

CANADA  
PROVINCE OF QUÉBEC

DISTRICT OF MONTRÉAL  
No.: 500-06-001029-194

**SUPERIOR COURT**  
(Class Action)

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**ANNE MILLER**

-and-

**MARTIN DIONNE**

Plaintiffs

v.

**HEXO CORP.**

-and-

**SÉBASTIEN ST-LOUIS**

Defendants

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**DE BENE ESSE MOTION FOR LEAVE TO AMEND  
THE RE-AMENDED MOTION FOR AUTHORIZATION TO BRING AN ACTION PURSUANT  
TO SECTION 225.4 OF THE QUÉBEC SECURITIES ACT AND APPLICATION FOR  
AUTHORIZATION TO INSTITUTE A CLASS ACTION**  
(Articles 206 and 585 CCP)

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**TO THE HONOURABLE THOMAS M. DAVIS, S.C.J., SITTING IN AND FOR THE DISTRICT  
OF MONTRÉAL, AS DESIGNATED JUDGE FOR THIS INSTANCE, PLAINTIFFS ANNE  
MILLER AND MARTIN DIONNE RESPECTFULLY SUBMIT THE FOLLOWING:**

**I - INTRODUCTION**

1. On November 19, 2019, plaintiff Anne Miller filed a *Motion for Authorization to Institute a Collective Action and to Obtain Representative Status* against HEXO Corp., a Canadian cannabis producer ("**HEXO**"), and Sébastien St-Louis, HEXO's founder and Chief Executive Officer at the relevant time ("**St-Louis**"), as appears from the Court record;
2. This motion has since been amended twice, with the Court's approval, as appears from the judgments rendered on May 6, 2020 and November 16, 2020;
3. Since then, Plaintiffs have discovered new facts that warrant additional amendments;
4. Plaintiffs seek leave to amend the *Re-Amended Motion for Authorization to Bring an Action Pursuant to Section 225.4 of the Québec Securities Act and Application for Authorization to Institute a Class Action* (the "**Authorization Motion**") to:

- a) Allow Anne Miller to cease to act as plaintiff in this case, as she is no longer in a position to assume this role. Martin Dionne remains, however, capable and willing to continue to act as plaintiff;
  - b) Clarify some allegations in the Authorization Motion;
5. The proposed amendments are laid out in the draft *Third Amended Motion for Authorization to Bring an Action Pursuant to Section 225.4 of the Québec Securities Act and Application for Authorization to Institute a Class Action* (the "**Third Amended Motion for Authorization**"), communicated herewith as **Exhibit R-1**;
  6. The proposed amendments are relevant. They will not delay the proceedings. They are not contrary to the interests of justice. And they will not result in an entirely new application having no connection with the original one;
  7. According to Plaintiffs, the authorization of the Court pursuant to Article 585 CCP is not required before Plaintiffs are authorized to institute a class action, in accordance with Article 206 CCP. This motion is therefore filed *de bene esse*;

## II - CONTEXT

8. The Authorization Motion seeks to obtain leave from this Court to institute an action pursuant to (a) section 225.4 of the Québec *Securities Act*, chapter V-1.1, and (b) article 574 CCP;
9. Plaintiffs' recourse stems from Defendants' misrepresentations, including their failure to make timely disclosures of material facts and/or changes, which caused monetary damages to HEXO investors. Due to Defendants' misrepresentations, the price of HEXO's securities was artificially inflated at the time of their acquisition by putative class members, and plummeted when the truth came to light;
10. Defendants' misrepresentations relate to interrelated themes. First, an agreement entered into between HEXO and the *Société des alcools du Québec* ("**SAQ**") which, among other things, was represented by Defendants as including a provision forcing a subsidiary of the SAQ, the *Société québécoise du cannabis* ("**SQDC**"), to purchase 20,000 kg of product from HEXO in the first year after the legalization of cannabis in Canada;
11. Defendants represented that the revenues associated with this alleged "take or pay" feature of the SQDC agreement were "guaranteed", when, in fact, they were not;
12. Second, Defendants misrepresented the revenues to be derived, *inter alia*, from the acquisition of cannabis producer Newstrike and from the SQDC agreement, whereas they knew or should have known that the financial benefits they were touting were misleading;
13. Third, Defendants reported inflated inventory results throughout the class period, which had the effect of grossly and artificially inflating the Company's value and stock price;

## III - GROUNDS FOR LEAVE TO AMEND

### A- Allow Anne Miller to Cease to Act as Plaintiff

14. Ms. Miller has indicated that, for personal reasons, she is no longer in a position to act as plaintiff in the present proceedings;
15. Considering that Mr. Dionne is still capable and willing to continue to act as plaintiff, the file can continue to proceed in a seamless manner for Defendants and for the Court;
16. Plaintiffs therefore ask this Honourable Court to allow Ms. Miller to withdraw from the case;

**B- Clarify Allegations Included in the Authorization Motion**

17. Plaintiffs seek leave to make the additional amendments laid out in the Third Amended Motion for Authorization, Exhibit R-1, in order to complete the statements currently included in the Authorization Motion, and to clarify their position;
18. The amendments sought are in the interests of the putative class members and in the interests of justice. Furthermore, they shall assist the parties and the Court to better understand the recourse;

**FOR THESE REASONS, MAY IT PLEASE THE COURT TO:**

**AUTHORIZE** the amendments laid out in the *Third Amended Motion for Authorization to Bring an Action Pursuant to Section 225.4 of the Québec Securities Act and Application for Authorization to Institute a Class Action*, Exhibit R-1, and the filing of said proceeding;

**AUTHORIZE** Anne Miller to cease to act as plaintiff in this case;

**RENDER** any other order that it deems useful or necessary to safeguard the rights of the putative class members and of the parties;

**THE WHOLE** without costs, save in the event of contestation.

MONTRÉAL, this 3rd day of December, 2021

**(s) Faguy & Co.**

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**FAGUY & CO. BARRISTERS & SOLICITORS INC.**

Attorneys for Plaintiffs

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CANADA  
PROVINCE OF QUÉBEC  
  
DISTRICT OF MONTRÉAL  
No.: 500-06-001029-194

**SUPERIOR COURT**  
(Class Action)

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**ANNE MILLER**

-and-

**MARTIN DIONNE**

Plaintiffs

v.

**HEXO CORP.**

-and-

**SÉBASTIEN ST-LOUIS**

Defendants

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**LIST OF EXHIBITS**

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**Exhibit R-1:** Draft *Third Amended Motion for Authorization to Bring an Action Pursuant to Section 225.4 of the Québec Securities Act and Application for Authorization to Institute a Class Action.*

MONTRÉAL, this 3rd day of December, 2021

**(s) Faguy & Co.**

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**FAGUY & CO. BARRISTERS & SOLICITORS INC.**

Attorneys for Plaintiffs

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## **EXHIBIT R-1**

CANADA  
PROVINCE OF QUÉBEC  
DISTRICT OF MONTRÉAL  
No.: 500-06-001029-194

**SUPERIOR COURT**  
(Class Action)

[...]

**MARTIN DIONNE**

Representative Plaintiff[f]

v.

**HEXO CORP.**

-and-

**SÉBASTIEN ST-LOUIS**

Defendants

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**THIRD [...] AMENDED MOTION FOR AUTHORIZATION TO BRING AN ACTION  
PURSUANT TO SECTION 225.4 OF THE QUÉBEC *SECURITIES ACT* AND  
APPLICATION FOR AUTHORIZATION TO INSTITUTE A CLASS ACTION**  
(Art. 225.4 QSA and Art. 574 CCP)

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**IN SUPPORT OF [...] HIS MOTION FOR AUTHORIZATION PURSUANT TO THE QUÉBEC  
*SECURITIES ACT* AND [...] HIS APPLICATION FOR AUTHORIZATION TO INSTITUTE A  
CLASS ACTION, THE REPRESENTATIVE PLAINTIF[F] RESPECTFULLY SUBMITS AS  
FOLLOWS:**

**I - DEFINITIONS**

77. In addition to the terms that are defined elsewhere herein and within the Québec *Securities Act*, CQLR c. V-1.1, the following terms have the following meanings:

- (a) “**AIF**” means Annual Information Form;
- (b) “**AMF**” means Autorité des marchés financiers;
- (c) “**CCP**” means the *Code of Civil Procedure*, CQLR c. C-25.01;
- (d) “**CCQ**” means the *Civil Code of Québec*, CQLR c. CCQ-1991;
- (e) “**CEO**” means Chief Executive Officer;
- (f) “**CFO**” means Chief Financial Officer;
- (g)

- (h) “**Class**” and “**Class Members**” are comprised of the following, other than the “**Excluded Persons**”:
- (i) **Primary Market Sub-Class:** All persons and entities who acquired HEXO securities in an Offering on or after April 11, 2018, and held some or all of those securities until after the close of trading on: (1) June 12, 2019; (2) October 9, 2019; (3) October 28, 2019; (4) November 15, 2019, (5) December 13, 2019, (6) December 30, 2019, (7) March 16, 2020; or (8) March 27, 2020; excluding investors who acquired HEXO securities in an Offering in the United States between January 23, 2019 and March 30, 2020; and
  - (ii) **Secondary Market Sub-Class:** All persons and entities who acquired HEXO securities on the secondary market on or after April 11, 2018, and held some or all of those securities until after the close of trading on: (1) June 12, 2019; (2) October 9, 2019; (3) October 28, 2019; (4) November 15, 2019, (5) December 13, 2019, (6) December 30, 2019, (7) March 16, 2020; or (8) March 27, 2020; excluding investors who acquired HEXO securities on a U.S. exchange between January 23, 2019 and March 30, 2020;
- (i) “**Class Period**” means April 11, 2018 to March 30, 2020, inclusively;
- (j) “**Company**” means HEXO;
- (k) “**Core Documents**”, each being a “**Core Document**”, refers to:
- (i) HEXO’s Material Change Report dated April 20, 2018 (Exhibit R-10);
  - (ii) HEXO’s MD&A for the quarter ending April 30, 2018 (Exhibit R-11);
  - (iii) HEXO’s financial statements for the quarter ending April 30, 2018 (Exhibit R-12);
  - (iv) HEXO’s Material Change Report dated September 5, 2018 (Exhibit R-76);
  - (v) HEXO’s MD&A for the quarter and annual ending July 31, 2018 (Exhibit R-15);
  - (vi) HEXO’s financial statements for the quarter and annual ending July 31, 2018 (Exhibit R-16);
  - (vii) HEXO’s 2018 AIF (Exhibit R-17);
  - (viii) HEXO’s MD&A for the quarter ending October 31, 2018 (Exhibit R-20);
  - (ix) HEXO’s financial statements for the quarter ending October 31, 2018 (Exhibit R-21);
  - (x) HEXO’s Short Form Base Shelf Prospectus dated November 19, 2018 (Exhibit R-19.1);
  - (xi) HEXO’s Material Change Report dated December 5, 2019 (Exhibit R-73);
  - (xii) HEXO’s Preliminary Prospectus Supplement to the Amended and Restated Short Form Base Shelf Prospectus Dated December 14, 2018, dated January 21, 2019 (Exhibit R-24);
  - (xiii) The Prospectuses (Exhibit R-2, *en liasse*);
  - (xiv) HEXO’s Material Change Report dated January 31, 2019 (Exhibit R-72);

- (xv) HEXO's MD&A for the quarter ending January 31, 2019 (Exhibit R-27);
- (xvi) HEXO's financial statements for the quarter ending January 31, 2019 (Exhibit R-28);
- (xvii) HEXO's Material Change Report dated May 30, 2019 (Exhibit R-77);
- (xviii) HEXO's MD&A for the quarter ending April 30, 2019 (Exhibit R-32);
- (xix) HEXO's financial statements for the quarter ending April 30, 2019 (Exhibit R-33);
- (xx) HEXO's MD&A for the quarter and annual ending July 31, 2019 (Exhibit R-42);
- (xxi) HEXO's financial statements for the quarter and annual ending July 31, 2019 (Exhibit R-43);
- (xxii) HEXO's 2019 AIF (Exhibit R-44);
- (xxiii) HEXO's MD&A for the quarter ending October 31, 2019 (Exhibit R-50);
- (xxiv) HEXO's financial statements for the quarter ending October 31, 2019 (Exhibit R-51);
- (xxv) HEXO's amended MD&A for the quarter and annual ending July 31, 2019 (Exhibit R-57);
- (xxvi) HEXO's restated financial statements for the quarter and annual ending July 31, 2019 (Exhibit R-56);
- (xxvii) HEXO's amended MD&A for the quarter ending October 31, 2019 (Exhibit R-59);
- (xxviii) HEXO's restated financial statements for the quarter ending October 31, 2019 (Exhibit R-58);
- (xxix) HEXO's re-amended MD&A for the quarter and annual ending July 31, 2019 (Exhibit R-63);
- (xxx) HEXO's re-amended MD&A for the quarter ending October 31, 2019 (Exhibit R-64);
- (xxxi) HEXO's MD&A for the quarter ending January 31, 2020 (Exhibit R-68); and
- (xxxii) HEXO's financial statements for the quarter ending January 31, 2020 (Exhibit R-69);

(l)

(m) "**Corrective Disclosures**" each being a "**Corrective Disclosure**" or a "**Public Correction**", means the statements released by HEXO on:

- (i) June 13, 2019 (Exhibit R-36);
- (ii) October 10, 2019 (Exhibit R-39);
- (iii) October 28, 2019 (Exhibits R-42 to R-47);
- (iv) November 15, 2019 (Exhibit R-48);
- (v) December 16, 2019 (Exhibits R-50 to R-54);
- (vi) December 31, 2019 (Exhibits R-56 to R-61);
- (vii) March 17, 2020 (Exhibits R-62 to R-67); and
- (viii) March 30, 2020 (Exhibits R-68 and R-69);

(m.1) "**DC&P**" means disclosure controls and procedures;



- (n) “**Excluded Persons**” means (a) HEXO and its subsidiaries, affiliates, officers, directors, senior employees, legal representatives, heirs, predecessors, successors and assigns, (b) St-Louis, and any member of St-Louis’ immediate family, (c) any senior level employee of any insurance company providing directors’ and officers’ insurance to defend this proceeding, and (d) any licensee employed by the Defendants’ law firms defending this proceeding;
- (o) “**FSE**” means the Frankfurt Stock Exchange;
- (p) “**HEXO**” means HEXO Corp., a company incorporated under the *Business Corporations Act*, R.S.O. 1990, c. B.16, which, for the period relevant to this proceeding, operated under the name “The Hypothecary Corporation” until August 29, 2018, and under the name “HEXO Corp.” thereafter, as appears from an extract from the Québec Enterprise Register, communicated herewith as **Exhibit R-1**, and from a Material Change Report dated September 5, 2018, communicated herewith as **Exhibit R-76**;
- (p.1) “**ICFR**” means internal control over financial reporting;
- (q) “**Impugned Statements**”, each being an “**Impugned Statement**”, refers to:
  - (i) The Prospectuses, as defined below (Exhibit R-2, *en liasse*);
  - (ii) Statements made by Defendants on:
    - (1) April 11, 2018 (Exhibit R-8);
    - (2) April 20, 2018 (Exhibit R-10, a Core Document);
    - (3) June 27, 2018 (Exhibits R-11 and R-12, which are Core Documents, and Exhibit R-13);
    - (4) June 28, 2018 (Exhibit R-14);
    - (5) October 26, 2018 (Exhibits R-15, R-16 and R-17, which are Core Documents, and Exhibits R-18 and R-19);
    - (6) November 19, 2018 (Exhibit R-19.1, a Core Document);
    - (7) December 13, 2018 (Exhibits R-20 and R-21, which are Core Documents, and Exhibit R-22)
    - (8) December 20, 2018 (Exhibit R-2 *en liasse*, a Core Document);
    - (9) January 21, 2019 (Exhibit R-23 and Exhibit R-24, which is a Core Document);
    - (10) January 24, 2019 (Exhibit R-2 *en liasse*, a Core Document, and Exhibit R-25);
    - (11) March 13, 2019 (Exhibits R-26; R-27, R-28, which are Core Documents; and R-29)
    - (12) March 14, 2019 (Exhibits R-30 and R-31);
    - (13) June 12, 2019 (Exhibits R-32 and R-33, which are Core Documents, and Exhibits R-34 and R-35);
    - (14) June 13, 2019 (Exhibit R-36);
    - (15) October 10, 2019 (Exhibit R-39);
    - (16) October 28, 2019 (Exhibits R-42, R-43 and R-44, which are Core Documents, and Exhibits R-45, R-46, and R-49);
    - (17) October 29, 2019 (Exhibit R-47);

- (18) November 15, 2019 (Exhibit R-48);
  - (19) December 16, 2019 (Exhibits R-50 and R-51, which are Core Documents, and Exhibits R- 52, R-53, and R-54);
  - (20) December 31, 2019 (Exhibits R-56, R-57, R-58, R-59, which are Core Documents, and Exhibits R-60 and R-61);
  - (21) March 17, 2020 (Exhibit R-62); and
  - (22) March 19, 2020 (Exhibits R-63 and R-64, which are Core Documents, and Exhibits R-65, R-66, and R-67);
- (r) “**MD&A**” refers to HEXO’s Management Discussion and Analyses. Management Discussion and Analyses are a narrative explanation of how a company performed during the period covered by the financial statements, and of a company’s financial condition and future prospects. The MD&A enables readers to assess material changes in the financial condition and operating results of a company and must discuss important trends and risks that have affected the financial statements, and trends and risks that are reasonably likely to affect them in the future;
- (s) “**Newstrike**” means Newstrike Brands Ltd., a cannabis company which HEXO announced it was acquiring on March 13, 2019 (Exhibit R-26). The transaction was completed on May 24, 2019 (*inter alia*, Exhibit R-42), when HEXO acquired all of Newstrike’s issued and outstanding common shares at an exchange rate of 0.06332 common shares of HEXO for each Newstrike common share, pursuant to a plan of arrangement. This appears, *inter alia*, from HEXO’s Material Change Report dated May 30, 2019, communicated herewith as **Exhibit R-77**. The transaction was effected pursuant to Canadian law, and is deemed to be a transaction made in Canada;
- (t) “**NI 51-102**” means the CSA’s National Instrument 51-102—*Continuous Disclosure Obligations*, as amended;
- (u) “**NI 52-109**” means the CSA’s National Instrument 52-109—*Certification of Disclosure in Issuers’ Annual and Interim Filings*, as amended;
- (v) “**NI 52-110**” means the CSA’s National Instrument NI 52-110—*Audit Committees*, as amended;
- (w) “**NYSE**” means the New York Stock Exchange;
- (w.1) “**NYSE-A**” means the NYSE American;
- (x) “**Offerings**”, each being an “**Offering**”, means the offerings of the Company’s securities during the Class Period including, but not limited to, an offering by way of a Prospectus, Short Form Base Shelf Prospectus, Pricing Supplement to a Short Form Base Shelf Prospectus, private placement, or any document issued by HEXO through which it effects a distribution of its securities as defined in the QSA or other Securities Legislation;
- (y) “**OTC**” means the over-the-counter market for securities in the United States;
- (z) “**Plaintiff[f]**” and/or “**Representative Plaintiff[f]**” means Martin Dionne [...];

- (aa) “**Prospectuses**” means the Company’s amended and restated short form base shelf prospectus dated December 14, 2018, and corresponding prospectus supplement dated January 24, 2019, and the documents incorporated by reference thereto, pertaining to the Company’s offering that closed on January 30, 2019, communicated herewith as **Exhibit R-2**, *en liasse*;
- (bb) “**Q1**”, “**Q2**”, “**Q3**”, and “**Q4**” means the three-month interim period ended October 31, January 31, April 30, and July 31, respectively;
- (cc) “**Québec Supply Agreement**” means the agreement between HEXO and the Province of Québec, first announced by HEXO on April 11, 2018, which HEXO represented, *inter alia*, as constituting a guarantee that it would be paid for 20,000 kilograms of cannabis product by the Québec government in the first year after cannabis legalization (i.e. by October 17, 2019);
- (dd) “**QSA**” means the Québec *Securities Act*, CQLR C V-1.1;
- (ee) “**QER**” means the Québec Enterprise Register;
- (ff) “**SAQ**” means the *Société des alcools du Québec*. SAQ is, at times, used interchangeably with its subsidiary SQDC herein;
- (gg) “**Securities Legislation**” means, collectively, the QSA; the Securities Act, RSO 1990, c S.5, as amended; the Securities Act, RSA 2000, c S-4, as amended; the Securities Act, RSBC 1996, c 418, as amended; the Securities Act, CCSM c S50, as amended; the Securities Act, SNB 2004, c S-5.5, as amended; the Securities Act, RSNL 1990, c S-13, as amended; the Securities Act, SNWT 2008, c 10, as amended; the Securities Act, RSNS 1989, c 418, as amended; the Securities Act, S Nu 2008, c 12, as amended; the Securities Act, RSPEI 1988, c S-3.1, as amended; the Securities Act, 1988, SS 1988-89, c S-42.2, as amended; and the Securities Act, SY 2007, c 16, as amended;
- (hh) “**SEDAR**” means the Canadian Securities Administrators’ System for Electronic Document Analysis and Retrieval;
- (ii) “**SPO**” means HEXO’s secondary public offering of equity securities on January 30, 2019, at \$6.50 per share, which was distributed pursuant to a prospectus dated January 24, 2019, as appears from a copy of this prospectus, included in Exhibit R-2, *en liasse*;
- (jj) “**SQDC**” means the *Société québécoise du cannabis*, a subsidiary of the SAQ. SQDC is, at times, used interchangeably with SAQ herein;
- (kk) “**St-Louis**” means Sébastien St-Louis, who is HEXO’s co-founder and was the Company’s CEO at all times during the Class Period;
- (ll) “**TSX**” means the Toronto Stock Exchange; and
- (mm) “**TSX-V**” means the TSX Venture Exchange;

## II - INTRODUCTION

### A. Overview of Proposed Class Action

78. This action stems from Defendants' misrepresentations, and failure to make periodic and/or timely disclosures of material facts and/or changes, which directly caused HEXO investors in Québec, and throughout the world, to suffer monetary damages<sup>1</sup>;
79. HEXO is a Canadian cannabis producer, which, during the Class Period, operated under the name The Hydrothecary Corporation until August 29, 2018;
80. It is a publicly-traded corporation, which, at all times during the Class Period, listed its securities on exchanges around the world, including the TSX-V, TSX, NYSE-A, NYSE, FSE, derivative exchanges, and the OTC market in the United States;
- 80.1 Domiciled in Québec, the Company is a reporting issuer within the meaning of article 68 of the QSA, under the purview of the AMF;
- 80.2 In 2018, HEXO was attempting to reposition itself to capitalize on the lucrative business opportunities that were expected to arise from the legalization of recreational cannabis products in Canada and, in particular, Québec;
81. In order to encourage investors to purchase HEXO securities, Defendants made statements, and/or approved the release of core and non-core documents, containing misrepresentations and omissions of material facts regarding HEXO's business, operations, and expected revenue;
- 81.1 These misrepresentations and omissions had the effect of artificially inflating the price and value of HEXO's securities at the time they were purchased by putative Class Members;
82. When the truth finally came to light through a series of Corrective Disclosures, the value and price of the Class Members' securities plummeted, losing, for instance, 87.4% on the TSX between the first and last Corrective Disclosures. The Class Members are entitled to be compensated for their losses;
83. Defendants' misrepresentations and omissions relate to [...] interrelated themes;

#### 1) The Québec Supply Agreement

84. First, on April 11, 2018, at the commencement of the proposed Class Period, HEXO released a statement announcing that it had reached a five-year binding agreement with the SAQ, pursuant to which a subsidiary of the SAQ, the future SQDC, would purchase an estimated volume of 200,000 kilograms of cannabis over the term of the contract [...];
- 84.1 This agreement was described as the "largest supply agreement between an authorized producer and a provincial authority responsible for the supply of cannabis for the adult-use recreational market";

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<sup>1</sup> In this proceeding, all references to the timely disclosure of material facts refer to the periodic and/or timely disclosure of material facts and/or changes.

- 84.2 According to Defendants, this made HEXO the preferred supplier for the Québec market for the next five years, with a valuable option to extend the term for an additional year;
- 84.3 Defendants touted, on numerous occasions, that the Québec Supply Agreement would generate one billion dollars in revenue for the Company (for e.g., Exhibits R-15, R-18, R-20, R-32, R-78, and R-24);
- 84.4 Defendants claimed that one crucial component of this agreement was that it obligated the SQDC to purchase 20,000 kilograms of cannabis during the first year following cannabis legalization;
85. The purchase of 20,000 kilograms by the SQDC was represented as guaranteed by a “take or pay” feature in the agreement, meaning that the SQDC was obligated to “pay” for the entire 20,000 kg, regardless of whether it needed to “take” the entire amount;
- 85.1 This feature was extremely valuable for HEXO and its investors as it protected the Company against variations in demand in a new and potentially volatile market. It ensured that HEXO would benefit from approximately 109 million dollars in revenue between October 17, 2018 (legalization) and October 17, 2019, irrespective of market conditions;
- 85.2 For over a year and a half after the initial April 2018 statement, Defendants repeatedly confirmed that the sale of 20,000 kg of product to the SQDC in year one, and the revenues associated therewith, were a certainty;
- 85.3 For instance, in HEXO’s April 30, 2018 MD&A (a Core Document, published on June 27, 2018), the Company [...] promised « *strong business **certainty** through year 1 post-legalization* », mainly as a result of the Québec Supply Agreement [...];
- 85.4 Between April 2018 and October 2019, Defendants emphasized the guaranteed nature of the revenues associated with the Québec Supply Agreement in year one in at least twenty-nine (29) public statements, misleading investors into believing that HEXO would enforce the SQDC obligation allegedly included in the contract;
86. These statements misrepresented that the sale of 20,000 kilograms of cannabis in year one, and the significant revenues associated therewith, were guaranteed, when, in fact, [...] they were not;
87. They also contain misrepresentations because they omitted to disclose material facts, including:
- (a) the circumstances under which the SQDC could terminate the agreement; and
  - (b) that there was a material risk that HEXO would not enforce the alleged “take or pay feature” of the agreement;
88. The revenue ‘floor’ provided by the alleged take or pay feature in the Québec Supply Agreement was repeatedly highlighted by securities analysts as being one of the primary value drivers for HEXO securities during the Class Period, as appears, *inter alia*, from an article entitled *HEXO Corp.: Potential Revenues Make it a Buy Opportunity*, communicated herewith as **Exhibit R-79**:

**"The most relevant agreement is the one with Quebec, an exclusive five-year supply contract with the Société québécoise (sic) du cannabis (SQDC) that is worth more than \$1 billion in revenues. The SQDC guarantees to buy from HEXO up to 20,000 kg (+30% market share in the first year) of products in the first post-legalization year, then 35,000 Kg in the second year, and 45,000 Kg in the third year. The amounts for the fourth and fifth years are yet TBD, but could be around 50,000 kg depending on the market growth. This agreement is quite beneficial for HEXO since it places an interesting floor to its revenues, but investors should focus on the fact that HEXO will store and distribute all orders generated by the SQDC online store, including products from other LPs with established supply agreements with the SQDC."**

[Emphasis added]

See also: *Hexo stock slides another 6% to weigh on cannabis sector after job cuts prompt downgrade*, communicated herewith as **Exhibit R-80**:

"Investors have been bullish on Hexo for a number of reasons [...] **the Quebec purchase contract was presented as one that would guarantee volumes for years [...] without the contract, Hexo is relatively undifferentiated versus peers**, in our view."

[Emphasis added]

- 89.
90. The Québec Supply Agreement was material to HEXO's business and operations, because, among other things, the Québec market was the most significant for HEXO in terms of revenue, accounting at times for 91% of the Company's adult-use sales;
- 90.1 Market analysts immediately recognized the strategic significance of HEXO's relationship with the SQDC, as appears, *inter alia*, from an April 25, 2018 article entitled *Hydrothecary: The Quebec Cannabis King*, and an October 29, 2018 article entitled *HEXO: The Strongest Buy and the King of Quebec Cannabis*, communicated *en liasse* herewith as **Exhibit R-81**;
91. As expected, the misrepresentations and omissions relating to this agreement had the effect of artificially inflating the value and price of HEXO's securities;
92. For instance, following HEXO's announcement of the Québec Supply Agreement on April 11, 2018, the value and price of its common shares increased by 13.24% on the TSX in one day;
93. The Class suffered a significant loss when HEXO confirmed, among other things, on March 30, 2020, that it had, in fact, removed from the Québec Supply Agreement the alleged provision requiring the SQDC to buy 20,000 kilograms of cannabis from HEXO in year one;
94. More specifically, this Corrective Disclosure had the foreseeable effect of materially reducing the value and price of HEXO's securities, amounting to a colossal loss of roughly 87.4% on the TSX from its closing price on the day before the first partial Corrective



Disclosure, on June 12, 2019 (\$8.74 per share), to the last Corrective Disclosure, on March 30, 2020 (\$1.10 per share);

- 94.1 Defendants invoked two reasons to justify not following through with their promises to investors regarding HEXO's year one 'guaranteed' revenues. First, they claimed that HEXO's relationship with the SQDC was so significant, and the risk of jeopardizing this relationship by enforcing the terms of the contract so great, that they could not enforce the alleged take or pay provision included in the Québec Supply Agreement;
- 94.2 Defendants knew the paramount importance of HEXO's relationship with the SQDC, and any risks associated with enforcing the Québec Supply Agreement, since the day this contract was entered into. They had no right to represent to investors that the revenues associated with the alleged take or pay provision were guaranteed, and promise "business certainty", when they knew from the beginning that there was a material risk that they would not enforce the alleged take or pay feature if actual market volumes were below contracted amounts. This guarantee allegedly included in the agreement was meaningless if HEXO didn't enforce it;
- 94.3 In light of Defendants' insistence on the take or pay provision allegedly included in the Québec Supply Agreement, and their repeated reassurances that HEXO revenues were guaranteed in year one, investors were led to believe that HEXO would enforce the alleged terms of the contract;
- 94.4 The second reason invoked by Defendants to explain their decision not to enforce the alleged take or pay provision was that SQDC store rollouts had been slower than anticipated. This excuse is also shocking given that (a) the purpose of a take or pay provision is specifically to protect HEXO from lower than expected market demand, and (b) HEXO was fully aware of the pace at which SQDC stores were being rolled out throughout the Class Period;
- 94.5 Defendants consistently failed to comply with their disclosure obligations relating to the Québec Supply Agreement throughout the Class Period;

## 2) The Newstrike Acquisition and [...] Revenue Generation

95. Second, on March 13, 2019, HEXO announced that:
- (a) It was acquiring cannabis producer Newstrike, which, among other things, allegedly had a fully licensed production facility in Niagara, Ontario; and
  - (b) As a result of this acquisition, and of the Québec Supply Agreement, among other factors, the Company would:
    - (i) realize estimated annual synergies of \$10 million;
    - (ii) double its net revenue for Q4 2019 to approximately \$26 million; and
    - (iii) achieve a net revenue of greater than \$400 million for fiscal 2020 (i.e. August 1, 2019 to July 31, 2020);

as appears, *inter alia*, from a copy of HEXO's press releases dated March 13, 2019 and June 12, 2019, respectively communicated as **Exhibits R-26** and **R-35**;

A. Licensing

96. These statements and subsequent releases omitted the material fact that Newstrike did not, in fact, have a fully licensed production facility in Niagara, Ontario, and that conducting operations in certain portions of this facility was illegal;
- 96.1 Defendants admit that they withheld information from investors regarding the licensing issues at the Niagara facility for at least three and a half months. This admission is actionable in and of itself. But more than that, Defendants should have known and informed investors from the outset that the Niagara facility was not properly licensed;

B. Revenues

- 96.2 Defendants' claims relating to additional revenue generation deriving, *inter alia*, from the Newstrike acquisition and the Québec Supply Agreement were just as misleading. The revenue figures they touted before investors were based in great part on the alleged take or pay provision, which Defendants knew or should have known they would probably not enforce;
- 96.3 At the very least, and subsidiarily, Defendants had an obligation to substantially revise their revenue projections downward as events unraveled throughout the Class Period, and to inform investors accordingly;
- 96.4 Unfortunately for Class Members, Defendants did the exact opposite. They explicitly promised that they would reach their revenue targets until October 2019, and then, without warning, shocked the market by abruptly pulling the \$400 million 2020 net revenue guidance they had so bullishly touted for months;
- 96.5 The extent of the damages caused by Defendants' failure to enforce the trumpeted first year revenue guarantee, including its impact on the Newstrike related assets and revenue projections, would only become fully apparent in March 2020;

**3) [...] Inventories**

- 96.6 Despite its problems with the Niagara facility and [...] the material risk that Defendants would not force the SQDC to purchase the volume provided for in the alleged take or pay provision, HEXO maintained its inventories high throughout the Class Period. It ordered significant volumes of product despite weak demand, and failed to write off inventories once they became stale and impaired;
- 96.7 As a result, Defendants overvalued the Company's assets, which contributed to inflating the price of HEXO's securities;
- 96.8 Reality hit particularly hard between December 2019 and March 2020 when HEXO disclosed a financial restatement, a series of increasing inventory impairments, and a humongous \$300 million loss for Q2 2020 relating to the Niagara facility (which HEXO was now selling) and HEXO's eroded goodwill;



- 96.9 Unbeknownst to investors, HEXO had ineffective ICFR and DC&P. In fact, the Company was eventually forced to publicly admit that it had inadequate controls surrounding its procurement, inventory, and financial reporting systems;
- 96.10 On March 30, 2020, Defendants revealed the whole truth, including that (a) [...] as of January 17, 2020, HEXO had contractually relieved the SQDC from its off-advertised alleged guaranteed first-year purchase commitment, and (b) throughout the Class Period, Defendants' representations regarding the Company's expected revenues and its assets, including inventory, had been artificially inflated;
97. Defendants' misrepresentations and omissions artificially inflated the value and price of HEXO's securities, which dropped drastically upon release of the Corrective Disclosures;

## **B. The Parties**

### **1) The Representative Plaintiff[f] and the Class Sought to be Represented**

98. The proposed Class is defined at paragraph 1 h) hereinabove;
99. Martin Dionne resides in Boisbriand, Québec. During the Class Period, he acquired HEXO securities, including shares and call options, and suffered a loss by holding some of those securities until March 2020, as appears from a copy of Martin Dionne's trading statements, communicated herewith *en liasse* as **Exhibit R-3**, as amended; [...]
100. He estimates the amount of his losses caused by Defendants' misrepresentations and omissions at approximately \$50,000, as appears from a copy of M. Dionne's sworn declaration dated March 10, 2020, [...] communicated herewith as **Exhibit R-4**; [...]
- 100.2 The Representative Plaintiff[f] relied on Defendants' Impugned Statements in making [...] his investment decisions;
101. The Representative Plaintiff[f] suffered monetary damages as the direct, immediate, and foreseeable result of Defendants' misrepresentations and omissions;
102. [...] He seeks authorization to bring an action pursuant to s. 225.4 QSA, and, if necessary, pursuant to the corresponding provisions in the Securities Legislation, as well as the status of representativ[e] of the Class to institute a class action pursuant to s. 574 of the CCP;

### **2) The Defendants**

103. HEXO is a company incorporated under the Ontario *Business Corporations Act*, R.S.O. 1990, c. B.16, which maintains its headquarters in Gatineau, Québec. It is a licensed producer and distributor of medical and recreational cannabis, the whole as appears from an extract of the QER, Exhibit R-1;
104. At all times during the Class Period, HEXO's common shares were publicly traded on the TSX-V (before June 22, 2018) under the ticker symbol "THCX", or on the TSX (as of June 22, 2018) under the ticker symbol "HEXO". The Company's common shares also traded on the NYSE-A (from January 23, 2019 to July 15, 2019), NYSE (as of July 16, 2019),

FSE, and on the OTC market in the United States, as appears from HEXO's 2019 AIF, Exhibit R-44;

- 104.1 On January 30, 2018, HEXO completed a public offering which included the issuance of warrants. Each warrant entitled the warrant-holder to purchase one HEXO common share per warrant for a period of two years at an exercise price of \$5.60. The warrants were publicly traded on the TSX-V under the ticker symbol "HEXO.WT" until they expired and ceased to trade publicly on January 30, 2020, as appears from HEXO's 2019 AIF, Exhibit R-44, and from HEXO's January 24, 2019 prospectus supplement, included in Exhibit R-2 *en liasse*;
- 104.2 Other HEXO securities, such as call options, were also traded during the Class Period, including on derivative exchanges;
105. Sébastien St-Louis, who is the Company's co-founder, was, at all relevant times, HEXO's CEO, as appears *inter alia* from an extract from HEXO's website, communicated herewith as **Exhibit R-7**;
106. St-Louis made statements, or caused documents to be released, containing misrepresentations and omissions, and certified that HEXO had effective internal controls over financial reporting, and that HEXO's Core Documents released during the Class Period were free of misrepresentations;
- 107.
- 108.
- 109.
- 110.

### III - FACTS GIVING RISE TO THE PRESENT ACTION

#### A. The Impugned Statements

111. On **April 11, 2018**, HEXO released a statement that it signed a 5-year preferred supplier agreement with the SQDC, with an option to extend the term for an additional year, and represented, in relevant part, that:
- (a) HEXO **expects to** supply a total volume estimate of 200,000 kg of cannabis products during the five-year contract;
  - (b) HEXO **will supply** 20,000 kg of cannabis products during the first year of the agreement; and
  - (c) The SQDC has the right to terminate the agreement *in certain circumstances*;

as appears from a copy of HEXO's April 11, 2018 news release, communicated herewith as **Exhibit R-8**;

- 111.1 The Company represented that the supply of 20,000 kg in year one post-legalization was guaranteed by a take or pay feature, as appears *inter alia* from Exhibits R-2, R-23, and R-36;
- 111.2 This alleged feature was described as a substantial “floor” for HEXO’s revenues, protecting the Company against a slower than forecasted SQDC store rollout and lower than expected demand;
- 111.3 At an average gross selling price of \$5.45 per gram as of the start of the Québec Supply Agreement (Exhibit R-45, p. 23), 20,000 kg of cannabis would have amounted to revenues of \$109 million for HEXO in Québec, between October 17, 2018 and October 17, 2019;
- 111.4 As recognized by HEXO from the outset, the strategic value of the SQDC relationship could not be overstated: it was key for the Company (Exhibits R-18, p. 18; R-20, p. 6);
- 111.5 Sales to the SQDC represented, at times, 90%-91% of all of HEXO’s recreational cannabis revenues (for e.g., Exhibits R-42, p. 25; R-2 (January 24, 2019 prospectus supplement), p. S-10; R-27);
112. When HEXO announced the Québec Supply Agreement, the value and price of HEXO’s securities skyrocketed. For instance, the price of HEXO’s common shares on the TSX increased by 13.24% that same day, as appears from HEXO’s share price history on the TSX between April 10, 2018 and April 15, 2020, communicated herewith as **Exhibit R-9**;
113. On **April 20, 2018**, HEXO released a Material Change Report confirming the April 11, 2018 statement, as appears from a copy of this Core Document, communicated herewith as **Exhibit R-10**;
114. The April 11 and 20, 2018 statements contained misrepresentations because they represented the sale of 20,000 kg of cannabis during the first year as guaranteed, whereas [...] it was not. They also omitted material facts about the Québec Supply Agreement, including:
- (a) the circumstances under which the SQDC could terminate the agreement; and
  - (b) that there was a material risk HEXO would not enforce the alleged “take or pay feature” of the agreement;
- (These misrepresentations and omissions are hereinafter collectively referred to as “**the Québec Supply Agreement Misrepresentations**”);
115. On **June 27, 2018**, HEXO released its MD&A and financial statements for the quarter ending April 30, 2018, which Defendant St- Louis certified contained no misrepresentation and provided a fair representation of all material facts. A copy of HEXO’s April 30, 2018 MD&A and financial statements, and of St-Louis’ certification of interim filings dated June 27, 2018, are communicated herewith, respectively, as **Exhibits R-11, R-12, and R-13**;
116. These statements also contained the Québec Supply Agreement Misrepresentations, including the following:

**We will supply** the SQDC with 20,000 kg of products in the first year and **expect to supply** 35,000 kg and 45,000 kg in years two and three respectively.

Thereafter, based on an expected market growth rate of 10% we intend to supply 49,500 kg and 54,450 kg in years four and five respectively. The Company estimates the total volume to be supplied over the five-year term of the agreement to be in excess of 200,000 kg which is **the largest forward supply contract ever awarded in the history of the emerging cannabis industry**. Based on the current agreements signed between the SQDC and five other licensed producers, **we obtained the highest Year 1 volume**, representing approximately 34% market share within the province of Quebec, and we are aiming to remain the largest supplier in subsequent years.

[Emphasis added]

as appears from HEXO's MD&A, Exhibit R-11, p. [...] 6;

117. In its April 30, 2018 MD&A, HEXO even described the Québec Supply Agreement as one contributing factor to its alleged "strong **business certainty through Year 1** post-legalization" [emphasis added] (Exhibit R-11, p. 14);

117.1 It highlighted the central importance of HEXO's relationship with the SQDC for year one revenues:

**Our top priority in Year 1 of the adult recreational market is to serve the Québec market** and to make a strategic entry into other Canadian markets such as Ontario to position for full-scale supply to that market when production comes on line.

[Emphasis added]

as appears from HEXO's MD&A, Exhibit R-11, p. [...] 6;

117.2 At that point in time, HEXO reports that the SQDC intended "to begin with 20 retail locations across Québec and expect[ed] to increase this number to 100 locations within the first two years of legalization." The SQDC was going to have exclusivity to legally sell recreational cannabis in the province, in these stores and online (Exhibit R-11, p. 4);

118. HEXO reiterated the Québec Supply Agreement Misrepresentations again on **June 28, 2018**, in a news release entitled "Hydrothecary reports fiscal 2018 third quarter results", communicated herewith as **Exhibit R-14**. St-Louis trumpeted that HEXO's status as preferred supplier to the SQDC gave it "the second highest recreational **revenue certainty** among licensed producers for the **first year** of the adult-use market in Canada, with **20 metric tons committed** (...)" [Emphasis added];

119. On **October 26, 2018**, HEXO released its MD&A and financial statements for the quarter and annual ending July 31, 2018, as well as its 2018 AIF and annual report, a copy of which is communicated herewith respectively as **Exhibits R-15, R-16, R-17, and R-18**. Defendant St-Louis certified that the Core Documents contained no misrepresentations and provided a fair representation of all material facts, as appears from a copy of his certification of interim filings dated October 26, 2018, **Exhibit R-19**;

120. Once again, these statements contained the Québec Supply Agreement Misrepresentations, and a recognition of the capital importance of the SQDC relationship;
121. For example, HEXO's MD&A, Exhibit R-15, reiterated at page 18 that:

**The strategic value of our SQDC relationship cannot be understated.** (sic) We hold the single largest forward contract in the history of the emerging cannabis industry with the SQDC and are the preferred supplier for cannabis products for the Quebec market for the first five years following legalization. **We will supply** the SQDC with 20,000 kg of products in the first year, and **we expect to supply** 35,000 kg and 45,000 kg in years two and three, respectively. Thereafter, based on an expected market growth rate of 10%, we intend to supply 49,500 kg and 54,450 kg in years four and five, respectively. The Company estimates the total volume to be supplied over the five-year term of the agreement to be in excess of 200,000 kg.

[Emphasis added]

- 121.1 On **November 19, 2018**, HEXO published a Short Form Base Shelf Prospectus relating to the potential issuance of up to \$800 million in common shares, warrants, subscription receipts and units of the Company. This Core Document also contained the Québec Supply Agreement Misrepresentations, as appears from page 5 of the prospectus, communicated herewith as **Exhibit R-19.1**;
122. On **December 13, 2018**, HEXO released its MD&A and financial statements for the quarter ending October 31, 2018, which Defendant St-Louis certified contained no misrepresentations and provided a fair representation of all material facts, as appears respectively from **Exhibits R-20, R-21, and R-22**;
123. These statements contained the same misrepresentations and omissions as the statements discussed above;
- 123.1 Whereas HEXO had previously reported that, as of July 31, 2018, the SQDC had established 15 retail locations, on December 13, 2018, it confirmed that the SQDC had in fact opened only 12 stores, but still expected to increase this number to 50 locations within the first year of legalization (Exhibits R-18, p. 15; R-20, p. 4);
124. On **January 21, 2019**, HEXO released a "Corporate Presentation" entitled "The Future of Cannabis", to market its upcoming public offering of common shares to potential investors, as appears from a copy of HEXO's Corporate Presentation, communicated herewith as **Exhibit R-23**;
125. At page 15 of this document, Defendants again represented that:
- (a) HEXO had secured the single largest forward supply contract among licensed producers in Canada; and
  - (b) The SQDC was subject to a "**take or pay feature**" for year one on 20,000 kg with an estimated 30% market share in Québec for the first three years;

thereby reiterating the Québec Supply Agreement Misrepresentations;

126. In the winter of 2019, HEXO also posted several prospectus-related documents, which all contained the Québec Supply Agreement Misrepresentations, including:
- (a) On **December 20, 2018**, its Amended and Restated Short Form Base Shelf Prospectus Dated December 14, 2018, included in Exhibit R-2 *en liasse* (p. 7); and
  - (b) On **January 21, 2018**, its “Preliminary Prospectus Supplement to the Amended and Restated Short Form Base Shelf Prospectus Dated December 14, 2018”, a copy of which is communicated herewith as **Exhibit R-24** (p. S-9, S-10, S-17, p. 7);
127. On **January 24, 2019**, HEXO released a prospectus supplement to the amended and restated short form base shelf prospectus dated December 14, 2018, Exhibit R-2, *en liasse*, in connection with the distribution of [...] 7,700,000 shares at \$6.50 each, plus an over-allotment option granted to underwriters to purchase up to an additional 1,155,000 common shares at the same price, which was certified by Defendants as not containing any misrepresentation, as appears from HEXO’s consent letter, communicated herewith as **Exhibit R-25**;
128. This prospectus stated that:
- (a) It incorporated by reference the AIF for the year ended July 31, 2018, the audited consolidated financial statements for the year ended July 31, 2018, the MD&As for the period ended July 31, 2018 and October 31, 2018, and other documents;
  - (b) Under the Québec Supply Agreement, HEXO “**will supply**” 20,000 kg of cannabis products in the first year of the agreement, which is subject to a “**take-or-pay**” feature for that year;
  - (c) “**Other than the agreement with the SQDC, pursuant to which the SQDC has agreed to purchase 20,000kg of HEXO’s products for the first year of the agreement, the agreements with the SQDC, the OCRC and the BCLDB do not contain purchase commitments or otherwise obligate the purchaser to buy a minimum of fixed volume of products from HEXO**”;
  - (d) “The Company estimates that the total volume of cannabis to be supplied over the five-year term of the agreement could exceed 200,000 kg which, based on the average sale prices assumed by the Company for its products, would represent approximately \$1 billion in estimated potential revenue to the Company”;
  - (e) “The Company believes this agreement is the **largest forward supply agreement in the history of the cannabis industry in Canada, based on year one volume**”; and
  - (f) The Company’s success was contingent, in part, upon ongoing compliance with regulatory requirements and obtaining all regulatory approvals for the production and sale of its products and the failure to obtain regulatory approvals could have a material adverse effect on business, financial conditions, and results from operations;

[Emphasis added]



as appears from a copy of the January 24, 2019 prospectus supplement, included in Exhibit R-2, *en liasse*;

129. Again, this statement contained the Québec Supply Agreement Misrepresentations;

129.1 At the time of the January 2019 Offering, the SQDC was purchasing minimal amounts of product, but the guarantee of the take or pay feature reassured the market and maintained HEXO's artificial valuation;

129.2 The prospectus showed that in the first three and a half months post-legalization – which is more than 25% of the first year of the Québec Supply Agreement-, the SQDC was ordering only an average of about 860 kg of cannabis per month. In order to meet its alleged 20,000 kg year-one volume purchase commitment, it would have had to ramp up orders by **over 130%**. In other words, for the SQDC to comply with its alleged "take" obligation under the contract, it would have had to purchase approximately 1,992 kg per month for the next eight and a half months;<sup>2</sup>

129.3 The market continued to be reassured by HEXO's misrepresentations, and the Offering closed on January 30, 2019, with a distribution of 8,855,000 shares at \$6.50 each, as appears from a copy of HEXO's news release dated January 30, 2019, communicated herewith as **Exhibit R-71**, and from a copy of HEXO's Material Change Report dated January 31, 2019, communicated herewith as **Exhibit R-72**;

130. On **March 13, 2019**, before trading had commenced for the day on the TSX, HEXO released a statement that its Board of Directors had unanimously approved to enter into a definitive agreement to acquire all of the issued outstanding common shares of Newstrike in an all-share transaction valued at approximately \$263 million, as appears from a copy of HEXO's March 13, 2019 news release, communicated herewith as **Exhibit R-26**;

131. This statement represented that:

- (a) HEXO would add 470,000 sq. ft. in production space;
- (b) Newstrike's licensed indoor facility would provide HEXO with access to diversified growing techniques and position HEXO for flexibility for informational exports as global cannabis markets continue to open;
- (c) The combined company resulting from the acquisition would realize estimated annual synergies of \$10 million, which would allow HEXO to operate more efficiently; and

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<sup>2</sup> In the last two weeks of Q1 2019 (October 17, 2018 through October 31, 2018), HEXO sold a total of 952 kg of adult-use product, 90% of which (857 kg) was to the SQDC. Over the next three months (November 1, 2018 to January 31, 2019), HEXO sold a total of 2,537 kg of product, 84% of which (2,131 kg) was to the SQDC. (cf. Prospectus, Exhibit R-2. See also MD&A for the period ended October 31, 2018, Exhibit R-20, p. 15.) Thus, in total, HEXO's sales to the SQDC at the time of the Offering were 2,988 kg - or roughly 860 kg per month:  $2,988/3.46=863.58$  where 3.46 represents 3 months and 2 weeks. For the remainder of the year (8.54 months), the SQDC had to purchase over 17,012 kg (i.e. 20,000 kg – 2988 kg), for an average of 1992 kg per month. Orders would consequently have had to ramp up by over 130% for the SQDC to meet its alleged purchase commitment.

- (d) As a result of the acquisition, HEXO was committing to achieving in excess of \$400 million in net revenue in the one-year period ended July 31, 2020;
132. One of the key components of the Newstrike deal was the acquisition of its Niagara facility, which represented 90% of Newstrike's production capacity, and was to ensure 27% [...] of HEXO's production capacity [...] (Exhibit R-32, p. 6, 13);
133. Also, on March 13, 2019, HEXO released its MD&A and financial statements for the quarter ending January 31, 2019, which Defendant St-Louis certified contained no misrepresentations and provided a fair representation of all material facts, as appears, respectively, from **Exhibits R-27, R-28, and R-29**. The represented material facts were:
- (a) "In Québec alone, [HEXO] will supply 20,000kg in the first year of legalized adult-use cannabis and up to approximately 200,000kg over the first five years of legalized adult-use cannabis" (HEXO's Jan. 31, 2019 MD&A, Exhibit R-27, p. 2);
- (b) "[HEXO] will supply the SQDC with 20,000kg of products in the first year" (Exhibit R-27, p. 4);
- (b.1) "We hold the single largest forward supply contract among licensed producers, based upon announced agreements for year one of legalization, with 20,000 kg to be supplied to Quebec in the first year." (Exhibit R-27, p. 10);
- (c) "Other than the agreement with the SQDC, pursuant to which the SQDC has agreed to purchase 20,000kg of HEXO's products for the first year of the agreement, the agreements with the SQDC, the OCRC and the BCLDB do not contain purchase commitments or otherwise obligate the purchaser to buy a minimum of fixed volume of products from HEXO" (Exhibit R-27, p. 28);
- (d) "The acquisition of Newstrike will provide HEXO access to 4 cutting-edge production campuses totaling close to 1.8 million sq. ft." (Exhibit R-27, p.12);
- (e) "Newstike's licensed indoor facility will provide HEXO with access to diversified growing techniques" (Exhibit R-27, p.12);
- (f) The acquisition of Newstrike is expected to result in annual synergies of \$10 million, allowing HEXO to operate more efficiently (Exhibit R-27, p.12); and
- (g) Net revenue from adult-use sales (which accounts for 91% of total revenue) in Q2 2019 was \$12.205 million and net revenues from adult-use sales for Q4 2019 are expected to approximately double those of Q2 2019 (i.e. representing that net revenue from just adult-use sales for May 1, 2019 to July 31, 2019 would be approximately \$24.41 million) (Exhibit R-27, p. 16-17);
134. In addition to reiterating the Québec Supply Agreement Misrepresentations, HEXO's March 13, 2019 statements misrepresented that [...] Newstrike's Niagara production facility was, and would continue to be, appropriately licensed. They also included unrealistic revenue figures based, *inter alia*, on the revenue floor allegedly guaranteed by a take or pay provision that HEXO knew was at material risk of not being enforced;



135. On **March 14, 2019**, during HEXO's Q2 2019 earnings call, St-Louis repeated the above-mentioned misrepresentations concerning the Newstrike facility, and reiterated his confidence in achieving the 'conservative' \$400 million net revenue 2020 guidance: "we'll do that or better", St-Louis said. He also added further details regarding licensing:

**Question – Tamy Chen:** Just first question on Newstrike, are you able to give us an update in terms of where the company is with respect to the ramp of their greenhouse in Niagara, where are they currently at? Any color there would be helpful.

**Answer – Sebastien G. St-Louis:** Yes. So of the total 450,000 square feet that we're adding, there is 250,000 feet that are licensed operational, and we're looking forward to bringing in the HEXO team in there to ramp up the yields. We believe that coupled with the great infrastructure Newstrike has put in place, putting in HEXO's management and production processes will greatly increase yields there.

**Question – Tamy Chen:** And the other 200,000 square feet, that's still under construction?

**Answer – Sebastien G. St-Louis:** That's correct. So well underway, the walls are all up, the glass is on, but there will be a licensing – there is an expected licensing delay on that. But of course, we're putting our regulatory team, which as we've proven time and time again, one of the best in the business, so we don't anticipate any major issues."

[Underlining added]

as appears from a transcript of HEXO's Q2 2019 earnings call of March 14, 2019, communicated herewith as **Exhibit R-30**;

136. HEXO was just as bullish in its March 14, 2019 news release entitled "HEXO reports over \$16.2 million in total gross revenue in the second quarter of fiscal 2019", communicated herewith as **Exhibit R-31**;

136.1 The March 13 and 14, 2019 misrepresentations about the Newstrike transaction, and the revenue estimated to derive therefrom and from the Québec Supply Agreement, charmed the market. For example, between the close of trading on March 12, 2019 and March 14, 2019, the price of HEXO's stock on the TSX rose 9.4%, from \$7.36 to \$8.05, as appears from HEXO's share price history on the TSX, Exhibit R-9;

136.2 In raising HEXO's price target following this announce, analysts highlighted HEXO's management's confidence in achieving FY2020 \$400 million net revenue guidance, as well as the paramount importance of the Québec Supply Agreement, as appears, *inter alia*, from a March 25, 2019 article entitled *First Quebec, Tomorrow the World*, communicated herewith as **Exhibit R-82**;

136.3 The Newstrike acquisition closed on May 24, 2019, after HEXO had supposedly conducted extensive due diligence. On November 15, 2019, St-Louis admitted that HEXO had known since at least July 2019 that Block B of Newstrike's Niagara facility, which forms part of the 250,000 feet area that was said to have already been licensed on March 14, was, in fact, not licensed, and was operated illegally;

137. On **June 12, 2019**, HEXO released its MD&A and financial statements for the quarter ending April 30, 2019, which Defendant St-Louis certified contained no misrepresentations and provided a fair representation of all material facts, as appears, respectively, from **Exhibits R-32, R-33, and R-34**. The represented material facts were:
- (a) HEXO had achieved net revenue of \$12.956 million in the quarter (Exhibit R-32, p.17);
  - (b) HEXO remained on track to double net revenue in Q4 fiscal 2019 (i.e. representing in mid-June that the company would achieve roughly \$26 million in net revenue in the quarter extending from May 1, 2019 to July 31, 2019) (Exhibits R-32, p.19, and R-35);
  - (c) HEXO remained on track to achieve \$400 million in net revenue in fiscal 2020 (Exhibits R-32, p.19, and R-35);
  - (d) Under the Québec Supply Agreement, HEXO will supply 20,000 kg in the first year of legalized adult-use cannabis (Exhibit R-32, p. 2);
  - (e) The Québec Supply Agreement is estimated to be worth \$1 billion in potential revenue to the Company (Exhibit R-32, p. 2); and
  - (f) The acquisition of Newstrike is estimated to result in annual savings of millions of dollars in operational synergies, allowing HEXO to operate efficiently (Exhibits R-32, p. 13, and R-35);
138. This statement again contained the Québec Supply Agreement Misrepresentations, as did HEXO's June 12, 2019 news release, Exhibit R-35;
139. This statement also omitted to disclose that Newstrike's Niagara production facility lacked required licenses;
140. On **June 13, 2019**, before trading commenced for the day on the TSX, HEXO conducted an earnings call to discuss its results for Q3 2019, ending April 30, 2019. Despite the fact that this conference call took place with only a few weeks left in Q4 2019, which ended as at July 31, 2019, Defendant St-Louis, on behalf of the Company, once again represented that:
- (a) Q4 2019 revenues would double relative to Q3 2019 (partially due to the acquisition of Newstrike, whose financials would be consolidated into HEXO's for Q4 2019), and that St-Louis was certain ***"[w]e're going to reach the target ... If you ever hear me say something and not deliver, you have to call me out. And in reverse, I would tell you today, nobody has ever called me out on anything because HEXO has always delivered what we said we would. We're delivering a double this quarter"***;
  - (b) The Company was on track to achieve and remained focused on achieving net revenues in fiscal 2020 (August 1, 2019 to July 31, 2020) of over \$400 million, and expected that net revenues would increase linearly every quarter in 2020 to achieve that number; and

- (c) The Québec Supply Agreement was “take or pay” for the first year’s amount of 20,000 kg [implying that the revenue for the first year was guaranteed];

as appears from a transcript of HEXO’s June 13, 2019 earnings call, communicated herewith as **Exhibit R-36**;

## **B. The Corrective Disclosures**

### **Corrective Disclosure 1**

141. In addition to the above-noted misrepresentations made on the **June 13, 2019** earnings call, Exhibit R-36, this call was also a partial corrective disclosure of prior misrepresentations made by Defendants with regard to the guaranteed-nature of the Québec Supply Agreement;
142. Defendants admitted during this call that Québec had only purchased approximately 5,500 kg of cannabis product under the Québec Supply Agreement, but was obligated to purchase another 14,500 kg prior to October of 2019 (i.e. in the next four months). Defendants revealed, for the very first time, that there was a significant risk that Québec may not purchase 20,000 kg prior to October 17, 2019, and that it could get extended to year-end;
143. During this call, St-Louis stated that the Québec Supply Agreement “is a take-or-pay contract, but we value our relationship with the SQDC more than the few million dollars in revenue we could get this quarter”, leading to believe, for the first time, that HEXO may not immediately enforce the contract. At the very least, St-Louis indicated that HEXO could wait one quarter before acting on the agreement;
144. The market’s reaction to this partial Corrective Disclosure that the Company may not require Québec to immediately purchase the entire 20,000 kg even though it had represented for over a year that this sale, and the associated revenue, was a certainty, was immediate and pronounced. All HEXO securities were materially negatively affected by the correction. For example, that very same day, the Company’s stock price went from \$8.53 per share to \$7.81 per share on the TSX, equating to a loss of 8.44%;
145. In the ten trading days following the Corrective Disclosure of June 13, 2019, the Company lost nearly a quarter of its value, closing at \$6.62 per share (or down 22.4%) on the TSX on June 26, 2019, as appears from HEXO’s share price history, Exhibit R-9;
- 145.1 Had investors then known the truth, that is, that HEXO knew it would probably not [...] enforce the alleged take or pay provision in the contract, and would therefore not reach its revenue targets, the value of HEXO’s securities would have plummeted even further. On June 13, 2019, St-Louis mitigated market concern by reassuring investors that the SQDC would still satisfy its allegedly guaranteed first-year purchase volume commitment by December 31, 2019 (two and a half months after October 17, 2019). He emphasized that the Company was still confidently on track to meet its \$400 million net revenue July 2020 guidance, and to double its revenue in Q4 2019;
- 145.2 These statements were grossly misleading in light of the fact that Defendants knew or should have known that the SQDC would not purchase its commitment volume prior to the

calendar year-end, and that HEXO would not enforce the alleged take or pay provision, given its relationship with the SQDC, the significance of which was known from the outset;

145.3 HEXO also knew or should have known that it could not unequivocally assert that it would reach its advertised Q4 2019 and FY 2020 revenue targets without the benefit of the alleged take or pay feature;

145.4 The Québec Supply Agreement was HEXO's main source of revenue, including for fiscal year 2020;

145.5 On June 13, 2019, the SQDC had purchased approximately 6,653 kg of its 20,000 kg commitment,<sup>3</sup> which amounts to approximately 830 kg per month, for the first eight months of the Québec Supply Agreement. In order to buy 20,000 kg of cannabis by December 31, 2019, the SQDC would have had to ramp up its orders by **over 260%** for the next six and a half months, which HEXO had no indication would happen;

145.6 Moreover, HEXO knew that the SQDC's purchases would not increase almost three-fold per month, *inter alia*, because it was fully aware that the SQDC had opened substantially fewer stores than required to support a 20,000 kg demand. During the June 13, 2019 earnings call, Exhibit R-36, St-Louis reiterated that only 13 SQDC stores had been opened – which was very far from the 50 locations the SQDC had announced it would open in year one in December 2018, or even from the 24 locations initially envisioned;

145.7 During the March 14, 2019 earnings call, Exhibit R-30, St-Louis had also admitted that HEXO was having difficulty packaging and shipping product in a timely manner to its customers. There was no indication that this problem had since been resolved, which clearly rendered a 260% increase in SQDC orders unlikely [...];

### **Subsequent Context**

146. On October 4, 2019, after the close of trading on the TSX, HEXO announced the abrupt and immediate resignation of its then-Chief Financial Officer, Michael Monahan, just a few months into the job, as appears from HEXO's press release entitled "Hexo Corp. Announces Resignation of Chief Financial Officer" dated October 4, 2019, communicated herewith as **Exhibit R-37**;

147. Analysts responded immediately to the departure. Bank of America analyst Christopher Carey reportedly double downgraded his "buy" recommendation to "underperform" just a few days later, and commented that "[p]ut simply, a departure that is so abrupt, from a person with CFO experience at other public companies, is concerning, and in our view will leave investors guessing "what don't we know?" for some time", as appears from an October 7, 2019 article entitled "Hexo CFO's Resignation Prompts Double Downgrade at BofA", a copy of which is communicated herewith as **Exhibit R-38**;

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<sup>3</sup> 6,653 kg comes from adding 1,155 kg (the mid-point of the 2,311 kg HEXO sold in the Q4 2019 (between May 1, 2019 and July 31, 2019) since these statements were made on June 13, 2019) to the amounts HEXO sold earlier in the first year of the SQDC contract (857 kg for the last two weeks of Q1 2019, 2,131 kg for Q2 2019, and 2,510 kg for Q3 2019) (see sources at footnote 3 below). On June 13, 2020, HEXO had 6.5 months to sell 13,347 kg (i.e. 20K – 6,653) to the SQDC, at an average monthly rate of 2,150 kg per month. Hence, a required ramp up of approximately 260%.

148.

149. On this news, the value and price of all HEXO securities were materially negatively affected. For instance, HEXO's stock price on the TSX fell \$0.24 per share or 6.64%, as appears from HEXO's share price history, Exhibit R-9;

### **Corrective Disclosure 2**

150. Days later, on **October 10, 2019**, before trading had commenced for the day on the TSX, the Company released a news report providing preliminary fourth quarter revenue results, a copy of which is communicated herewith as **Exhibit R-39**;

150.1 HEXO shocked the market by announcing that it was entirely withdrawing its fiscal 2020 revenue guidance;

150.2 Although executives may, at times, revise their guidance in the course of business, pulling guidance altogether is a highly unusual and drastic measure. The surprise was here even greater given that (a) Defendants had assertively advertised its \$400M guidance for seven months (including again just in June) prior to withdrawing it completely, and (b) they had been "guaranteeing" significant revenues stemming from the Québec Supply Agreement for a year and a half;

151. More precisely, in this Corrective Disclosure, the Company revealed that:

- (a) HEXO was withdrawing its previously issued financial outlook of more than \$400 million in net revenue for fiscal 2020;
- (b) Net revenue for Q4 2019 would be "approximately \$14.5 to \$16.5 million", which was more than 40% lower than the roughly \$26 million in net revenue for Q4 2019 that the Company had projected as late as June 13, 2019, with only weeks then remaining in Q4 2019; and
- (c) Q4 2019 revenue was below the Company's expectations and guidance primarily due to lower than expected SQDC store rollouts and demand. According to the Company's official message however, HEXO was still protected against weaker demand by a take or pay guarantee;

151.1 The reality was that HEXO had to pull its guidance because the take or pay feature allegedly included in the Québec Supply Agreement was meaningless: HEXO [...] did not have any intention of enforcing it. As a result, HEXO repeatedly issued revenue prognostics which it knew or should have known were unrealistic in light of weak demand and falling prices;

152. The above partial correction also revealed to the market that despite HEXO's Class Period representations to the contrary, the Company did not in fact have effective internal controls (ICFR and DC&P) because, *inter alia*:

- (a) Even nearly three-months after the end of Q4 2019, the Company could not definitively provide net revenue for Q4 2019 and rather provided a range; and

- (b) The Company clearly was unable to accurately account for expected future revenue, having missed Q4 revenue projections by more than 40% and having to completely eliminate guidance for fiscal 2020;

152.1 HEXO later admitted that it had ineffective internal controls, as discussed below (Exhibit R-44);

153. Once again, the market's reaction to this partial Corrective Disclosure was swift and significant for all HEXO securities. For instance, the Company immediately lost 23.0% of its value, going from a closing price of \$4.88 per share to \$3.76 per share on the TSX in just a few hours;
154. In the ten trading days following the Corrective Disclosure of October 10, 2019, the Company lost \$1.37 per share (or 28.1%) of its value on the TSX, closing at \$3.51 on October 23, 2019, as appears from HEXO's share price history, Exhibit R-9;
- 154.1 Securities analysts noted the Defendants' damaged credibility, and explicitly raised the question as to whether HEXO management had been intentionally misleading the market for months:

"The company revealed recently that it will horribly miss its revenue guidance from just the prior quarter, and the 2020 forecast of \$400 million is now retracted.

**Management has become difficult to take at its word**, which significantly increases risk in the stock. We would like to see satisfactory earnings numbers before considering the name again. [...]

Additionally, the company **completely withdrew its long promised 2020 goal of \$400 million in revenue. While this shouldn't be a shock given how behind pace the company's actual results have been**, the decision does imply that there is increased uncertainty about future expectations at HEXO. [...]

***Management's Word Is Tarnished***

While the above news is tremendously disappointing at face value, **our biggest issue with everything that has happened is how management has handled it**. Leadership for any business starts at the top, and management's recent actions have really changed our perspective towards HEXO's future prospects because there are numerous underlying problems now present.

For example, HEXO CEO Sebastien **St-Louis was touting as recently as just the previous earnings call that the company was performing well enough to maintain its forecast. St-Louis alluded to (numerous times) about how the company was on track to double third-quarter revenues for Q4**. [...]

In hindsight that response from CEO St-Louis is certainly foolish and raises a few questions that investors need to consider:



- **Was St-Louis being disingenuous when making such a bold statement?**
- Was the business on track at that point and simply deteriorated that much in such a short time frame?
- **How did management not see this coming to the point that HEXO's results missed guidance so horribly?**

**It's a situation where the management team appears incompetent at best and dishonest at worst.** Either way, it will be difficult to trust anything management guides to from this point until the company actually proves itself with sustained numbers. [...]

Who is going to provide accountability at HEXO? [...]

[Th]e degree of the miss and **the manner in which information has been relayed to investors is a red flag** to us.”

[Emphasis added]

as appears from an October 17, 2019 article entitled *HEXO: Damage Goes Deeper Than The Numbers*, communicated herewith as **Exhibit R-40**;

See also an October 22, 2019 article entitled *HEXO's Lowered Sales Forecast Ahead Of Earnings Release Is Just One Reason For Concern*, communicated herewith as **Exhibit R-41**:

**3. But the company made no attempts to temper investor expectations sooner [...]**

**It is well known that a higher market cap is beneficial to public companies**, for several reasons, such as demonstrating higher market share, securing credit facilities, maintaining covenants on existing credit facilities (such as their C\$65 Mm syndicated credit facility with Canadian Imperial Bank of Commerce and other Canadian banks). Other advantages of a higher market cap are ability to pursue deals with larger business partners and management bonuses. Low market valuation is good for nothing.

**I believe there is a certain bias here on the part of the management, to keep the investor optimistic as long as is feasible, instead of being transparent, which is a more serious concern, in my opinion, than missing the ambitious sales goals.**

[Emphasis added in the last two paragraphs]

### **Corrective Disclosure 3**

155. On **October 28, 2019**, after trading had ended on the TSX for the day, HEXO released its MD&A for its 2019 fiscal year period ended July 31, 2019, a copy of which is communicated herewith as **Exhibit R-42**;

155.1 HEXO also released its Q4 and year-end financial statements, its 2019 AIF and its 2019 Annual Report, a copy of which is communicated herewith, respectively, as **Exhibits R-43, R-44, and R-45**. Defendant St-Louis certified that all Core Documents contained no misrepresentations and provided a fair representation of all material facts, as appears from a copy of his certification of annual filings dated October 28, 2019, **Exhibit R-46**;

156. The Company disclosed that:

- (a) Despite more than seven months of touting how the acquisition of Newstrike would result in HEXO realizing annual synergies of \$10 million, HEXO was suspending cultivation at the Niagara facility acquired from Newstrike, because this cultivation space was not required at this time given the current market conditions in Canada (Exhibit R-42, p. 17);
- (b) The Company also suspended cultivation in 200,000 sq. ft. at the Company's main facility in Gatineau, despite repeatedly citing the purportedly guaranteed volume under the first year of the Québec Supply Agreement as justification for HEXO's rapid (and costly) expansion of its production facilities in fiscal 2018 (Exhibit R-42, p. 17);
- (c) Newstrike had contributed net revenues of \$2.77 million, and resulted in a net loss of \$13.7 million to the Company's consolidated results for the fiscal year ended since the date of the Newstrike acquisition, despite the Company boasting that the acquisition would result in the realization of synergies and increased efficiency (Exhibit R-42, p. 37);
- (d) Net revenue for Q4 2019 was only \$15.424 million, missing the approximately \$26 million in net revenue that the Company had announced for Q4 2019 by roughly 41%. (Only weeks before the quarter ended, Defendants had reiterated that they would meet their Q4 2019 \$26 million target) (Exhibit R-42, p. 24);
- (e) HEXO had only sold, and been paid for, roughly half of the amount 'guaranteed' under the Québec Supply Agreement (i.e. 10,000 kg of the 20,000 kg) (Exhibit R-42, p. 14);<sup>4</sup>
- (f) **The Company would not enforce the “take or pay” feature of the Québec Supply Agreement, and require the SQDC to purchase the entire 20,000 kg, because it believed that it would be “short sighted” to do so, even though it had represented that the amount and corresponding revenue were a certainty for over a year** (Exhibits R-42, p. 14; R-44, p. 9, 19; R-45); and

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<sup>4</sup> The figures of sale to the SQDC were as follows:

- Q1 2019 (August 1, 2018 to October 31, 2018) – sales of 857 kg (90% of total sales of 952 kg)
- Q2 2019 (November 1, 2018 to January 31, 2019) – sales of 2,131 kg (84% of total sales of 2,537 kg)
- Q3 2019 (February 1, 2019 to April 30, 2019) – sales of 2,510 kg (91% of total sales of 2,759 kg)
- Q4 2019 (May 1, 2019 to July 31, 2019) – sales of 2,311 kg (58% of total sales of 4,009 kg)
- Q1 2020 (August 1, 2019 through October 31, 2019) – sales of 3,080 kg (73% of total sales of 4,196 kg)

as appears from Exhibits R-50 (MD&A for period ended October 31, 2019) (p. 21, 23), R-32 (MD&A for period ended April 30, 2019) (p. 17, 19), R-27 (MD&A for period ended Jan 31, 2019) (p. 14, 16), and R-20 (MD&A for period ended Oct 31, 2018) (p. 15).



(g) The Company now expected net revenue for Q1 2020 (which ended two days after this disclosure was made) to be between \$14 million and \$18 million, meaning that even if net revenue doubled every quarter in 2020, fiscal 2020 net revenue would only be \$270 million, which is 32% lower than the projected \$400 million in net revenue for fiscal 2020, which the Company had reaffirmed just a few weeks prior (Exhibit R-42, p. 24);

156.1 HEXO also announced a substantial impairment loss on inventory of almost \$17 million dollars, as appears from its financial statements, R-43, Annual Report, R-45, and MD&A, R-42, p. 26;

156.2 This impairment demonstrates that HEXO's previously reported inventory values were inflated and misleading;

156.3 HEXO failed to report its assets accurately to investors, and should have always known that an impairment loss on inventory would likely be required. For months, it ordered unnecessarily high volumes of a product with limited shelf-life, despite weak demand and despite knowing it would not force the SQDC to take the product;

156.4 The October 28, 2019 impairment nevertheless remained misleading, because it greatly understated the extent of the inventory impairment required, and left the Company's reported value inflated;

156.5 The Company admitted that it did not have effective internal controls surrounding its procurement, inventory, and financial reporting systems, as appears from its 2019 AIF, Exhibit R-44 (*inter alia*, p. 43-44), and its MD&A for the period ended July 31, 2019, Exhibit R-42 (p.38-39):

**“RISK FACTORS [...]**

**Inventory Count**

The Company did not have effective controls around its year-end inventory count procedures, specifically with respect to its reconciliation of the ERP system, due to the details outlined in the previous change to control environment section.

To further strengthen controls surrounding inventory, management has initiated or enhanced the following procedures:

- Segregation of duties to initiate work, production orders and inventory adjustments will be strengthened;
- Work, production orders and inventory adjustments will be reviewed and approved by the relevant supervisor;
- Further enhancements to the ERP inventory processing, tracking and reporting functionality and supporting work procedures in order to ensure their sustainability; and

- Additional training, guidance and communications to internal teams and third-party inventory count providers regarding inventory management and count procedures.

### **Procurement**

The Company did not maintain effective controls over the purchasing of capital goods and services, including the authorization (sic) of purchases, processing and payment of vendor invoices, the classification of various expenses and capitalization of assets. [...]

### **Financial Reporting**

The Company did not maintain effective process level and management review controls over manual financial reporting processes and the application of IFRS and accounting measurements related to certain significant accounts and non-routine transactions. [...]"

156.6 On **October 29, 2019**, HEXO held its Q4 2019 earnings call, during which St-Louis was confronted with questions about HEXO's inventory impairment, including why HEXO had purchased so much product in light of weak demand:

"Your next question is from John Zamparo from CIBC. Please go ahead.

Thanks, good morning. I wanted to ask about the inventory impairments. So it seems related to product you purchase in the wholesale market. And you mentioned the price compression, you've seen there. I guess what I'm wondering is that **given the lack of stores and sell through isn't where you want it to be. What's the thinking behind buying so much product on the wholesale market at this time?**

Sebastien St-Louis -- Co-founder and Chief Executive Officer

Well John and I think the **purchasing that product was before we had full visibility on the store count**. And so, quite frankly, in hindsight that's -- purchasing of that product was **a mistake**."

[Emphasis added]

as appears from a transcript of HEXO's October 29, 2019 Q4 2019 earnings call, communicated herewith as **Exhibit R-47**;

156.7 St-Louis' excuse that HEXO did not have full visibility on the SQDC store count is shocking, considering that HEXO had been closely monitoring the SQDC store rollouts since day one, and including this information in its own filings;

156.8 For instance, the previous day, on October 28, 2019, HEXO reported that, as of July 31, 2019, the SQDC had established 21 retail locations throughout the province, and expected to increase this number to 43 locations by March 2020, as appears from the Company's 2019 AIF, R-44, and MD&A, R-42;

- 156.9 The fact of the matter is that HEXO had been knowingly purchasing too much inventory for demand for months, and reporting inflated inventory results on a quarterly basis, which had the effect of grossly inflating the Company's value and stock price;
157. All HEXO securities were [...] negatively affected by this Corrective Disclosure. For example, on October 29, 2019, the Company's stock price dropped a further 3.0% on the TSX;
- 157.1 Given the catastrophic nature of this disclosure, one may have expected an even more significant drop, but HEXO's poor performance and management credibility issues had made the value of the securities continue to erode since the previous Corrective Disclosure of October 10, 2019, such that, by October 29, 2020, the market's disappointment was already partially factored into the price of HEXO's securities;
158. HEXO's closing price of \$2.94 per share on the TSX on October 29, 2019 amounted to a loss of roughly 66% relative to its closing price of \$8.53 per share on June 12, 2019, which was the last day prior to the first Corrective Disclosure;
159. In the ten trading days following the Corrective Disclosure of October 28, 2019, the Company lost another \$0.22 per share (or 7.3%) of its value on the TSX, closing at \$2.80 on November 12, 2019, as appears from HEXO's share price history, Exhibit R-9;
- 159.1 On October 30, 2019, the Company filed an amended 2019 Annual Report, essentially to include a reclassification between operating and financing activities;

#### **Corrective Disclosure 4**

160. On **November 15, 2019**, after the close of trading on the TSX, Defendants released a statement admitting that Block B of HEXO's Newstrike Niagara facility was not adequately licensed, and had been operated illegally;
161. Defendants further announced that this part of the facility was no longer operational, and that they had ceased cultivation and production operations there three and a half months earlier:

“On **July 30, 2019**, shortly after the Newstrike Brand Ltd. acquisition closed, HEXO discovered that cannabis was being grown in Block B, which was **not adequately licensed**. HEXO management immediately **ceased cultivation and production** activities in the **unlicensed space**.”

[Emphasis added]

as appears from a copy of HEXO's news release dated November 15, 2019 entitled “HEXO Corp. provides additional transparency on licensing”, communicated herewith as **Exhibit R-48**;

162. For at least three and a half months, Defendants hid their prior misrepresentations and omissions from the public and its investors. This news release constitutes an admission of their intentional misrepresentations and omissions in relation to the Newstrike facility since, at least, July 2019;

163. Notwithstanding the foregoing admission, at all material times since March 13, 2019, HEXO knew or should have known the Newstrike Niagara facility was not appropriately licensed and could not fully operate legally;
- 163.1 Cultivation licenses are required, and certainly one aspect that any reasonable stakeholder would expect HEXO to verify in the course of its due diligence prior to the acquisition of a cannabis producer such as Newstrike, especially when HEXO explicitly advertised, as of March 13, 2019, that the Newstrike Niagara facility was fully licensed;
- 163.2 Defendants' conduct was particularly egregious because two weeks before the November 15, 2019 disclosure, on October 28, 2019, they released a press report to announce new licensing obtained at another facility. In this statement, they explicitly and misleadingly boasted HEXO's continued "complete alignment with regulations", as appears from a copy of HEXO's October 28, 2019 press release, communicated herewith as **Exhibit R-49**;
- 163.3 HEXO also explicitly and misleadingly stated in its Annual Report, filed on October 28, 2019, Exhibit R-45 (p. 17), that "The Niagara Facility is licensed for production and cultivation currently capable of producing up to 20,000 kg of dried cannabis annually. This facility received its cultivation license under the Cannabis Act on March 29, 2018", without mentioning any licensing issue, nor the fact that activities had been suspended at this facility;
- 163.4 In other words, not only did the Company voluntarily conceal information it had the obligation to disclose to investors, but, more than that, it continued to trumpet that the Niagara facility was "fully" licensed even after it was officially put on notice that it was not;
164. All HEXO securities were materially negatively affected by this Corrective Disclosure. For instance, on November 18, 2019, the next trading day after November 15, 2019, HEXO's stock dropped an additional 10.21% on the TSX, as appears from HEXO's share price history, Exhibit R-9;

#### **Corrective Disclosure 5**

- 164.1 On **December 16, 2019**, HEXO released its MD&A and financial statements for the quarter ending October 31, 2019, which defendant St-Louis certified contained no misrepresentations and provided a fair representation of all material facts, as appears from **Exhibits R-50, R-51, and R-52**;
- 164.2 For the second quarter in a row, the Company disclosed a large inventory impairment, this time of \$25.5 million for Q1 2020, as appears from Exhibits R-50 and R-51, and from HEXO's press release dated December 16, 2019, communicated herewith as **Exhibit R-53**;
- 164.3 Although this statement constitutes a partial Corrective Disclosure, it remains materially false and misleading, because it does not disclose the full extent of the required impairment loss on HEXO's inventory;
- 164.4 HEXO knew it had purchased too much stock for demand. The Company's inventory was becoming stale and impaired, and yet HEXO was failing to adequately write off product that no longer had value, thereby misrepresenting and overstating the true value of the Company to investors;

- 164.5 In addition, during its Q1 2020 earnings call, HEXO admitted that it had not performed an inventory impairment on the Niagara facility until five months after the Newstrike Acquisition, as appears from a transcript of HEXO's Q1 2020 earnings call held on December 16, 2019, communicated herewith as **Exhibit R-54**, at p.17-18;
- 164.6 This contributed to HEXO's inflated and misleading inventory results for months;
- 164.7 The other financial results disclosed by HEXO on December 16, 2019 were generally disappointing, including meagre net revenues of \$14.5 million, and a net EBITDA loss of \$62.4 million;
- 164.8 HEXO's Q1 2020 results also included a discomfoting reservation of opinion by HEXO's auditors, MNP LLP ("**MNP**"), relating to a deferred tax liability. According to the Company, this reservation was due to HEXO's failure to record a net tax loss generated in one subsidiary against a deferred tax liability generated by a different subsidiary. This caused HEXO to overstate its deferred tax liability as at July 31, 2019 (Q4 2019) and October 31, 2019 (Q1 2020), as appears from HEXO's financial statements released on December 16, 2019, Exhibit R-51. Incidentally, MNP resigned as the Company's auditors in January 2020;
- 164.9 The aftermath of HEXO's decision not to enforce the Québec Supply Agreement was already palpable. But this was just the first of a series of impairments, culminating in hundreds of millions of dollars of losses by the end of the Class Period, on March 30, 2020;
- 164.10 All of HEXO's securities were [...] negatively affected by this Corrective Disclosure. For example, the Company's stock price dropped an additional 2.5% on the TSX on December 17, 2019, as appears from HEXO's share price history on the TSX, Exhibit R-9;
- 164.11 In the ten trading days following this Corrective Disclosure, the Company lost another \$0.70 per share (or 25%) of its value on the TSX, closing at \$2.85 on December 16, 2019 and at \$2.14 on January 2, 2020;
- 164.12 A December 16, 2019 article by investment analyst Gary Bourgeault entitled *HEXO's Latest Earnings and Its Quebec Problem* shed more light on (a) just how behind the SQDC store openings were as compared to what Defendants' misrepresentations led investors to believe, and (b) what HEXO should have known in this regard for some time already:

"In a recent note to clients, analyst Greg Mcleish of Mackie Research estimates **the Quebec cannabis market to needs (sic) about 800 cannabis stores to meet demand**. According to the SQDC website, **it only has 24** retail outlets at this time. **Another 20 are projected to be operational by March 2020, but that is far below the number needed to move HEXO's sales needle in Quebec.**"

[Emphasis added]

as appears from a copy of this article, communicated herewith as **Exhibit R-55**;

### Corrective Disclosure 6

164.13 On **December 31, 2019**, HEXO filed a restatement of its:

- (a) financial statements for the fiscal year ended July 31, 2019 and Q4 2019, and the corresponding amended MD&A; and
- (b) financial statements for the period ended October 31, 2019 (Q1 2020), and the corresponding amended MD&A;

A copy of these documents is communicated herewith respectively as **Exhibits R-56, R-57, R-58, and R-59**;

164.14 Defendant St-Louis certified that these Core Documents contained no misrepresentations and provided a fair representation of all material facts, as appears from **Exhibits R-60 and R-61**;

164.15 HEXO had to file restatements in order to correct misstated inventory impairment losses and a misstated tax liability;

164.16 Notably, HEXO had to move a \$2.4 million impairment loss on inventory from Q1 2020 back to Q4 2019, the Company thereby admitting that it should have taken this impairment during the earlier period (*inter alia*, Exhibit R-57, p. 1);

164.17 This partial Corrective Disclosure remained misleading, because the impairment adjustment was still grossly insufficient;

164.18 [...]

164.19 [...]

### Corrective Disclosure 7

164.21 On **March 17, 2020**, HEXO released a rather gloom press report, announcing that:

- (a) The Company was delaying the filing of its Q2 2020 interim financial statements;
- (b) It would shortly be recording a gigantic third impairment loss, in the range of \$265 million to \$280 million;
- (c) The Ontario Securities Commission was reviewing HEXO's filings;
- (d) The Company was selling the Niagara Facility – a material part of the Newstrike acquisition boasted for the previous year; and
- (e) There was doubt as to the Company's ability to continue as a going concern;

as appears from a copy of this press report, communicated herewith as **Exhibit R-62**;

164.22 Although this partial Corrective Disclosure remained incomplete, the exact amount of the inventory loss having not yet been divulged, and the full truth about the Québec Supply Agreement's alleged take or pay feature having not been revealed, HEXO's securities were all materially negatively affected;

164.23 For example, the Company's stock price on the TSX dropped an additional 33.67% on March 17, 2019, as appears from HEXO's share price history, Exhibit R-9;

164.24 Re-amended MD&As for the periods ended July 31, 2019 and October 31, 2019 were filed after the close of trading on **March 19, 2020**, and St-Louis certified that they contained no misrepresentations, as appears respectively from **Exhibits R-63, R-64, R-65, and R-66**, communicated herewith;

164.25 These documents lay bare that HEXO had previously failed to adequately comply with its continuous disclosure obligations:

"HEXO Corp. ("HEXO" or the "Company") (TSX: HEXO; NYSE: HEXO) today announced **it has amended and refiled its management's discussion and analysis** for the fiscal year ended July 31, 2019 (the "Amended 2019 MD&A") and its management's discussion and analysis for the three month period ended October 31, 2019 (the "Amended Q1 2020 MD&A") **to better comply with National Instrument 51-102 - Continuous Disclosure Obligations.**

As noted in the press release of the Company dated March 17, 2020, the Amended 2019 MD&A and Amended Q1 2020 MD&A (collectively, the "Amended MD&A") were prepared **following a continuous disclosure review by the Ontario Securities Commission ("OSC") of the Company's disclosure record. The Amended MD&A were filed to address comments received from OSC Staff and in order to improve the Company's disclosure.** In particular, among other changes, the Amended MD&A have been revised:

[...]

- **to clarify and provide additional disclosure regarding the Company's impairments and write-offs of inventory**, including related events, risks, and uncertainties that the Company reasonably believes may materially affect its future performance;
- **to clarify and provide additional disclosure regarding the Company's supply contract with Quebec's Société Québécoise du cannabis (the "SQDC") including details of the Company's right under the contract for the sale of 20,000kg to the SQDC during the first year of the contract;**

[...]

- **to clarify that the suspension of operations at the Company's Niagara, Ontario facility in October 2019 was completed [...]"**

[Emphasis added]

as appears from HEXO's March 19, 2020 news release, communicated herewith as **Exhibit R-67**;



### Corrective Disclosure 8

164.26 On **March 30, 2020**, HEXO finally revealed the complete truth, as it released its MD&A and financial statements for its fiscal second quarter ended January 31, 2020, communicated herewith, respectively, as **Exhibits R-68** and **R-69**;

164.27 In relevant part, these documents revealed that:

- (a) "By amendment effective on January 17, 2020, the Company contractually relieved the SQDC of the 1<sup>st</sup> year obligation to purchase the full 20 tons of the outstanding commitment";
- (b) HEXO incurred a net loss of \$298.2 million, including a \$138.2 million impairment loss relating to the Niagara facility and other intangible assets acquired from Newstrike, and \$111.9 million relating to a goodwill impairment charge; and
- (c) It registered a write-down on inventory of \$16.1 million;

164.28 By this statement, HEXO finally confirmed that the alleged take or pay feature in the Québec Supply Agreement, which it had advertised relentlessly to boost the price of its securities, was [...] meaningless. From the beginning of the Class Period, there was a material risk that HEXO would not enforce the alleged take-or-pay provision. As such, Defendants could not represent [...] the SQDC's supposed first-year purchase commitment, and the revenues associated therewith, as "guaranteed";

164.29 The Company's goodwill reflected the inflated value derived from the Québec Supply Agreement Misrepresentations and the related exaggerated revenue estimates, which tied into the Newstrike acquisition, and the reported inventory values. Once all of these misrepresentations were corrected, a gargantuan goodwill impairment charge became inevitable. As for the additional production capacity provided by the Newstrike acquisition, it was useless;

164.30 This final Corrective Disclosure fully revealed the fallout from the Company's refusal to enforce the Québec Supply Agreement, including the boosted inventories and the resulting lack of a need for the Niagara facility's production capacity;

164.31 The market's reaction to this series of negative disclosures was inexorably violent, and all HEXO securities were materially negatively affected by the correction. For example, the Company lost another 28.10% on the TSX on March 30, 2020, closing at \$1.10, as appears from Exhibit R-9;

164.32 This represents a staggering 87.4% loss on the TSX between the first and last Corrective Disclosures;

164.33 In the ten trading days following this final Corrective Disclosure, the price of HEXO's common shares on the TSX continued to drop. It went from \$1.10 to \$0.69, losing yet another 37,3% of its value, for a total loss of 92,6% since the day before the first partial Corrective Disclosure;



164.34 Defendants' multiple misrepresentations and failures to make timely disclosures should be treated as a single misrepresentation or failure in accordance with Section 225.16 of the QSA, because they relate to the same subject matter;

164.34.1 The aggregate adverse effect of the misrepresentations on the price and value of all HEXO securities was statistically significant;

164.35 As a direct result of Defendants' misstatements and omissions of material facts, HEXO investors were fleeced to the tune of hundreds of millions of dollars. For example, Martin Dionne, lost almost the entirety of his retirement fund due to Defendants' misrepresentations;

164.36 The material misrepresentations and omissions described herein all occurred against a background of abrupt and suspicious key management, board, and auditor resignations and departures. On April 30, 2019, CFO Ed Chaplin resigned. On July 18, 2019, co-HEXO founder Adam Miron resigned. On October 4, 2019, then-CFO, Michael Monahan, abruptly resigned – after only four months on the job. On October 24, 2019, HEXO fired 200 people, including its Chief Manufacturing Officer and its Chief Marketing Officer. On January 31, 2020, HEXO's auditor, MNP, resigned – after its mandate had been approved by HEXO's Board of Directors. On February 7, 2020, Director Natalie Bourque abruptly left the Company;

### **C. St-Louis**

165. At all material times during the Class Period, St-Louis signed certificates of interim and annual filings attesting to the accuracy of the MD&As and financial statements, Exhibits R-13, R-19, R-22, R-29, R-34, R-46, R-52, R-60, R-61, R-65, and R-66;

166. Accordingly, at all relevant times, St-Louis certified that:

- (a) he had reviewed the filings;
- (b) based on his knowledge, having exercised reasonable diligence, the filings did not contain any untrue statements of material facts or omitted to state a material fact required to be stated or that was necessary to make a non-misleading statement in light of the circumstances under which it was made;
- (c) the filings fairly represented, in all material respects, the financial condition, performance, and cash flows of HEXO;
- (d) he had designed, or caused to be designed under his supervision, internal financial controls to provide reasonable assurance that all material information relating to HEXO was made known to him and that information required to be disclosed by HEXO in its filings or any other document submitted under a securities legislation was recorded, processed, summarized, and reported; and
- (e) he had evaluated, or caused to be evaluated under his supervision, the effectiveness of HEXO's disclosure of information at the financial year-end, and that HEXO had disclosed its conclusions regarding the effectiveness in its annual MD&A;

167. St-Louis oversaw the preparation and reporting of all filings, other financial documents, and disclosures to the public and knew or ought to have known of the alleged misrepresentations;
168. Notably, St-Louis authorized, permitted or consented to the release and publication of the Impugned Statements, during the Class Period, which contained misrepresentations;
- 169.
- 170.

**D. The Relationship between the Misrepresentations and the Price and Value of HEXO's Securities**

171. Defendants had a duty of care based on their special relationship with investors of the Company, who relied on Defendants for accurate information about the Company's business, operations, and revenue;
172. The price and value of HEXO's securities were directly affected each time that Defendants disclosed (or omitted to fully and timely disclose) material facts about HEXO's business, finances, and operations, including the performance and synergies of HEXO's acquisitions, accounting policies, cash on hand, inventory, revenue recognition policies, guaranteed future sales, future revenue prospects, revenue growth percentages, compensation of insiders and management, and the number of HEXO's issued and outstanding shares;
173. At all material times, Defendants were aware of the effect of HEXO's disclosures about its business, finances, and operations, including the performance and synergies of HEXO's acquisitions, cash on hand, inventory, accounting policies, revenue recognition policies, guaranteed future sales, future revenue prospects, revenue growth percentages, compensation of insiders and management, and the number of HEXO's issued and outstanding securities, on the price of the Company's publicly-traded securities;
174. Defendants intended and took advantage of the fact that the members of the Class, including the Plaintiff[f], would rely upon these disclosures, which they did to their detriment;
175. The disclosure documents referred to herein were filed with SEDAR and/or posted to HEXO's website or other websites, and thereby became immediately available to and were reproduced for inspection for the benefit of the Plaintiff[f] and the other members of the Class, the public, financial analysts and the financial press through the internet and financial publications;
176. The price at which HEXO's securities traded on the TSX, FSE, TSX-V, NYSE-A, NYSE, OTC, and derivative exchanges, and the price at which primary market securities were acquired, incorporated the information contained in the disclosure documents and statements referred to herein, including information about the performance and synergies of HEXO's acquisitions, cash on hand, inventory, accounting policies, revenue recognition policies, guaranteed future sales, future revenue prospects, revenue growth percentages, and compensation of insiders and management;

#### IV - RIGHTS OF ACTION

177. The Representative Plaintiff[f] asserts three rights of action against Defendants:
- (a) A statutory right of action for misrepresentation in a secondary market (s. 225.4 *et seq.* QSA);
  - (b) A statutory right of action for misrepresentation in a primary market (s. 217 *et seq.* QSA); and
  - (c) A civil liability action (s. 1457 CCQ);

##### A. Statutory Right of Action for Misrepresentation in a Secondary Market Claim

178. Defendants' statements and omissions were materially false and misleading since they failed to disclose material adverse information and misrepresented the truth about HEXO's business, operations, and revenues. Further, HEXO failed to make timely disclosures of material facts;
179. As a result of these misrepresentations, the Representative Plaintiff[f] asserts a right of action under s. 225.8 *et seq.* of the QSA and, if necessary, the concordant provisions of other Securities Legislation, on behalf of all Class Members against Defendants;
180. HEXO is registered to do business in Québec;
181. HEXO is a reporting issuer in Québec under s. 68 of the QSA, as appears from an extract from the AMF's Reporting Issuers List, communicated herewith as **Exhibit R-70**;
182. HEXO's securities were issued from Québec, and distributed in Québec and throughout the world;
183. The secondary market claim against Defendants is asserted in respect of all Impugned Statements which contained the misrepresentations alleged herein;
184. Defendants knew that the Impugned Statements would be reviewed by analysts, capital markets and the general public who would rely on these documents to make informed financial decisions;
185. The monetary damages suffered by the Representative Plaintiff[f] and Class Members are a direct result of Defendants' misrepresentations, which artificially-inflated the price of HEXO's securities;
186. Defendants knowingly authorized, permitted or acquiesced to the dissemination of false and misleading information, thus violating the QSA and concordant provisions of other Securities Legislation;
187. St-Louis was an officer and director of HEXO during the release and publication of the Impugned Statements and, as such, was privy to HEXO's internal budgets, plans, projections, and reports, as well as the Company's finances, operations, prospects, and all documents filed in accordance with the applicable Securities Legislation;

188. At all relevant times during the Class Period, St-Louis authorized, permitted or acquiesced to the release and publication of the Impugned Statements, which he knew or ought to have known contained false and misleading information;

189.

**B. Statutory Right of Action for Misrepresentation in a Primary Market Claim**

190. On January 30, 2019, HEXO made an Offering of 8,855,000 shares at \$6.50 each, which was distributed pursuant to a prospectus dated January 24, 2019, included in Exhibit R-2, *en liasse*, as appears from a copy of HEXO's news release dated January 30, 2019 entitled "HEXO Corp. closes C\$57.5 million public offering of common shares", Exhibit R-71, and from a Material Change Report published on January 31, 2019, Exhibit R-72;

190.1 On December 5, 2019, HEXO closed a private placement of 8.0% unsecured convertible debentures for gross aggregate proceeds of \$70 million maturing on December 5, 2022. The debentures are convertible at the option of the holder at any time after December 7, 2020 and prior to maturity at a conversion price of \$3.16 per share, subject to adjustment in certain events, as appears from HEXO's MD&A filed on March 30, 2020, Exhibit R-68, December 5, 2019 Material Change Report, **Exhibit R-73**, and Amended Report of Exempt Distribution, **Exhibit R-74**;

190.2 This private placement was led by the Directors, the CEO, and long-term shareholders, as appears from HEXO's press releases dated October 23, 2019 and December 6, 2019, communicated herewith *en liasse* as **Exhibit R-75**;

190.3 Although the Directors and CEO are Excluded Persons, other investors who acquired securities through this private placement form part of the Primary Market Sub-Class;

191. On behalf of all members of the Primary Market Sub-Class, the Representative Plaintiff[f] asserts, as against all Defendants, the right of action found in sections 217 *et seq.* of the QSA, and, if necessary, the concordant provisions of other Securities Legislation;

**C. Civil Liability Right of Action**

192. The Representative Plaintiff[f] asserts a civil right of action under art. 1457 of the CCQ, on behalf of [...] himself and all Class Members, against Defendants for breach of their duty of care, prudence and diligence owed to all Class Members;

193. HEXO's acts particularized herein were authorized, ordered and effected by [d]efendant St-Louis, as well as other officers, agents, employees and representatives who were engaged in the management, direction, control and transaction of HEXO's business, finances, and operations and are, therefore, acts and omissions for which HEXO is vicariously and solidarily liable;

194. Defendants failed to act as reasonable persons;

195. Defendants did not fulfill the legal obligations warranted by their relationship with the Class Members as required by law;

196. The Representative Plaintiff[f] and Class Members relied on Defendants' Impugned Statements;
197. The Representative Plaintiff[f] would not have acquired HEXO's securities or would not have acquired them at inflated prices had [...] he been aware of Defendants' misrepresentations and omissions. The same is true of the Class as HEXO's misrepresentations and omissions of fact were material;
198. The Representative Plaintiff[f] and Class Members acquired HEXO's securities at artificially-inflated prices during the Class Period, held those securities until after Corrective Disclosures and suffered damages as a direct and immediate result of the drop in the price of HEXO's securities, which was caused by Defendants' misrepresentations and omissions;

**D. No Safe Harbor**

199. The statutory defence provided for by s. 225.22 and 225.23 of the QSA regarding forward-looking information in a document does not apply to any false and misleading statements alleged in the present claim since these statements related to then-existing facts and conditions;
200. Defendants knew or should have known that their statements were misleading at the time they were made [...];

**V - THE CRITERIA OF ARTICLE 575 CCP**

**A. The Facts Alleged Appear to Justify the Conclusions Sought (art. 575 (2) CCP)**

201. The Impugned Statements published on SEDAR contain misrepresentations of material facts;
202. At all relevant times during the Class Period, Defendants misrepresented material facts and breached their obligation to make timely disclosure and accurately inform the public of HEXO's current and future prospects in accordance with the QSA, Securities Legislation, financial reporting standards, and the CCQ;
203. Defendants breached their duties and legal obligations towards the Class Members;
204. St-Louis prepared or oversaw the preparation of the Impugned Statements, and authorized their release;
205. The Representative Plaintiff[f] and Class Members bought HEXO's securities at artificially-inflated prices and suffered damages following the publication of the Corrective Disclosures;
206. The faults committed by Defendants were the direct and immediate cause of the Representative Plaintiff[f]'s and Class Members' damages;
207. In light of the above, Defendants are solidarily liable to the Representative Plaintiff[f] and Class Members;

**B. The Class Members' Claims Raise Identical, Similar or Related Issues of Law or Fact (art. 575 (1) CCP)**

208. The QSA, the Securities Legislation, national instruments including NI 51-102, NI 52-109, NI 52-110, all informed Defendants of their obligations;
209. Defendants also owed the Class Members the obligations imposed under the CCQ;
210. Defendants breached their obligations by making the alleged misrepresentations particularized herein and, as such, committed faults against the Class Members;
211. St-Louis oversaw the preparation of all filings and news releases, including the Impugned Statements, and knew or ought to have known of the alleged misrepresentations;
212. Consequently, not only is HEXO directly liable towards the Class Members for its own faults, but it is also liable for the faults committed by St-Louis or any other officer, director, partner or employee;
- 213.
214. In light of Defendants' misrepresentations, HEXO securities traded at artificially-inflated prices and did not reflect their true value at all relevant times during the Class Period;
215. Once the misrepresentations were corrected, the price of HEXO's securities plummeted causing significant damages to the Representative Plaintiff[f] and Class Members;
216. The Representative Plaintiff[f] asks this Honorable Court to certify the following questions of fact and law to be dealt with collectively, with respect to the Class:
  - a) During the Class Period, did the Defendants publish documents or make statements that contained misrepresentations within the meaning of the QSA and, if necessary, other Securities Legislation?
  - b) If so, which document or statement contains which misrepresentation?
  - c) Were the misrepresentations intentional?
  - d) Are any of the Defendants liable to the Class or any of its Members under the QSA, and if necessary, any concordant provisions of the other Securities Legislation and/or under art. 1457 of the CCQ?
  - e) If so, which Defendant is liable and to whom?
  - f) Is Defendants' liability solidary? and
  - g) What is the amount of the damages sustained by the Class Members?

**C. The Composition of the Class Makes It Difficult or Impracticable to Apply the Rules for Mandates to Take Part in Judicial Proceedings on Behalf of Others or for Consolidation of Proceedings (art. 575 (3) CCP)**

217. During the Class Period, HEXO's securities traded actively on the TSX as well as on other exchanges around the world such as on the TSX-V, NYSE, NYSE-A, FSE, OTC, and derivative exchanges;
218. In its 2019 AIF, for the period ending July 31, 2019, HEXO indicated that it had a total of 256,018,560 common shares, and millions of options and subscription warrants, issued and outstanding, as appears from pages 52-53 of HEXO's 2019 AIF, Exhibit R-44;
219. There are thousands of investors that are members of the putative Class in Québec, in Canada, and throughout the world, such that it would be difficult or impracticable to apply the rules for mandates to take part in judicial proceedings;

**D. The Class Member Appointed as the Representative Plaintiff[f] is in a Position to Properly Represent the Class Members (art. 575 (4) CCP)**

220. Martin Dionne [...] is a Québec residen[t] with investment experience;
221. As a result of Defendants' misrepresentations, the Representative Plaintiff[f] purchased HEXO securities at an inflated price during the Class Period, and held them until after Corrective Disclosures, as appears from [...] his trading statements, Exhibi[t] R-3 *en liasse* [...];
222. After the misrepresentations were revealed by the Corrective Disclosures, the value of the Representative Plaintiff[f]'s securities plummeted and Plaintiff[f] again suffered damages as a result;
223. The Representative Plaintiff[f] [...] contacted attorneys to discuss the best means of asserting [...] his rights and the nature of a potential action, and [...] has mandated those attorneys to investigate and bring this action forward;
224. The Representative Plaintiff[f] shares common interests with the Class Members and [...] has instituted the present claim in good faith;
225. The Representative Plaintiff[f] ha[s] the resources, knowledge, time, and dedication required to act as the representative plaintiff[f] of the Class and to advance the case on behalf of the Class;
226. The Representative Plaintiff[f] ha[s] no conflict of interest with other Class Members and [...] is represented by counsel that are experienced at litigating securityholders' claims in class actions against multinational corporations that list their securities on multiple exchanges.

**FOR THESE REASONS, MAY IT PLEASE THE COURT TO:**

**AUTHORIZE** the Class as:



“**Class**” and “**Class Members**” are comprised of the following, other than the “**Excluded Persons**”:

- a) **Primary Market Sub-Class:** All persons and entities who acquired HEXO securities in an Offering on or after April 11, 2018, and held some or all of those securities until after the close of trading on: (1) June 12, 2019; (2) October 9, 2019; (3) October 28, 2019; (4) November 15, 2019, (5) December 13, 2019, (6) December 30, 2019, (7) March 16, 2020; or (8) March 27, 2020; excluding investors who acquired HEXO securities in an Offering in the United States between January 23, 2019 and March 30, 2020; and
- b) **Secondary Market Sub-Class:** All persons and entities who acquired HEXO securities on the secondary market on or after April 11, 2018, and held some or all of those securities until after the close of trading on: (1) June 12, 2019; (2) October 9, 2019; (3) October 28, 2019; (4) November 15, 2019, (5) December 13, 2019, (6) December 30, 2019, (7) March 16, 2020; or (8) March 27, 2020; excluding investors who acquired HEXO securities on a U.S. exchange between January 23, 2019 and March 30, 2020;

**DECLARE** that the following persons are excluded from the Class (“**Excluded Persons**”): (a) HEXO and its subsidiaries, affiliates, officers, directors, senior employees, legal representatives, heirs, predecessors, successors and assigns, (b) St-Louis, and any member of St-Louis’ immediate family, (c) any senior level employee of any insurance company providing directors’ and officers’ insurance to defend this proceeding, and (d) any licensee employed by the Defendants’ law firms defending this proceeding;

**NAME** Martin Dionne [...] as Class Representativ[e];

**DECLARE** that the following questions of fact and law are to be dealt with collectively:

- a) During the Class Period, did the Defendants publish documents or make statements that contained misrepresentations within the meaning of the *Québec Securities Act* (“QSA”) and, if necessary, other Securities Legislation?
- b) If so, which document or statement contains which misrepresentation?
- c) Were the misrepresentations intentional?
- d) Are any of the Defendants liable to the Class or any of its Members under the QSA, and if necessary, any concordant provisions of the other Securities Legislation and/or under art. 1457 of the CCQ?
- e) If so, which Defendant is liable and to whom?
- f) Is Defendants’ liability solidary? and
- g) What is the amount of the damages sustained by the Class Members?

**AUTHORIZE** the class action proceedings to seek the following conclusions:

**GRANT** this class action on behalf of the Class;

**GRANT** the Representative Plaintiff[s] action against Defendants in respect of the rights of action asserted against Defendants under Title VIII, Chapter II, Divisions I and II of the QSA and, if necessary, the concordant provisions of the other Securities Legislation, and under article 1457 of the *Civil Code of Québec*;

**CONDEMN** Defendants to solidarily pay to the Representative Plaintiff[f] and Class Members compensatory damages for all monetary losses;

**ORDER** collective recovery in accordance with articles 595 to 598 of the *Code of Civil Procedure*;

**THE WHOLE** with interest and additional indemnity provided for in the *Civil Code of Québec* and with full costs and expenses, including expert fees, notice fees and fees relating to administering the plan of distribution of the recovery in this action;

**AUTHORIZE** these class action proceedings under section 225.4 of the QSA;

**APPROVE** the notice to the members of the Class in the form to be submitted to the Court;

**ORDER** the publication of the notice to the Class no later than thirty (30) days after the date of the judgment authorizing the class proceedings;

**ORDER** that the deadline for a member of the Class to exclude himself or itself from the class action proceedings shall be sixty (60) days from the publication of the notice to the members of the Class.

**THE WHOLE WITH COSTS** including all costs related to the publication of the notices to class members and all costs of expertise.

MONTREAL, this 3rd day of December, 2021

**(S) Faguy & Co.**

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**FAGUY & CO. BARRISTERS & SOLICITORS INC.**

Attorneys for the Representative Plaintiff

M<sup>re</sup> Shawn K. Faguy ([sfaguy@faguyco.com](mailto:sfaguy@faguyco.com)) /

M<sup>re</sup> Elizabeth Meloche ([emeloche@faguyco.com](mailto:emeloche@faguyco.com))

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Our File: 10239-001

**SCHEDULE A: DRAFT ORIGINATING APPLICATION**

CANADA  
PROVINCE OF QUÉBEC

DISTRICT OF MONTRÉAL  
No.: 500-06-001029-194

**SUPERIOR COURT**  
(Class Action)

---

[...]

**MARTIN DIONNE**, residing and domiciled at 3-1320 Boulevard de la Grande Allée, in the City of Boisbriand, District of Terrebonne, Province of Québec, J7G 2T4

Representative Plaintiff[f]

v.

**HEXO CORP.**, a legal person incorporated pursuant to the *Business Corporations Act*, R.S.O. 1990, c. B.16, having its elected domicile at 120 Ch. De la Rive, in the City of Gatineau, Province of Québec, J8M 1V2

-and-

**SÉBASTIEN ST-LOUIS**, having a place of business at 120 Ch. De la Rive, in the City of Gatineau, Province of Québec, J8M 1V2

Defendants

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**(DRAFT) ORIGINATING APPLICATION**  
(Articles 583 *et seq.* CCP and art. 225.4 QSA)

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**TO THE HONORABLE [...] THOMAS M. DAVIS OF THE SUPERIOR COURT OF QUÉBEC, ACTING AS CASE MANAGEMENT JUDGE, IN SUPPORT OF [...] HIS ORIGINATING APPLICATION, THE REPRESENTATIVE PLAINTIF[F] RESPECTFULLY SUBMITS THE FOLLOWING:**

**PREAMBLE**

1. On ●, this class action was authorized by the Honorable [...] Thomas M. Davis, S.C.J., against the Defendants on behalf of the members of the class defined below, other than the “Excluded Persons”:

- **Primary Market Sub-Class:** All persons and entities who acquired HEXO securities in an Offering on or after April 11, 2018, and held some or all of those securities until after the close of trading on: (1) June 12, 2019; (2) October 9, 2019; (3) October 28, 2019; (4) November 15, 2019, (5) December 13, 2019, (6) December 30, 2019, (7) March 16, 2020; or (8) March 27, 2020; excluding investors who acquired HEXO securities in an Offering in the United States between January 23, 2019 and March 30, 2020; and
  - **Secondary Market Sub-Class:** All persons and entities who acquired HEXO securities on the secondary market on or after April 11, 2018, and held some or all of those securities until after the close of trading on: (1) June 12, 2019; (2) October 9, 2019; (3) October 28, 2019; (4) November 15, 2019, (5) December 13, 2019, (6) December 30, 2019, (7) March 16, 2020; or (8) March 27, 2020; excluding investors who acquired HEXO securities on a U.S. exchange between January 23, 2019 and March 30, 2020;
2. [...] Martin Dionne [...] was ascribed the status of representativ[e] of the persons included in the class described above;
  3. The issues to be dealt with collectively were ordered to be:
    - a) During the Class Period, did the Defendants publish documents or make statements that contained misrepresentations within the meaning of the *Québec Securities Act* (“QSA”) and, if necessary, other Securities Legislation?
    - b) If so, which document or statement contains which misrepresentation?
    - c) Were the misrepresentations intentional?
    - d) Are any of the Defendants liable to the Class or any of its Members under the QSA, and if necessary, any concordant provisions of the other Securities Legislation and/or under art. 1457 of the CCQ?
    - e) If so, which Defendant is liable and to whom?
    - f) Is Defendants’ liability solidary? and
    - g) What is the amount of the damages sustained by the Class Members?
  4. The conclusions sought by the class action were identified as follows:

**GRANT** this class action on behalf of the Class;

**GRANT** the Representative Plaintiff[s]’s action against Defendants in respect of the rights of action asserted against Defendants under Title VIII, Chapter II, Divisions I and II of the QSA and, if necessary, the concordant provisions of the other Securities Legislation, and under article 1457 of the *Civil Code of Québec*;

**CONDEMN** Defendants to solidarily pay to the Representative Plaintiff[f] and Class Members compensatory damages for all monetary losses;

**ORDER** collective recovery in accordance with articles 595 to 598 of the *Code of Civil Procedure*;

**THE WHOLE** with interest and additional indemnity provided for in the *Civil Code of Québec* and with full costs and expenses, including expert fees, notice fees and fees relating to administering the plan of distribution of the recovery in this action;

## I- DEFINITIONS

5. In addition to the terms that are defined elsewhere herein and within the *Québec Securities Act*, CQLR c. V-1.1, the following terms have the following meanings:

- (a) “**AIF**” means Annual Information Form;
- (b) “**AMF**” means Autorité des marchés financiers;
- (c) “**CCP**” means the *Code of Civil Procedure*, CQLR c. C-25.01;
- (d) “**CCQ**” means the *Civil Code of Québec*, CQLR c. CCQ-1991;
- (e) “**CEO**” means Chief Executive Officer;
- (f) “**CFO**” means Chief Financial Officer;
- (g) “**Class**” and “**Class Members**” are comprised of the following, other than the “**Excluded Persons**”:
  - (i) **Primary Market Sub-Class**: All persons and entities who acquired HEXO securities in an Offering on or after April 11, 2018, and held some or all of those securities until after the close of trading on: (1) June 12, 2019; (2) October 9, 2019; (3) October 28, 2019; (4) November 15, 2019, (5) December 13, 2019, (6) December 30, 2019, (7) March 16, 2020; or (8) March 27, 2020; excluding investors who acquired HEXO securities in an Offering in the United States between January 23, 2019 and March 30, 2020; and
  - (ii) **Secondary Market Sub-Class**: All persons and entities who acquired HEXO securities on the secondary market on or after April 11, 2018, and held some or all of those securities until after the close of trading on: (1) June 12, 2019; (2) October 9, 2019; (3) October 28, 2019; (4) November 15, 2019, (5) December 13, 2019, (6) December 30, 2019, (7) March 16, 2020; or (8) March 27, 2020; excluding investors who acquired HEXO securities on a U.S. exchange between January 23, 2019 and March 30, 2020;
- (h) “**Class Period**” means April 11, 2018 to March 30, 2020, inclusively;

- (i) “**Company**” means HEXO;
- (j) “**Core Documents**”, each being a “**Core Document**”, refers to:
  - (i) HEXO’s Material Change Report dated April 20, 2018 (Exhibit P-10);
  - (ii) HEXO’s MD&A for the quarter ending April 30, 2018 (Exhibit P-11);
  - (iii) HEXO’s financial statements for the quarter ending April 30, 2018 (Exhibit P-12);
  - (iv) HEXO’s Material Change Report dated September 5, 2018 (Exhibit P-76);
  - (v) HEXO’s MD&A for the quarter and annual ending July 31, 2018 (Exhibit P-15);
  - (vi) HEXO’s financial statements for the quarter and annual ending July 31, 2018 (Exhibit P-16);
  - (vii) HEXO’s 2018 AIF (Exhibit P-17);
  - (viii) HEXO’s MD&A for the quarter ending October 31, 2018 (Exhibit P-20);
  - (ix) HEXO’s financial statements for the quarter ending October 31, 2018 (Exhibit P-21);
  - (x) HEXO’s Short Form Base Shelf Prospectus dated November 19, 2018 (Exhibit P-19.1);
  - (xi) HEXO’s Material Change Report dated December 5, 2019 (Exhibit P-73);
  - (xii) HEXO’s Preliminary Prospectus Supplement to the Amended and Restated Short Form Base Shelf Prospectus Dated December 14, 2018, dated January 21, 2019 (Exhibit P-24);
  - (xiii) The Prospectuses (Exhibit P-2, *en liasse*);
  - (xiv) HEXO’s Material Change Report dated January 31, 2019 (Exhibit P-72);
  - (xv) HEXO’s MD&A for the quarter ending January 31, 2019 (Exhibit P-27);
  - (xvi) HEXO’s financial statements for the quarter ending January 31, 2019 (Exhibit P-28);
  - (xvii) HEXO’s Material Change Report dated May 30, 2019 (Exhibit P-77);
  - (xviii) HEXO’s MD&A for the quarter ending April 30, 2019 (Exhibit P-32);
  - (xix) HEXO’s financial statements for the quarter ending April 30, 2019 (Exhibit P-33);
  - (xx) HEXO’s MD&A for the quarter and annual ending July 31, 2019 (Exhibit P-42);
  - (xxi) HEXO’s financial statements for the quarter and annual ending July 31, 2019 (Exhibit P-43);
  - (xxii) HEXO’s 2019 AIF (Exhibit P-44);
  - (xxiii) HEXO’s MD&A for the quarter ending October 31, 2019 (Exhibit P-50);
  - (xxiv) HEXO’s financial statements for the quarter ending October 31, 2019 (Exhibit P-51);
  - (xxv) HEXO’s amended MD&A for the quarter and annual ending July 31, 2019 (Exhibit P-57);
  - (xxvi) HEXO’s restated financial statements for the quarter and annual ending July 31, 2019 (Exhibit P-56);
  - (xxvii) HEXO’s amended MD&A for the quarter ending October 31, 2019 (Exhibit P-59);
  - (xxviii) HEXO’s restated financial statements for the quarter ending October 31, 2019 (Exhibit P-58);

- (xxix) HEXO's re-amended MD&A for the quarter and annual ending July 31, 2019 (Exhibit P-63);
  - (xxx) HEXO's re-amended MD&A for the quarter ending October 31, 2019 (Exhibit P-64);
  - (xxxi) HEXO's MD&A for the quarter ending January 31, 2020 (Exhibit P-68); and
  - (xxxii) HEXO's financial statements for the quarter ending January 31, 2020 (Exhibit P-69);
- (k) **"Corrective Disclosures"** each being a **"Corrective Disclosure"** or a **"Public Correction"**, means the statements released by HEXO on:
- (i) June 13, 2019 (Exhibit P-36);
  - (ii) October 10, 2019 (Exhibit P-39);
  - (iii) October 28, 2019 (Exhibits P-42 to P-47);
  - (iv) November 15, 2019 (Exhibit P-48);
  - (v) December 16, 2019 (Exhibits P-50 to P-54);
  - (vi) December 31, 2019 (Exhibits P-56 to P-61);
  - (vii) March 17, 2020 (Exhibits P-62 to P-67); and
  - (viii) March 30, 2020 (Exhibits P-68 and P-69);
- (l) **"DC&P"** means disclosure controls and procedures;
- (m) **"Excluded Persons"** means (a) HEXO and its subsidiaries, affiliates, officers, directors, senior employees, legal representatives, heirs, predecessors, successors and assigns, (b) St-Louis, and any member of St-Louis' immediate family, (c) any senior level employee of any insurance company providing directors' and officers' insurance to defend this proceeding, and (d) any licensee employed by the Defendants' law firms defending this proceeding;
- (n) **"FSE"** means the Frankfurt Stock Exchange;
- (o) **"HEXO"** means HEXO Corp., a company incorporated under the *Business Corporations Act*, R.S.O. 1990, c. B.16, which, for the period relevant to this proceeding, operated under the name "The Hypothecary Corporation" until August 29, 2018, and under the name "HEXO Corp." thereafter, as appears from an extract from the Québec Enterprise Register, communicated herewith as **Exhibit P-1**, and from a Material Change Report dated September 5, 2018, communicated herewith as **Exhibit P-76**;
- (p) **"ICFR"** means internal control over financial reporting;
- (q) **"Impugned Statements"**, each being an **"Impugned Statement"**, refers to:
- (i) The Prospectuses, as defined below (Exhibit P-2, *en liasse*);
  - (ii) Statements made by Defendants on:
    - (1) April 11, 2018 (Exhibit P-8);
    - (2) April 20, 2018 (Exhibit P-10, a Core Document);



- (3) June 27, 2018 (Exhibits P-11 and P-12, which are Core Documents, and Exhibit P-13);
  - (4) June 28, 2018 (Exhibit P-14);
  - (5) October 26, 2018 (Exhibits P-15, P-16 and P-17, which are Core Documents, and Exhibits P-18 and P-19);
  - (6) November 19, 2018 (Exhibit P-19.1, a Core Document);
  - (7) December 13, 2018 (Exhibits P-20 and P-21, which are Core Documents, and Exhibit P-22)
  - (8) December 20, 2018 (Exhibit P-2 *en liasse*, a Core Document);
  - (9) January 21, 2019 (Exhibit P-23 and Exhibit P-24, which is a Core Document);
  - (10) January 24, 2019 (Exhibit P-2 *en liasse*, a Core Document, and Exhibit P-25);
  - (11) March 13, 2019 (Exhibits P-26<sub>i</sub>, P-27, P-28, which are Core Documents<sub>i</sub>; and P-29)
  - (12) March 14, 2019 (Exhibits P-30 and P-31);
  - (13) June 12, 2019 (Exhibits P-32 and P-33, which are Core Documents, and Exhibits P-34 and P-35);
  - (14) June 13, 2019 (Exhibit P-36);
  - (15) October 10, 2019 (Exhibit P-39);
  - (16) October 28, 2019 (Exhibits P-42, P-43 and P-44, which are Core Documents, and Exhibits P-45, P-46, and P-49);
  - (17) October 29, 2019 (Exhibit P-47);
  - (18) November 15, 2019 (Exhibit P-48);
  - (19) December 16, 2019 (Exhibits P-50 and P-51, which are Core Documents, and Exhibits P- 52, P-53, and P-54);
  - (20) December 31, 2019 (Exhibits P-56, P-57, P-58, P-59, which are Core Documents, and Exhibits P-60 and P-61);
  - (21) March 17, 2020 (Exhibit P-62); and
  - (22) March 19, 2020 (Exhibits P-63 and P-64, which are Core Documents, and Exhibits P-65, P-66, and P-67);
- (r) “**MD&A**” refers to HEXO’s Management Discussion and Analyses. Management Discussion and Analyses are a narrative explanation of how a company performed during the period covered by the financial statements, and of a company’s financial condition and future prospects. The MD&A enables readers to assess material changes in the financial condition and operating results of a company and must discuss important trends and risks that have affected the financial statements, and trends and risks that are reasonably likely to affect them in the future;
- (s) “**Newstrike**” means Newstrike Brands Ltd., a cannabis company which HEXO announced it was acquiring on March 13, 2019 (Exhibit P-26). The transaction was completed on May 24, 2019 (*inter alia*, Exhibit P-42), when HEXO acquired all of Newstrike’s issued and outstanding common shares at an exchange rate of 0.06332 common shares of HEXO for each Newstrike common share, pursuant to a plan of arrangement. This appears, *inter alia*, from HEXO’s Material Change Report dated May 30, 2019, communicated herewith as **Exhibit P-77**. The transaction was effected pursuant to Canadian law, and is deemed to be a transaction made in Canada;

- (t) “**NI 51-102**” means the CSA’s National Instrument 51-102—*Continuous Disclosure Obligations*, as amended;
- (u) “**NI 52-109**” means the CSA’s National Instrument 52-109—*Certification of Disclosure in Issuers’ Annual and Interim Filings*, as amended;
- (v) “**NI 52-110**” means the CSA’s National Instrument NI 52-110—*Audit Committees*, as amended;
- (w) “**NYSE**” means the New York Stock Exchange;
- (x) “**NYSE-A**” means the NYSE American;
- (y) “**Offerings**”, each being an “**Offering**”, means the offerings of the Company’s securities during the Class Period including, but not limited to, an offering by way of a Prospectus, Short Form Base Shelf Prospectus, Pricing Supplement to a Short Form Base Shelf Prospectus, private placement, or any document issued by HEXO through which it effects a distribution of its securities as defined in the QSA or other Securities Legislation;
- (z) “**OTC**” means the over-the-counter market for securities in the United States;
- (aa) “**Plaintiff[f]**” and/or “**Representative Plaintiff[f]**” means Martin Dionne [...];
- (bb) “**Prospectuses**” means the Company’s amended and restated short form base shelf prospectus dated December 14, 2018, and corresponding prospectus supplement dated January 24, 2019, and the documents incorporated by reference thereto, pertaining to the Company’s offering that closed on January 30, 2019, communicated herewith as **Exhibit P-2**, *en liasse*;
- (cc) “**Q1**”, “**Q2**”, “**Q3**”, and “**Q4**” means the three-month interim period ended October 31, January 31, April 30, and July 31, respectively;
- (dd) “**Québec Supply Agreement**” means the agreement between HEXO and the Province of Québec, first announced by HEXO on April 11, 2018, which HEXO represented, *inter alia*, as constituting a guarantee that it would be paid for 20,000 kilograms of cannabis product by the Québec government in the first year after cannabis legalization (i.e. by October 17, 2019);
- (ee) “**QSA**” means the Québec *Securities Act*, CQLR C V-1.1;
- (ff) “**QER**” means the Québec Enterprise Register;
- (gg) “**SAQ**” means the *Société des alcools du Québec*. SAQ is, at times, used interchangeably with its subsidiary SQDC herein;
- (hh) “**Securities Legislation**” means, collectively, the QSA; the Securities Act, RSO 1990, c S.5, as amended; the Securities Act, RSA 2000, c S-4, as amended; the

Securities Act, RSBC 1996, c 418, as amended; the Securities Act, CCSM c S50, as amended; the Securities Act, SNB 2004, c S-5.5, as amended; the Securities Act, RSNL 1990, c S-13, as amended; the Securities Act, SNWT 2008, c 10, as amended; the Securities Act, RSNS 1989, c 418, as amended; the Securities Act, S Nu 2008, c 12, as amended; the Securities Act, RSPEI 1988, c S-3.1, as amended; the Securities Act, 1988, SS 1988-89, c S-42.2, as amended; and the Securities Act, SY 2007, c 16, as amended;

- (ii) “**SEDAR**” means the Canadian Securities Administrators’ System for Electronic Document Analysis and Retrieval;
- (jj) “**SPO**” means HEXO’s secondary public offering of equity securities on January 30, 2019, at \$6.50 per share, which was distributed pursuant to a prospectus dated January 24, 2019, as appears from a copy of this prospectus, included in Exhibit P-2, *en liasse*;
- (kk) “**SQDC**” means the *Société québécoise du cannabis*, a subsidiary of the SAQ. SQDC is, at times, used interchangeably with SAQ herein;
- (ll) “**St-Louis**” means Sébastien St-Louis, who is HEXO’s co-founder and was the Company’s CEO at all times during the Class Period;
- (mm) “**TSX**” means the Toronto Stock Exchange; and
- (nn) “**TSX-V**” means the TSX Venture Exchange;

## II- INTRODUCTION

### A. Overview of Proposed Class Action

6. This action stems from Defendants’ misrepresentations, and failure to make periodic and/or timely disclosures of material facts and/or changes, which directly caused HEXO investors in Québec, and throughout the world, to suffer monetary damages<sup>5</sup>;
7. HEXO is a Canadian cannabis producer, which, during the Class Period, operated under the name The Hydrothecary Corporation until August 29, 2018;
8. It is a publicly-traded corporation, which, at all times during the Class Period, listed its securities on exchanges around the world, including the TSX-V, TSX, NYSE-A, NYSE, FSE, derivative exchanges, and the OTC market in the United States;
9. Domiciled in Québec, the Company is a reporting issuer within the meaning of article 68 of the QSA, under the purview of the AMF;
10. In 2018, HEXO was attempting to reposition itself to capitalize on the lucrative business opportunities that were expected to arise from the legalization of recreational cannabis products in Canada and, in particular, Québec;

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<sup>5</sup> In this proceeding, all references to the timely disclosure of material facts refer to the periodic and/or timely disclosure of material facts and/or changes.

11. In order to encourage investors to purchase HEXO securities, Defendants made statements, and/or approved the release of core and non-core documents, containing misrepresentations and omissions of material facts regarding HEXO's business, operations, and expected revenue;
12. These misrepresentations and omissions had the effect of artificially inflating the price and value of HEXO's securities at the time they were purchased by putative Class Members;
13. When the truth finally came to light through a series of Corrective Disclosures, the value and price of the Class Members' securities plummeted, losing, for instance, 87.4% on the TSX between the first and last Corrective Disclosures. The Class Members are entitled to be compensated for their losses;
14. Defendants' misrepresentations and omissions relate to [...] interrelated themes;

### **1) The Québec Supply Agreement**

15. First, on April 11, 2018, at the commencement of the proposed Class Period, HEXO released a statement announcing that it had reached a five-year binding agreement with the SAQ, pursuant to which a subsidiary of the SAQ, the future SQDC, would purchase an estimated volume of 200,000 kilograms of cannabis over the term of the contract [...];
16. This agreement was described as the "largest supply agreement between an authorized producer and a provincial authority responsible for the supply of cannabis for the adult-use recreational market";
17. According to Defendants, this made HEXO the preferred supplier for the Québec market for the next five years, with a valuable option to extend the term for an additional year;
18. Defendants touted, on numerous occasions, that the Québec Supply Agreement would generate one billion dollars in revenue for the Company (for e.g., Exhibits P-15, P-18, P-20, P-32, P-78, and P-24);
19. Defendants claimed that one crucial component of this agreement was that it obligated the SQDC to purchase 20,000 kilograms of cannabis during the first year following cannabis legalization;
20. The purchase of 20,000 kilograms by the SQDC was represented as guaranteed by a "take or pay" feature in the agreement, meaning that the SQDC was obligated to "pay" for the entire 20,000 kg, regardless of whether it needed to "take" the entire amount;
21. This feature was extremely valuable for HEXO and its investors as it protected the Company against variations in demand in a new and potentially volatile market. It ensured that HEXO would benefit from approximately 109 million dollars in revenue between October 17, 2018 (legalization) and October 17, 2019, irrespective of market conditions;
22. For over a year and a half after the initial April 2018 statement, Defendants repeatedly confirmed that the sale of 20,000 kg of product to the SQDC in year one, and the revenues associated therewith, were a certainty;

23. For instance, in HEXO's April 30, 2018 MD&A (a Core Document, published on June 27, 2018), the Company [...] promised « *strong business **certainty** through year 1 post-legalization* », mainly as a result of the Québec Supply Agreement [...];
24. Between April 2018 and October 2019, Defendants emphasized the guaranteed nature of the revenues associated with the Québec Supply Agreement in year one in at least twenty-nine (29) public statements, misleading investors into believing that HEXO would enforce the SQDC obligation allegedly included in the contract;
25. These statements misrepresented that the sale of 20,000 kilograms of cannabis in year one, and the significant revenues associated therewith, were guaranteed, when, in fact, [...] they were not;
26. They also contain misrepresentations because they omitted to disclose material facts, including:
  - (a) the circumstances under which the SQDC could terminate the agreement; and
  - (b) that there was a material risk that HEXO would not enforce the alleged "take or pay feature" of the agreement;
27. The revenue 'floor' provided by the alleged take or pay feature in the Québec Supply Agreement was repeatedly highlighted by securities analysts as being one of the primary value drivers for HEXO securities during the Class Period, as appears, *inter alia*, from an article entitled *HEXO Corp.: Potential Revenues Make it a Buy Opportunity*, communicated herewith as **Exhibit P-79**:

**"The most relevant agreement is the one with Quebec**, an exclusive five-year supply contract with the Société québécoise (sic) du cannabis (SQDC) that is worth more than \$1 billion in revenues. **The SQDC guarantees to buy from HEXO up to 20,000 kg (+30% market share in the first year) of products in the first post-legalization year**, then 35,000 Kg in the second year, and 45,000 Kg in the third year. The amounts for the fourth and fifth years are yet TBD, but could be around 50,000 kg depending on the market growth. This agreement is quite beneficial for HEXO since it places an **interesting floor to its revenues**, but investors should focus on the fact that HEXO will store and distribute all orders generated by the SQDC online store, including products from other LPs with established supply agreements with the SQDC."

[Emphasis added]

See also: *Hexo stock slides another 6% to weigh on cannabis sector after job cuts prompt downgrade*, communicated herewith as **Exhibit P-80**:

"Investors have been bullish on Hexo for a number of reasons [...] **the Quebec purchase contract was presented as one that would guarantee volumes for years [...] without the contract, Hexo is relatively undifferentiated versus peers**, in our view."

[Emphasis added]

28. The Québec Supply Agreement was material to HEXO's business and operations, because, among other things, the Québec market was the most significant for HEXO in terms of revenue, accounting at times for 91% of the Company's adult-use sales;
29. Market analysts immediately recognized the strategic significance of HEXO's relationship with the SQDC, as appears, *inter alia*, from an April 25, 2018 article entitled *Hydrothecary: The Quebec Cannabis King*, and an October 29, 2018 article entitled *HEXO: The Strongest Buy and the King of Quebec Cannabis*, communicated *en liasse* herewith as **Exhibit P-81**;
30. As expected, the misrepresentations and omissions relating to this agreement had the effect of artificially inflating the value and price of HEXO's securities;
31. For instance, following HEXO's announcement of the Québec Supply Agreement on April 11, 2018, the value and price of its common shares increased by 13.24% on the TSX in one day;
32. The Class suffered a significant loss when HEXO confirmed, among other things, on March 30, 2020, that it had, in fact, removed from the Québec Supply Agreement the alleged provision requiring the SQDC to buy 20,000 kilograms of cannabis from HEXO in year one;
33. More specifically, this Corrective Disclosure had the foreseeable effect of materially reducing the value and price of HEXO's securities, amounting to a colossal loss of roughly 87.4% on the TSX from its closing price on the day before the first partial Corrective Disclosure, on June 12, 2019 (\$8.74 per share), to the last Corrective Disclosure, on March 30, 2020 (\$1.10 per share);
34. Defendants invoked two reasons to justify not following through with their promises to investors regarding HEXO's year one 'guaranteed' revenues. First, they claimed that HEXO's relationship with the SQDC was so significant, and the risk of jeopardizing this relationship by enforcing the terms of the contract so great, that they could not enforce the alleged take or pay provision included in the Québec Supply Agreement;
35. Defendants knew the paramount importance of HEXO's relationship with the SQDC, and any risks associated with enforcing the Québec Supply Agreement, since the day this contract was entered into. They had no right to represent to investors that the revenues associated with the alleged take or pay provision were guaranteed, and promise "business certainty", when they knew from the beginning that there was a material risk that they would not enforce the alleged take or pay feature if actual market volumes were below contracted amounts. This guarantee allegedly included in the agreement was meaningless if HEXO didn't enforce it;
36. In light of Defendants' insistence on the take or pay provision allegedly included in the Québec Supply Agreement, and their repeated reassurances that HEXO revenues were guaranteed in year one, investors were led to believe that HEXO would enforce the alleged terms of the contract;
37. The second reason invoked by Defendants to explain their decision not to enforce the alleged take or pay provision was that SQDC store rollouts had been slower than



anticipated. This excuse is also shocking given that (a) the purpose of a take or pay provision is specifically to protect HEXO from lower than expected market demand, and (b) HEXO was fully aware of the pace at which SQDC stores were being rolled out throughout the Class Period;

38. Defendants consistently failed to comply with their disclosure obligations relating to the Québec Supply Agreement throughout the Class Period;

**2) The Newstrike Acquisition and [...] Revenue Generation**

39. Second, on March 13, 2019, HEXO announced that:

- (c) It was acquiring cannabis producer Newstrike, which, among other things, allegedly had a fully licensed production facility in Niagara, Ontario; and
- (d) As a result of this acquisition, and of the Québec Supply Agreement, among other factors, the Company would:
  - (i) realize estimated annual synergies of \$10 million;
  - (ii) double its net revenue for Q4 2019 to approximately \$26 million; and
  - (iii) achieve a net revenue of greater than \$400 million for fiscal 2020 (i.e. August 1, 2019 to July 31, 2020);

as appears, *inter alia*, from a copy of HEXO's press releases dated March 13, 2019 and June 12, 2019, respectively communicated as **Exhibits P-26** and **P-35**;

A. Licensing

40. These statements and subsequent releases omitted the material fact that Newstrike did not, in fact, have a fully licensed production facility in Niagara, Ontario, and that conducting operations in certain portions of this facility was illegal;
41. Defendants admit that they withheld information from investors regarding the licensing issues at the Niagara facility for at least three and a half months. This admission is actionable in and of itself. But more than that, Defendants should have known and informed investors from the outset that the Niagara facility was not properly licensed;

B. Revenues

42. Defendants' claims relating to additional revenue generation deriving, *inter alia*, from the Newstrike acquisition and the Québec Supply Agreement were just as misleading. The revenue figures they touted before investors were based in great part on the alleged take or pay provision, which Defendants knew or should have known they would probably not enforce;
43. At the very least, and subsidiarily, Defendants had an obligation to substantially revise their revenue projections downward as events unraveled throughout the Class Period, and to inform investors accordingly;



44. Unfortunately for Class Members, Defendants did the exact opposite. They explicitly promised that they would reach their revenue targets until October 2019, and then, without warning, shocked the market by abruptly pulling the \$400 million 2020 net revenue guidance they had so bullishly touted for months;
45. The extent of the damages caused by Defendants' failure to enforce the trumpeted first year revenue guarantee, including its impact on the Newstrike related assets and revenue projections, would only become fully apparent in March 2020;

### 3) [...] Inventories

46. Despite its problems with the Niagara facility and [...] the material risk that Defendants would not force the SQDC to purchase the volume provided for in the alleged take or pay provision, HEXO maintained its inventories high throughout the Class Period. It ordered significant volumes of product despite weak demand, and failed to write off inventories once they became stale and impaired;
47. As a result, Defendants overvalued the Company's assets, which contributed to inflating the price of HEXO's securities;
48. Reality hit particularly hard between December 2019 and March 2020 when HEXO disclosed a financial restatement, a series of increasing inventory impairments, and a humongous \$300 million loss for Q2 2020 relating to the Niagara facility (which HEXO was now selling) and HEXO's eroded goodwill;
49. Unbeknownst to investors, HEXO had ineffective ICFR and DC&P. In fact, the Company was eventually forced to publicly admit that it had inadequate controls surrounding its procurement, inventory, and financial reporting systems;
50. On March 30, 2020, Defendants revealed the whole truth, including that (a) [...] as of January 17, 2020, HEXO had contractually relieved the SQDC from its off-advertised alleged guaranteed first-year purchase commitment, and (b) throughout the Class Period, Defendants' representations regarding the Company's expected revenues and its assets, including inventory, had been artificially inflated;
51. Defendants' misrepresentations and omissions artificially inflated the value and price of HEXO's securities, which dropped drastically upon release of the Corrective Disclosures;

## B. The Parties

### 1) The Representative Plaintiff[f] and the Class Sought to be Represented

52. The proposed Class is defined at paragraph 1 h) hereinabove;
53. Martin Dionne resides in Boisbriand, Québec. During the Class Period, he acquired HEXO securities, including shares and call options, and suffered a loss by holding some of those securities until March 2020, as appears from a copy of Martin Dionne's trading statements, communicated herewith *en liasse* as **Exhibit P-3**, as amended; [...]

54. He estimates the amount of his losses caused by Defendants' misrepresentations and omissions at approximately \$50,000, as appears from a copy of M. Dionne's sworn declaration dated March 10, 2020, [...] communicated herewith as **Exhibit P-4**; [...]
55. The Representative Plaintiff[f] relied on Defendants' Impugned Statements in making [...] his investment decisions;
56. The Representative Plaintiff[f] suffered monetary damages as the direct, immediate, and foreseeable result of Defendants' misrepresentations and omissions;
57. [...] He seeks authorization to bring an action pursuant to s. 225.4 QSA, and, if necessary, pursuant to the corresponding provisions in the Securities Legislation, as well as the status of representativ[e] of the Class to institute a class action pursuant to s. 574 of the CCP;

## 2) The Defendants

58. HEXO is a company incorporated under the Ontario *Business Corporations Act*, R.S.O. 1990, c. B.16, which maintains its headquarters in Gatineau, Québec. It is a licensed producer and distributor of medical and recreational cannabis, the whole as appears from an extract of the QER, Exhibit P-1;
59. At all times during the Class Period, HEXO's common shares were publicly traded on the TSX-V (before June 22, 2018) under the ticker symbol "THCX", or on the TSX (as of June 22, 2018) under the ticker symbol "HEXO". The Company's common shares also traded on the NYSE-A (from January 23, 2019 to July 15, 2019), NYSE (as of July 16, 2019), FSE, and on the OTC market in the United States, as appears from HEXO's 2019 AIF, Exhibit P-44;
60. On January 30, 2018, HEXO completed a public offering which included the issuance of warrants. Each warrant entitled the warrant-holder to purchase one HEXO common share per warrant for a period of two years at an exercise price of \$5.60. The warrants were publicly traded on the TSX-V under the ticker symbol "HEXO.WT" until they expired and ceased to trade publicly on January 30, 2020, as appears from HEXO's 2019 AIF, Exhibit P-44, and from HEXO's January 24, 2019 prospectus supplement, included in Exhibit P-2 *en liasse*;
61. Other HEXO securities, such as call options, were also traded during the Class Period, including on derivative exchanges;
62. Sébastien St-Louis, who is the Company's co-founder, was, at all relevant times, HEXO's CEO, as appears *inter alia* from an extract from HEXO's website, communicated herewith as **Exhibit P-7**;
63. St-Louis made statements, or caused documents to be released, containing misrepresentations and omissions, and certified that HEXO had effective internal controls over financial reporting, and that HEXO's Core Documents released during the Class Period were free of misrepresentations;

### III- FACTS GIVING RISE TO THE PRESENT ACTION

#### A. The Impugned Statements

64. On **April 11, 2018**, HEXO released a statement that it signed a 5-year preferred supplier agreement with the SQDC, with an option to extend the term for an additional year, and represented, in relevant part, that:

(d) HEXO **expects to** supply a total volume estimate of 200,000 kg of cannabis products during the five-year contract;

(e) HEXO **will supply** 20,000 kg of cannabis products during the first year of the agreement; and

(f) The SQDC has the right to terminate the agreement *in certain circumstances*;

as appears from a copy of HEXO's April 11, 2018 news release, communicated herewith as Exhibit P-8;

65. The Company represented that the supply of 20,000 kg in year one post-legalization was guaranteed by a take or pay feature, as appears *inter alia* from Exhibits P-2, P-23, and P-36;

66. This alleged feature was described as a substantial "floor" for HEXO's revenues, protecting the Company against a slower than forecasted SQDC store rollout and lower than expected demand;

67. At an average gross selling price of \$5.45 per gram as of the start of the Québec Supply Agreement (Exhibit P-45, p. 23), 20,000 kg of cannabis would have amounted to revenues of \$109 million for HEXO in Québec, between October 17, 2018 and October 17, 2019;

68. As recognized by HEXO from the outset, the strategic value of the SQDC relationship could not be overstated: it was key for the Company (Exhibits P-18, p. 18; P-20, p. 6);

69. Sales to the SQDC represented, at times, 90%-91% of all of HEXO's recreational cannabis revenues (for e.g., Exhibits P-42, p. 25; P-2 (January 24, 2019 prospectus supplement), p. S-10; P-27);

70. When HEXO announced the Québec Supply Agreement, the value and price of HEXO's securities skyrocketed. For instance, the price of HEXO's common shares on the TSX increased by 13.24% that same day, as appears from HEXO's share price history on the TSX between April 10, 2018 and April 15, 2020, communicated herewith as **Exhibit P-9**;

71. On **April 20, 2018**, HEXO released a Material Change Report confirming the April 11, 2018 statement, as appears from a copy of this Core Document, communicated herewith as **Exhibit P-10**;

72. The April 11 and 20, 2018 statements contained misrepresentations because they represented the sale of 20,000 kg of cannabis during the first year as guaranteed, whereas [...] it was not. They also omitted material facts about the Québec Supply Agreement, including:

- (c) the circumstances under which the SQDC could terminate the agreement; and
- (d) that there was a material risk HEXO would not enforce the alleged “take or pay feature” of the agreement;

(These misrepresentations and omissions are hereinafter collectively referred to as “**the Québec Supply Agreement Misrepresentations**”);

- 73. On **June 27, 2018**, HEXO released its MD&A and financial statements for the quarter ending April 30, 2018, which Defendant St- Louis certified contained no misrepresentation and provided a fair representation of all material facts. A copy of HEXO’s April 30, 2018 MD&A and financial statements, and of St-Louis’ certification of interim filings dated June 27, 2018, are communicated herewith, respectively, as **Exhibits P-11, P-12, and P-13**;
- 74. These statements also contained the Québec Supply Agreement Misrepresentations, including the following:

**We will supply** the SQDC with 20,000 kg of products in the first year and **expect to supply** 35,000 kg and 45,000 kg in years two and three respectively.

Thereafter, based on an expected market growth rate of 10% we intend to supply 49,500 kg and 54,450 kg in years four and five respectively. The Company estimates the total volume to be supplied over the five-year term of the agreement to be in excess of 200,000 kg which is **the largest forward supply contract ever awarded in the history of the emerging cannabis industry**. Based on the current agreements signed between the SQDC and five other licensed producers, **we obtained the highest Year 1 volume**, representing approximately 34% market share within the province of Quebec, and we are aiming to remain the largest supplier in subsequent years.

[Emphasis added]

as appears from HEXO’s MD&A, Exhibit P-11, p. [...] 6;

- 75. In its April 30, 2018 MD&A, HEXO even described the Québec Supply Agreement as one contributing factor to its alleged “strong **business certainty through Year 1** post-legalization” [emphasis added] (Exhibit P-11, p. 14);
- 76. It highlighted the central importance of HEXO’s relationship with the SQDC for year one revenues:

**Our top priority in Year 1 of the adult recreational market is to serve the Québec market** and to make a strategic entry into other Canadian markets such as Ontario to position for full-scale supply to that market when production comes on line.

[Emphasis added]

as appears from HEXO’s MD&A, Exhibit P-11, p. [...] 6;

77. At that point in time, HEXO reports that the SQDC intended “to begin with 20 retail locations across Québec and expect[ed] to increase this number to 100 locations within the first two years of legalization.” The SQDC was going to have exclusivity to legally sell recreational cannabis in the province, in these stores and online (Exhibit P-11, p. 4);
78. HEXO reiterated the Québec Supply Agreement Misrepresentations again on **June 28, 2018**, in a news release entitled “Hydrothecary reports fiscal 2018 third quarter results”, communicated herewith as **Exhibit P-14**. St-Louis trumpeted that HEXO’s status as preferred supplier to the SQDC gave it “the second highest recreational **revenue certainty** among licensed producers for the **first year** of the adult-use market in Canada, with **20 metric tons committed (...)**” [Emphasis added];
79. On **October 26, 2018**, HEXO released its MD&A and financial statements for the quarter and annual ending July 31, 2018, as well as its 2018 AIF and annual report, a copy of which is communicated herewith respectively as **Exhibits P-15, P-16, P-17, and P-18**. Defendant St-Louis certified that the Core Documents contained no misrepresentations and provided a fair representation of all material facts, as appears from a copy of his certification of interim filings dated October 26, 2018, **Exhibit P-19**;
80. Once again, these statements contained the Québec Supply Agreement Misrepresentations, and a recognition of the capital importance of the SQDC relationship;
81. For example, HEXO’s MD&A, Exhibit P-15, reiterated at page 18 that:

**The strategic value of our SQDC relationship cannot be understated.** (sic)  
We hold the single largest forward contract in the history of the emerging cannabis industry with the SQDC and are the preferred supplier for cannabis products for the Quebec market for the first five years following legalization. **We will supply** the SQDC with 20,000 kg of products in the first year, and **we expect to supply** 35,000 kg and 45,000 kg in years two and three, respectively. Thereafter, based on an expected market growth rate of 10%, we intend to supply 49,500 kg and 54,450 kg in years four and five, respectively. The Company estimates the total volume to be supplied over the five-year term of the agreement to be in excess of 200,000 kg.

[Emphasis added]

82. On **November 19, 2018**, HEXO published a Short Form Base Shelf Prospectus relating to the potential issuance of up to \$800 million in common shares, warrants, subscription receipts and units of the Company. This Core Document also contained the Québec Supply Agreement Misrepresentations, as appears from page 5 of the prospectus, communicated herewith as **Exhibit P-19.1**;
83. On **December 13, 2018**, HEXO released its MD&A and financial statements for the quarter ending October 31, 2018, which Defendant St-Louis certified contained no misrepresentations and provided a fair representation of all material facts, as appears respectively from **Exhibits P-20, P-21, and P-22**;
84. These statements contained the same misrepresentations and omissions as the statements discussed above;

85. Whereas HEXO had previously reported that, as of July 31, 2018, the SQDC had established 15 retail locations, on December 13, 2018, it confirmed that the SQDC had in fact opened only 12 stores, but still expected to increase this number to 50 locations within the first year of legalization (Exhibits P-18, p. 15; P-20, p. 4);
86. On **January 21, 2019**, HEXO released a “Corporate Presentation” entitled “The Future of Cannabis”, to market its upcoming public offering of common shares to potential investors, as appears from a copy of HEXO’s Corporate Presentation, communicated herewith as **Exhibit P-23**;
87. At page 15 of this document, Defendants again represented that:
- (c) HEXO had secured the single largest forward supply contract among licensed producers in Canada; and
  - (d) The SQDC was subject to a **“take or pay feature”** for year one on 20,000 kg with an estimated 30% market share in Québec for the first three years;
- thereby reiterating the Québec Supply Agreement Misrepresentations;
88. In the winter of 2019, HEXO also posted several prospectus-related documents, which all contained the Québec Supply Agreement Misrepresentations, including:
- (c) On **December 20, 2018**, its Amended and Restated Short Form Base Shelf Prospectus Dated December 14, 2018, included in Exhibit P-2 *en liasse* (p. 7); and
  - (d) On **January 21, 2018**, its “Preliminary Prospectus Supplement to the Amended and Restated Short Form Base Shelf Prospectus Dated December 14, 2018”, a copy of which is communicated herewith as **Exhibit P-24** (p. S-9, S-10, S-17, p. 7);
89. On **January 24, 2019**, HEXO released a prospectus supplement to the amended and restated short form base shelf prospectus dated December 14, 2018, Exhibit P-2, *en liasse*, in connection with the distribution of [...] 7,700,000 shares at \$6.50 each, plus an over-allotment option granted to underwriters to purchase up to an additional 1,155,000 common shares at the same price, which was certified by Defendants as not containing any misrepresentation, as appears from HEXO’s consent letter, communicated herewith as **Exhibit P-25**;
90. This prospectus stated that:
- (g) It incorporated by reference the AIF for the year ended July 31, 2018, the audited consolidated financial statements for the year ended July 31, 2018, the MD&As for the period ended July 31, 2018 and October 31, 2018, and other documents;
  - (h) Under the Québec Supply Agreement, HEXO **“will supply”** 20,000 kg of cannabis products in the first year of the agreement, which is subject to a **“take-or-pay”** feature for that year;
  - (i) **“Other than the agreement with the SQDC, pursuant to which the SQDC has agreed to purchase 20,000kg of HEXO’s products for the first year of the agreement, the agreements with the SQDC, the OCRC and the BCLDB do not**



**contain purchase commitments or otherwise obligate the purchaser to buy a minimum of fixed volume of products from HEXO”;**

- (j) “The Company estimates that the total volume of cannabis to be supplied over the five-year term of the agreement could exceed 200,000 kg which, based on the average sale prices assumed by the Company for its products, would represent approximately \$1 billion in estimated potential revenue to the Company”;
- (k) “The Company believes this agreement is the **largest forward supply agreement in the history of the cannabis industry in Canada, based on year one volume**”; and
- (l) The Company’s success was contingent, in part, upon ongoing compliance with regulatory requirements and obtaining all regulatory approvals for the production and sale of its products and the failure to obtain regulatory approvals could have a material adverse effect on business, financial conditions, and results from operations;

[Emphasis added]

as appears from a copy of the January 24, 2019 prospectus supplement, included in Exhibit P-2, *en liasse*;

- 91. Again, this statement contained the Québec Supply Agreement Misrepresentations;
- 92. At the time of the January 2019 Offering, the SQDC was purchasing minimal amounts of product, but the guarantee of the take or pay feature reassured the market and maintained HEXO’s artificial valuation;
- 93. 129.2The prospectus showed that in the first three and a half months post-legalization – which is more than 25% of the first year of the Québec Supply Agreement-, the SQDC was ordering only an average of about 860 kg of cannabis per month. In order to meet its alleged 20,000 kg year-one volume purchase commitment, it would have had to ramp up orders by **over 130%**. In other words, for the SQDC to comply with its alleged “take” obligation under the contract, it would have had to purchase approximately 1,992 kg per month for the next eight and a half months;<sup>6</sup>
- 94. The market continued to be reassured by HEXO’s misrepresentations, and the Offering closed on January 30, 2019, with a distribution of 8,855,000 shares at \$6.50 each, as appears from a copy of HEXO’s news release dated January 30, 2019, communicated herewith as **Exhibit P-71**, and from a copy of HEXO’s Material Change Report dated January 31, 2019, communicated herewith as **Exhibit P-72**;

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<sup>6</sup> In the last two weeks of Q1 2019 (October 17, 2018 through October 31, 2018), HEXO sold a total of 952 kg of adult-use product, 90% of which (857 kg) was to the SQDC. Over the next three months (November 1, 2018 to January 31, 2019), HEXO sold a total of 2,537 kg of product, 84% of which (2,131 kg) was to the SQDC. (cf. Prospectus, Exhibit P-2. See also MD&A for the period ended October 31, 2018, Exhibit P-20, p. 15.) Thus, in total, HEXO’s sales to the SQDC at the time of the Offering were 2,988 kg - or roughly 860 kg per month:  $2,988/3.46=863.58$  where 3.46 represents 3 months and 2 weeks. For the remainder of the year (8.54 months), the SQDC had to purchase over 17,012 kg (i.e. 20,000 kg – 2988 kg), for an average of 1992 kg per month. Orders would consequently have had to ramp up by over 130% for the SQDC to meet its alleged purchase commitment.



95. On **March 13, 2019**, before trading had commenced for the day on the TSX, HEXO released a statement that its Board of Directors had unanimously approved to enter into a definitive agreement to acquire all of the issued outstanding common shares of Newstrike in an all-share transaction valued at approximately \$263 million, as appears from a copy of HEXO's March 13, 2019 news release, communicated herewith as **Exhibit P-26**;
96. This statement represented that:
- (e) HEXO would add 470,000 sq. ft. in production space;
  - (f) Newstrike's licensed indoor facility would provide HEXO with access to diversified growing techniques and position HEXO for flexibility for informational exports as global cannabis markets continue to open;
  - (g) The combined company resulting from the acquisition would realize estimated annual synergies of \$10 million, which would allow HEXO to operate more efficiently; and
  - (h) As a result of the acquisition, HEXO was committing to achieving in excess of \$400 million in net revenue in the one-year period ended July 31, 2020;
97. One of the key components of the Newstrike deal was the acquisition of its Niagara facility, which represented 90% of Newstrike's production capacity, and was to ensure 27% [...] of HEXO's production capacity [...] (Exhibit P-32, p. 6, 13);
98. Also, on March 13, 2019, HEXO released its MD&A and financial statements for the quarter ending January 31, 2019, which Defendant St-Louis certified contained no misrepresentations and provided a fair representation of all material facts, as appears, respectively, from **Exhibits P-27, P-28, and P-29**. The represented material facts were:
- (h) "In Québec alone, [HEXO] will supply 20,000kg in the first year of legalized adult-use cannabis and up to approximately 200,000kg over the first five years of legalized adult-use cannabis" (HEXO's Jan. 31, 2019 MD&A, Exhibit P-27, p. 2);
  - (i) "[HEXO] will supply the SQDC with 20,000kg of products in the first year" (Exhibit P-27, p. 4);
  - (b.1) "We hold the single largest forward supply contract among licensed producers, based upon announced agreements for year one of legalization, with 20,000 kg to be supplied to Quebec in the first year." (Exhibit P-27, p. 10);
  - (j) "Other than the agreement with the SQDC, pursuant to which the SQDC has agreed to purchase 20,000kg of HEXO's products for the first year of the agreement, the agreements with the SQDC, the OCRC and the BCLDB do not contain purchase commitments or otherwise obligate the purchaser to buy a minimum of fixed volume of products from HEXO" (Exhibit P-27, p. 28);
  - (k) "The acquisition of Newstrike will provide HEXO access to 4 cutting-edge production campuses totaling close to 1.8 million sq. ft." (Exhibit P-27, p. 12);

- (l) “Newstike’s licensed indoor facility will provide HEXO with access to diversified growing techniques” (Exhibit P-27, p.12);
  - (m) The acquisition of Newstrike is expected to result in annual synergies of \$10 million, allowing HEXO to operate more efficiently (Exhibit P-27, p.12); and
  - (n) Net revenue from adult-use sales (which accounts for 91% of total revenue) in Q2 2019 was \$12.205 million and net revenues from adult-use sales for Q4 2019 are expected to approximately double those of Q2 2019 (i.e. representing that net revenue from just adult-use sales for May 1, 2019 to July 31, 2019 would be approximately \$24.41 million) (Exhibit P-27, p. 16-17);
99. In addition to reiterating the Québec Supply Agreement Misrepresentations, HEXO’s March 13, 2019 statements misrepresented that [...] Newstrike’s Niagara production facility was, and would continue to be, appropriately licensed. They also included unrealistic revenue figures based, *inter alia*, on the revenue floor allegedly guaranteed by a take or pay provision that HEXO knew was at material risk of not being enforced;
100. On **March 14, 2019**, during HEXO’s Q2 2019 earnings call, St-Louis repeated the above-mentioned misrepresentations concerning the Newstrike facility, and reiterated his confidence in achieving the ‘conservative’ \$400 million net revenue 2020 guidance: “we’ll do that or better”, St-Louis said. He also added further details regarding licensing:

**“Question – Tamy Chen:** Just first question on Newstrike, are you able to give us an update in terms of where the company is with respect to the ramp of their greenhouse in Niagara, where are they currently at? Any color there would be helpful.

**Answer – Sebastien G. St-Louis:** Yes. So of the total 450,000 square feet that we’re adding, there is 250,000 feet that are licensed operational, and we’re looking forward to bringing in the HEXO team in there to ramp up the yields. We believe that coupled with the great infrastructure Newstrike has put in place, putting in HEXO’s management and production processes will greatly increase yields there.

**Question – Tamy Chen:** And the other 200,000 square feet, that’s still under construction?

**Answer – Sebastien G. St-Louis:** That’s correct. So well underway, the walls are all up, the glass is on, but there will be a licensing – there is an expected licensing delay on that. But of course, we’re putting our regulatory team, which as we’ve proven time and time again, one of the best in the business, so we don’t anticipate any major issues.”

[Underlining added]

as appears from a transcript of HEXO’s Q2 2019 earnings call of March 14, 2019, communicated herewith as **Exhibit P-30**;

101. HEXO was just as bullish in its March 14, 2019 news release entitled “HEXO reports over \$16.2 million in total gross revenue in the second quarter of fiscal 2019”, communicated herewith as **Exhibit P-31**;

102. The March 13 and 14, 2019 misrepresentations about the Newstrike transaction, and the revenue estimated to derive therefrom and from the Québec Supply Agreement, charmed the market. For example, between the close of trading on March 12, 2019 and March 14, 2019, the price of HEXO's stock on the TSX rose 9,4%, from \$7.36 to \$8.05, as appears from HEXO's share price history on the TSX, Exhibit P-9;
103. In raising HEXO's price target following this announce, analysts highlighted HEXO's management's confidence in achieving FY2020 \$400 million net revenue guidance, as well as the paramount importance of the Québec Supply Agreement, as appears, *inter alia*, from a March 25, 2019 article entitled *First Quebec, Tomorrow the World*, communicated herewith as **Exhibit P-82**;
104. The Newstrike acquisition closed on May 24, 2019, after HEXO had supposedly conducted extensive due diligence. On November 15, 2019, St-Louis admitted that HEXO had known since at least July 2019 that Block B of Newstrike's Niagara facility, which forms part of the 250,000 feet area that was said to have already been licensed on March 14, was, in fact, not licensed, and was operated illegally;
105. On **June 12, 2019**, HEXO released its MD&A and financial statements for the quarter ending April 30, 2019, which Defendant St-Louis certified contained no misrepresentations and provided a fair representation of all material facts, as appears, respectively, from **Exhibits P-32, P-33, and P-34**. The represented material facts were:
  - (g) HEXO had achieved net revenue of \$12.956 million in the quarter (Exhibit P-32, p.17);
  - (h) HEXO remained on track to double net revenue in Q4 fiscal 2019 (i.e. representing in mid-June that the company would achieve roughly \$26 million in net revenue in the quarter extending from May 1, 2019 to July 31, 2019) (Exhibits P-32, p.19, and P-35);
  - (i) HEXO remained on track to achieve \$400 million in net revenue in fiscal 2020 (Exhibits P-32, p.19, and P-35);
  - (j) Under the Québec Supply Agreement, HEXO will supply 20,000 kg in the first year of legalized adult-use cannabis (Exhibit P-32, p. 2);
  - (k) The Québec Supply Agreement is estimated to be worth \$1 billion in potential revenue to the Company (Exhibit P-32, p. 2); and
  - (l) The acquisition of Newstrike is estimated to result in annual savings of millions of dollars in operational synergies, allowing HEXO to operate efficiently (Exhibits P-32, p. 13, and P-35);
106. This statement again contained the Québec Supply Agreement Misrepresentations, as did HEXO's June 12, 2019 news release, Exhibit P-35;
107. This statement also omitted to disclose that Newstrike's Niagara production facility lacked required licenses;

108. On **June 13, 2019**, before trading commenced for the day on the TSX, HEXO conducted an earnings call to discuss its results for Q3 2019, ending April 30, 2019. Despite the fact that this conference call took place with only a few weeks left in Q4 2019, which ended as at July 31, 2019, Defendant St-Louis, on behalf of the Company, once again represented that:
- (d) Q4 2019 revenues would double relative to Q3 2019 (partially due to the acquisition of Newstrike, whose financials would be consolidated into HEXO's for Q4 2019), and that St-Louis was certain ***“[w]e're going to reach the target ... If you ever hear me say something and not deliver, you have to call me out. And in reverse, I would tell you today, nobody has ever called me out on anything because HEXO has always delivered what we said we would. We're delivering a double this quarter”***;
  - (e) The Company was on track to achieve and remained focused on achieving net revenues in fiscal 2020 (August 1, 2019 to July 31, 2020) of over \$400 million, and expected that net revenues would increase linearly every quarter in 2020 to achieve that number; and
  - (f) The Québec Supply Agreement was “take or pay” for the first year's amount of 20,000 kg [implying that the revenue for the first year was guaranteed];

as appears from a transcript of HEXO's June 13, 2019 earnings call, communicated herewith as **Exhibit P-36**;

## **B. The Corrective Disclosures**

### **Corrective Disclosure 1**

109. In addition to the above-noted misrepresentations made on the **June 13, 2019** earnings call, Exhibit P-36, this call was also a partial corrective disclosure of prior misrepresentations made by Defendants with regard to the guaranteed-nature of the Québec Supply Agreement;
110. Defendants admitted during this call that Québec had only purchased approximately 5,500 kg of cannabis product under the Québec Supply Agreement, but was obligated to purchase another 14,500 kg prior to October of 2019 (i.e. in the next four months). Defendants revealed, for the very first time, that there was a significant risk that Québec may not purchase 20,000 kg prior to October 17, 2019, and that it could get extended to year-end;
111. During this call, St-Louis stated that the Québec Supply Agreement “is a take-or-pay contract, but we value our relationship with the SQDC more than the few million dollars in revenue we could get this quarter”, leading to believe, for the first time, that HEXO may not immediately enforce the contract. At the very least, St-Louis indicated that HEXO could wait one quarter before acting on the agreement;
112. The market's reaction to this partial Corrective Disclosure that the Company may not require Québec to immediately purchase the entire 20,000 kg even though it had represented for over a year that this sale, and the associated revenue, was a certainty, was immediate and pronounced. All HEXO securities were materially negatively affected

by the correction. For example, that very same day, the Company's stock price went from \$8.53 per share to \$7.81 per share on the TSX, equating to a loss of 8.44%;

113. In the ten trading days following the Corrective Disclosure of June 13, 2019, the Company lost nearly a quarter of its value, closing at \$6.62 per share (or down 22.4%) on the TSX on June 26, 2019, as appears from HEXO's share price history, Exhibit P-9;
114. Had investors then known the truth, that is, that HEXO knew it would probably not [...] enforce the alleged take or pay provision in the contract, and would therefore not reach its revenue targets, the value of HEXO's securities would have plummeted even further. On June 13, 2019, St-Louis mitigated market concern by reassuring investors that the SQDC would still satisfy its allegedly guaranteed first-year purchase volume commitment by December 31, 2019 (two and a half months after October 17, 2019). He emphasized that the Company was still confidently on track to meet its \$400 million net revenue July 2020 guidance, and to double its revenue in Q4 2019;
115. These statements were grossly misleading in light of the fact that Defendants knew or should have known that the SQDC would not purchase its commitment volume prior to the calendar year-end, and that HEXO would not enforce the alleged take or pay provision, given its relationship with the SQDC, the significance of which was known from the outset;
116. HEXO also knew or should have known that it could not unequivocally assert that it would reach its advertised Q4 2019 and FY 2020 revenue targets without the benefit of the alleged take or pay feature;
117. The Québec Supply Agreement was HEXO's main source of revenue, including for fiscal year 2020;
118. On June 13, 2019, the SQDC had purchased approximately 6,653 kg of its 20,000 kg commitment,<sup>7</sup> which amounts to approximately 830 kg per month, for the first eight months of the Québec Supply Agreement. In order to buy 20,000 kg of cannabis by December 31, 2019, the SQDC would have had to ramp up its orders by **over 260%** for the next six and a half months, which HEXO had no indication would happen;
119. Moreover, HEXO knew that the SQDC's purchases would not increase almost three-fold per month, *inter alia*, because it was fully aware that the SQDC had opened substantially fewer stores than required to support a 20,000 kg demand. During the June 13, 2019 earnings call, Exhibit P-36, St-Louis reiterated that only 13 SQDC stores had been opened – which was very far from the 50 locations the SQDC had announced it would open in year one in December 2018, or even from the 24 locations initially envisioned;
120. During the March 14, 2019 earnings call, Exhibit P-30, St-Louis had also admitted that HEXO was having difficulty packaging and shipping product in a timely manner to its

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<sup>7</sup> 6,653 kg comes from adding 1,155 kg (the mid-point of the 2,311 kg HEXO sold in the Q4 2019 (between May 1, 2019 and July 31, 2019) since these statements were made on June 13, 2019) to the amounts HEXO sold earlier in the first year of the SQDC contract (857 kg for the last two weeks of Q1 2019, 2,131 kg for Q2 2019, and 2,510 kg for Q3 2019) (see sources at footnote 3 below). On June 13, 2020, HEXO had 6.5 months to sell 13,347 kg (i.e. 20K – 6,653) to the SQDC, at an average monthly rate of 2,150 kg per month. Hence, a required ramp up of approximately 260%.

customers. There was no indication that this problem had since been resolved, which clearly rendered a 260% increase in SQDC orders unlikely [...];

### **Subsequent Context**

121. On October 4, 2019, after the close of trading on the TSX, HEXO announced the abrupt and immediate resignation of its then-Chief Financial Officer, Michael Monahan, just a few months into the job, as appears from HEXO's press release entitled "Hexo Corp. Announces Resignation of Chief Financial Officer" dated October 4, 2019, communicated herewith as **Exhibit P-37**;
122. Analysts responded immediately to the departure. Bank of America analyst Christopher Carey reportedly double downgraded his "buy" recommendation to "underperform" just a few days later, and commented that "[p]ut simply, a departure that is so abrupt, from a person with CFO experience at other public companies, is concerning, and in our view will leave investors guessing "what don't we know?" for some time", as appears from an October 7, 2019 article entitled "Hexo CFO's Resignation Prompts Double Downgrade at BofA", a copy of which is communicated herewith as **Exhibit P-38**;
123. On this news, the value and price of all HEXO securities were materially negatively affected. For instance, HEXO's stock price on the TSX fell \$0.24 per share or 6.64%, as appears from HEXO's share price history, Exhibit P-9;

### **Corrective Disclosure 2**

124. Days later, on **October 10, 2019**, before trading had commenced for the day on the TSX, the Company released a news report providing preliminary fourth quarter revenue results, a copy of which is communicated herewith as **Exhibit P-39**;
125. HEXO shocked the market by announcing that it was entirely withdrawing its fiscal 2020 revenue guidance;
126. Although executives may, at times, revise their guidance in the course of business, pulling guidance altogether is a highly unusual and drastic measure. The surprise was here even greater given that (a) Defendants had assertively advertised its \$400M guidance for seven months (including again just in June) prior to withdrawing it completely, and (b) they had been "guaranteeing" significant revenues stemming from the Québec Supply Agreement for a year and a half;
127. More precisely, in this Corrective Disclosure, the Company revealed that:
  - (d) HEXO was withdrawing its previously issued financial outlook of more than \$400 million in net revenue for fiscal 2020;
  - (e) Net revenue for Q4 2019 would be "approximately \$14.5 to \$16.5 million", which was more than 40% lower than the roughly \$26 million in net revenue for Q4 2019 that the Company had projected as late as June 13, 2019, with only weeks then remaining in Q4 2019; and
  - (f) Q4 2019 revenue was below the Company's expectations and guidance primarily due to lower than expected SQDC store rollouts and demand. According to the



Company's official message however, HEXO was still protected against weaker demand by a take or pay guarantee;

128. The reality was that HEXO had to pull its guidance because the take or pay feature allegedly included in the Québec Supply Agreement was meaningless: HEXO [...] did not have any intention of enforcing it. As a result, HEXO repeatedly issued revenue prognostics which it knew or should have known were unrealistic in light of weak demand and falling prices;
129. The above partial correction also revealed to the market that despite HEXO's Class Period representations to the contrary, the Company did not in fact have effective internal controls (ICFR and DC&P) because, *inter alia*:
  - (c) Even nearly three-months after the end of Q4 2019, the Company could not definitively provide net revenue for Q4 2019 and rather provided a range; and
  - (d) The Company clearly was unable to accurately account for expected future revenue, having missed Q4 revenue projections by more than 40% and having to completely eliminate guidance for fiscal 2020;
130. HEXO later admitted that it had ineffective internal controls, as discussed below (Exhibit P-44);
131. Once again, the market's reaction to this partial Corrective Disclosure was swift and significant for all HEXO securities. For instance, the Company immediately lost 23.0% of its value, going from a closing price of \$4.88 per share to \$3.76 per share on the TSX in just a few hours;
132. In the ten trading days following the Corrective Disclosure of October 10, 2019, the Company lost \$1.37 per share (or 28.1%) of its value on the TSX, closing at \$3.51 on October 23, 2019, as appears from HEXO's share price history, Exhibit P-9;
133. Securities analysts noted the Defendants' damaged credibility, and explicitly raised the question as to whether HEXO management had been intentionally misleading the market for months:

"The company revealed recently that it will horribly miss its revenue guidance from just the prior quarter, and the 2020 forecast of \$400 million is now retracted.

**Management has become difficult to take at its word**, which significantly increases risk in the stock. We would like to see satisfactory earnings numbers before considering the name again. [...]

Additionally, the company **completely withdrew its long promised 2020 goal of \$400 million in revenue. While this shouldn't be a shock given how behind pace the company's actual results have been**, the decision does imply that there is increased uncertainty about future expectations at HEXO. [...]

***Management's Word Is Tarnished***



While the above news is tremendously disappointing at face value, **our biggest issue with everything that has happened is how management has handled it.** Leadership for any business starts at the top, and management's recent actions have really changed our perspective towards HEXO's future prospects because there are numerous underlying problems now present.

For example, HEXO CEO Sebastien **St-Louis was touting as recently as just the previous earnings call that the company was performing well enough to maintain its forecast. St-Louis alluded to (numerous times) about how the company was on track to double third-quarter revenues for Q4.** [...]

In hindsight that response from CEO St-Louis is certainly foolish and raises a few questions that investors need to consider:

- **Was St-Louis being disingenuous when making such a bold statement?**
- Was the business on track at that point and simply deteriorated that much in such a short time frame?
- **How did management not see this coming to the point that HEXO's results missed guidance so horribly?**

**It's a situation where the management team appears incompetent at best and dishonest at worst.** Either way, it will be difficult to trust anything management guides to from this point until the company actually proves itself with sustained numbers. [...]

Who is going to provide accountability at HEXO? [...]

[Th]e degree of the miss and **the manner in which information has been relayed to investors is a red flag** to us.”

[Emphasis added]

as appears from an October 17, 2019 article entitled *HEXO: Damage Goes Deeper Than The Numbers*, communicated herewith as **Exhibit P-40**;

See also an October 22, 2019 article entitled *HEXO's Lowered Sales Forecast Ahead Of Earnings Release Is Just One Reason For Concern*, communicated herewith as **Exhibit P-41**:

**3. But the company made no attempts to temper investor expectations sooner** [...]

**It is well known that a higher market cap is beneficial to public companies**, for several reasons, such as demonstrating higher market share, securing credit facilities, maintaining covenants on existing credit facilities (such as their C\$65 Mm syndicated credit facility with Canadian Imperial Bank of Commerce and other Canadian banks). Other advantages of a higher

market cap are ability to pursue deals with larger business partners and management bonuses. Low market valuation is good for nothing.

**I believe there is a certain bias here on the part of the management, to keep the investor optimistic as long as is feasible, instead of being transparent, which is a more serious concern, in my opinion, than missing the ambitious sales goals.**

[Emphasis added in the last two paragraphs]

### Corrective Disclosure 3

134. On **October 28, 2019**, after trading had ended on the TSX for the day, HEXO released its MD&A for its 2019 fiscal year period ended July 31, 2019, a copy of which is communicated herewith as **Exhibit P-42**;
135. HEXO also released its Q4 and year-end financial statements, its 2019 AIF and its 2019 Annual Report, a copy of which is communicated herewith, respectively, as **Exhibits P-43, P-44, and P-45**. Defendant St-Louis certified that all Core Documents contained no misrepresentations and provided a fair representation of all material facts, as appears from a copy of his certification of annual filings dated October 28, 2019, **Exhibit P-46**;
136. The Company disclosed that:
  - (a) Despite more than seven months of touting how the acquisition of Newstrike would result in HEXO realizing annual synergies of \$10 million, HEXO was suspending cultivation at the Niagara facility acquired from Newstrike, because this cultivation space was not required at this time given the current market conditions in Canada (Exhibit P-42, p. 17);
  - (b) The Company also suspended cultivation in 200,000 sq. ft. at the Company's main facility in Gatineau, despite repeatedly citing the purportedly guaranteed volume under the first year of the Québec Supply Agreement as justification for HEXO's rapid (and costly) expansion of its production facilities in fiscal 2018 (Exhibit P-42, p. 17);
  - (c) Newstrike had contributed net revenues of \$2.77 million, and resulted in a net loss of \$13.7 million to the Company's consolidated results for the fiscal year ended since the date of the Newstrike acquisition, despite the Company boasting that the acquisition would result in the realization of synergies and increased efficiency (Exhibit P-42, p. 37);
  - (d) Net revenue for Q4 2019 was only \$15.424 million, missing the approximately \$26 million in net revenue that the Company had announced for Q4 2019 by roughly 41%. (Only weeks before the quarter ended, Defendants had reiterated that they would meet their Q4 2019 \$26 million target) (Exhibit P-42, p. 24);

- (e) HEXO had only sold, and been paid for, roughly half of the amount 'guaranteed' under the Québec Supply Agreement (i.e. 10,000 kg of the 20,000 kg) (Exhibit P-42, p. 14);<sup>8</sup>
- (f) **The Company would not enforce the “take or pay” feature of the Québec Supply Agreement, and require the SQDC to purchase the entire 20,000 kg, because it believed that it would be “short sighted” to do so, even though it had represented that the amount and corresponding revenue were a certainty for over a year** (Exhibits P-42, p. 14; P-44, p. 9, 19; P-45); and
- (g) The Company now expected net revenue for Q1 2020 (which ended two days after this disclosure was made) to be between \$14 million and \$18 million, meaning that even if net revenue doubled every quarter in 2020, fiscal 2020 net revenue would only be \$270 million, which is 32% lower than the projected \$400 million in net revenue for fiscal 2020, which the Company had reaffirmed just a few weeks prior (Exhibit P-42, p. 24);
137. 156.1 HEXO also announced a substantial impairment loss on inventory of almost \$17 million dollars, as appears from its financial statements, P-43, Annual Report, P-45, and MD&A, P-42, p. 26;
138. This impairment demonstrates that HEXO’s previously reported inventory values were inflated and misleading;
139. HEXO failed to report its assets accurately to investors, and should have always known that an impairment loss on inventory would likely be required. For months, it ordered unnecessarily high volumes of a product with limited shelf-life, despite weak demand and despite knowing it would not force the SQDC to take the product;
140. The October 28, 2019 impairment nevertheless remained misleading, because it greatly understated the extent of the inventory impairment required, and left the Company’s reported value inflated;
141. The Company admitted that it did not have effective internal controls surrounding its procurement, inventory, and financial reporting systems, as appears from its 2019 AIF, Exhibit P-44 (*inter alia*, p. 43-44), and its MD&A for the period ended July 31, 2019, Exhibit P-42 (p.38-39):

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<sup>8</sup> The figures of sale to the SQDC were as follows:

- Q1 2019 (August 1, 2018 to October 31, 2018) – sales of 857 kg (90% of total sales of 952 kg)
- Q2 2019 (November 1, 2018 to January 31, 2019) – sales of 2,131 kg (84% of total sales of 2,537 kg)
- Q3 2019 (February 1, 2019 to April 30, 2019) – sales of 2,510 kg (91% of total sales of 2,759 kg)
- Q4 2019 (May 1, 2019 to July 31, 2019) – sales of 2,311 kg (58% of total sales of 4,009 kg)
- Q1 2020 (August 1, 2019 through October 31, 2019) – sales of 3,080 kg (73% of total sales of 4,196 kg)

as appears from Exhibits P-50 (MD&A for period ended October 31, 2019) (p. 21, 23), P-32 (MD&A for period ended April 30, 2019) (p. 17, 19), P-27 (MD&A for period ended Jan 31, 2019) (p. 14, 16), and P-20 (MD&A for period ended Oct 31, 2018) (p. 15).

## “RISK FACTORS [...]

### Inventory Count

The Company did not have effective controls around its year-end inventory count procedures, specifically with respect to its reconciliation of the ERP system, due to the details outlined in the previous change to control environment section.

To further strengthen controls surrounding inventory, management has initiated or enhanced the following procedures:

- Segregation of duties to initiate work, production orders and inventory adjustments will be strengthened;
- Work, production orders and inventory adjustments will be reviewed and approved by the relevant supervisor;
- Further enhancements to the ERP inventory processing, tracking and reporting functionality and supporting work procedures in order to ensure their sustainability; and
- Additional training, guidance and communications to internal teams and third-party inventory count providers regarding inventory management and count procedures.

### Procurement

The Company did not maintain effective controls over the purchasing of capital goods and services, including the authorization (sic) of purchases, processing and payment of vendor invoices, the classification of various expenses and capitalization of assets. [...]

### Financial Reporting

The Company did not maintain effective process level and management review controls over manual financial reporting processes and the application of IFRS and accounting measurements related to certain significant accounts and non-routine transactions. [...]"

142. On **October 29, 2019**, HEXO held its Q4 2019 earnings call, during which St-Louis was confronted with questions about HEXO's inventory impairment, including why HEXO had purchased so much product in light of weak demand:

"Your next question is from John Zamparo from CIBC. Please go ahead.

Thanks, good morning. I wanted to ask about the inventory impairments. So it seems related to product you purchase in the wholesale market. And you mentioned the price compression, you've seen there. I guess what I'm wondering is that **given the lack of stores and sell through isn't where you**

**want it to be. What's the thinking behind buying so much product on the wholesale market at this time?**

Sebastien St-Louis -- Co-founder and Chief Executive Officer

Well John and I think the **purchasing that product was before we had full visibility on the store count**. And so, quite frankly, in hindsight that's -- purchasing of that product was **a mistake**."

[Emphasis added]

as appears from a transcript of HEXO's October 29, 2019 Q4 2019 earnings call, communicated herewith as **Exhibit P-47**;

143. St-Louis' excuse that HEXO did not have full visibility on the SQDC store count is shocking, considering that HEXO had been closely monitoring the SQDC store rollouts since day one, and including this information in its own filings;
144. For instance, the previous day, on October 28, 2019, HEXO reported that, as of July 31, 2019, the SQDC had established 21 retail locations throughout the province, and expected to increase this number to 43 locations by March 2020, as appears from the Company's 2019 AIF, P-44, and MD&A, P-42;
145. The fact of the matter is that HEXO had been knowingly purchasing too much inventory for demand for months, and reporting inflated inventory results on a quarterly basis, which had the effect of grossly inflating the Company's value and stock price;
146. All HEXO securities were [...] negatively affected by this Corrective Disclosure. For example, on October 29, 2019, the Company's stock price dropped a further 3.0% on the TSX;
147. Given the catastrophic nature of this disclosure, one may have expected an even more significant drop, but HEXO's poor performance and management credibility issues had made the value of the securities continue to erode since the previous Corrective Disclosure of October 10, 2019, such that, by October 29, 2020, the market's disappointment was already partially factored into the price of HEXO's securities;
148. HEXO's closing price of \$2.94 per share on the TSX on October 29, 2019 amounted to a loss of roughly 66% relative to its closing price of \$8.53 per share on June 12, 2019, which was the last day prior to the first Corrective Disclosure;
149. In the ten trading days following the Corrective Disclosure of October 28, 2019, the Company lost another \$0.22 per share (or 7.3%) of its value on the TSX, closing at \$2.80 on November 12, 2019, as appears from HEXO's share price history, Exhibit P-9;
150. 159.1 On October 30, 2019, the Company filed an amended 2019 Annual Report, essentially to include a reclassification between operating and financing activities;

#### Corrective Disclosure 4

151. On **November 15, 2019**, after the close of trading on the TSX, Defendants released a statement admitting that Block B of HEXO's Newstrike Niagara facility was not adequately licensed, and had been operated illegally;
152. Defendants further announced that this part of the facility was no longer operational, and that they had ceased cultivation and production operations there three and a half months earlier:

“On **July 30, 2019**, shortly after the Newstrike Brand Ltd. acquisition closed, HEXO discovered that cannabis was being grown in Block B, which was **not adequately licensed**. HEXO management immediately **ceased cultivation and production** activities in the **unlicensed space**.”

[Emphasis added]

as appears from a copy of HEXO's news release dated November 15, 2019 entitled “HEXO Corp. provides additional transparency on licensing”, communicated herewith as **Exhibit P-48**;

153. For at least three and a half months, Defendants hid their prior misrepresentations and omissions from the public and its investors. This news release constitutes an admission of their intentional misrepresentations and omissions in relation to the Newstrike facility since, at least, July 2019;
154. Notwithstanding the foregoing admission, at all material times since March 13, 2019, HEXO knew or should have known the Newstrike Niagara facility was not appropriately licensed and could not fully operate legally;
155. Cultivation licenses are required, and certainly one aspect that any reasonable stakeholder would expect HEXO to verify in the course of its due diligence prior to the acquisition of a cannabis producer such as Newstrike, especially when HEXO explicitly advertised, as of March 13, 2019, that the Newstrike Niagara facility was fully licensed;
156. Defendants' conduct was particularly egregious because two weeks before the November 15, 2019 disclosure, on October 28, 2019, they released a press report to announce new licensing obtained at another facility. In this statement, they explicitly and misleadingly boasted HEXO's continued “complete alignment with regulations”, as appears from a copy of HEXO's October 28, 2019 press release, communicated herewith as **Exhibit P-49**;
157. HEXO also explicitly and misleadingly stated in its Annual Report, filed on October 28, 2019, Exhibit P-45 (p. 17), that “The Niagara Facility is licensed for production and cultivation currently capable of producing up to 20,000 kg of dried cannabis annually. This facility received its cultivation license under the Cannabis Act on March 29, 2018”, without mentioning any licensing issue, nor the fact that activities had been suspended at this facility;
158. In other words, not only did the Company voluntarily conceal information it had the obligation to disclose to investors, but, more than that, it continued to trumpet that the Niagara facility was “fully” licensed even after it was officially put on notice that it was not;

159. All HEXO securities were materially negatively affected by this Corrective Disclosure. For instance, on November 18, 2019, the next trading day after November 15, 2019, HEXO's stock dropped an additional 10.21% on the TSX, as appears from HEXO's share price history, Exhibit P-9;

**Corrective Disclosure 5**

160. On **December 16, 2019**, HEXO released its MD&A and financial statements for the quarter ending October 31, 2019, which defendant St-Louis certified contained no misrepresentations and provided a fair representation of all material facts, as appears from **Exhibits P-50, P-51, and P-52**;
161. For the second quarter in a row, the Company disclosed a large inventory impairment, this time of \$25.5 million for Q1 2020, as appears from Exhibits P-50 and P-51, and from HEXO's press release dated December 16, 2019, communicated herewith as **Exhibit P-53**;
162. Although this statement constitutes a partial Corrective Disclosure, it remains materially false and misleading, because it does not disclose the full extent of the required impairment loss on HEXO's inventory;
163. HEXO knew it had purchased too much stock for demand. The Company's inventory was becoming stale and impaired, and yet HEXO was failing to adequately write off product that no longer had value, thereby misrepresenting and overstating the true value of the Company to investors;
164. In addition, during its Q1 2020 earnings call, HEXO admitted that it had not performed an inventory impairment on the Niagara facility until five months after the Newstrike Acquisition, as appears from a transcript of HEXO's Q1 2020 earnings call held on December 16, 2019, communicated herewith as **Exhibit P-54, at p.17-18**;
165. This contributed to HEXO's inflated and misleading inventory results for months;
166. The other financial results disclosed by HEXO on December 16, 2019 were generally disappointing, including meagre net revenues of \$14.5 million, and a net EBITDA loss of \$62.4 million;
167. HEXO's Q1 2020 results also included a discomfoting reservation of opinion by HEXO's auditors, MNP LLP ("**MNP**"), relating to a deferred tax liability. According to the Company, this reservation was due to HEXO's failure to record a net tax loss generated in one subsidiary against a deferred tax liability generated by a different subsidiary. This caused HEXO to overstate its deferred tax liability as at July 31, 2019 (Q4 2019) and October 31, 2019 (Q1 2020), as appears from HEXO's financial statements released on December 16, 2019, Exhibit P-51. Incidentally, MNP resigned as the Company's auditors in January 2020;
168. The aftermath of HEXO's decision not to enforce the Québec Supply Agreement was already palpable. But this was just the first of a series of impairments, culminating in hundreds of millions of dollars of losses by the end of the Class Period, on March 30, 2020;



169. All of HEXO's securities were [...] negatively affected by this Corrective Disclosure. For example, the Company's stock price dropped an additional 2.5% on the TSX on December 17, 2019, as appears from HEXO's share price history on the TSX, Exhibit P-9;
170. In the ten trading days following this Corrective Disclosure, the Company lost another \$0.70 per share (or 25%) of its value on the TSX, closing at \$2.85 on December 16, 2019 and at \$2.14 on January 2, 2020;
171. A December 16, 2019 article by investment analyst Gary Bourgeault entitled *HEXO's Latest Earnings and Its Quebec Problem* shed more light on (a) just how behind the SQDC store openings were as compared to what Defendants' misrepresentations led investors to believe, and (b) what HEXO should have known in this regard for some time already:

"In a recent note to clients, analyst Greg Mcleish of Mackie Research estimates **the Quebec cannabis market to needs (sic) about 800 cannabis stores to meet demand**. According to the SQDC website, **it only has 24** retail outlets at this time. **Another 20 are projected to be operational by March 2020, but that is far below the number needed to move HEXO's sales needle in Quebec.**"

[Emphasis added]

as appears from a copy of this article, communicated herewith as **Exhibit P-55**;

#### **Corrective Disclosure 6**

172. On **December 31, 2019**, HEXO filed a restatement of its:
  - (c) financial statements for the fiscal year ended July 31, 2019 and Q4 2019, and the corresponding amended MD&A; and
  - (d) financial statements for the period ended October 31, 2019 (Q1 2020), and the corresponding amended MD&A;

A copy of these documents is communicated herewith respectively as **Exhibits P-56, P-57, P-58, and P-59**;

173. Defendant St-Louis certified that these Core Documents contained no misrepresentations and provided a fair representation of all material facts, as appears from **Exhibits P-60 and P-61**;
174. HEXO had to file restatements in order to correct misstated inventory impairment losses and a misstated tax liability;
175. Notably, HEXO had to move a \$2.4 million impairment loss on inventory from Q1 2020 back to Q4 2019, the Company thereby admitting that it should have taken this impairment during the earlier period (*inter alia*, Exhibit P-57, p. 1);
176. This partial Corrective Disclosure remained misleading, because the impairment adjustment was still grossly insufficient;

### Corrective Disclosure 7

177. On **March 17, 2020**, HEXO released a rather gloom press report, announcing that:

- (f) The Company was delaying the filing of its Q2 2020 interim financial statements;
- (g) It would shortly be recording a gigantic third impairment loss, in the range of \$265 million to \$280 million;
- (h) The Ontario Securities Commission was reviewing HEXO's filings;
- (i) The Company was selling the Niagara Facility – a material part of the Newstrike acquisition boasted for the previous year; and
- (j) There was doubt as to the Company's ability to continue as a going concern;

as appears from a copy of this press report, communicated herewith as **Exhibit P-62**;

178. Although this partial Corrective Disclosure remained incomplete, the exact amount of the inventory loss having not yet been divulged, and the full truth about the Québec Supply Agreement's alleged take or pay feature having not been revealed, HEXO's securities were all materially negatively affected;

179. For example, the Company's stock price on the TSX dropped an additional 33.67% on March 17, 2019, as appears from HEXO's share price history, Exhibit P-9;

180. Re-amended MD&As for the periods ended July 31, 2019 and October 31, 2019 were filed after the close of trading on **March 19, 2020**, and St-Louis certified that they contained no misrepresentations, as appears respectively from **Exhibits P-63, P-64, P-65, and P-66**, communicated herewith;

181. These documents lay bare that HEXO had previously failed to adequately comply with its continuous disclosure obligations:

"HEXO Corp. ("HEXO" or the "Company") (TSX: HEXO; NYSE: HEXO) today announced **it has amended and refiled its management's discussion and analysis** for the fiscal year ended July 31, 2019 (the "Amended 2019 MD&A") and its management's discussion and analysis for the three month period ended October 31, 2019 (the "Amended Q1 2020 MD&A") **to better comply with National Instrument 51-102 - Continuous Disclosure Obligations.**

As noted in the press release of the Company dated March 17, 2020, the Amended 2019 MD&A and Amended Q1 2020 MD&A (collectively, the "Amended MD&A") were prepared **following a continuous disclosure review by the Ontario Securities Commission ("OSC") of the Company's disclosure record. The Amended MD&A were filed to address comments received from OSC Staff and in order to improve the Company's disclosure.** In particular, among other changes, the Amended MD&A have been revised:

[...]

- **to clarify and provide additional disclosure regarding the Company's impairments and write-offs of inventory**, including related events, risks, and uncertainties that the Company reasonably believes may materially affect its future performance;

- to clarify and provide additional disclosure regarding the Company's supply contract with Quebec's Société Québécoise du cannabis (the "SQDC") including details of the Company's right under the contract for the sale of 20,000kg to the SQDC during the first year of the contract;

[...]

- to clarify that the suspension of operations at the Company's Niagara, Ontario facility in October 2019 was completed [...]"

[Emphasis added]

as appears from HEXO's March 19, 2020 news release, communicated herewith as **Exhibit P-67**;

### Corrective Disclosure 8

182. On **March 30, 2020**, HEXO finally revealed the complete truth, as it released its MD&A and financial statements for its fiscal second quarter ended January 31, 2020, communicated herewith, respectively, as **Exhibits P-68** and **P-69**;
183. In relevant part, these documents revealed that:
- (d) "By amendment effective on January 17, 2020, the Company contractually relieved the SQDC of the 1<sup>st</sup> year obligation to purchase the full 20 tons of the outstanding commitment";
  - (e) HEXO incurred a net loss of \$298.2 million, including a \$138.2 million impairment loss relating to the Niagara facility and other intangible assets acquired from Newstrike, and \$111.9 million relating to a goodwill impairment charge; and
  - (f) It registered a write-down on inventory of \$16.1 million;
184. By this statement, HEXO finally confirmed that the alleged take or pay feature in the Québec Supply Agreement, which it had advertised relentlessly to boost the price of its securities, was [...] meaningless. From the beginning of the Class Period, there was a material risk that HEXO would not enforce the alleged take-or-pay provision. As such, Defendants could not misrepresent [...] the SQDC's supposed first-year purchase commitment, and the revenues associated therewith, as "guaranteed";
185. The Company's goodwill reflected the inflated value derived from the Québec Supply Agreement Misrepresentations and the related exaggerated revenue estimates, which tied into the Newstrike acquisition, and the reported inventory values. Once all of these misrepresentations were corrected, a gargantuan goodwill impairment charge became inevitable. As for the additional production capacity provided by the Newstrike acquisition, it was useless;
186. This final Corrective Disclosure fully revealed the fallout from the Company's refusal to enforce the Québec Supply Agreement, including the boosted inventories and the resulting lack of a need for the Niagara facility's production capacity;

187. The market's reaction to this series of negative disclosures was inexorably violent, and all HEXO securities were materially negatively affected by the correction. For example, the Company lost another 28.10% on the TSX on March 30, 2020, closing at \$1.10, as appears from Exhibit P-9;
188. This represents a staggering 87.4% loss on the TSX between the first and last Corrective Disclosures;
189. In the ten trading days following this final Corrective Disclosure, the price of HEXO's common shares on the TSX continued to drop. It went from \$1.10 to \$0.69, losing yet another 37,3% of its value, for a total loss of 92,6% since the day before the first partial Corrective Disclosure;
190. Defendants' multiple misrepresentations and failures to make timely disclosures should be treated as a single misrepresentation or failure in accordance with Section 225.16 of the QSA, because they relate to the same subject matter;
191. The aggregate adverse effect of the misrepresentations on the price and value of all HEXO securities was statistically significant;
192. As a direct result of Defendants' misstatements and omissions of material facts, HEXO investors were fleeced to the tune of hundreds of millions of dollars. For example, Martin Dionne, lost almost the entirety of his retirement fund due to Defendants' misrepresentations;
193. The material misrepresentations and omissions described herein all occurred against a background of abrupt and suspicious key management, board, and auditor resignations and departures. On April 30, 2019, CFO Ed Chaplin resigned. On July 18, 2019, co-HEXO founder Adam Miron resigned. On October 4, 2019, then-CFO, Michael Monahan, abruptly resigned – after only four months on the job. On October 24, 2019, HEXO fired 200 people, including its Chief Manufacturing Officer and its Chief Marketing Officer. On January 31, 2020, HEXO's auditor, MNP, resigned – after its mandate had been approved by HEXO's Board of Directors. On February 7, 2020, Director Natalie Bourque abruptly left the Company;

### **C. St-Louis**

194. At all material times during the Class Period, St-Louis signed certificates of interim and annual filings attesting to the accuracy of the MD&As and financial statements, Exhibits P-13, P-19, P-22, P-29, P-34, P-46, P-52, P-60, P-61, P-65, and P-66;
195. Accordingly, at all relevant times, St-Louis certified that:
  - (a) he had reviewed the filings;
  - (b) based on his knowledge, having exercised reasonable diligence, the filings did not contain any untrue statements of material facts or omitted to state a material fact required to be stated or that was necessary to make a non-misleading statement in light of the circumstances under which it was made;

- (c) the filings fairly represented, in all material respects, the financial condition, performance, and cash flows of HEXO;
  - (d) he had designed, or caused to be designed under his supervision, internal financial controls to provide reasonable assurance that all material information relating to HEXO was made known to him and that information required to be disclosed by HEXO in its filings or any other document submitted under a securities legislation was recorded, processed, summarized, and reported; and
  - (e) he had evaluated, or caused to be evaluated under his supervision, the effectiveness of HEXO's disclosure of information at the financial year-end, and that HEXO had disclosed its conclusions regarding the effectiveness in its annual MD&A;
196. St-Louis oversaw the preparation and reporting of all filings, other financial documents, and disclosures to the public and knew or ought to have known of the alleged misrepresentations;
197. Notably, St-Louis authorized, permitted or consented to the release and publication of the Impugned Statements, during the Class Period, which contained misrepresentations;

**D. The Relationship between the Misrepresentations and the Price and Value of HEXO's Securities**

198. Defendants had a duty of care based on their special relationship with investors of the Company, who relied on Defendants for accurate information about the Company's business, operations, and revenue;
199. The price and value of HEXO's securities were directly affected each time that Defendants disclosed (or omitted to fully and timely disclose) material facts about HEXO's business, finances, and operations, including the performance and synergies of HEXO's acquisitions, accounting policies, cash on hand, inventory, revenue recognition policies, guaranteed future sales, future revenue prospects, revenue growth percentages, compensation of insiders and management, and the number of HEXO's issued and outstanding shares;
200. At all material times, Defendants were aware of the effect of HEXO's disclosures about its business, finances, and operations, including the performance and synergies of HEXO's acquisitions, cash on hand, inventory, accounting policies, revenue recognition policies, guaranteed future sales, future revenue prospects, revenue growth percentages, compensation of insiders and management, and the number of HEXO's issued and outstanding securities, on the price of the Company's publicly-traded securities;
201. Defendants intended and took advantage of the fact that the members of the Class, including the Plaintiff[f], would rely upon these disclosures, which they did to their detriment;
202. The disclosure documents referred to herein were filed with SEDAR and/or posted to HEXO's website or other websites, and thereby became immediately available to and were reproduced for inspection for the benefit of the Plaintiff[f] and the other members of

the Class, the public, financial analysts and the financial press through the internet and financial publications;

203. The price at which HEXO's securities traded on the TSX, FSE, TSX-V, NYSE-A, NYSE, OTC, and derivative exchanges, and the price at which primary market securities were acquired, incorporated the information contained in the disclosure documents and statements referred to herein, including information about the performance and synergies of HEXO's acquisitions, cash on hand, inventory, accounting policies, revenue recognition policies, guaranteed future sales, future revenue prospects, revenue growth percentages, and compensation of insiders and management;

#### **IV- RIGHTS OF ACTION**

204. The Representative Plaintiff[f] asserts three rights of action against Defendants:

- (a) A statutory right of action for misrepresentation in a secondary market (s. 225.4 *et seq.* QSA);
- (b) A statutory right of action for misrepresentation in a primary market (s. 217 *et seq.* QSA); and
- (c) A civil liability action (s. 1457 CCQ);

##### **A. Statutory Right of Action for Misrepresentation in a Secondary Market Claim**

205. Defendants' statements and omissions were materially false and misleading since they failed to disclose material adverse information and misrepresented the truth about HEXO's business, operations, and revenues. Further, HEXO failed to make timely disclosures of material facts;
206. As a result of these misrepresentations, the Representative Plaintiff[f] asserts a right of action under s. 225.8 *et seq.* of the QSA and, if necessary, the concordant provisions of other Securities Legislation, on behalf of all Class Members against Defendants;
207. HEXO is registered to do business in Québec;
208. HEXO is a reporting issuer in Québec under s. 68 of the QSA, as appears from an extract from the AMF's Reporting Issuers List, communicated herewith as **Exhibit P-70**;
209. HEXO's securities were issued from Québec, and distributed in Québec and throughout the world;
210. The secondary market claim against Defendants is asserted in respect of all Impugned Statements which contained the misrepresentations alleged herein;
211. Defendants knew that the Impugned Statements would be reviewed by analysts, capital markets and the general public who would rely on these documents to make informed financial decisions;

212. The monetary damages suffered by the Representative Plaintiff[f] and Class Members are a direct result of Defendants' misrepresentations, which artificially-inflated the price of HEXO's securities;
213. Defendants knowingly authorized, permitted or acquiesced to the dissemination of false and misleading information, thus violating the QSA and concordant provisions of other Securities Legislation;
214. St-Louis was an officer and director of HEXO during the release and publication of the Impugned Statements and, as such, was privy to HEXO's internal budgets, plans, projections, and reports, as well as the Company's finances, operations, prospects, and all documents filed in accordance with the applicable Securities Legislation;
215. At all relevant times during the Class Period, St-Louis authorized, permitted or acquiesced to the release and publication of the Impugned Statements, which he knew or ought to have known contained false and misleading information;

**B. Statutory Right of Action for Misrepresentation in a Primary Market Claim**

216. On January 30, 2019, HEXO made an Offering of 8,855,000 shares at \$6.50 each, which was distributed pursuant to a prospectus dated January 24, 2019, included in Exhibit P-2, *en liasse*, as appears from a copy of HEXO's news release dated January 30, 2019 entitled "HEXO Corp. closes C\$57.5 million public offering of common shares", Exhibit P-71, and from a Material Change Report published on January 31, 2019, Exhibit P-72;
217. On December 5, 2019, HEXO closed a private placement of 8.0% unsecured convertible debentures for gross aggregate proceeds of \$70 million maturing on December 5, 2022. The debentures are convertible at the option of the holder at any time after December 7, 2020 and prior to maturity at a conversion price of \$3.16 per share, subject to adjustment in certain events, as appears from HEXO's MD&A filed on March 30, 2020, Exhibit P-68, December 5, 2019 Material Change Report, **Exhibit P-73**, and Amended Report of Exempt Distribution, **Exhibit P-74**;
218. This private placement was led by the Directors, the CEO, and long-term shareholders, as appears from HEXO's press releases dated October 23, 2019 and December 6, 2019, communicated herewith *en liasse* as **Exhibit P-75**;
219. Although the Directors and CEO are Excluded Persons, other investors who acquired securities through this private placement form part of the Primary Market Sub-Class;
220. On behalf of all members of the Primary Market Sub-Class, the Representative Plaintiff[f] asserts, as against all Defendants, the right of action found in sections 217 *et seq.* of the QSA, and, if necessary, the concordant provisions of other Securities Legislation;

**C. Civil Liability Right of Action**

221. The Representative Plaintiff[f] asserts a civil right of action under art. 1457 of the CCQ, on behalf of [...] himself and all Class Members, against Defendants for breach of their duty of care, prudence and diligence owed to all Class Members;



222. HEXO's acts particularized herein were authorized, ordered and effected by [d]efendant St-Louis, as well as other officers, agents, employees and representatives who were engaged in the management, direction, control and transaction of HEXO's business, finances, and operations and are, therefore, acts and omissions for which HEXO is vicariously and solidarily liable;
223. Defendants failed to act as reasonable persons;
224. Defendants did not fulfill the legal obligations warranted by their relationship with the Class Members as required by law;
225. The Representative Plaintiff[f] and Class Members relied on Defendants' Impugned Statements;
226. The Representative Plaintiff[f] would not have acquired HEXO's securities or would not have acquired them at inflated prices had [...] he been aware of Defendants' misrepresentations and omissions. The same is true of the Class as HEXO's misrepresentations and omissions of fact were material;
227. The Representative Plaintiff[f] and Class Members acquired HEXO's securities at artificially-inflated prices during the Class Period, held those securities until after Corrective Disclosures and suffered damages as a direct and immediate result of the drop in the price of HEXO's securities, which was caused by Defendants' misrepresentations and omissions;

**D. No Safe Harbor**

228. The statutory defence provided for by s. 225.22 and 225.23 of the QSA regarding forward-looking information in a document does not apply to any false and misleading statements alleged in the present claim since these statements related to then-existing facts and conditions;
229. Defendants knew or should have known that their statements were misleading at the time they were made [...];

**FOR THESE REASONS, MAY IT PLEASE THE COURT TO:**

**GRANT** this class action on behalf of the Class;

**GRANT** the Representative Plaintiffs' action against Defendants in respect of the rights of action asserted against Defendants under Title VIII, Chapter II, Divisions I and II of the QSA and, if necessary, the concordant provisions of the other Securities Legislation, and under article 1457 of the *Civil Code of Québec*;

**CONDEMN** Defendants to solidarily pay to the Representative Plaintiffs and Class Members compensatory damages for all monetary losses;

**ORDER** collective recovery in accordance with articles 595 to 598 of the *Code of Civil Procedure*;

**THE WHOLE** with interest and additional indemnity provided for in the *Civil Code of Québec* and with full costs and expenses, including expert fees, notice fees and fees relating to administering the plan of distribution of the recovery in this action;

**APPROVE** the notice to the members of the Class in the form to be submitted to the Court;

**ORDER** the publication of the notice to the Class no later than thirty (30) days after the date of the judgment authorizing the class proceedings;

**ORDER** that the deadline for a member of the Class to exclude himself or itself from the class action proceedings shall be sixty (60) days from the publication of the notice to the members of the Class.

**THE WHOLE WITH COSTS** including all costs related to the publication of the notices to class members and all costs of expertise.

MONTRÉAL, this            day of            , 2022

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**FAGUY & CO. BARRISTERS & SOLICITORS INC.**

Attorneys for the Representative Plaintiff

M<sup>re</sup> Shawn K. Faguy ([sfaguy@faguyco.com](mailto:sfaguy@faguyco.com)) /

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CANADA  
PROVINCE OF QUÉBEC  
DISTRICT OF MONTRÉAL  
No.: 500-06-001029-194

**SUPERIOR COURT**  
(Class Action)

**MARTIN DIONNE**

Representative Plaintiff

v.

**HEXO CORP. *et al.***

Defendants

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**LIST OF EXHIBITS  
IN SUPPORT OF THE THIRD AMENDED MOTION FOR AUTHORIZATION**

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**Exhibit R-1:** Extract from the Québec Enterprise Register relating to HEXO Corp.;

**Exhibit R-2:** *En liasse* : HEXO's amended and restated short form base shelf prospectus dated December 14, 2018, and corresponding prospectus supplement dated January 24, 2019, and the documents incorporated by reference thereto, pertaining to HEXO's offering of common shares that closed on January 30, 2019;

**Exhibit R-3:** *En liasse* : Martin Dionne's redacted trading statements;

**Exhibit R-4:** Martin Dionne's declaration sworn in support of the *Amended Motion for Authorization to Bring an Action Pursuant to Section 225.4 of the Québec Securities Act and Application for Authorization to Institute a Class Action* dated March 10, 2020;

**Exhibit R-5:** [...]

**Exhibit R-6:** [...]

**Exhibit R-7:** Extract from HEXO's website regarding Sébastien St-Louis;

**Exhibit R-8:** April 11, 2018 HEXO news release announcing the Québec Supply Agreement;

**Exhibit R-9:** HEXO's share price history on the TSX from April 10, 2018 to April 15, 2020 (Extract from Yahoo! Finance's website);

**Exhibit R-10:** April 20, 2018 HEXO Material Change Report;

**Exhibit R-11:** *En liasse* : HEXO's MD&A for the quarter ending April 30, 2018, in French and English versions;

- Exhibit R-12:** HEXO's financial statements for the quarter ending April 30, 2018;
- Exhibit R-13:** St-Louis' certificate of interim filings dated June 27, 2018;
- Exhibit R-14:** HEXO news release entitled "Hydrothecary reports fiscal 2018 third quarter results" dated June 28, 2018;
- Exhibit R-15:** HEXO's MD&A for the quarter and annual ending July 31, 2018;
- Exhibit R-16:** HEXO's financial statements for the quarter and annual ending July 31, 2018;
- Exhibit R-17:** HEXO's 2018 AIF;
- Exhibit R-18:** HEXO's 2018 annual report;
- Exhibit R-19:** St-Louis' certificate of annual filings dated October 26, 2018;
- Exhibit 19.1:** HEXO's November 19, 2018 Short Form Base Shelf Prospectus;
- Exhibit R-20:** HEXO's MD&A for the quarter ending October 31, 2018;
- Exhibit R-21:** HEXO's financial statements for the quarter ending October 31, 2018;
- Exhibit R-22:** St-Louis' certificate of interim filings dated December 13, 2018;
- Exhibit R-23:** HEXO "Corporate Presentation" entitled "The Future of Cannabis" dated January 21, 2019;
- Exhibit R-24:** Preliminary Prospectus Supplement to the Amended and Restated Short Form Base Shelf Prospectus Dated December 14, 2018, dated January 21, 2019;
- Exhibit R-25:** Issuer's consent letter dated January 24, 2019;
- Exhibit R-26:** HEXO's March 13, 2019 news release announcing the Newstrike acquisition;
- Exhibit R-27:** HEXO's MD&A for the quarter ending January 31, 2019;
- Exhibit R-28:** HEXO's financial statements for the quarter ending January 31, 2019;
- Exhibit R-29:** St-Louis' certificate of interim filings dated March 13, 2019;
- Exhibit R-30:** Transcript of HEXO's Q2 2019 earnings call of March 14, 2019;
- Exhibit R-31:** HEXO March 14, 2019 news release entitled "HEXO reports over \$16.2 million in total gross revenue in the second quarter of fiscal 2019";
- Exhibit R-32:** HEXO's MD&A for the quarter ending April 30, 2019;
- Exhibit R-33:** HEXO's financial statements for the quarter ending April 30, 2019;
- Exhibit R-34:** St-Louis' certificate of interim filings dated June 12, 2019;

**Exhibit R-35:** HEXO's news release entitled "HEXO Corp reports third quarter 2019 financial results" dated June 12, 2019;

**Exhibit R-36:** Transcript of HEXO's Q3 2019 earnings call held on June 13, 2019;

**Exhibit R-37:** HEXO's news release entitled "HEXO Corp. Announces Resignation of Chief Financial Officer" dated October 4, 2019;

**Exhibit R-38:** Press report entitled "HEXO CFO's Resignation Prompts Double Downgrade at BofA" dated October 7, 2019;

**Exhibit R-39:** HEXO news release entitled "HEXO Corp. provides preliminary fourth quarter 2019 revenue results and withdraws fiscal year 2020 outlook" dated October 10, 2019;

**Exhibit R-40:** Article entitled "HEXO: Damage Goes Deeper Than The Numbers" dated October 17, 2019;

**Exhibit R-41:** Article entitled "HEXO's Lowered Sales Forecast Ahead Of Earnings Release Is Just One Reason For Concern" dated October 22, 2019;

**Exhibit R-42:** HEXO's MD&A for its 2019 fiscal year period ended July 31, 2019;

**Exhibit R-43:** HEXO's 2019 Q4 and year-end financial statements (for the period ended July 31, 2019);

**Exhibit R-44:** HEXO's 2019 AIF;

**Exhibit R-45:** HEXO's 2019 Annual Report;

**Exhibit R-46:** St-Louis' certificate of annual filings dated October 28, 2019;

**Exhibit R-47:** Transcript of HEXO's Q4 2019 earnings call held on October 29, 2019;

**Exhibit R-48:** HEXO news release entitled "HEXO Corp. provides additional transparency on licensing" dated November 15, 2019;

**Exhibit R-49:** HEXO news release entitled "HEXO Corp. granted new licences: Belleville Centre of Excellence, research, sale of new cannabis categories" dated October 28, 2019;

**Exhibit R-50:** HEXO's MD&A for the quarter ending October 31, 2019;

**Exhibit R-51:** HEXO's financial statements for the quarter ending October 31, 2019;

**Exhibit R-52:** St-Louis' certificate of interim filings dated December 15, 2019;

**Exhibit R-53:** HEXO's news release entitled "HEXO Corp. reports financial results for the first quarter fiscal 2020" dated December 16, 2019;

**Exhibit R-54:** Transcript of HEXO's Q1 2020 earnings call held on December 16, 2019;

**Exhibit R-55:** Gary Bourgeault's article entitled "HEXO's Latest Earnings and Its Quebec Problem" dated December 16, 2019;

**Exhibit R-56:** HEXO's restated financial statements for the fiscal year ended July 31, 2019;

**Exhibit R-57:** HEXO's amended MD&A for the for the fiscal year ended July 31, 2019;

**Exhibit R-58:** HEXO's restated financial statements for the quarter ended October 31, 2019;

**Exhibit R-59:** HEXO's amended MD&A for the for the quarter ended October 31, 2019;

**Exhibit R-60:** St-Louis' certificate of annual filings dated December 31, 2019;

**Exhibit R-61:** St-Louis' certificate of interim filings dated December 31, 2019;

**Exhibit R-62:** HEXO news release entitled "HEXO Corp. announces delay in filing of interim financial statements and provides certain financial results for Q2 2020" dated March 17, 2020;

**Exhibit R-63:** HEXO's re-amended MD&A for the for the fiscal year ending July 31, 2019;

**Exhibit R-64:** HEXO's re-amended MD&A for the for the quarter ending October 31, 2019;

**Exhibit R-65:** St-Louis' certificate of annual filings dated March 19, 2019;

**Exhibit R-66:** St-Louis' certificate of interim filings dated March 19, 2019;

**Exhibit R-67:** HEXO's news release entitled "HEXO Corp. files amended annual MD&A for fiscal and interim MD&A for Q1 2020" dated March 19, 2020;

**Exhibit R-68:** HEXO's MD&A for the quarter ended January 31, 2020;

**Exhibit R-69:** HEXO's financial statements for the quarter ended January 31, 2020;

**Exhibit R-70:** Extract from the *Autorité des Marchés Financiers'* Reporting Issuers List;

**Exhibit R-71:** HEXO news release entitled "HEXO Corp. closes C\$57.5 million public offering of common shares" dated January 30, 2019;

**Exhibit R-72:** HEXO's Material Change Report published on January 31, 2019;

**Exhibit R-73:** HEXO's December 5, 2019 Material Change Report;

**Exhibit R-74:** Amended Report of Exempt Distribution;

**Exhibit R-75:** *En liasse* : HEXO's press releases dated October 23, 2019 and December 6, 2019;

**Exhibit R-76:** HEXO's Material Change Report dated September 5, 2018 (corporate name change: August 29, 2018);

**Exhibit R-77:** HEXO's Material Change Report dated May 30, 2019 (Newstrike acquisition: May 24, 2019);

**Exhibit R-78:** HEXO news release entitled "HEXO Corp. ships historic first adult-use cannabis order" dated September 25, 2018;

**Exhibit R-79:** Article entitled “HEXO Corp.: Potential Revenues Make it a Buy Opportunity” dated June 7, 2019;

**Exhibit R-80:** Article entitled “HEXO stock slides another 6% to weigh on cannabis sector after job cuts prompt downgrade” dated October 26, 2019;

**Exhibit R-81:** *En liasse* : April 25, 2018 article entitled “Hydrothecary: The Quebec Cannabis King” and October 29, 2018 article entitled “HEXO: The Strongest Buy and the King of Quebec Cannabis”; [...]

**Exhibit R-82:** Article entitled “First Quebec, Tomorrow the World” dated March 25, 2019; and

**Exhibit R-83:** Expert Report of Craig J. McCann, Ph.D., C.F.A., dated February 1, 2021.

### **Notice of presentation of an application**

If the application is an application in the course of a proceeding or an application under Book III, V, excepting an application in family matters mentioned in article 409, or VI of the Code, the establishment of a case protocol is not required; however, the application must be accompanied by a notice stating the date and time it is to be presented.

MONTRÉAL, this 3rd day of December, 2021

**(S) Faguy & Co.**

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**FAGUY & CO. BARRISTERS & SOLICITORS INC.**  
Attorneys for the Representative Plaintiffs

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Our File: 10239-001



SUPERIOR COURT  
(Class Action)  
Province of Québec  
District of Montréal  
N°: 500-06-001029-194

**MARTIN DIONNE**

Representative Plaintiff

v.

**HEXO CORP.**

-and-

**SÉBASTIEN ST-LOUIS**

Defendants

**THIRD AMENDED MOTION FOR AUTHORIZATION  
TO BRING AN ACTION PURSUANT TO SECTION  
225.4 OF THE QUÉBEC SECURITIES ACT AND  
APPLICATION FOR AUTHORIZATION TO INSTITUTE  
A CLASS ACTION**

**ORIGINAL**

**FAGUY & Co.**  
BARRISTERS & SOLICITORS INC.

Mtre Shawn K. Faguy  
Mtre Elizabeth Meloche  
[sfaguy@faguyco.com](mailto:sfaguy@faguyco.com)  
[emeloche@faguyco.com](mailto:emeloche@faguyco.com)

Our file : 10239-001

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BM-1125

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## NOTICE OF PRESENTATION

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**TO:** Mtre François-David Paré  
Mtre Francesca Taddeo  
Mtre Caroline Larouche  
**NORTON ROSE FULBRIGHT CANADA LLP**  
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Notification: [Notifications-mtl@nortonrosefulbright.com](mailto:Notifications-mtl@nortonrosefulbright.com)  
Attorneys for defendants HEXO Corp. and Sébastien St-Louis

In the event of contestation, **TAKE NOTICE** that this *Motion for Leave to Amend the Re-Amended Motion for Authorization to Bring an Action Pursuant to Section 225.4 of the Québec Securities Act and Application for Authorization to Institute a Class Action* shall be presented for adjudication before the Honourable Thomas M. Davis, S.C.J., at a **date and time to be determined**, at the Montréal Courthouse, located at 1 Notre-Dame Street East, Montréal (Québec), H2Y 1B6.

**GOVERN YOURSELVES ACCORDINGLY.**

MONTRÉAL, this 3rd day of December, 2021

*(s) Faguy & Co.*

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**FAGUY & CO. BARRISTERS & SOLICITORS INC.**

Attorneys for the Representative Plaintiffs  
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SUPERIOR COURT  
(Class Action)  
Province of Québec  
District of Montréal  
N°: 500-06-001029-194

**ANNE MILLER**  
-and-  
**MARTIN DIONNE**

Plaintiffs

v.

**HEXO CORP.**  
-and-  
**SÉBASTIEN ST-LOUIS**

Defendants

**MOTION FOR LEAVE TO AMEND THE RE-AMENDED  
MOTION FOR AUTHORIZATION TO BRING AN ACTION  
PURSUANT TO SECTION 225.4 OF THE *QUÉBEC  
SECURITIES ACT* AND APPLICATION FOR  
AUTHORIZATION TO INSTITUTE A CLASS ACTION**

**ORIGINAL**

**FAGUY & CO.**  
BARRISTERS & SOLICITORS INC.

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Mtre Elizabeth Meloche  
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Our file: 10239-001

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