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**BY EMAIL ONLY**  
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7 August 2017

Dear Sirs

**Intellectual Property Report for CannPal Pty Ltd**  
**Our Ref: G111187**

## 1. EXECUTIVE SUMMARY

We provide below our report (the "Report") detailing the current status of the patent and trade mark applications of CannPal Pty Ltd ("CannPal") for inclusion in a Prospectus to be lodged at the Australian Securities & Investments Commission.

The Report sets out details of the various pending patent and trade mark applications shown in Schedule 1, as well as their status as at the date indicated in the Report. The Report is correct to the best of our knowledge as at the date of the Report, subject to the limitations and qualifications set out in Section 5 of the Report (in particular, subject to the limited sources of information described in Section 5.1 of the Report).

## 2. INTELLECTUAL PROPERTY

### 2.1. Meaning of Intellectual Property

The term "intellectual property" refers to the collection of registrable and non-registrable rights, including rights in patents, designs, trade marks, plant varieties, copyright, confidential information and trade secrets. Intellectual property shares many of the characteristics associated with real and personal property. For example, intellectual property is an asset, and as such it can be bought, sold, licensed, exchanged, or gratuitously given away like any other form of property. Further, the intellectual property owner, in this instance CannPal, has the right to prevent the unauthorised use or sale of the property.

This Report deals only with intellectual property in the form of patent and trade mark applications

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## **2.2. Patents**

Patent rights constitute an important component of intellectual property. Patents cover inventions and provide a monopoly in exchange for an inventor's full disclosure of his or her invention to the public. A patent provides protection for novel (new), inventive (non-obvious) and useful inventions for a limited period, typically 20 years (subject to the payment of renewal fees). Patents may be granted in respect of new or improved products and methods in almost all areas of current scientific, commercial and industrial activities. However, as there is no such thing as a worldwide patent, patents must be obtained in every country where protection is required. In many countries the test for patentability is different from that in Australia.

Commercialisation of patented products and processes may require any party other than the patent owner wishing to use such developments to obtain a licence, subject to payment of royalties.

## **2.3. Inventorship and Ownership**

Typically, a patent for an invention may only be granted to the inventor(s), or to a person who has entitlement to the invention by way of assignment or other means. The ownership and entitlement of CannPal to the patents and applications in Schedule 1 is discussed in more detail below in Section 4.1.

## **2.4. Process for Obtaining Patent Protection**

In most countries of the world the process of protecting patent rights begins with the submission of a patent application comprising a patent specification describing the invention. Filing an Australian patent application (provisional or complete) or other initial patent application in an overseas country, which permits such a filing, satisfies this requirement. Countries that allow Australian applicants to file such applications include the United Kingdom and the United States.

A fundamental requirement of the patent system is that the invention is novel and inventive at the time of filing, relative to what was publicly known or used at the date of the application. Accordingly, it is imperative that the specification contains a full disclosure of the invention. A patent specification generally consists of a description of the invention and so-called "claim(s)", which define the scope of the invention. The description also typically provides background information, such as a description of existing products, manufacturing or testing methods or processes and related problems, which enables an Examiner and others to assess the application for inventiveness.

Once the initial application has been filed, further applications in other overseas countries must be filed within twelve (12) months, pursuant to an International Treaty called the Paris Convention, otherwise rights to the invention may be lost in these countries. In this regard, the Paris Convention provides that the filing of an initial patent application establishes a priority date for the invention in all other countries which are party to this Convention, including countries

such as the United States, Japan and Australia, as well as jurisdictions such as the European Union and Eurasia.

The filing of further patent applications in overseas countries may be pursued individually or in some instances by filing an application with a regional patent office that does the work for a number of countries, such as the European Patent Office and the African Regional Industrial Property Organisation. Under such regional systems, an applicant requests protection for the invention in one or more countries, and each country decides as to whether to offer patent protection within its borders. The WIPO-administered Patent Cooperation Treaty ("PCT") provides for the filing of a single international patent application which has the same effect as national applications filed in the designated countries. An applicant seeking protection may file one application and request protection in as many signatory states as needed.

It should be noted that at present there are 189 member states that are party to the PCT and if patent protection is required in a country that is not party to the PCT then individual applications must be filed in these countries by the twelve (12) month anniversary of the initially filed application. Countries that are not party to the PCT include Taiwan and Argentina.

Applications filed individually in countries rather than via the PCT are examined under the national laws of those countries. However, a PCT application is considered under the terms of the PCT. Once the PCT application has been filed it is subjected to what is called an "international search", carried out by one of the major patent offices. The search results are then communicated to the patent applicant in an "international search report", which is a listing of published documents that might affect the patentability of the invention claimed in the international application. On the basis of the international search report the applicant may decide to withdraw the application. However, if the PCT application is not withdrawn, it is, together with the international search report, published by the International Bureau.

If the applicant decides to continue with the international application, then within thirty (30) months of the provisional patent application filing date, national patent applications need to be filed. The applicant can also request preliminary examination, which is a report prepared by one of the major patent offices that gives a preliminary and non-binding opinion on the patentability of the claimed invention.

Once the PCT process has been completed then the national or regional phase is undertaken, as the PCT application itself does not mature into patents. The applicant may choose to enter one or more of the countries designated in the original PCT application. Entry into the national phase is essentially the same as filing a national application in the first instance. Thus, the standard documentation and fee requirements will need to be satisfied in each country, and for non-English speaking countries that will include translating the PCT specification into the language of the relevant country. Failure to enter the national phase within the thirty (30) month period will result in abandonment of the ability to secure patent protection in most PCT countries.

The national or regional applications progress under the jurisprudence and legislation of each country or region. In most jurisdictions, such as Australia, Europe, United States and Japan, examination by the relevant patent office comprises an examination of the art to which the invention pertains as it existed at the priority date of the application. This examination establishes what is referred to as the “state of the art”. The patent application is measured against the state of the art and an assessment is made regarding whether the invention described in the application is novel, inventive and useful. Therefore, the time required to complete the process of examination differs from country-to-country and the scope or protection may differ depending upon the law of each country. In general, it will take several years from the date of application until the patent is actually granted.

With respect to regional applications, like the European application, this involves filing a single application designating any of the countries that are signatories to the Convention covering that region. The single application is subjected to examination, and assuming that the application is allowed, it will proceed to the grant phase. The applicant can then elect to have patents validated in all or some of the originally designated countries, and the individual patents then function as though they were patents granted under standard national procedures.

## **2.5. Granted Patents: Renewal fees, validity, exploitation and enforcement**

Once a patent has been granted renewal fees will need to be paid, otherwise the patent will cease. It should also be noted that grant of a patent does not guarantee that the patent is valid or enforceable, and Griffith Hack provides no assurance that CannPal’s pending patent applications will be granted or will be held valid and enforceable following grant.

Notwithstanding the issue regarding guaranteed enforceability, once a patent has been granted and throughout the lifetime of a patent, the proprietor has the exclusive rights to use the patented technology. This means that they can decide to exclusively use it for their own benefit (for instance, by means of application in their own products) and prevent others from using it. Alternatively, they can allow others to use it under the terms of a license agreement. The terms of the license agreement generally define the limited scope of the use of the patent and the consideration to be paid for the use of it.

Enforcement of patent rights varies from country-to-country. The remedies for unauthorised use (patent infringement) available to the patent owner often include an injunction, which effectively stops further infringement of the patent, damages or account of profits, and costs. In some countries the patent owner can also file criminal complaints against the infringer.

## **3. CANNPAL PATENT PORTFOLIO AS AT 7 August 2017**

CannPal has recognised that patents are a valuable asset and have sought use of the Paris Convention described above by filing the patent applications listed in Schedule 1 attached hereto.

### **3.1. Formulation and Method of Treatment (AU2016903840)**

This family consists of an Australian provisional patent application filed on 22 September 2016. The patent application relates to composition for treating wounds particularly for second intention healing that involves considerable tissue loss and/or potential infection and where the edges cannot be brought together. The invention disclosed in the patent application further relates to dose regimens and articles of manufacture comprising the composition of the invention useful for treating these wounds. More particularly, the invention looks at compositions that synergistically combine the wound healing properties of Manuka honey with specific combinations of cannabinoids. The patent application then claims the use of these compositions in the treatment of wounds. Assuming that the claims in this patent application are granted it would mean that anyone producing a synergistic combination of Manuka honey and the claimed cannabinoid mixture would infringe these claims. They would also infringe the claims if they used these compositions in the treatment of wounds.

### **3.2. Composition and Method of Treatment (AU2017900565)**

This family consists of an Australian provisional patent application filed on 21 February 2017. The patent application relates to pharmaceutical and/or veterinary compositions for treating cancer and/or alleviating the symptoms of cancer, and to methods of treating the cancer and/or symptom using the pharmaceutical and/or veterinary composition.

More particularly, the invention disclosed in the patent application looks at compositions that synergistically combine specific combination of cannabinoids in precise ratios. The patent application then claims the use of these synergistic compositions in the treatment of cancer in companion animals. Assuming that the claims in this patent application are granted it would mean that anyone producing a synergistic combination of the cannabinoids in the specific ratios would infringe these claims. They would also infringe the claims if they used these compositions in the treatment of cancer in companion animals.

### **3.3. Compositions and Methods for Treating Periodontal Disease (AU2017901754)**

This family consists of an Australian provisional patent application filed on 11 May 2017.

The invention disclosed in the patent application relates to a pharmaceutical and/or veterinary composition for treating an oral disease, and to methods of treating oral disease using the pharmaceutical and/or veterinary composition. More specifically, the patent application discloses methods of treating oral diseases by administering a composition comprising specific mixtures of cannabidiols combined with a bioadhesive such that the composition adheres to the site of the oral disease. Assuming that the claims in this patent application are granted it would mean that anyone producing a combination of the cannabinoids and the bioadhesive would infringe these claims. They would also infringe the claims if they used these compositions in the treatment of periodontal disease in companion animals.

### **3.4. Compositions and Method for Treating Chronic Pain (AU2017903098)**

This family consists of an Australian provisional patent application filed on 4 August 2017.

The invention disclosed in the patent application relates to a composition comprising cannabinoids in oil in water (o/w), water-in-oil (w/o) or water-in-oil-in-water (w/o/w) formulations, processes of making the formulations and the use of such formulations for the treatment of chronic pain in animals especially companion animals such as horses, dogs and cats. Assuming that the claims in this patent application are granted it would mean that anyone producing a combination of the cannabinoids in an oil and water emulsion would infringe these claims. They would also infringe the claims if they used these compositions in the treatment of chronic pain in companion animals.

## **4. FURTHER ISSUES**

### **4.1. Patent Ownership / Entitlement: Third Party Rights**

Ownership of a patent application in the name of any entity other than the inventor is derived either by contract of employment or assignment. We have been provided with copies of assignment documents that indicate that the patent applications in the CannPal IP portfolio have been assigned from the inventor Layton Mills to CannPal. CannPal is recorded as the applicant for all of patent applications in the CannPal IP portfolio.

It is important to note is that there are legal mechanisms by which third parties can bring evidence that they have sole or joint entitlement to an invention and any patent application or patent obtained for that invention. Apart from CannPal, we are unaware of the existence of any such third party in relation to the patent applications set out in Schedule 1.

It is possible that the technology in respect of which the patent applications have been filed falls within the scope of, and may thus infringe, a patent of a third party. We have not conducted any searches or taking any further steps to identify any patents which may be infringed by the exploitation of the products referred to in the applications included in this Report.

To the best of our knowledge, to date, there has been no third party challenge to the validity or ownership of the patent applications.

### **4.2. Enforceability**

Once a patent has been granted the owner may initiate infringement proceedings against an alleged infringer of the property. Patent infringement proceedings cannot be initiated on the basis of a pending application. Filing an application does not mean that the applicant is free to commercialise the invention, as it is possible that the intellectual property rights or common law rights of another party may be infringed by doing so.

As at 7 August 2017 we are not aware of an application referred to in this report being the subject of any opposition or litigation. We have not, however, conducted an infringement search in order to attempt to identify rights of any other parties.

#### **4.3. Validity of Patent Applications**

The ultimate validity of the claims of patent can be guaranteed and can be challenged:

- (a) during examination;
- (b) in opposition proceedings once the application has been examined and found allowable;
- (c) in court during revocation proceedings brought by a third party; or
- (d) during infringement proceedings initiated against an alleged infringer by the patentee.

As the patent rights set out in section 3 are still pending patent applications and likely to undergo examination, it cannot be assumed that these applications (or any applications stemming from them) will proceed to grant or, if grant is achieved, that the claims will remain in their present form. It is possible, for example, that the scope of the claims of the patent applications may be restricted during examination of the application.

### **5. LIMITATIONS AND QUALIFICATIONS**

#### **5.1. Information sources**

In preparing this report, in addition to reviewing our internal databases, we relied upon information contained in relevant publicly available databases. Griffith Hack is not responsible for the accuracy of the information available in public databases and accordingly cannot guarantee the accuracy of this information.

#### **5.2. Jurisdictional requirements**

Each jurisdiction has its own laws and particular requirements that need to be met for the grant and maintenance of patent. Accordingly, the assessment patentability varies from jurisdiction-to-jurisdiction, and inventions which may be granted and registrable in one jurisdiction may be excluded from grant and registration in another. Moreover, the different jurisdictional requirements may result in variation of the scope of patent protection obtained for the same patent in different jurisdictions.

The outcome of examination of the patent application by the office of one jurisdiction is not binding on the office of any other jurisdiction. Similarly, international PCT searches and examination reports are not binding on national patent applications during examination in the national phase. Examination of patent applications often occurs at different times in different jurisdictions. This means there is also a risk that a patent may be granted on application one jurisdiction, and that a third party patent may subsequently be cited during examination of another patent application that has been filed elsewhere.

In some jurisdictions there is a duty to disclose certain information to the relevant patent office. This information can include relevant prior art information known to the applicant or its agents or search results issued in respect of corresponding foreign applications. Failure to disclose such information may adversely affect the validity and/or enforceability of the patent.

We further note that there may be changes to patent law in a particular jurisdiction from time-to-time which may have an impact on patents in the relevant country. For example, the Australian Government recently enacted the *Intellectual Property Law Amendments (Raising the Bar) Act 2012 (Cth)*, which represents a significant amendment to patent law. In particular, the Act raises the requirement for patentability and the description requirements for patent specifications. It applies to all Australian patent applications for which a request for examination is filed after 15 April 2013.

### **5.3. Patentability search limitations**

A patentability search, such as international searches carried out by various patent offices under the PCT procedure, cannot be guaranteed to locate all prior art that may exist which is potentially relevant to the assessment of novelty and inventive step of a claimed invention. Such searches are generally computer-based searches and are dependent on the database search strategy and the coverage provided by the databases used. For example, the databases may not cover older published documents and/or certain jurisdictions. Further, all patentability searches are subject to the accuracy of records, as well as the indexing and classification of the subject matter comprising the records. The scope of each search is also dependent on the search strategy utilised and, for example, the keyword(s) selected for the search. Accordingly, although patentability searches provide a reasonable indication of patentability, it is not possible to guarantee that every relevant prior art record has been located and considered. As a result, any conclusions regarding the validity of the claims of a particular patent based on patent office searches should be regarded as indicative rather than conclusive.

Further, non-provisional patent applications are not normally published until at least 18 months from the earliest acceptable priority date. Accordingly, a patentability search would not normally identify any third party patent application that is potentially relevant to the assessment of patentability that have a priority date which is less than 18 months prior to the date of the patentability search. Delays between official publication and the incorporation of information into the relevant database can also occur, which means that some documents may not be located in a patentability search.

### **5.4. Patentability of an invention**

Besides documentary prior art, public use of an invention and non-confidential oral disclosures before the priority date of a patent application may also be relevant to the assessment of patentability of invention to which the patent application relates. As patentability searches are conducted on published documents, they would not locate such other forms of prior art disclosures.



Commercialisation or secret use of an invention in a jurisdiction by, or with the authority of, a patent applicant (or their predecessor in title) before the priority date of a patent application that has been filed in the jurisdiction by the applicant in respect of the invention, can also be relevant to the patentability of intervention and the validity of any patents that may ultimately be granted on the application. Such commercial exploitation or secret use would not normally be identified by documentary patentability searches of publicly accessible databases.

### **5.5. Opposition Proceedings**

Some jurisdictions, such as Australia, allow for accepted patent applications to be opposed by a third party. Others, for example Europe, have post-grant opposition. Successful opposition proceedings may result in some or all of the claims of an application being refused. Successful opposition proceedings to a granted patent may result in some or all of the claims being held in valid or restricted in breadth.

### **5.6. Entitlement to claimed priority date**

In Australia, for subject matter contained in a non-provisional patent application to be entitled to the priority date established by a corresponding priority patent application or provisional patent application there must be a “real and reasonably clear disclosure” of the subject matter in the priority application. Similar provisions apply in other jurisdictions. Subject matter disclosed in a non-provisional patent application that is not contained in a corresponding priority application is generally only entitled to the filing date of the non-provisional application as a priority date.

### **5.7. Renewal fees**

CannPal recognizes that renewal fees must be paid in order to maintain its patents. At the time of preparing this Report, no renewal fees are currently overdue.

## **Trade Marks**

### **5.8. Trade Marks**

A trade mark is a way of identifying a unique product or service.

Australian trade mark law is based on common-law use-based rights as well as the Trade Marks Act 1995 (Cth). Use-based rights are less certain than registration, and depend on the mark having developed a reputation in the region in which a company seeks to enforce its common-law trade mark. Thus, registration provides advantages such as constructive notice and nationwide rights.

Section 17 of the Trade Marks Act defines a trade mark as “a sign used, or intended to be used, to distinguish goods or services dealt with or provided in the course of trade by a person from goods or services so dealt with or provided by any other person”. Accordingly trademarks are not restricted to logo’s and the like.

The procedure to register a trade mark in Australia is much the same as other countries. A completed application is filed with IP Australia. Examination of the application is undertaken to ensure compliance with formalities and substantive requirements. If an application is accepted, it will be published for opposition purposes for three months, during which time third parties may oppose registration on certain grounds. If there are no oppositions, or any oppositions are overcome, a certificate of registration will issue.

The term of registration in Australia is 10 years, which may be extended for additional periods of 10 years. Failure to use a registered trade mark for a period of three years or more may expose the registration to cancellation on the grounds of non-use.

We have been advised that CannPal has 6 trade mark applications as shown in Schedule 1. All of these applications are pending as of 31 May 2017 except for the logo CannPal which is registered. As the pending applications have not been examined at this stage we will not comment further at this stage other than to say that there does not appear to be any reason why these marks will not be accepted.

#### **Qualifications & Independence**

Griffith Hack is a firm of patent and trade mark attorneys and lawyers that provide advice in relation to all aspects of intellectual property. Griffith Hack has extensive experience protecting and defending intellectual property rights and commercialising products and services. Griffith Hack provides a comprehensive intellectual property service through its patent and trade mark attorney practices, law firm, consultancy arm and through its partnership with a major international renewal service.

Griffith Hack has no interest in CannPal, other than fees for professional work done. Griffith Hack has no involvement in the preparation of the Prospectus by CannPal, other than the preparation of this Report. Griffith Hack is therefore considered independent of CannPal for the purpose of preparing this Report and gives its consent for inclusion of this Report in the Prospectus.

The person responsible for preparing this Report is Dr Stuart Boyer, Principal of Griffith Hack Patent & Trade Mark Attorneys.

Kind regards

A handwritten signature in black ink, appearing to read "Stuart Boyer".

**Dr Stuart Boyer**

Principal

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## SCHEDULE 1

### Patent Applications

<b>Official No.</b>	<b>Formulation and Method of Treatment</b>	<b>Filing Date</b>	<b>Status</b>	<b>Country</b>
2016903840	Application filed	22-Sep-16	Filed	Australia
<b>Official No.</b>	<b>Composition and method of treatment</b>			<b>Country</b>
2017900565	Application filed	21-Feb-16	Filed	Australia
<b>Official No.</b>	<b>Compositions and methods for treating periodontal disease</b>			<b>Country</b>
2017901754	Application filed	11-May-17	Filed	Australia
<b>Official No.</b>	<b>Compositions and Method for Treating Chronic Pain</b>	<b>Filing Date</b>	<b>Status</b>	<b>Country</b>
2017903098		04-Aug-17	Filed	Australia

### Trade Marks

<b>Official Nos.</b>	<b>Marks</b>	<b>Filing Date</b>		<b>Country</b>
1819496	Cannpal animal Therapeutics with logo classes 5, 31	05-Oct-16	Granted	Australia
1847814	Gastrocann classes 5, 31	26-May-17	Pending	Australia
1847815	Osteocann classes 5, 31	26-May-17	Pending	Australia
1847816	Dermacann classes 5, 31	26-May-17	Pending	Australia
1847817	Periocann classes 5, 31	26-May-17	Pending	Australia
1847818	Canamax classes 5, 31	26-May-17	Pending	Australia