS COURT ORDERS** that this Order shall have full force and effect in all provinces and territories in Canada.

9. **THIS COURT ORDERS AND DECLARES** that the Proposal Debtors and the Proposal Trustee are authorized to take all steps and actions necessary or appropriate to implement the Amended Joint Proposal in accordance with its terms.

10. **THIS COURT HEREBY 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 Debtors, the Proposal Trustee 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 Proposal Debtors and the Proposal Trustee as may be necessary or desirable to give effect to this Order or to assist the Proposal Debtors, the Proposal Trustee and their respective agents in carrying out the terms of this Order.

AND IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF EUREKA 93 INC. OF THE CITY OF OTTAWA IN THE PROVINCE OF ONTARIO

AND IN THE MATTER OF THREE RELATED INTENDED PROPOSALS (LIVEWELL FOODS CANADA INC., ARTIVA INC. AND VITALITY CBD NATURAL HEALTH PRODUCTS INC.)

ONTARIO
SUPERIOR COURT OF JUSTICE
(IN BANKRUPTCY AND INSOLVENCY)
Proceeding commenced at Ottawa

AMENDED AND RESTATED ORDER
(Approving Proposal)

BLANEY McMURTRY LLP
Barristers & Solicitors
2 Queen Street East, Suite 1500
Toronto ON M5C 3G5

Eric Golden LSO #38239M
(416) 593-3927 (Tel)
(416) 593-5437 (Fax)
Email: egolden@blaney.com

Chad Kopach LSO #48084G
(416) 593-2985 (Tel)
(416) 593-5437 (Fax)
Email: ckopach@blaney.com

Lawyers for the Proposal Trustee