

CANADA
PROVINCE OF QUÉBEC
DISTRICT OF MONTRÉAL

No. :

No. :

SUPERIOR COURT
Commercial Division

**IN THE MATTER OF THE NOTICES OF
INTENTION TO MAKE A PROPOSAL OF:**

BOUCLAIR INC., a company incorporated under the laws of the Province of Quebec, having its principal executive offices at 152 av. Alston, in the city of Pointe-Claire, district of Montreal, Province of Québec, H9R 6B4;

- and -

BOUCLAIR INTERNATIONAL INC., a company incorporated under the laws of the Province of Quebec, having its principal executive offices at 152 av. Alston, in the city of Pointe-Claire, district of Montreal, Province of Québec, H9R 6B4;

Petitioners

- and -

DELOITTE RESTRUCTURING INC., a company incorporated under the laws of Canada, having a place of business at 500-1190 av. Des Canadiens-de-Montreal, in the city of Montreal, Province of Québec, H3B 0M7;

Proposal Trustee

- and -

GORDON BROTHERS CANADA ULC, a company incorporated under the laws of the United States of America, having its principal executive offices at 800 Boylston Street, 27th floor, in the city of Boston, Massachusetts, 02199;

Proposed Liquidator

- and -

NATIONAL BANK OF CANADA, a chartered bank under the laws of Canada, having a place of business at 600 de La Gauchetière West, 9th Floor, in the city of Montréal, Québec, H3B 4L2;

Principal Secured Creditor

- and -

ALJUSA INVESTMENTS INC., a company incorporated under the laws of Canada, having its principal place of business at 152 av. Alston, in the city of Pointe-Claire, Québec, H9R 6B4;

Subordinated Secured Creditor

- and -

AST TRUST COMPANY (CANADA), a company incorporated under the laws of Canada, having a place of business at 1600-2001 boul. Robert-Bourassa, in the city of Montreal, Québec, H3A 2A6;

**In its Capacity as Agent for certain
Subordinated Secured Creditors**

**THE AFFECTED PARTIES LISTED ON
SCHEDULE "A"**

Mis-en-cause

MOTION FOR THE ISSUANCE OF AN ORDER (i) CREATING SUPER-PRIORITY CHARGES; (ii) APPROVING A CONSULTING AGREEMENT; AND (iii) APPROVING RELATED RELIEF

(Sections 64.1, 64.2 and 65.13 of the *Bankruptcy and Insolvency Act*)

TO ONE OF THE HONOURABLE JUDGES OF THE SUPERIOR COURT, SITTING IN THE COMMERCIAL DIVISION, IN AND FOR THE JUDICIAL DISTRICT OF MONTREAL, THE PETITIONERS RESPECTFULLY SUBMIT THE FOLLOWING:

1. OVERVIEW AND RELIEF SOUGHT

1. On November 11, 2019, Bouclair Inc. ("**Bouclair**") filed a *Notice of Intention to Make a Proposal* (a "**NOI**") pursuant to section 50.4 of the *Bankruptcy and Insolvency Act* (the "**BIA**"). Deloitte Restructuring Inc. was appointed as Bouclair's proposal trustee ("**Deloitte**" or the "**Proposal Trustee**"). A copy of the NOI filed by Bouclair is attached hereto as **Exhibit P-1**.
2. The same day, Bouclair International Inc. ("**Bouclair International**", and together with Bouclair, the "**Petitioners**"), concurrently filed a NOI pursuant to section 50.4 of the BIA. Deloitte was also appointed as Bouclair International's proposal trustee. A copy of the NOI filed by Bouclair International is attached hereto as **Exhibit P-2**.

3. Bouclair International is a wholly-owned subsidiary of Bouclair. The domicile of both entities is located at the same address in Pointe-Claire, Québec.
4. The Petitioners are insolvent. They are experiencing serious liquidity issues and no longer have the ability to meet their liabilities as they become due.
5. The Petitioners sell home decor products, including furniture, window coverings, bedding, lighting, home accents, wall décor and seasonal products, through their own retail stores and online.
6. The Petitioners currently operate 92 retail locations in most of the provinces across Canada and employ approximately 1,150 employees, the majority of whom are located in Ontario and Québec.
7. Following a thorough review of their alternatives, the Petitioners have sought creditor protection under the provisions of the BIA in order to implement a comprehensive restructuring of their business and assets through a multi-creditor transaction that includes a sale of a significant portion of Bouclair's assets (the "**Sale Transaction**") to Alston Investments Inc. (the "**Proposed Purchaser**"), a company formed by a group of Canadian investors with significant retail experience.
8. The Sale Transaction with the Proposed Purchaser is currently being negotiated with certain key stakeholders. Once approved by this Court, it is expected that it will result in the Proposed Purchaser acquiring the majority of the assets and assuming certain of the liabilities of Bouclair, with a view to maintaining approximately sixty (60) Bouclair retail store locations, its head office in Pointe-Claire (Quebec) and approximately 80% of Bouclair's national employee base.
9. It is contemplated that the approximately twenty-nine (29) remaining stores which are not included in the Sale Transaction will be closed, with the inventory in these locations to be liquidated by Gordon Brothers Canada ULC (the "**Proposed Liquidator**") in accordance with the terms of a Consulting Agreement to be entered into between Bouclair and the Proposed Liquidator (the "**Consulting Agreement**"), subject to the approval of this Court.
10. The Petitioners will seek from this Court, at the first hearing in connection with this matter, the issuance of an order (the "**First Day Order**"):
 - (a) operating a procedural consolidation of the court files of Bouclair and Bouclair International, so as to consolidate all proceedings in relation to these files into a single matter;
 - (b) granting the following super-priority charges over all Affected Assets (as defined in **Schedule "B"** attached hereto), in the following order of priority:
 - (i) first, a priority charge in an aggregate amount of \$300,000 (the "**Administrative Charge**") to secure the payment of the fees and disbursements incurred in connection with these proceedings by the following professionals:

- legal counsel to the Petitioners, Stikeman Elliott LLP (“Stikeman”);
 - the Proposal Trustee, Deloitte; and
 - legal counsel to the Proposal Trustee, Osler, Hoskin & Harcourt LLP (“Osler”);
- (ii) second, a priority charge in an aggregate amount of \$600,000 (the “**First Tranche D&O Charge**”), as first tranche security for the indemnification of any personal liability which may have been or may potentially be incurred throughout the present reorganization process initiated under the BIA by the directors and officers of the Petitioners, acting in such capacity, but only to the extent such claims are not covered by the current insurance coverage in place for the directors and officers of the Petitioners (the “**Potential D&O Liability**”);
- (iii) third, a priority charge in an aggregate amount of \$500,000 (the “**CRO Charge**”) in favour of RC Benson Consulting Inc. (Mr. Randy Benson), in his capacity as Chief Restructuring Officer of the Petitioners (the “**CRO**”), as security for all obligations owed to the CRO by Bouclair under the CRO Engagement Letter (as defined below), provided, however, that the CRO Charge shall rank after and be subordinated to the NBC Security (as defined below), but in priority to any other security interest, including, without limitation, the Aljusa Subordinated Security (as defined below) and the AST Subordinated Security (as defined below); and
- (iv) fourth, a priority charge in an aggregate amount of \$1,600,000 (the “**Second Tranche D&O Charge**”), as second tranche security for the balance of any Potential D&O Liability, which Second Tranche D&O Charge shall rank after the NBC Security (as defined below) and the CRO Charge;
- (c) approving and ratifying, retroactively, the CRO Engagement Letter entered into between Bouclair and the CRO on May 29, 2019, as amended on June 19, 2019;
- (d) authorizing the payment, to certain suppliers situated outside of the jurisdiction of this Court, of certain pre-filing obligations, with prior authorization of the Proposal Trustee and up to a maximum aggregate amount of \$750,000; and
- (e) approving other related relief;

the whole substantially in the form of the Draft First Day Order communicated herewith, as **Exhibit P-3**;

11. In light of the timing of the filing of the NOIs, it is expected that, as of the date of the hearing on the First Day Order, the Petitioners will have provided advance notice of these proceedings to NBC and to their subordinated lenders, namely

Aljusa Investments Inc. ("**Aljusa**") and AST Trust Company (Canada), in its capacity as agent to a group of subordinated lenders ("**AST Trust Company**"), but will not have provided any advance notice of these proceedings to the affected parties listed on **Schedule "A"** attached hereto (the "**Affected Parties**").

12. The Affected Parties include, at Section A of **Schedule "A"**, certain parties which have registered security interests over assets in specific Bouclair stores. For that reason, the definition of "Affected Assets" over which the super-priority charges included in the First Day Order apply (as outlined in **Schedule "B"**) specifically excludes the assets over which the parties listed in Section A of **Schedule "A"** have registered security interests.
13. This definition of "Affected Assets" should not be construed as an admission, by the Petitioners, regarding the validity or the effectiveness of any security interests registered by the Affected Parties. In addition, the Petitioners intend to return before this Court after the Affected Parties have been duly notified, to expand the scope of the super-priority charges included in the First Day Order, such that they may cover all the assets of Bouclair, with no exception.
14. The Affected Parties on **Schedule "A"** also include, at Section B, the landlords of twenty-nine (29) retail locations which the Petitioners intend to close, as well as, at Section C, the landlords of six (6) optional retail locations which could be added to the list of store closures if satisfactory arrangements cannot be reached between the Petitioners and the landlords concerned.
15. The Petitioners will therefore request that this Court adjourn the portion of this application that deals with the approval of the Consulting Agreement with the Proposed Liquidator, such that the Petitioners may return before this Court, in the days following the issuance of the First Day Order and after the Affected Parties have been duly notified with the present proceedings, to seek an order (the "**Liquidation Order**"):
 - (a) approving the Consulting Agreement to be entered into between Bouclair and the Proposed Liquidator;
 - (b) authorizing Bouclair to pay to the Proposed Liquidator a Deposit (as defined below), free of all claims and encumbrances (including court ordered charges and deemed trusts), in accordance to the terms of the Consulting Agreement; and
 - (c) authorizing the Petitioners to pay all amounts constituting rent twice-monthly in equal payments on the first and fifteenth day of each month in advance (but not in arrears);

the whole substantially in the form of the Draft Liquidation Order communicated herewith, as **Exhibit P-4**.

16. Finally, the Petitioners also intend to return before this Court, as soon as possible, in order to seek the approval of the Sale Transaction. A separate motion will be filed by the Petitioners in that regard.

2. THE PETITIONERS' BUSINESS AND AFFAIRS

2.1. Overview

17. Bouclair is a privately-owned company and one of Canada's leading home décor and furniture retailers. The company was founded in 1970 and in 2003 was acquired by the current Chief Executive Officer, Mr. Peter Goldberg.
18. Beginning as a retailer for fabric and sewing materials, Bouclair evolved to become a provider of diversified home décor products, including furniture, window coverings, bedding, lighting, home accents, wall décor and seasonal products through its own retail stores across Canada and online.
19. In the late 1990s, Bouclair opened its first store outside of Québec in the province of Ontario. Since 2010, it has expanded its presence in the rest of Canada, opening points of sale in Nova Scotia, New Brunswick, Newfoundland and Labrador, Manitoba, Alberta, Saskatchewan and British Columbia.
20. In 2012, Bouclair opened a wholesale business through a wholly-owned subsidiary, Bouclair International.
21. Bouclair International's business is currently focused on selling Bouclair's collections and licensing Bouclair's intellectual property to an Australian retailer in the fabric, craft and home business which operates stores across Australia, New Zealand, Singapore and Malaysia. Bouclair International's revenues consist solely of commissions and royalty payments earned on the value of orders placed for the Bouclair inventory sold by this Australian retailer.
22. In addition to its online store, the Petitioners currently operate and lease 92 stores (each a "Store", collectively the "Stores") located across Canada's major cities, including Montreal, Ottawa, Toronto, Edmonton, Calgary, Vancouver and Halifax, as well as other urban areas.
23. The Stores are generally located in power centres and are in metropolitan areas designed to attract large numbers of consumers by presenting them with a variety of shopping options. Bouclair and its subsidiaries have entered into lease agreements with various landlords for the lease of the retail space to operate the Stores (collectively, the "Leases").

2.2. Employees

24. As at November 11, 2019, Bouclair employed approximately 1,150 non-unionized employees. Of these: (a) approximately 688 employees are located in Québec; (b) approximately 329 are employed full-time, whereas approximately 792 are employed part-time; (c) approximately 992 employees are associates in the Stores; and (d) approximately 158 are employed at Bouclair's head office located in Pointe-Claire, Québec.
25. In addition, approximately 90 additional employees are hired through an agency to work at Bouclair's warehouse located in Pointe-Claire, Québec. These warehouse agency employees are thus not part of Bouclair's payroll.

26. Bouclair also hires additional temporary staff at its Stores during major yearly events.
27. Bouclair's gross payroll obligations for the fiscal years 2017 and 2018 amounted to approximately \$24,791,000 and \$25,173,995, respectively.
28. Bouclair's employees are paid on a bi-weekly basis. Bouclair has been and will remain current in the payment of salaries to its employees. Deductions from employee salaries are made, as required in various jurisdictions, and these deductions are remitted to the appropriate governmental authorities and are also current.

3. **ASSETS**

29. As at September 28, 2019, the inventory and other assets of the Petitioners were as follows:

| Nature | Estimated Value |
|-------------------------------|---------------------------|
| Inventory | \$31,574,000 ¹ |
| Property, plant and equipment | \$14,864,000 ² |
| Others | \$3,134,000 ³ |

30. In addition to the above assets, the Petitioners' assets also include their intellectual property and their Leases, as more fully described below.

4. **INDEBTEDNESS**

31. As appears from the Lists of Creditors (Form 78) annexed to the Bouclair NOI (P-1) and Bouclair International NOI (P-2), the total indebtedness of the Petitioners amounts to approximately \$35,300,000. Of that amount, the claims of trade and other creditors total approximately \$10,300,000, whereas the main secured claims can be described approximately as follows:

| Secured Claims | Amount of Indebtedness |
|--------------------------|-------------------------------|
| NBC Loan | \$18,800,000 |
| AST Subordinated Loan | \$1,500,000 |
| Aljusa Subordinated Loan | \$1,200,000 |
| BDC Loan | \$1,200,000 |
| Employee Wages | \$2,300,000 |
| Total: | \$25,000,000 |

¹ This amount represents the book value of the inventory.

² This amount represents the book value of the property, plant and equipment.

³ This amount represents the book value of the other assets.

4.1. The NBC Loan

32. On April 4, 2008, Bouclair entered into a credit agreement with NBC, as lender and agent (as amended by agreements dated July 11, 2008 and January 30, 2009, the "**Initial Credit Agreement**"), pursuant to which NBC initially made available to Bouclair credit facilities in an aggregate amount of \$27,240,000.
33. The Initial Credit Agreement was subsequently amended as follows:
- (a) On June 25, 2009, the Initial Credit Agreement was amended pursuant to an Amended and Restated Credit Agreement (as amended on November 30, 2009, the "**First Restatement**");
 - (b) On August 31, 2010, the Initial Credit Agreement was further amended pursuant to a Second Amended and Restated Credit Agreement (as amended by amending agreements dated March 27, 2012 and November 5, 2012, the "**Second Restatement**");
 - (c) On December 10, 2013, the Initial Credit Agreement was further amended pursuant to a Third Amended and Restated Credit Agreement (as amended by an amending agreement dated August 21, 2015, the "**Third Restatement**"); and
 - (d) On December 8, 2016, the Initial Credit Agreement was further amended pursuant to a Fourth Amended and Restated Credit Agreement (as amended by the first amending agreement dated as of March 1, 2018) (collectively, the "**Fourth Restatement**", and together with the Initial Credit Agreement, the First Restatement, the Second Restatement and the Third Restatement, the "**NBC Credit Agreement**"). A copy of the Fourth Restatement and the first amending agreement dated as of March 1, 2018 are attached hereto, *en liasse*, under seal, as **Exhibit P-5**.
34. Pursuant to the NBC Credit Agreement, credit facilities of up to \$22,012,500 are made available by NBC to Bouclair, with a maturity date of December 8, 2019 (the "**NBC Loan**").
35. The NBC Loan is stated to be secured by a first-ranking security on all assets, tangible and intangible, present and future, of the Petitioners in favour of NBC (the "**NBC Security**").
36. As at November 11, 2019, amounts owing by Bouclair to NBC under the NBC Credit Agreement are approximately as follows:

| Nature | Estimated Value |
|--------------------|------------------------|
| Term Facility E | \$5,200,000 |
| Revolving Facility | \$13,600,000 |
| TOTAL: | \$18,800,000 |

37. The NBC Loan has been in default since the Spring of 2019. As such, on or around April 4, 2019, NBC retained the services of Richter Advisory Group Inc. to act as its financial consultant to review Bouclair's financial situation. Thereafter,

NBC agreed, on several occasions, to forbear from exercising its rights as secured lender.

38. On October 8, 2019, NBC and Bouclair entered into a Third Forbearance Agreement setting out the terms and conditions under which NBC agreed to tolerate the various defaults under the NBC Loan and to continue to finance the operations of Bouclair until October 31, 2019. A copy of the Third Forbearance Agreement is attached hereto, under seal, as **Exhibit P-6**.
39. As of the date hereof, NBC and the Petitioners are finalizing the terms of a Fourth Forbearance Agreement pursuant to which NBC would agree to forbear from exercising its rights as secured creditor. The Fourth Forbearance Agreement, once concluded, will be filed in support of this Motion, under seal, as **Exhibit P-7**.
40. The filing of the NOIs has been implemented by the Petitioners with the full knowledge of NBC.

4.2. The Subordinated Loans

4.2.1. *The Aljusa Subordinated Loan Agreement*

41. On March 21, 2018, Aljusa, a related entity owned and operated by Mr. Peter Goldberg, as lender, Bouclair, as borrower and Bouclair International, as guarantor, entered into a Subordinated Loan and Security Agreement (the "**Aljusa Subordinated Loan Agreement**"). A copy of the Aljusa Subordinated Loan Agreement is attached hereto, under seal, as **Exhibit P-8**.
42. Pursuant to the Aljusa Subordinated Loan Agreement, Aljusa made available to Bouclair a loan in an aggregate amount of \$1,000,000 (the "**Aljusa Loan**"), with a maturity date of March 8, 2020.
43. The Aljusa Subordinated Loan Agreement is stated to be secured by a hypothec for the sum of \$2,500,000, together with interest thereon, on all of Bouclair's present and future movable property, of every nature and kind (the "**Aljusa Subordinated Security**").
44. On the same day, Aljusa, Bouclair, Bouclair International and NBC, as agent for the senior creditors, entered into a subordination agreement (the "**Aljusa Subordination Agreement**"). A copy of the Aljusa Subordination Agreement is attached hereto, under seal, as **Exhibit P-9**.
45. Pursuant to the Aljusa Subordination Agreement, the parties agreed that the Aljusa Subordinated Loan and Aljusa Subordinated Security would rank subordinate to the NBC Loan and NBC Security.
46. As at October 26, 2019, Bouclair owed a total of approximately \$1,200,000 to Aljusa, in capital and accrued interest, under the Aljusa Subordinated Loan Agreement.

4.2.2. The AST Subordinated Loan Agreement

47. On February 14, 2019, a group of subordinated lenders (collectively, the "**Subordinated Lenders**"), Bouclair, as borrower, Bouclair International, as guarantor, and AST Trust Company, as agent for the Subordinated Lenders, entered into a subordinated loan agreement (the "**AST Subordinated Loan Agreement**"). A copy of the AST Subordinated Loan Agreement is attached hereto, under seal, as **Exhibit P-10**.
48. Pursuant to the AST Subordinated Loan Agreement, the Subordinated Lenders made available to Bouclair a loan in an aggregate amount of \$1,400,000 (the "**AST Subordinated Loan**"), with a maturity date falling on the later of (i) May 30, 2023, or (ii) six (6) months after the Term E Maturity Date, as defined in the NBC Credit Agreement.
49. The AST Subordinated Loan Agreement is stated to be secured by a hypothec for the sum of \$2,000,000, together with interest thereon, on all of Bouclair's present and future movable property, of every nature and kind (the "**AST Subordinated Security**").
50. The AST Subordinated Security granted pursuant to the AST Subordinated Loan Agreement is subject to the provisions of a Subordination Agreement dated February 14, 2019 between the Subordinated Lenders, Bouclair, Bouclair International, as guarantor, AST Trust Company, as agent for the Subordinated Lenders, and NBC, as agent for the senior creditors (the "**AST Subordination Agreement**"). A copy of the AST Subordination Agreement is attached hereto, under seal, as **Exhibit P-11**.
51. Pursuant to the AST Subordination Agreement, the parties agreed that the AST Subordinated Loan and AST Subordinated Security would rank subordinate to the NBC Loan and NBC Security.
52. As at October 26, 2019, Bouclair owed a total of approximately \$1,500,000 to the Subordinated Lenders, in capital and accrued interest, under the AST Subordinated Loan Agreement.

4.3. The BDC Loan

53. On November 23, 2016, the Business Development Bank of Canada ("**BDC**") and Bouclair entered into a letter of offer (as amended, the "**BDC Letter of Offer**"). A copy of the BDC Letter of Offer is attached hereto, under seal, as **Exhibit P-12**.
54. Pursuant to the BDC Letter of Offer, BDC made available to Bouclair a loan in an aggregate amount of \$1,800,000 for leasehold improvements to the Bouclair store located at 7151 Des Roseraies, Anjou (the "**Anjou Store**"), to finance new concept start-up expenses as well as soft costs (the "**BDC Loan**").
55. The BDC Loan has a maturity date of March 23, 2025.
56. The BDC Loan is stated to be secured by a hypothec on the universality of all present and future moveable property, used for the exploitation of the Anjou Store, and wherever this moveable property may be located thereafter.

57. The BDC Loan is stated to be subordinated and rank, but only in respect of claims and inventory, after any other hypothec that may be granted by Bouclair in favour of any bank or financial institution granting it operating loans or operating credit, BDC reserving its rights and priority on all other property of Bouclair.

58. As at November 11, 2019, Bouclair owed a total of approximately \$1,200,000 to the BDC under the BDC Letter of Offer.

4.4. Suppliers and other creditors

59. As at November 8, 2019, an amount of approximately \$10,300,000 was owing by Bouclair to trade and other creditors.

60. Of that amount, approximately \$2,300,000 were owed to trade creditors outside of Canada, for the most part in the People's Republic of China.

4.5. Employee Obligations

61. As at the date hereof, Bouclair maintains no employee pension or retirement plans.

62. As at November 11, 2019, the gross accrued normal pay obligations totaled approximately \$1,200,000. Normal pay obligations are paid every two (2) weeks to Bouclair's employees, with the next pay day being due on November 14, 2019.

63. Bouclair provides vacation time to its employees as a paid time-off benefit. The duration of vacation benefits varies based on the employee's location, position and amount of time employed. The estimated amount of accrued, unused vacation time as at November 11, 2019 was approximately \$1,100,000.

5. FINANCIAL DIFFICULTIES

64. Over the past few years, several factors have materially contributed to the deterioration of the Petitioners' financial situation and have rendered its economic environment very challenging.

65. First, over the last several years, Canadian home furnishing retailers have experienced increasing levels of competition from large-scale discount US retailers and online retailers.

66. Large-scale players such as Walmart, which benefit from large economies of scale and can pass cost savings down to consumers, have put an increasing amount of downward pressure on industry prices. In addition, online retailers such as Amazon and Wayfair have also exerted a significant amount of downward pressure on industry prices, including offering free delivery.

67. In addition, several factors have contributed to the financial difficulties of the Petitioners, including the following:

- (a) the Petitioners incurred additional costs and lost revenues following the implementation of a warehouse management system that led to operational difficulties and disrupted the Petitioners' e-commerce order

fulfillment capabilities and its ability to replenish its Stores with adequate levels of inventory;

- (b) the first 8 weeks of the 2019 fiscal year were negatively impacted by unfavorable weather, which has contributed to the underperformance of numerous Bouclair stores;
 - (c) sales in the Quebec City region have been underperforming due to difficulties to recruit strong talent to manage the stores located in that region (the Quebec City region normally hosts four (4) of Bouclair's historically best performing stores);
 - (d) store performance in Ontario was below expectation leading to a change in leadership in the Greater Toronto Area;
 - (e) the increase of the minimum wage across several regions affected the cost of instore labor;
 - (f) the underperformance of certain stores in regions across Canada where the economy is weak had a detrimental impact on the Petitioners' revenues; and
 - (g) the high cost of certain store locations owing to long term leases signed during periods where rental costs were higher than today.
68. Despite the implementation of various cost-cutting measures over the past months, Bouclair has been unable to find its way back to profitability.

5.2. Financial Results

69. For the eight (8) month period between January 26, 2019 and September 28, 2019, the Petitioners have recorded a total comprehensive net loss of approximately \$1,200,000, as appears from the internal financial statements of the Petitioners contained in the Proposal Trustee's Report to be filed in support of this Motion.
70. For the fiscal year ended January 26, 2019, Bouclair recorded a total comprehensive net income of approximately \$1,131,755, as appears from audited financial statements of Bouclair for the year ended January 26, 2019, communicated herewith, under seal, as **Exhibit P-13**.
71. For the fiscal year ended January 26, 2018, Bouclair recorded a total comprehensive net loss of approximately \$772,749, as appears from audited financial statements of Bouclair for the year ended January 27, 2018 communicated herewith, under seal, as **Exhibit P-14**.

5.3. Insolvency

72. Over the past few months, Bouclair has continued to make good faith efforts to implement a variety of cost reduction and cash generation measures to address its short and long-term liquidity needs.

73. Bouclair has also engaged independent advisors to assist it in exploring various strategic alternatives in an attempt to address its liquidity position outside of insolvency proceedings, so as to minimize interruptions to its operations.
74. However, over the past few weeks, Bouclair's liquidities have significantly declined, and it is therefore unable to continue its operations and to meet its obligations, including payroll and rent obligations, in the ordinary course outside of a court process.
75. Cash flow forecasts for Bouclair will be communicated along with the Proposal Trustee's Report to be filed in support of the present Motion.

6. **THE RESTRUCTURING PROCESS**

6.1. **Overview**

76. In the months prior to the filing of the NOIs, the Petitioners faced a liquidity shortage and increasing pressure from their suppliers. The Petitioners were concerned they would not be able to meet their obligations as they became due starting on the first week of November 2019.
77. The implementation of a restructuring of the Petitioners' affairs became urgently required to prevent a liquidation of the Petitioners' assets that would erase their going concern value, to the detriment of all stakeholders.
78. In these circumstances, the Petitioners initiated a restructuring process (the "**Restructuring Process**") to identify potential investors, lenders and/or other partners that would enable the Petitioners to prevent a liquidation of the Petitioners' assets.
79. In connection with their Restructuring Process, on or around September 21, 2019, the Petitioners created a restructuring steering committee of the board of directors of Bouclair, formed of independent directors other than Mr. Goldberg and Mr. York (the "**Special Committee**") to, among other things, oversee the Restructuring Process and review any offer, proposal, transaction or other alternative that may become available in relation to the Restructuring Process, the whole in accordance with terms of reference approved by the board of directors of Bouclair, a copy of which is communicated herewith as **Exhibit P-15**.
80. In order to seek all available options for the realization of the Petitioners' assets and the maximization of their value, a sale and investment solicitation process (the "**SISP**") was conducted by the Petitioners with the assistance of the CRO and Ernst & Young Orenda Corporate Finance Inc. ("EYI").

6.2. **The Sale Process**

81. On or around August 19, 2019, Bouclair and EYI began to actively engage in conducting the SISP. As appears from EYI's "Go-to-Market Summary" communicated herewith, under seal, as **Exhibit P-16**, EYI, *inter alia*:
 - (a) performed analyses based on properly defined search criteria to develop a list of potential purchasers to present to Bouclair;

- (b) approached and successfully contacted 36 potential purchasers across Canada, the United States of America and Europe;
 - (c) provided teasers to seventeen (17) different parties as well as confidentiality agreements to five (5) potentially interested parties; and
 - (d) provided confidential information memorandums and access to an electronic data room (the "Data Room") to three (3) potentially interest parties.
82. Mr. Peter Goldberg, President of Bouclair and Bouclair International, indicated to the Petitioners at the beginning of the Restructuring Process that he would most likely present, together with a group of other investors, an offer to restructure the business and assets of the Petitioners (the "Indication of Interest") which would include, among other things:
- (a) the creation, by a group of investors comprised of Peter Goldberg and other prominent Canadian and Québec-based businessmen, of a new entity (i.e the Proposed Purchaser) that would capitalize on the Petitioners' ongoing growth of the e-commerce platform and new store format, without carrying forward certain of the Petitioners' legacy liabilities and unprofitable leases, the whole in consultation with the Petitioners' principal secured lender, NBC;
 - (b) the closure and liquidation of 29 Stores (with an additional six (6) option Stores which may be liquidated following consultation between the Petitioners and their landlords) (the "Liquidation Stores") out of the retail locations currently operated by the Petitioners, with a view to remitting the net proceeds of the liquidation to the secured creditors that hold security over said liquidated assets. A list of the Liquidation Stores is communicated herewith as Exhibit A to the Consulting Agreement (P-18);
 - (c) the acquisition by the Proposed Purchaser of all or substantially all of the Petitioners' assets and property related to the head office, the warehouse and Stores other than the Liquidation Stores; and
 - (d) the assumption of certain liabilities related to the NBC Loan, the AST Subordinated Loan, the Aljusa Subordinated Loan and certain other liabilities to be identified.
83. Interested parties participating in the SISF were informed that all offers would need to be submitted to EYI by no later than October 18, 2019. The three (3) parties which had initially indicated their interest to participate in the SISF declined to submit an offer by the bid deadline. As such, except for the Indication of Interest, EYI did not receive any indications of interest or offers in connection with the SISF.
84. At the conclusion of the SISF, despite a thorough review of their alternatives, the Indication of Interest thus represented the only viable option to restructure the affairs of the Petitioners in order to maximize and preserve the value of their business and assets.

85. Following the conclusion of the SISP, the Petitioners continued their discussions with their principal secured lender, NBC, as well as with third party lenders who may be willing to refinance the NBC Loan.
86. These discussions lead the Petitioners to explore various options whereby another lender would grant a loan to the Proposed Purchaser which would serve to reduce the exposure of the NBC under its term loan, thus reducing the portion to be assumed by the Proposed Purchaser.
87. No binding agreement has been reached to date between the Proposed Purchaser, NBC and potential other lenders. Non-binding term sheets have however been executed by the proposed equity investors and proposed lenders for the equity investors.
88. The Petitioners intend to file, as soon as possible, a separate Court application describing the Sale Transaction in more detail and seeking the issuance of an approval and vesting order in relation to the transaction to be completed pursuant to the Indication of Interest.

7. THE CONSULTING AGREEMENT

89. The second component of the Restructuring Process aims to liquidate the Liquidation Stores with the assistance of a liquidator, including the inventory, equipment and fixtures in such Liquidation Stores, with a view to remitting the net proceeds of the liquidation to the secured creditors that hold security over said assets.
90. In order to maximize the value of Bouclair's assets from the Liquidation Stores, the Petitioners solicited offers from several liquidators. Following such solicitation process, two (2) offers (the "Offers") were received by Bouclair from potentially interested liquidators.
91. Following an analysis of the Offers, the Petitioners, NBC and the CRO agreed that the most advantageous offer was the offer submitted by the Proposed Liquidator, Gordon Brothers Canada ULC.
92. The Proposed Liquidator has extensive experience in conducting liquidations and has led numerous significant inventory dispositions in Canada, including Target Canada Co., Comark Inc., Ben Moss Jewelers Western Canada Ltd., 3499481 Canada Inc. (PJ's Pet), Mexx Canada Company, 2473304 Ontario Inc. (Jones NYC), BCBG MaxAzria Canada Inc., 1104045 Canada Inc. (Bowring & Co.), 11041037 Canada Inc. (Bombay & Co.) and C & E Canada Inc. (Crabtree and Evelyn).
93. The Proposed Liquidator and Bouclair have finalized the terms of a Consulting Agreement, which remains subject to the approval of this Court, pursuant to which the Proposed Liquidator would act as the exclusive consultant to Bouclair to conduct the liquidation. For the purposes of preserving sensitive negotiations and commercial information, a redacted copy of the Consulting Agreement is communicated herewith as **Exhibit P-17**, with a full copy communicated, under seal, as **Exhibit P-18**.
94. The key terms of the Consulting Agreement are as follows:

- (a) the Proposed Liquidator will serve as the exclusive consultant to Bouclair to conduct a “store closing,” “everything must go,” “sale on everything,” and other mutually agreed upon themed sale of the inventory, equipment and fixtures located in the Liquidation Stores (the “**Sale**”);
 - (b) the liquidation process is expected to last from the date of the issuance of the Liquidation Order to December 29, 2019 (the “**Sale Term**”);
 - (c) all expenses incident to the conduct of the Sale and the operation of the Liquidation Stores during the Sale Term will be borne by Bouclair; and
 - (d) in consideration of its services, Bouclair will pay the Proposed Liquidator a fee based upon a percentage of the gross proceeds of the Sale.
95. In addition, the Consulting Agreement incorporates sale guidelines (the “**Sale Guidelines**”) which provide for sale procedures and guidelines applicable to sales to be held at the Liquidation Stores. The Sale Guidelines are communicated as **Schedule “A”** to the Draft Liquidation Order (P-4).
96. The Sale Guidelines are designed to provide guidance to the parties involved in the liquidation process and to the relevant landlords. They are based on the industry’s latest sale guidelines, as elaborated in the context of the court-supervised liquidation of Forever 21 stores.
97. Furthermore, as security for the payment and performance by Bouclair of all of its obligations to the Proposed Liquidator under the Consulting Agreement, Bouclair is required to pay to the Proposed Liquidator a deposit in the amount of \$250,000, free of all claims and encumbrances (including court ordered charges and deemed trusts) of creditors and other stakeholders of Bouclair (the “**Deposit**”).
98. The Deposit will be applied against amounts payable or reimbursable by Bouclair to the Proposed Liquidator under the Consulting Agreement.
99. The Proposal Trustee and the Petitioners’ principal senior secured creditor, NBC, have indicated that they approve the terms of the Consulting Agreement with the Proposed Liquidator, which remains subject to the approval of this Court.
100. The Petitioners respectfully submit that:
- (a) The process leading to the conclusion of the Consulting Agreement was reasonable under the circumstances;
 - (b) No superior offer was received for the assets in the Liquidation Stores, either as part of the SISP or from competing liquidators;
 - (c) Any additional solicitation efforts would be unlikely to yield a significantly better offer, and would surely result in additional costs and delays; and
 - (d) It is urgent to begin the liquidation of the Liquidation Stores seeing as there is a limited window of opportunity to liquidate the assets in these retail locations prior to the start of the Holiday season.

101. In light of the foregoing, the Petitioners submit that the Consulting Agreement should be approved and that the payment of the Deposit by the Petitioners to the Proposed Liquidator should be authorized.

8. **RELIEF SOUGHT**

8.1. **Procedural Consolidation**

102. In order to comply with the provisions of the BIA, the Petitioners filed separate NOIs, thereby inevitably causing the creation of two distinct Court files.

103. However, since their incorporation, the Petitioners have always been managed by their directors as a single corporate group.

104. Indeed, the commercial activities of the Petitioners have always been closely related due, in particular, to the following:

- (a) Bouclair is the sole shareholder of Bouclair International, as appears from a copy of the Enterprise Register's information summary of Bouclair International attached hereto as **Exhibit P-19**;
- (b) The Petitioners are managed by the same president, Mr. Goldberg, who is also the sole director and corporate secretary of Bouclair International and concurrently one of the directors of Bouclair, as appears from a copy of the Enterprise Register's information summary of Bouclair attached hereto as **Exhibit P-20** and from the Enterprise Register's information summary of Bouclair International (P-19);
- (c) The head offices and principal places of business of the Petitioners are both located at the same address, namely at 152 av. Alston, Pointe-Claire (Québec) H9R 6B4, as appears from Exhibit P-19 and Exhibit P-20;
- (d) Other than the commission it receives from certain sales, Bouclair International does not take part in any form of commercial activity and therefore has no employees;
- (e) The Petitioners internal and external financial statements and all financial reporting are always showed as consolidated; and
- (f) Internally, all services related to, among other things, the accounting and management of the Petitioners are provided by the same employees of Bouclair.

105. So as to facilitate these proceedings as well as the efforts related to the restructuring of their affairs, the Petitioners seek a procedural consolidation of both Bouclair and Bouclair International's Court files, in order for these files to be consolidated in one single Court file.

106. The Petitioners respectfully submit that a procedural consolidation of their respective insolvency files, such as proposed above, will facilitate, among other things, the Restructuring Process, while limiting duplications and therefore the costs generated by same.

107. The Petitioners also submit that the benefits of such a procedural consolidation far outweigh any prejudice that any creditor could potentially suffer from same.

8.2. The Super-Priority Charges

108. The Petitioners respectfully request that this Court grant the following super-priority charges on the Affected Assets, in priority to the claims of all other secured and unsecured creditors, in the following order of priority:
- (a) first, the Administrative Charge;
 - (b) second, the First Tranche D&O Charge;
 - (c) third, the CRO Charge, provided, however, that the CRO Charge shall rank after and be subordinated to the NBC Security registered in favour of NBC over the assets of the Petitioners in order to guarantee the NBC Loan, but in priority to any other security interest, including, without limitation, the Aljusa Subordinated Security and the AST Subordinated Security; and
 - (d) fourth, the Second Tranche D&O Charge, which Second Tranche D&O Charge shall rank after the NBC Security and the CRO Charge.

8.2.1. *The Administrative Charge*

109. The Petitioners respectfully submit that a \$300,000 administrative charge should be granted on the Affected Assets in accordance with the Draft First Day Order (P-3).
110. During these BIA proceedings, including the implementation of the Sale Transaction, the Petitioners will require the assistance of the following professionals:
- (a) The Petitioners' legal counsel, Stikeman: the undersigned counsel has been retained to assist the Petitioners in the conduct of these proceedings, including the Sale Transaction; and
 - (b) The Proposal Trustee and its legal counsel, Osler: Deloitte has agreed to act as Proposal Trustee to the Petitioners' NOIs and to assist the Petitioners in the context of their restructuring process. Deloitte has valuable insights into the Petitioners' business and is in a position to perform its monitoring duties as well as to assist the Petitioners in their restructuring process without further delay. Deloitte has retained Osler as legal counsel to assist it in the context of these proceedings.
111. The Petitioners respectfully submit that the Administrative Charge sought is necessary and appropriate, as well as reasonable, under the circumstances and that, accordingly, it should be granted in accordance with the Draft First Day Order (P-3).
112. The Proposal Trustee has advised that it is supportive of the Administrative Charge.

8.2.2. The First Tranche and Second Tranche D&O Charge

113. The Petitioners respectfully submit that the First Tranche and Second Tranche D&O Charge in an aggregate amount of \$2,200,000 should be granted on the Affected Assets in accordance with the Draft First Day Order (P-3).
114. The division of the D&O Charge in two separate tranches results from discussions with the Petitioners' principal secured creditor, with the Second Tranche D&O Charge taking rank after the CRO Charge and the NBC Security.
115. In order to continue to carry on business during these proceedings and in order to complete the restructuring of their affairs, the Petitioners require the active and committed involvement and continued participation of their directors and officers (the "Directors"), including, without limitation: Mr. Goldberg (who also manages the affairs of Bouclair International as sole director), Mr. Jeffrey York, Mr. Eric Boyko, Mr. Lionel Trombert and Mr. Frédéric Vitre, who manage the business, commercial activities and internal affairs of Bouclair.
116. Although the Petitioners intend to comply with all applicable laws and regulations, including the timely remittance of deductions at source and federal and provincial sales tax, the Directors are nevertheless concerned about the Potential D&O Liability in the context of the present proceedings.
117. The Directors currently benefit from directors and officers insurance coverage, however this coverage may prove insufficient or subject to standard exclusions which could make it difficult to cover all potential liabilities that can arise in the context of an insolvency process, including liabilities for accrued and unpaid or remitted sales taxes as well as employee wages and vacation. A copy of Bouclair's directors and officers insurance policy and its renewal letter dated October 4, 2019 are attached hereto, *en liasse* and under seal, as **Exhibit P-21**.
118. Considering the risk to which the Directors may be exposed to in assisting the Petitioners during these proceedings and the fact that certain Directors are completely independent and do not have an equity ownership of Bouclair nor are officers of Bouclair, the Directors require the Petitioners to indemnify them of all liabilities which they may incur in their capacity as Directors after the filing of these proceedings.
119. The Petitioners therefore request a Court-ordered charge (i.e. the First Tranche and Second Tranche D&O Charge) in an aggregate amount of \$2,200,000 over the Affected Assets to indemnify the Directors in respect of any Potential D&O Liability which may be incurred after the filing of the NOIs, but only to the extent that such claims are not covered by the current insurance coverage in place for the Directors of the Petitioners.
120. The Petitioners submit that the requested First Tranche and Second Tranche D&O Charge is reasonable and adequate given, notably, the potential exposure of the Directors to personal liability, especially under a scenario where the Petitioners would be unable to close the Sale Transaction.
121. The Proposal Trustee has advised that it is supportive of the First Tranche and Second Tranche D&O Charge.

8.2.3. The CRO Engagement and CRO Charge

122. On May 29, 2019, Bouclair and RC Benson entered into an Engagement Letter, as amended on June 19, 2019 (the "**CRO Engagement Letter**"), pursuant to which Mr. Benson was appointed CRO of Bouclair to assist Bouclair in evaluating and implementing strategic and tactical options in respect of the restructuring of its affair. A copy of the CRO Engagement Letter and its amendment are attached hereto, *en liasse* and under seal, as **Exhibit P-22**.
123. The CRO Engagement Letter contemplates that it will be ratified and approved by the Court in circumstances where insolvency proceedings are initiated in respect of Bouclair.
124. Pursuant to the CRO Engagement Letter, the CRO is to perform the services described below:
 - (a) Make Mr. Benson available to serve as Bouclair's CRO;
 - (b) Lead, establish and implement a work plan for the restructuring of Bouclair's affairs and carry out all necessary steps to achieve a successful, timely restructuring;
 - (c) Lead discussions and negotiations with Bouclair's stakeholders, including without limitation its prepetition lenders, interim financing lenders, and governmental entities with respect to the restructuring;
 - (d) Lead and/or direct the negotiation of all necessary agreements with potential investors, lenders, lessors, creditors, customers, stakeholders and other interested parties, including, without limitation, any amendments, waivers, extensions and/or forbearances that may be necessary or desirable in furtherance of the restructuring and secure new investments;
 - (e) Lead and/or direct the effort to develop a restructuring plan for presentation to creditors and other stakeholders of Bouclair for implementation of such restructuring plan;
 - (f) In consultation with Bouclair's management and advisors, direct responses to information requests by Bouclair's various stakeholders on a timely basis;
 - (g) Make Mr. Benson available to report to the court supervising any insolvency proceedings in respect of issues arising in such proceedings, including by swearing affidavits, as necessary, on behalf of Bouclair;
 - (h) Make Mr. Benson available to assist the directors of Bouclair; and
 - (i) Perform such other services relating to or to facilitate the restructuring and the above matters as appropriate.
125. The services provided by the CRO are and will be essential to achieve a successful, timely Restructuring Process.

126. The Petitioners respectfully submit that the CRO Engagement Letter should be approved and ratified, retroactively, by this Court and that Mr. Benson should be authorized and appointed to act as the Petitioners' CRO during the Restructuring Process and current BIA proceedings.
127. To secure the obligations owed to the CRO by Bouclair under the CRO Engagement Letter, the Petitioners respectfully submit that a CRO Charge in an aggregate amount of \$500,000 should be granted on the Affected Assets in accordance with the Draft First Day Order (P-3).
128. Given that the CRO's assistance is essential to achieve a successful, timely Restructuring Process, the Petitioners respectfully submit that the CRO Charge is necessary and appropriate, as well as reasonable, under the circumstances.
129. The Proposal Trustee has advised that it is supportive of the CRO Charge.

8.3. Payment of certain Pre-Filing Obligations to Foreign Suppliers

130. In the normal course of business, Bouclair sources an important portion of its inventory from certain suppliers located outside of the territorial jurisdiction of this Court (the "Key Suppliers") domiciled for the most part in the People's Republic of China, including, for instance, Li & Fung Limited.
131. The value of the goods sourced from the Key Suppliers represents approximately 70% of the total supply of goods bought by the Petitioners from their suppliers.
132. The Petitioners fear that any interruption of payments owed to their Key Suppliers could lead to a serious deterioration of Bouclair's business, including the interruption of deliveries for goods currently in transit and a deterioration of goodwill. These consequences would have a detrimental impact on the value of the business which is contemplated to be sold to the Proposed Purchaser.
133. Although domestic suppliers are bound by law to continue supplying the Petitioners after filing of the NOIs, provided usual conditions are met, it is feared that the rules of insolvency as they apply in Canada may be impossible to enforce on the Key Suppliers situated outside of this Court's jurisdiction.
134. It is not realistic to believe that the Petitioners will be able to seek, in a timely and effective fashion, the recognition and enforcement of the BIA proceedings in a jurisdiction such as the People's Republic of China.
135. The total amount owed to the Key Suppliers for pre-filing obligations is currently estimated at approximately \$2,300,000 (the "Pre-Filing Obligations").
136. The cash flows prepared by the Petitioners and appended to the Proposal Trustee's Report reflect payments expected to be made to the Key Suppliers for certain Pre-Filing Obligations.
137. In light of the foregoing, the Petitioners respectfully request that the Petitioners be authorized to pay certain of the Pre-Filing Obligations owing to the Key Suppliers, subject to the prior authorization of the Proposal Trustee, up to a maximum aggregate amount of \$750,000.

8.4. Relief in Relation to Rent Payments

138. The Petitioners seek an authorization to make their rental payments on a bi-monthly basis, as opposed to a monthly basis (the “**Bi-Monthly Rent Payment Authorization**”).
139. It is anticipated that this measure will ease the pressure on the Petitioners' cash flow during the Restructuring Process.
140. The landlords of the Petitioners will continue to receive rental payments for the post-filing period under their respective leases and will not suffer any material prejudice from this measure.
141. The issuance of the Bi-Monthly Rent Payment Authorization outlined above will not be sought during the hearing on the First Day Order, but rather, when the Petitioners return to Court for the approval of the Consulting Agreement.

8.5. Confidentiality

142. As mentioned, the Petitioners are privately owned, and therefore have no statutory disclosure obligations under applicable securities laws.
143. The Petitioners are therefore under no obligation to disclose their financial statements to the public.
144. The Petitioners do not wish to share the information with the general public, notably their major competitors.
145. The Petitioners submit that all financial statements produced and/or communicated in the context of the present proceedings should be kept strictly confidential and should be filed under seal along with the sensitive commercial agreements to which the Petitioners are parties. Such information will be made available to creditors of the Petitioners who execute a confidentiality agreement.
146. It is submitted that public disclosure of such sensitive financial information and documentation would be very prejudicial to the Petitioners and to their lenders, notably due to the potential use of this information by their competitors.
147. At the same time, this would cause no prejudice to their creditors, as the information would nevertheless be filed with this Court and could be made available to certain creditors upon signature of a confidentiality agreement.

9. CONCLUSIONS

148. For the reasons set forth above, the Petitioners believe it is both appropriate and necessary that the present Motion be granted. With such relief, the Petitioners expect to be able to proceed with the Restructuring Process in order to maximize the value of their business and assets for the benefit of their stakeholders.
149. Considering the urgency of the situation, the Petitioners respectfully submit that the notices given for the presentation of this Motion, as outlined in the Overview, are proper and sufficient.

150. The Petitioners respectfully submit that this Motion should be granted in accordance with its conclusions.
151. The present Motion is well founded in fact and in law.

WHEREFORE, MAY THIS COURT:

152. **GRANT** this *Motion for the Issuance of an Order (i) Creating Super-Priority Charges, (ii) Approving a Consulting Agreement and (iii) Approving Related Relief*;
153. **ISSUE**, at the hearing on the First Day Order, an order substantially in the form of the Draft First Day Order communicated as Exhibit P-3;
154. **ISSUE**, at a subsequent hearing to be scheduled by this Court, a Liquidation Order substantially in the form of the Draft Liquidation Order communicated as Exhibit P-4;

THE WHOLE WITHOUT COSTS, save and except in case of contestation.

MONTRÉAL, November 11, 2019

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Attorneys for the Petitioners

SCHEDULE "A"

AFFECTED PARTIES

A. PARTIES WITH SECURITY INTERESTS REGISTERED ON SPECIFIC STORES

1. Business Development Bank of Canada (Anjou Store)
2. Riotrin Properties (Kirkland) Inc. (Kirkland Store)
3. Riocan Holdings (Québec) Inc. (Lévis Store)
4. Place du Royaume Inc. (Chicoutimi Store)
5. Riocan Holdings (Brossard) Inc. (Brossard Store)
6. 9224-1892 Québec Inc. (Brossard Store)
7. 9171-9922 Québec Inc. (Brossard Store)
8. Vaudreuil Shopping Centres Limited (Vaudreuil Store)
9. Desjardins Sécurité Financière, Compagnie d'assurance-vie et Fonds Immobilier Cogir 1, Société en commandite (Neufchatel Store)
10. Peterborough Retail Portfolio LP (Peterborough Store)

B. CLOSING STORES LANDLORDS

1. 9045-4737 Quebec Inc. (Rosemère Store)
2. 9230-1860 Quebec Inc. (Jonquière Store)
3. Société de gestion Cogir, s.e.n.c. (Arthabaska Store)
4. Calloway REIT (Sarnia) Inc. (Sarnia Store)
5. Calloway REIT (Stouffville) Inc. (Stouffville Store)
6. Fonds immobilier Cogir 1, société en commandite (Neufchatel Store)
7. Quartier KS Laval Inc. (Quartier Laval Store)
8. Riotrin Properties (Kirkland) Inc. (Kirkland Store)
9. Calloway REIT (Chatham) Inc. (Chatham Store)
10. First Capital (Peterborough) Corporation (Peterborough Store)
11. Sudbury South Shopping Centres Limited (Sudbury South Store)
12. Calloway REIT (Woodside) Inc. (Markham Store)
13. First Capital Holdings (Quebec) Corporation Inc. (Vanier Store)
14. Lacewoods Developments Limited (Bayer's Lake Store)
15. Dartmouth Crossing 2 Limited (Dartmouth Store)
16. Riocan (Clarkson) Inc. (South Mississauga Store)
17. Riotrin Properties (Weston) Inc. (Weston St-Clair Store)
18. Calloway Reit Harmony Inc. (Oshawa Store)
19. Harvard Developments Inc. (Regina Store)
20. Riotrin Properties (Fredericton) Inc. (Fredericton Store)
21. 1651051 Alberta Ltd. (Grande Prairie Store)
22. Riocan Property Services Trust (Calgary Beacon Hill Store)
23. Riotrin Properties Inc. (Calgary Signal Hill Store)
24. 1451945 Ontario Limited (Edmonton Mayfield Common Store)
25. First Capital (Southpark) Corporation (Edmonton South Park Centre Store)
26. Anthem Heritage Hill Ltd. (Calgary Heritage Hill Store)
27. 1445006 Alberta Ltd. (Edmonton Sherwood Park Store)
28. 1090 Lougheed Highway Limited Partnership (Vancouver Coquitlam Store)
29. First Capital (Anjou) Corporation Inc. (Anjou Store)

C. OPTION STORES LANDLORDS

1. Ivanhoé Cambridge Inc. (Jean-Talon Store)
2. Cominar Real Estate Investment Trust (Shawinigan Store)
3. MCM Real Estate Trust (Marché Central Store)
4. Ivanhoé Cambridge Inc. (Laurier Store)
5. Calloway REIT (Westridge) Inc. (Vaughan Store)
6. Iberville Developments Leasing Ltd. (Candiac Store)

SCHEDULE "B"

DEFINITION OF "AFFECTED ASSETS"

"Affected Assets" means all of Bouclair Inc. and Bouclair International Inc.'s assets, but excluding the following assets:

1. The universality of all present and future moveable property, used for the exploitation of a Bouclair Inc. store located at 7151, Des Roseraies, Anjou (Place Anjou) and physically located at this location but wherever this moveable property may be located thereafter, save and except for all vehicles, present and future, of Bouclair Inc., and on which a conventional movable hypothec without delivery is registered in favour of the **Business Development Bank of Canada**;
2. The universality of all movables found in the premises leased by Bouclair Inc. at the "Centre Riocan Kirkland" bearing civic numbers 3000 to 3430 Jean-Yves Street, in the City of Kirkland, Province of Québec, including but not limited to all machinery, equipment, furniture, fixtures, inventory, merchandise and any sub-rentals receivable by Bouclair Inc. and any insurance proceeds relating to the foregoing and any other property which may at any time as of the commencement of the Term (as such term is defined in the Lease between Riotrin Properties (Kirkland) Inc. and Bouclair Inc.) be on the leased premises, and on which a conventional movable hypothec without delivery is registered in favour of **Riotrin Properties (Kirkland) Inc.**;
3. The universality of all movables found in the premises leased by Bouclair Inc. at the "Place Kennedy" bearing civic numbers 76 to 98 Route du Président-Kennedy, in the City of Lévis, Province of Québec, including but not limited to all machinery, equipment, furniture, fixtures, inventory, merchandise and any sub-rentals receivable by Bouclair Inc. and any insurance proceeds relating to the foregoing and any other property which may at any time as of the commencement of the Term (as such term is defined in the Lease between Riocan Holdings (Québec) Inc. and Bouclair Inc.) be on the leased premises, and on which a conventional movable hypothec without delivery is registered in favour of the **Riocan Holdings (Québec) Inc.**;
4. The universality of Bouclair Inc.'s moveable property, present and future, namely the whole of the moveable property of Bouclair Inc. located in the premises leased by Bouclair Inc. at the shopping centre known as "Place du Royaume", bearing civic number 1401 Talbot Boulevard, City of Chicoutimi, Province of Québec, and on which a conventional movable hypothec without delivery is registered in favour of **Place du Royaume Inc.**;
5. The universality of Bouclair Inc.'s moveable corporeal property, present and future, located in the premises leased by Bouclair Inc. at Quartier DIX30 in Brossard, Québec, and on which a conventional movable hypothec without delivery is registered in favour of **Riocan Holdings (Brossard) Inc., 9224-1892 Québec Inc. and 9171-9922 Québec Inc.**;

6. All of the rights, title and interest of Bouclair Inc. in and to the universality of all moveable improvements, equipment, machinery, furniture and trade fixtures of every kind, present and future, located on or upon the premises leased by Bouclair Inc. situated at 43-55 Boulevard Cité-des-Jeunes, Vaudreuil, Québec, J7V 8C1 or used directly or indirectly in connection with the business of Bouclair Inc. carried on at such leased premises, including all indemnities or proceeds paid under insurance contracts or policies pertaining to or covering such moveable, and on which a conventional movable hypothec without delivery is registered in favour of **Vaudreuil Shopping Centres Limited**;
7. The universality of all moveable corporeal or incorporeal property, present and future, located in the premises leased by Bouclair Inc. at store #104 in the "Carrefour Neufchatel", in the city of Neufchatel, Québec, and on which a conventional movable hypothec without delivery is registered in favour of **Desjardins Sécurité Financière, Compagnie d'assurance-vie et Fonds Immobilier Cogir 1, Société en commandite**; and
8. All of Bouclair Inc.'s present and after-acquired personal property including, without limitation, all inventory, fixtures, equipment, chattel paper, documents of title, goods, instruments, money, securities, accounts and intangibles (each as defined in the Personal Property Security Act (Ontario)) and any and all improvements which the debtor effects on or in respect of the lands and premises municipally known as unit B09, 950 Lansdowne Street, Peterborough, Ontario and all proceeds thereof, and on which a security interest is registered in favour of **Peterborough Retail Portfolio LP**.

AFFIDAVIT

I, the undersigned, Lionel Trombert, having my principal place of business at 152 av. Alston, in the city of Pointe-Claire, Province of Québec, H9R 6B4, solemnly declare the following:

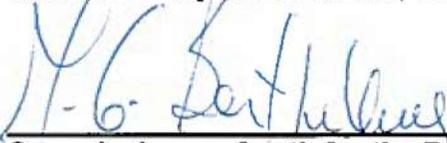
1. I am the Senior Director, Finance of Bouclair Inc.;
2. All the facts alleged in the *Motion for the Issuance of an Order (i) Creating Super-Priority Charges, (ii) Approving a Consulting Agreement and (iii) Approving Related Relief* are true.

AND I HAVE SIGNED



LIONEL TROMBERT

Solemnly declared before me at Montreal,
on the 11th day of November, 2019



Commissioner of oath for the Province
of Quebec



NOTICE OF PRESENTATION

TO: the Service List

TAKE NOTICE that the *Motion for the Issuance of an Order (i) Creating Super-Priority Charges, (ii) Approving a Consulting Agreement and (iii) Approving Related Relief*, other than the relief sought in respect to the approval of the Consulting Agreement, will be presented for adjudication before the Honourable Chantal Corriveau of the Superior Court, sitting in the commercial division, in and for the District of Montreal, in the Montréal Courthouse, 1 Notre-Dame Street East, on **Tuesday November 12, 2019 at 10:00 AM in Room 16.12.**

The relief sought in respect of the approval of the Consulting Agreement will be presented for adjudication before one of the Honourable Judges of the Superior Court, sitting in the commercial division, in and for the judicial district of Montreal, at a date and time to be determined by the Court and communicated to the Service List.

DO GOVERN YOURSELVES ACCORDINGLY.

MONTREAL, November 11, 2019



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