

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)**

**IN THE MATTER OF section 243(1) of the *Bankruptcy and Insolvency Act*, RSC 1985, c. B-3,  
as amended and section 101 of the *Courts of Justice Act*, RSO 1990, c. C43, as amended**

**B E T W E E N:**

**NATIONAL BANK OF CANADA**

Applicant

**- and -**

**EVERGREEN CONSUMER BRANDS INC.**

Respondent

**APPLICATION RECORD  
(Returnable February 13, 2020)**

February 11, 2020

**Thornton Grout Finnigan LLP**  
TD West Tower, Toronto-Dominion Centre  
100 Wellington Street West, Suite 3200  
Toronto, ON M5K 1K7  
Fax: (416) 304-1313

**Grant Moffat** (LSO# 32380L)  
Email: [gmoffat@tgf.ca](mailto:gmoffat@tgf.ca)  
Tel: (416) 304-0599

**Alexander Soutter** (LSO# 72403T)  
Email: [asoutter@tgf.ca](mailto:asoutter@tgf.ca)  
Tel: (416) 304-0595

Lawyers for the Applicant, National Bank of Canada

**TO: THE RESPONDENT  
AND TO: THIS HONOURABLE COURT**

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)**

**IN THE MATTER OF section 243(1) of the *Bankruptcy and Insolvency Act*, RSC 1985, c. B-3,  
as amended and section 101 of the *Courts of Justice Act*, RSO 1990, c. C43, as amended**

**B E T W E E N:**

**NATIONAL BANK OF CANADA**

Applicant

**- and -**

**EVERGREEN CONSUMER BRANDS INC.**

Respondent

**INDEX**

<b>Tab No.</b>	<b>Document</b>
<b>1</b>	Notice of Application returnable February 13, 2020
<b>2</b>	Affidavit of Sonia De Lorenzi sworn February 10, 2020
Exhibit "A"	Corporate Profile Report for the Borrower
Exhibit "B"	Copy of the Credit Agreement
Exhibit "C"	Copy of Security Agreement dated June 1, 2018
Exhibit "D"	Certified PPSA Enquiry Response in respect of the Borrower as at January 12, 2020
Exhibit "E"	Electronic PPSA search from the Ministry in respect of the Borrower as at February 9, 2020
Exhibit "F"	Copy of Subordination and Standstill Agreement dated September 9, 2019

<b>Tab No.</b>	<b>Document</b>
Exhibit "G"	Copy of Guarantee dated June 1, 2018
Exhibit "H"	Copy of the April 11, 2019 letter
Exhibit "I"	Copy of the June 20, 2019 letter
Exhibit "J"	Second Forbearance Agreement dated August 30, 2019
Exhibit "K"	Copy of the December 10, 2019 letter
Exhibit "L"	Demand Letter and the BIA Notice to the Borrower December 13, 2019
Exhibit "M"	Agreement amending the Second Forbearance Agreement
Exhibit "N"	Copy of the February 6, 2020 letter
Exhibit "O"	Consent of Deloitte Restructuring Inc. to act as Receiver
<b>3</b>	Draft Order (Appointing Receiver)
<b>4</b>	Blackline of draft Receivership Order against Model Receivership Order

# TAB 1

ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)

IN THE MATTER OF section 243(1) of the *Bankruptcy and Insolvency Act*, RSC 1985, c. B-3,  
as amended and section 101 of the *Courts of Justice Act*, RSO 1990, c. C43, as amended

B E T W E E N:

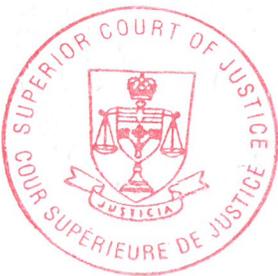
NATIONAL BANK OF CANADA

Applicant

- and -

EVERGREEN CONSUMER BRANDS INC.

Respondent



NOTICE OF APPLICATION

TO THE RESPONDENT(S)

A LEGAL PROCEEDING HAS BEEN COMMENCED by the Applicant(s). The claim made by the Applicant(s) appears on the following pages.

THIS APPLICATION will come on for a hearing before a Judge presiding over the Commercial List on **February 13, 2020** at the Court House, 330 University Avenue, Toronto, Ontario.

IF YOU WISH TO OPPOSE THIS APPLICATION, to receive notice of any step in the application or to be served with any documents in the application you or an Ontario lawyer acting for you must forthwith prepare a notice of appearance in Form 38A prescribed by the *Rules of Civil Procedure*, serve it on the Applicant(s)' lawyer or, where the Applicant(s) do not have a lawyer, serve it on the Applicant(s), and file it, with proof of service, in this court office, and you or your lawyer must appear at the hearing.

IF YOU WISH TO PRESENT AFFIDAVIT OR OTHER DOCUMENTARY EVIDENCE TO THE COURT OR TO EXAMINE OR CROSS-EXAMINE WITNESSES ON THE APPLICATION, you or your lawyer must, in addition to serving your notice of appearance, serve a copy of the evidence on the Applicant(s)' lawyer or, where the Applicant(s) do not have a lawyer,

serve it on the Applicant(s), and file it, with proof of service, in the court office where the application is to be heard as soon as possible, but at least four days before the hearing.

**IF YOU FAIL TO APPEAR AT THE HEARING, JUDGMENT MAY BE GIVEN IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF YOU WISH TO OPPOSE THIS APPLICATION BUT ARE UNABLE TO PAY LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.**

Date Feb 11, 2020

Issued by  Jan Plonka  
Local Registrar

Address of court office: 330 University Avenue, 10th Floor  
Toronto ON M5G 1R7

**TO:** THE SERVICE LIST

## APPLICATION

1. **THE APPLICANT**, National Bank of Canada (the “**Bank**”) makes this application for an order, among other things:
  - (a) abridging the time for service of this Notice of Application and the Application Record, and dispensing with further service thereof;
  - (b) appointing Deloitte Restructuring Inc. (“**Deloitte**”) as the receiver and manager (in such capacity, the “**Receiver**”) of the property, assets and undertaking (the “**Property**”) of Evergreen Consumer Brands Inc. (the “**Borrower**”);
  - (c) staying all rights and remedies against the Borrower, the Receiver, or affecting the Property; and
  - (d) such further and other relief as this Honourable Court may deem just.

### THE GROUNDS FOR THE APPLICATION ARE:

2. The Borrower carries on business as a manufacturer and distributor of personal grooming products from leased premises located in Brampton, Ontario. The Borrower’s principal assets are its accounts receivable, inventory, equipment, and intellectual property.
3. The shares of the Borrower are held by the Lynne and Bruce Friedman Family Trust, Immel Holdings, LLC, and The Aronow Family Trust Dated May 27, 2010 (each, a “**Shareholder**”, and collectively, the “**Shareholders**”). The majority of the Borrower’s

shares are held by the Lynne and Bruce Friedman Family Trust and Immel Holdings, LLC (together, the “**Majority Shareholders**”).

### **The Credit Agreement**

4. Pursuant to a credit agreement dated June 1, 2018 between the Borrower and the Bank (the “**Credit Agreement**”), the Bank made available to the Borrower the following credit facilities (the “**Credit Facilities**”):
  - (a) an operating line of credit (the “**Revolver Facility**”) limited to the lesser of the principal amount of \$10,000,000 (the “**Revolver Commitment**”) and the amount of the “**Revolver Borrowing Base**”, which is calculated with reference to the value of certain of the Borrower’s inventory and accounts receivable, less the amount of certain claims which rank in priority to the claims of the Bank. The Revolver Facility is utilized by the Borrower to fund its working capital needs;
  - (b) a non-revolving term loan facility in the principal amount of USD\$11,538,461.50 (the “**Term Facility**”). The Term Facility was utilized by the Borrower to partly finance the acquisition of the Salon Selectives and Daily Defense brands in 2018; and,
  - (c) a MasterCard facility limited to \$250,000.
5. As at February 10, 2020, the Borrower was indebted to the Bank under the Revolver Facility in the amount of CAD\$4,384,276, under the Term Facility in the amount of USD\$10,168,269 and under the MasterCard Facility in the amount of \$158,330, together with interest, costs and fees, including legal fees and disbursements, incurred by the Bank

to the date of payment. In addition, there is currently an overdraft under the Borrower's Canadian dollar current account with the Bank in the amount of approximately CAD\$441,000.

6. In addition to the Borrower's indebtedness under the Credit Facilities, the Borrower is indebted to the Bank pursuant to an interest rate swap and a forward foreign exchange contract. As at February 10 2020, the estimated amount of the Borrower's indebtedness to the Bank under the interest rate swap and forward foreign exchange contract is CAD\$355,000 and CAD\$14,000 respectively.

#### **Security Held by the Bank**

7. Pursuant to the Credit Agreement, and as security for all of its obligations to the Bank, the Borrower granted to the Bank security upon all of its real and personal property pursuant to a General Security Agreement dated June 1, 2018 (the "**GSA**"). It is a term of the GSA that the Bank may appoint a receiver upon default by the Borrower of any of its obligations to the Bank.
8. The Bank made a registration against the Borrower pursuant to the *Personal Property Security Act* (Ontario) (the "**PPSA**") on May 18, 2018 against all classes of collateral, except "consumer goods" (the "**Bank Registration**"). Other than certain PPSA registrations against the Borrower involving specific equipment, there is only one PPSA registration against the Borrower prior in time to the Bank Registration, being a registration in favour of FWCU Capital Corp ("**FWCU**").

9. Pursuant to a Subordination and Standstill Agreement dated September 9, 2019, between the Borrower, the Bank and FWCU, a subsidiary of First West Credit Union, FWCU subordinated the security it holds on the assets of the Borrower and all right, title and interest thereunder in favour of the security held by the Bank on the assets of the Borrower.

#### **Appointment of Deloitte as Consultant to the Bank**

10. In early 2019, the Bank became concerned with the Borrower's financial position. The Bank, with the consent of the Borrower, retained Deloitte as the Bank's consultant (in such capacity, the "**Consultant**") to review, among other things, the financial position of the Borrower and the Bank's security position.

#### **History of Defaults Under the Credit Agreement**

11. Following certain defaults committed by the Borrower under the Credit Agreement (including as a result of advances under the Revolver Facility exceeding the amount of the Revolver Borrowing Base), the Bank, the Borrower and the Majority Shareholders entered into a forbearance agreement dated May 27, 2019 (the "**First Forbearance Agreement**"). Among other things, the First Forbearance Agreement required the Borrower to deliver to the Bank a commitment from FWCU to make an equity investment in the Borrower of \$3 million by July 19, 2019.
12. The Borrower defaulted in its obligations to the Bank under the First Forbearance Agreement, including as a result of a further overdraft in the amount of at least \$340,000 which arose under the Revolver Facility on or about June 13, 2019.

13. Although the Bank was entitled to terminate its forbearance, the Bank agreed to permit a further overdraft under the Revolver Facility of up to \$585,908 (the “**Temporary Overdraft**”) to allow the Borrower to fund those critical payments necessary to fund its business operations while it developed a strategy to meet its ongoing working capital requirements. It was a term of the foregoing accommodation that the Borrower appoint a restructuring officer to assist the Borrower in developing a strategy to meet its working capital needs and allow the Borrower to continue business in the ordinary course.
14. The Temporary Overdraft was reduced to zero by June 28, 2019. The Borrower ultimately retained a Chief Information Officer (the “**CIO**”) to assist the Borrower in addressing its short term liquidity crisis, developing strategic options for the Borrower and certain other tasks critical to stabilizing the Borrower’s financial situation.
15. The Borrower was unable to obtain the required investment from FWCU prior to the forbearance deadline under the First Forbearance Agreement. The Borrower requested that the Bank provide additional time for the Borrower to obtain the FWCU funding. The Bank agreed but only on the basis that the Borrower obtain replacement financing sufficient to permanently repay the Credit Facilities (“**Replacement Financing**”).
16. The Borrower, the Majority Shareholders and the Bank entered into a second forbearance agreement dated August 30, 2019 (the “**Second Forbearance Agreement**”) pursuant to which the Bank agreed to provide the Borrower until March 31, 2020 to obtain Replacement Financing. It was a condition of the Second Forbearance Agreement that no further overdrafts would occur under the Revolver Facility. The Bank also agreed to defer certain principal payments under the Term Loan.

17. As required by the Second Forbearance Agreement, the Borrower obtained additional funding in the total amount of \$3,000,000 from FWCU and the Majority Shareholders in September 2019 to assist the Borrower in meeting its working capital needs.
18. The Borrower defaulted under the Second Forbearance Agreement as a result of, among other things, an overdraft which arose under the Borrower's current account with the Bank.
19. Notwithstanding such overdraft and the other defaults under the Second Forbearance Agreement, the Bank agreed, at the Borrower's request, to increase this overdraft by approximately \$105,000 to enable the Borrower to fund its payroll due December 4, 2019. Although this overdraft was reduced to zero on December 9, 2019, further overdrafts under that account have periodically arisen since that date and the Borrower's accounts with the Bank remain in an overdraft position.
20. By letter dated December 10, 2019, the Bank confirmed the defaults under the Second Forbearance Agreement and advised that the Bank intended to demand payment of the Credit Facilities.
21. By letter dated December 13, 2019 (the "**Demand Letter**"), the Bank demanded payment of all amounts outstanding under the Credit Facilities and together therewith delivered to the Borrower a Notice of Intention to Enforce Security (the "**BIA Notice**") pursuant to section 244 of the BIA.
22. The Borrower again requested that the Bank forbear from enforcing its rights and remedies against the Borrower notwithstanding the ongoing defaults under the Second Forbearance Agreement. The Bank was only prepared to do so subject to certain conditions, in

particular that, in addition to seeking Replacement Financing, the Borrower immediately commence a process satisfactory to the Bank to solicit offers to purchase its assets and business operations (the “**Business**”).

23. On December 16, 2019, the Borrower, the Shareholders (including The Aronow Family Trust) and the Bank entered into an agreement amending certain terms of the Second Forbearance Agreement (the “**Amending Agreement**”). The Borrower has agreed to permanently repay and cancel the Credit Facilities by February 21, 2020 through a sale of the Business or Replacement Financing.

#### **The Sale and Investment Solicitation Process**

24. The Borrower retained Alvarez and Marsal Canada Securities ULC (“**A&M**”) to assist the Borrower in obtaining Replacement Financing and to conduct a sale and investment solicitation process for the Business (the “**SISP**”).
25. The SISP conducted by A&M has produced multiple proposals to purchase the Business. None of these proposals provide for a purchase price in excess of the Borrower’s indebtedness to the Bank and FWCU. Each proposal requires a vesting order to be issued in order to effect the conveyance of the Business free and clear of creditor claims.
26. Although negotiations regarding these binding proposals are ongoing, in light of the Borrower’s increasingly distressed financial situation, the Bank believes that it is now appropriate for the Receiver to be appointed to take possession and control of the Property, take carriage of the SISP, and identify the most favourable offer.

### **Need for a Receiver**

27. The appointment of the Receiver is necessary and appropriate as a result of the following:
- (a) the Borrower's accounts with the Bank are in an overdraft position. The Borrower has ceased production of its personal care products and the Revolver Borrowing Base continues to decline as a result of inventory sales and collection of accounts receivable not being replaced with new production. Since collections of accounts receivable are not being applied in reduction of the Revolver Facility, this results in further erosion of the Bank's security position;
  - (b) the Borrower has been unable to obtain Replacement Financing and the SISP did not produce any proposal to recapitalize the Borrower. The only alternative to the Borrower and its stakeholders is a sale of the Business. All binding proposals to purchase the Business submitted to A&M pursuant to the SISP require that the Business be conveyed pursuant to a vesting order. The appointment of the Receiver at this stage will ensure that a court officer identifies the most favourable transaction for the sale of the Business and will provide an efficient and time sensitive mechanism to obtain such an order;
  - (c) the Borrower has repeatedly defaulted in its obligations to the Bank under the Credit Agreement, the First Forbearance Agreement, and the Second Forbearance Agreement, as amended by the Amending Agreement. Those defaults entitle the Bank to terminate its forbearance. Although the Bank has tolerated overdrafts and other defaults while the SISP has been conducted, the Bank is no longer prepared

to tolerate such defaults given the results of the SISP and the continuing erosion of its security position;

- (d) as set out in the Amending Agreement, the Demand Letter and the BIA Notice have not been withdrawn by the Bank but remain in force and effect. As required by the Amending Agreement, the Borrower has previously waived the 10 day period under the BIA Notice. Pursuant to the Second Forbearance Agreement, as amended by the Amending Agreement, if the Bank terminates its forbearance, the Borrower and the Shareholders have agreed that the Bank may immediately enforce all of its rights and remedies against the Borrower and the Shareholders, and have specifically agreed to consent to the appointment of a receiver or receiver/manager of the Borrower.

28. Deloitte has consented to act as the Receiver.

***Rules & Statutes***

29. Rules 2.03, 3.02, 14.05(2), and 41 of the *Rules of Civil Procedure* (Ontario).

30. Section 243(1) of the BIA and section 101 of the CJA.

31. Such other grounds as this Honourable Court may permit.

32. **THE FOLLOWING DOCUMENTARY EVIDENCE will be used at the hearing of the application:**

- (a) the Affidavit of Sonia de Lorenzi, sworn February 10, 2020;
- (b) the consent of Deloitte to act as Receiver; and

(c) such other material as this Honourable Court may permit.

February 11, 2020

THORNTON GROUT FINNIGAN LLP  
100 Wellington Street West, Suite 3200  
Toronto, ON, M5K 1K7

Tel: 416.304.1616  
Fax: 416.304.1313

**Grant Moffat** (LSO #32380L)  
[gmoffat@tgf.ca](mailto:gmoffat@tgf.ca)  
**Alexander Soutter** (LSO #72403T)  
[asoutter@tgf.ca](mailto:asoutter@tgf.ca)

Lawyers for the Applicant, National Bank  
of Canada

**TO:** THE RESPONDENT

**AND TO:** FWCU CAPITAL CORP., a secured creditor

**AND TO:** THIS HONOURABLE COURT

IN THE MATTER OF section 243(1) of the *Bankruptcy and Insolvency Act*, RSC 1985, c B-3, as amended, and section 101 of the *Courts of Justice Act*, RSO 1990, c C46, as amended

NATIONAL BANK OF CANADA  
Applicant - and -

EVERGREEN CONSUMER BRANDS INC.  
Respondent

Court File No.:  
*CY-20-00636080-00CL*

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)**

Proceedings commenced at Toronto, Ontario

**NOTICE OF APPLICATION**

**Thornton Groat Finnigan LLP**  
TD West Tower, Toronto-Dominion Centre  
100 Wellington Street West, Suite 3200  
Toronto, ON M5K 1K7  
Fax: (416) 304-1313

**Grant Moffat (LSO# 32380L)**  
Email: [gmoffat@tgf.ca](mailto:gmoffat@tgf.ca)  
Tel: (416) 304-0599

**Alexander Soutter (LSO# 72403T)**  
Email: [asoutter@tgf.ca](mailto:asoutter@tgf.ca)  
Tel: (416) 304-0595

Lawyers for the Applicant, National Bank of Canada

# TAB 2

Court File No.:

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)**

**IN THE MATTER OF section 243(1) of the *Bankruptcy and Insolvency Act*, RSC 1985, c. B-3,  
as amended and section 101 of the *Courts of Justice Act*, RSO 1990, c. C43, as amended**

**B E T W E E N:**

**NATIONAL BANK OF CANADA**

Applicant

**- and -**

**EVERGREEN CONSUMER BRANDS INC.**

Respondent

**AFFIDAVIT OF SONIA DE LORENZI  
(Sworn February 10, 2020)**

I, **SONIA DE LORENZI**, of the City of Toronto, in the Province of Ontario, MAKE OATH AND SAY AS FOLLOWS:

1. I am a Senior Manager in the Special Loans Group of National Bank of Canada (the “**Bank**”) and have primary responsibility for the credit facilities made available by the Bank to Evergreen Consumer Brands Inc. (the “**Borrower**”). As such, I have knowledge of the matters to which I hereinafter depose, which knowledge is either personal to me, obtained from a review of the documents to which I refer, or, where indicated, based on information and belief, in which case I verily believe such information to be true. Where I have indicated that I have obtained facts from other sources, I have identified the sources and I believe those facts to be true.

2. This affidavit is sworn in support of an application by the Bank for an order appointing Deloitte Restructuring Inc. (“**Deloitte**”) as the receiver and manager (the “**Receiver**”) of the property, assets and undertaking (the “**Property**”) of the Borrower pursuant to section 243(1) of the *Bankruptcy and Insolvency Act*, RSC 1985, c. B-3, as amended (the “**BIA**”) and section 101 of the *Courts of Justice Act*, RSO 1990, c. C43, as amended.

### **Corporate History**

3. According to the records maintained by the Ontario Ministry of Government Services (the “**Ministry**”), the Borrower was formed under the Ontario *Business Corporations Act* (the “**OBCA**”) on November 30, 2016 as a result of an amalgamation between: i) Evergreen Consumer Brands Inc.; ii) Silkience Holdings Inc.; iii) Lavis Holdings Inc.; iv) 2494598 Ontario Inc.; v) and 2516150 Ontario Inc. The registered head office of the Borrower is in Brampton, Ontario. The Corporation Profile Report for the Borrower lists Bruce Friedman and Steve Immel as Directors and Officers, and Sam Aronow as a Director. A copy of the Corporate Profile Report for the Borrower is attached as **Exhibit “A”**.
4. The common shares of the Borrower are held by the Lynne and Bruce Friedman Family Trust, Immel Holdings, LLC, and The Aronow Family Trust Dated May 27, 2010 (each, a “**Shareholder**”, and collectively, the “**Shareholders**”). Based on the share pledges delivered to the Bank by the Shareholders in 2018, the majority of the Borrower’s common shares are held by the Lynne and Bruce Friedman Family Trust and Immel Holdings, LLC (together, the “**Majority Shareholders**”).

## **Business Operations**

5. The Borrower carries on business as a manufacturer and distributor of personal grooming products, primarily shampoo and body wash, under several brand names including Salon Selectives, Daily Defense, Silkience, and Lavoris. The Borrower sells its products to value and mass retail stores in the United States, Canada and Europe. The majority of the Borrower's sales are to two customers in the United States.
6. The Borrower operates from leased premises located at 100 Delta Park Boulevard, Brampton, Ontario (the "**Premises**"). The Borrower manufactures and packages certain of its branded products at the Premises. The Borrower also retains third parties ("**Fillers**") to manufacture and package certain products on behalf of the Borrower. The Borrower currently has approximately 39 production and head office employees, all of whom work at the Premises. The Borrower also utilizes a temporary employment agency to staff certain of its production, packaging and shipping activities.
7. The Borrower's employees are paid through a third party payroll service. Based on the most recent reporting delivered by the Borrower to the Bank, the Borrower is not in arrears of payment to Canada Revenue Agency of any amounts relating to employee source deductions. However, the Borrower is in arrears of payment to the temporary employment agency.
8. The Borrower's principal assets are its accounts receivable, inventory, equipment, and intellectual property. The Borrower's raw materials inventory is located at the Premises as well as with certain Fillers. The Borrower stores its finished goods inventory at the Premises and in space leased from five separate warehouses, three of which are located in

Ontario and two of which are located in Buffalo and Cheektowaga, New York (collectively, the “**Warehouses**”). The owner or landlord of each of the Warehouses has granted to the Bank a landlord waiver or collateral access agreement which, subject to certain limitations, permits the Bank to recover the property of the Borrower located at the subject Warehouse.

### **The Credit Agreement**

9. Pursuant to a credit agreement dated June 1, 2018 between the Borrower and the Bank (the “**Credit Agreement**”), the Bank made available to the Borrower the following credit facilities (the “**Credit Facilities**”):

- (a) an operating line of credit (the “**Revolver Facility**”) limited to the lesser of the principal amount of \$10,000,000 (the “**Revolver Commitment**”) and the amount of the “**Revolver Borrowing Base**”, which is calculated with reference to the value of certain of the Borrower’s inventory and accounts receivable, less the amount of certain claims which rank in priority to the claims of the Bank. The Revolver Facility is utilized by the Borrower to fund its working capital needs;
- (b) a non-revolving term loan facility in the principal amount of USD\$11,538,461.50 (the “**Term Facility**”). The Term Facility was utilized by the Borrower to partly finance the acquisition of the Salon Selectives and Daily Defense brands in 2018; and,
- (c) a MasterCard facility limited to \$250,000 (the “**MasterCard Facility**”).

A copy of the Credit Agreement is attached as **Exhibit “B”**.

10. As at February 10, 2020, the Borrower was indebted to the Bank under the Revolver Facility in the amount of CAD\$4,384,276, under the Term Facility in the amount of USD\$10,168,269 and under the MasterCard Facility in the amount of \$158,330, together with interest, costs and fees, including legal fees and disbursements, incurred by the Bank to the date of payment. In addition, there is currently an overdraft under the Borrower's Canadian dollar current account with the Bank in the amount of approximately CAD\$441,000.
11. In addition to the Borrower's indebtedness under the Credit Facilities, the Borrower is indebted to the Bank pursuant to an interest rate swap and a forward foreign exchange contract. As at February 10 2020, the estimated amount of the Borrower's indebtedness to the Bank under the interest rate swap and forward foreign exchange contract is CAD\$355,000 and CAD\$14,000 respectively.

### **Security Held by the Bank**

#### *General Security Agreement*

12. Pursuant to the Credit Agreement, and as security for all of its obligations to the Bank, the Borrower granted to the Bank security over all of its real and personal property pursuant to a General Security Agreement dated June 1, 2018 (the "GSA"), a copy of which is attached as **Exhibit "C"**.
13. It is a term of the GSA that the Bank may appoint a receiver upon default by the Borrower of any of its obligations to the Bank.

*Registrations and Subordination of FWCU's Security*

14. The Bank made a registration against the Borrower pursuant to the *Personal Property Security Act* (Ontario) (the “PPSA”) on May 18, 2018 against all classes of collateral, except “consumer goods” (the “**Bank Registration**”). A copy of a PPSA Enquiry Response Certificate from the Ministry in respect of the Borrower certified as at January 12, 2020 is attached as **Exhibit “D”**.
15. A copy of an electronic PPSA search from the Ministry in respect of the Borrower as at February 9, 2020 is attached as **Exhibit “E”**.
16. Other than certain PPSA registrations against the Borrower involving specific equipment, there is only one PPSA registration against the Borrower prior in time to the Bank Registration, being a registration in favour of FWCU Capital Corp (“**FWCU**”).
17. Pursuant to a Subordination and Standstill Agreement dated September 9, 2019 between the Borrower, the Bank and FWCU, a subsidiary of First West Credit Union (the “**Subordination Agreement**”), FWCU subordinated the security it holds on the assets of the Borrower and all right, title and interest thereunder in favour of the security held by the Bank on the assets of the Borrower. A copy of the Subordination and Standstill Agreement is attached as **Exhibit “F”**.
18. FWCU originally made a loan to the Borrower in the amount of \$10,000,000 to partially fund the Borrower’s acquisition of the Salon Selectives and Daily Defense brands in 2018 and, as described below, has since made further subordinated advances to the Borrower.

### *Guarantees*

19. The Shareholders guaranteed the obligations of the Borrower to the Bank pursuant to a guarantee dated June 1, 2018 (the “**Guarantee**”). Recourse under the Guarantee is limited to each Shareholder’s Collateral (as that term is defined in the Guarantee) and all income, capital and proceeds derived therefrom. A copy of the Guarantee is attached as **Exhibit “G”**.

### **History of Defaults under the Credit Agreement**

20. In early 2019, the Bank became concerned with the Borrower’s financial position as a result of, among other things, the failure by the Borrower to meet certain quarterly financial covenants under the Credit Agreement.
21. By letter dated February 25, 2019 (the “**Deloitte Engagement Letter**”), the Bank, with the consent of the Borrower, retained Deloitte as the Bank’s consultant (in such capacity, the “**Consultant**”) to review, among other things, the financial position of the Borrower and the Bank’s security position.
22. A dispute arose between the Bank and the Borrower regarding the correct calculation of the Revolver Borrowing Base. By letter dated April 11, 2019, the Bank confirmed that, even utilizing the Borrower’s calculation of the Revolver Borrowing Base, advances to the Borrower under the Revolver Facility exceeded the amount of the Revolver Borrowing Base by \$284,710, which resulted in a corresponding overdraft under the Borrower’s current account with the Bank. A copy of the April 11, 2019 letter is attached as **Exhibit “H”**.

### **The First Forbearance Agreement**

23. Thereafter, discussions continued between the Bank and the Borrower regarding the manner in which the Borrower would address the Bank's concerns with respect to its financial position and the basis upon which the Bank would be prepared to forbear from enforcing its rights and remedies as a result of the defaults committed by the Borrower under the Credit Agreement.
  
24. Those discussions culminated in a forbearance agreement dated May 27, 2019 (the "**First Forbearance Agreement**"). The First Forbearance Agreement was executed by the Borrower and the Majority Shareholders but not by The Aronow Family Trust dated May 27, 2010. Among other things, the First Forbearance Agreement required the Borrower to deliver to the Bank a commitment from FWCU to make an equity investment in the Borrower of \$3 million by July 19, 2019. The Borrower was also required to deliver to the Bank a plan for returning to compliance with its financial covenants under the Credit Agreement.
  
25. The Borrower defaulted in its obligations to the Bank under the First Forbearance Agreement, including as a result of (i) a further overdraft in the amount of at least \$340,000 which arose under the Revolver Facility on or about June 13, 2019 as a result of a reduction to the amount of the Revolver Borrowing Base; and (ii) the delivery to the Bank of updated 13 week cash flow forecasts on June 14 and 18, 2019 which projected that, pending receipt of the \$3,000,000 investment from FWCU during the week of August 23, 2019, the Borrower would require advances under the Revolver Facility in excess of both the

Revolver Commitment of \$10,000,000 and the projected amount of the Revolver Borrowing Base, peaking at a projected overdraft of approximately \$927,000.

26. By letter dated June 20, 2019, the Bank confirmed the foregoing defaults but also agreed that, until June 28, 2019, advances under the Revolver Facility could exceed the amount of the Revolver Borrowing Base by up to \$585,908 (the “**Temporary Overdraft**”) to allow the Borrower to fund those critical payments necessary to maintain its business operations while it developed a strategy to meet its ongoing working capital requirements. It was a term of the foregoing accommodation that the Borrower appoint a restructuring officer to assist the Borrower in developing a strategy to meet its working capital needs and allow the Borrower to continue business in the ordinary course. A copy of the June 20, 2019 letter is attached as **Exhibit “I”**.
27. The Temporary Overdraft was reduced to zero by June 28, 2019. The Borrower ultimately retained Blair Davidson as its Chief Information Officer (the “**CIO**”) to assist the Borrower in addressing its short term liquidity crisis, developing strategic options for the Borrower and certain other tasks critical to stabilizing the Borrower’s financial situation.
28. The Borrower was unable to obtain the required investment from FWCU prior to the July 31, 2019 forbearance deadline under the First Forbearance Agreement. However, discussions regarding that investment continued during August 2019 and the Borrower requested that the Bank provide additional time for the Borrower to obtain the FWCU funding. The Bank confirmed that it was prepared to do so but only on the basis that the Borrower obtain replacement financing sufficient to permanently repay the Credit Facilities (“**Replacement Financing**”).

29. Pursuant to the forbearance agreement between the Borrower, the Majority Shareholders and the Bank dated August 30, 2019 (the “**Second Forbearance Agreement**”), the Bank agreed to provide the Borrower until March 31, 2020 (the “**Forbearance Deadline**”) to obtain Replacement Financing, subject to the terms of the Second Forbearance Agreement. A copy of the Second Forbearance Agreement is attached as **Exhibit “J”**.
30. It is a term of the Second Forbearance Agreement that at no time may advances under the Revolver Facility exceed the lesser of the Revolver Commitment of \$10,000,000 and the amount of the Revolver Borrowing Base in effect from time to time. However, in order to reduce the strain on the Borrower’s working capital needs, the Bank agreed to defer 100% of the principal payment due under the Term Facility on September 6, 2019 and 50% of the principal payments due on December 1, 2019 and March 1, 2020.
31. In order to fund its working capital needs in excess of the credit available under the Revolver Facility, the Borrower agreed that it would obtain additional funding in the total amount of \$3,000,000 from FWCU and the Majority Shareholders (the “**New Subordinated Loans**”) by September 20, 2019. The full amount of the New Subordinated Loans was advanced to the Borrower in September 2019, although I am not aware if both of the Majority Shareholders provided funding to the Borrower.
32. The Borrower defaulted under the Second Forbearance Agreement as a result of, among other things:
  - (a) failing to obtain a valuation of its inventory and report to the Bank regarding same as required;

- (b) failing to pay the December 1, 2019 principal payment under the Term Loan when due; and,
  - (c) an overdraft which arose under the Borrower's current account with the Bank on or about December 4, 2019.
33. Notwithstanding the overdraft under its account with the Bank and the other defaults under the Second Forbearance Agreement, the Borrower requested that the Bank increase the overdraft under its account with the Bank by approximately \$105,000 to enable the Borrower to fund its payroll due December 4, 2019. The Bank agreed to do so. Although the overdraft under the Borrower's account with the Bank was reduced to zero on December 9, 2019, further overdrafts under that account have periodically arisen since that date.
34. By letter dated December 10, 2019, the Bank confirmed the defaults under the Second Forbearance Agreement and advised that the Bank intended to demand payment of the Credit Facilities. A copy of the December 10, 2019 letter is attached as **Exhibit "K"**.
35. Under the terms of the Subordination Agreement, the Bank agreed to provide FWCU with 72 hours' prior notice of any demand for payment of the Credit Facilities. Also by letter dated December 10, 2019, the Bank provided notice to FWCU in accordance with the terms of the Subordination Agreement that it intended to demand payment of the Credit Facilities and take steps to enforce the security held by the Bank.
36. By letter dated December 13, 2019 (the "**Demand Letter**"), the Bank demanded payment of all amounts outstanding under the Credit Facilities and together therewith delivered to the Borrower a Notice of Intention to Enforce Security (the "**BIA Notice**") pursuant to s.

244 of the BIA. A copy of the Demand Letter and the BIA Notice are attached as **Exhibit “L”**.

37. The Borrower again requested that the Bank forbear from enforcing its rights and remedies against the Borrower notwithstanding the ongoing defaults under the Second Forbearance Agreement. The Bank was only prepared to do so subject to certain conditions, in particular that, in addition to seeking Replacement Financing, the Borrower immediately commence a process satisfactory to the Bank to solicit offers to purchase its assets and business operations (the “**Business**”). However, the cash flow projections provided to the Bank by the Borrower confirmed that the Borrower would require funding in excess of the Revolver Borrowing Base in order to fund its operations while it conducted the sale process. The Borrower requested that the Bank provide that additional funding as neither the Shareholders nor FWCU was willing to do so.
38. On December 16, 2019, the Borrower, the Shareholders (including The Aronow Family Trust dated May 27, 2010) and the Bank entered into an agreement amending certain terms of the Second Forbearance Agreement (the “**Amending Agreement**”), a copy of which is attached as **Exhibit “M”**. Given the Borrower’s liquidity constraints, the Forbearance Deadline under the Second Forbearance Agreement was moved forward from March 31, 2020 to February 21, 2020. Pursuant to the Amending Agreement, the Borrower has agreed to permanently repay and cancel the Credit Facilities by February 21, 2020 through a sale of the Business or utilizing Replacement Financing.
39. In order to permit the Borrower to meet its working capital needs while it conducts its sale process and seeks Replacement Financing, the Bank again agreed to increase the maximum

credit available under the Revolver Facility. Pursuant to the Amending Agreement, advances under the Revolver Facility are limited to the lesser of the Revolver Commitment (reduced by the Amending Agreement to \$6,000,000) and the amount of the Revolver Borrowing Base in effect from time to time plus the amount of the “**Permitted Borrowing Base Shortfall**” which fluctuates on a weekly basis as set out in a schedule to the Amending Agreement. The Permitted Borrowing Base Shortfall may not exceed \$1,100,000.

#### **Further Forbearance Defaults**

40. On January 10, 2020, I was advised by the CIO that three of the Borrower’s customers, including its two largest customers, had notified the Borrower that they had cancelled outstanding orders with the Borrower. These customers represent over 60% of the Borrower’s sales. I am advised by the CIO that the Borrower is unable to fill these customers’ backlog of orders without additional working capital.
  
41. The Revolver Borrowing Base has deteriorated over the past several weeks as the Borrower has been unable to replace collections of accounts receivable with an equal amount of new sales. In addition, the value of the inventory stored at the Warehouse owned/operated by Essa Logistics, LLC (“**Essa**”) in Cheektowaga, New York eligible for inclusion in the Revolver Borrowing Base has been reduced by the amount owing by the Borrower to Essa since, under the terms of the bailee waiver provided by Essa to the Bank, Essa may be entitled to assert a claim to the inventory in its possession in priority to the Bank’s security interest as a result of certain fees remaining unpaid by the Borrower for more than fourteen days.

42. The deterioration in the Revolver Borrowing Base ultimately resulted in an overdraft arising under the Borrower's account with the Bank on or about January 22, 2020 in the amount of approximately \$386,000. By email of the same date, I advised the Borrower of the overdraft and confirmed that the Bank would not honour any further payments from the Borrower's account with the Bank until the overdraft was eliminated.
43. Later that day, the Borrower requested that the Bank permit the Borrower to pay approximately USD\$30,000 to Essa in consideration of Essa releasing \$280,000 of finished goods inventory to the Borrower's largest customer, thus creating an account receivable in the same amount. Notwithstanding the existence of the overdraft, the Bank agreed to do so as a one-time accommodation to the Borrower.
44. The Borrower's calculation of the Revolver Borrowing Base as at January 24, 2020 was delivered to the Bank on January 28, 2020. Following review by the Consultant, the Bank confirmed to the Borrower that the amount of the Revolver Borrowing Base was \$3,618,386. After accounting for the amount of the Permitted Borrowing Base Shortfall, an overdraft remained under the Borrower's accounts with the Bank in the amount of approximately \$277,000.
45. Given the overdrafts under the Borrower's current accounts and certain other defaults committed by the Borrower under the Second Forbearance Agreement (as amended by the Amending Agreement), the Bank is entitled to terminate its forbearance at any time and take steps to enforce the Security. However, in order to permit the Borrower to maintain limited operations while it conducts its sale process, by email dated January 29, 2020, I confirmed to the Borrower that the Bank would permit the Borrower to utilize deposits to

its accounts with the Bank to fund critical payments as reviewed by the CIO rather than applying those deposits in reduction of the overdraft.

46. By letter dated February 6, 2020, the Bank confirmed that, given the defaults committed by the Borrower under the Second Forbearance Agreement (as amended by the Amending Agreement), the Bank reserved its right at any time and without further notice to the Borrower to enforce all of its rights and remedies against the Borrower. A copy of the February 6, 2020 letter is attached as **Exhibit “N”**.
47. As described below, given the results of the Borrower’s sale process, it is now necessary for the Receiver to be appointed in order to carry out a sale of the Business.

#### **Status of the SISP**

48. The Borrower originally retained Alvarez and Marsal Canada Securities ULC (“**A&M**”) to assist the Borrower in obtaining Replacement Financing pursuant to an engagement letter dated October 30, 2019 (the “**Engagement Letter**”). I am advised by Mr. Rowan-Legg, a Managing Director with A&M, that A&M’s search for Replacement Financing has been unsuccessful and no party was prepared to provide Replacement Financing sufficient to repay the Borrower's indebtedness to the Bank.
49. Pursuant to a supplement to the Engagement Letter dated December 19, 2019 (the “**Supplement**”), the Borrower retained A&M to conduct a sale and investment solicitation process for the Business (the “**SISP**”). The Bank has consented to the retainer of A&M on the terms of the Engagement Letter and the Supplement (together, the “**A&M Engagement Agreement**”). Subject to certain conditions, including that any sale transaction must be

satisfactory to the Bank in its sole discretion, the Bank has confirmed to A&M that the fee payable by the Borrower to A&M in connection with a sale of the Business on the terms set out in the A&M Engagement Agreement may be paid to A&M prior to any distribution to the Bank of the proceeds of sale of the Business. FWCU has also consented to the payment of the A&M fee in priority to any distribution to FWCU.

50. The terms of the SISP are set out in the Amending Agreement. I am advised by Mr. Rowan-Legg that, as required by the Amending Agreement, A&M prepared a confidential information memorandum (the “**CIM**”) describing the opportunity to purchase the Business, established an electronic data room (the “**Data Room**”) containing due diligence information regarding the Borrower and the Business, prepared a contact list of prospective purchasers (the “**Contact List**”) in consultation with the Bank, the Consultant, FWCU and the Borrower, delivered to the Contact List a teaser identifying the opportunity to acquire the Business and prepared a template non-disclosure agreement which must be executed in order to gain access to the Data Room.
51. I am advised by Mr. Rowan-Legg that of the 195 parties on the Contact List, 39 parties executed a NDA and received a copy of the CIM and gained access to the Data Room. A&M requested that each interested party submit to A&M by January 24, 2020 a non-binding proposal disclosing the proposed transaction terms and purchase price. Multiple non-binding proposals were received by A&M.
52. Thereafter, following consultation with the Bank and the CIO, A&M invited certain of the prospective purchasers to submit an improved but binding proposal to purchase the Business with a view to identifying the most favourable transaction.

53. As required by the SISP, on or shortly after January 31, 2020, multiple parties delivered to A&M binding proposals (in each case based on the template agreement of purchase and sale included in the Data Room) to purchase the Business. None of the proposals delivered to A&M provided for a purchase price in excess of the Borrower's indebtedness to the Bank and FWCU and all proposals will require a vesting order to be issued in order to effect the conveyance of the Business free and clear of creditor claims.
54. Work remains to be done to clarify and, in some instances, further negotiate the financial and other terms of the binding proposals received. The Amending Agreement requires that the CIO, in consultation with the Bank, shall identify the offer(s) to purchase some or all of the Business which shall be accepted by the Borrower. However, given the Borrower's increasingly distressed financial situation, and the possibility that creditors may take steps against the Borrower or its assets which could derail the sale process as it nears its conclusion, the Bank believes that it is now appropriate for the Receiver to be appointed to take possession and control of the Borrower's assets, take carriage of the SISP, identify the most favourable offer to purchase the Business and proceed to finalize definitive documentation with the successful bidder.

#### **Need for a Receiver**

55. The appointment of the Receiver is necessary and appropriate as a result of the following:
- (a) The Borrower's accounts with the Bank have been in an overdraft position since January 22, 2020. Given that no credit is available under the Revolver Facility, the Borrower has no source of working capital to fund production of its personal care products. The overdraft which arose on January 22, 2020 is in addition to the

shortfall under the Revolver Borrowing Base of approximately \$1,000,000 already being tolerated by the Bank pursuant to the Amending Agreement;

- (b) Based on the most recent Revolver Borrowing Base report from the Borrower, the Revolver Borrowing Base has declined to \$3,394,276 (which amount is subject to confirmation by the Consultant) as a result of inventory sales and collection of accounts receivable not being replaced with new production. Since collections of accounts receivable are not being applied in reduction of the Revolver Facility, this results in further erosion of the Bank's security position;
- (c) the Borrower has repeatedly defaulted in its obligations to the Bank under the Credit Agreement, the First Forbearance Agreement and the Second Forbearance Agreement, as amended by the Amending Agreement. The Bank has accommodated the Borrower by tolerating these defaults and repeatedly providing excess credit to the Borrower by way of overdraft to permit the Borrower to meet its working capital needs while it seeks Replacement Financing and conducts the SISP. However, the Bank is no longer prepared to do so given its deteriorating security position;
- (d) the SISP did not produce any proposal to recapitalize the Business; only offers to purchase the Business were received by A&M. Given that the Borrower has no source of working capital and has been unable to obtain Replacement Financing, the only alternative available to the Borrower and its stakeholders is a sale of the Business. Given the Borrower's financial position, it is inevitable (and all of the binding proposals received pursuant to the SISP require) that the Business will be conveyed pursuant to a vesting order. The appointment of the Receiver at this stage

ensures that a court officer identifies the most favourable transaction to sell the Business and will provide an efficient and time sensitive mechanism to obtain the required vesting order;

(e) given that the Borrower has effectively ceased production, the Bank is very concerned that trade creditors will begin to exercise self-help remedies, including holding the Borrower's raw materials and finished goods inventory hostage. The appointment of the Receiver will stabilize this situation and ensure that all of the Borrower's assets can be conveyed to a purchaser of the Business, which will maximize the value of that transaction;

(f) as set out in the Amending Agreement, the Demand Letter and the BIA Notice have not been withdrawn by the Bank but remain in force and effect. As required by the Amending Agreement, the Borrower has previously waived the 10-day period under the BIA Notice. Pursuant to the Second Forbearance Agreement, as amended by the Amending Agreement, the Borrower and the Shareholders have agreed that, upon the occurrence of a Forbearance Terminating Event, the Bank may immediately enforce all of its rights and remedies against the Borrower and the Shareholders, and have specifically agreed to consent to the appointment of a receiver or receiver/manager of the Borrower.

56. The proposed Order appointing the Receiver permits the Receiver to borrow funds from the Bank for the purpose of financing the receivership. If necessary, these borrowings will be secured by Receiver's certificates to be issued by the Receiver or by the security held by the Bank upon the Borrower's assets.

57. Deloitte has consented to act as the Receiver. A copy of Deloitte's consent to act as the Receiver is attached as **Exhibit "O"**.
58. Given that the SISP is nearing its conclusion, the Bank seeks an order that the Receiver be authorized and directed to continue to implement the SISP with the assistance of the CIO and A&M, provided that the Receiver shall have the exclusive authority to give directions and instructions regarding the SISP to the CIO and A&M.
59. I swear this affidavit in support of an application by the Bank for the appointment of the Receiver on the terms set out in the draft Order contained in the Application Record, and for no other or improper purpose.

SWORN before me at the City of  
Toronto, in the Province of  
Ontario, this 10<sup>th</sup> day of February, 2020.



Commissioner for Taking Affidavits

  
SONIA DE LORENZI

Roxana Gabriela Mance, a Commissioner, etc.,  
Province of Ontario, for  
Thornton Grout Finnigan LLP,  
Barristers and Solicitors.  
Expires June 5, 2021.

This is **Exhibit "A"**, referred to in the

Affidavit of Sonia de Lorenzi,  
sworn before me

this 10th day of February, 2020.



Roxana Gabriela Manea, a Commissioner, etc.,  
Province of Ontario, for  
Thornton Grout Finnigan LLP,  
Barristers and Solicitors  
Expires June 5, 2021.

---

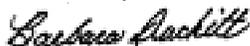
A Commissioner for taking Affidavits, etc.

Request ID: 024188617  
Transaction ID: 74587154  
Category ID: (C)CC/E

Province of Ontario  
Ministry of Government Services

Date Report Produced: 2020/02/10  
Time Report Produced: 10:03:19  
Page: 1

Certified a true copy of the data as recorded on the Ontario Business Information System.



Director  
Ministry of Government Services  
Toronto, Ontario

## CORPORATION PROFILE REPORT

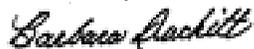
<b>Ontario Corp Number</b>	<b>Corporation Name</b>	<b>Amalgamation Date</b>
1965964	EVERGREEN CONSUMER BRANDS INC.	2016/11/30
		<b>Jurisdiction</b>
		ONTARIO
<b>Corporation Type</b>	<b>Corporation Status</b>	<b>Former Jurisdiction</b>
ONTARIO BUSINESS CORP.	ACTIVE	NOT APPLICABLE
<b>Registered Office Address</b>		<b>Date Amalgamated</b>
100 DELTA PARK BLVD		NOT APPLICABLE
<b>Suite # 1</b> BRAMPTON ONTARIO CANADA L6T 5E7		<b>New Amal. Number</b>
		NOT APPLICABLE
<b>Mailing Address</b>		<b>Amalgamation Ind.</b>
100 DELTA PARK BLVD		A
<b>Suite # 1</b> BRAMPTON ONTARIO CANADA L6T 5E7		<b>Notice Date</b>
		NOT APPLICABLE
		<b>Letter Date</b>
		NOT APPLICABLE
		<b>Revival Date</b>
		NOT APPLICABLE
		<b>Continuation Date</b>
		NOT APPLICABLE
		<b>Transferred Out Date</b>
		NOT APPLICABLE
		<b>Cancel/Inactive Date</b>
		NOT APPLICABLE
		<b>EP Licence Eff.Date</b>
		NOT APPLICABLE
		<b>EP Licence Term.Date</b>
		NOT APPLICABLE
	<b>Number of Directors</b>	<b>Date Commenced</b>
	<b>Minimum</b>	<b>in Ontario</b>
	<b>Maximum</b>	
	00001	00010
<b>Activity Classification</b>		<b>Date Ceased</b>
NOT AVAILABLE		<b>in Ontario</b>
		NOT APPLICABLE

Request ID: 024188617  
Transaction ID: 74587154  
Category ID: (C)CC/E

Province of Ontario  
Ministry of Government Services

Date Report Produced: 2020/02/10  
Time Report Produced: 10:03:19  
Page: 2

Certified a true copy of the data as recorded on the Ontario Business Information System.



Director  
Ministry of Government Services  
Toronto, Ontario

## CORPORATION PROFILE REPORT

### Ontario Corp Number

1965964

### Corporation Name

EVERGREEN CONSUMER BRANDS INC.

### Corporate Name History

EVERGREEN CONSUMER BRANDS INC.

### Effective Date

2016/11/30

Current Business Name(s) Exist:

NO

Expired Business Name(s) Exist:

NO

### Amalgamating Corporations

#### Corporation Name

EVERGREEN CONSUMER BRANDS INC.

SILKIENCE HOLDINGS INC.

LAVORIS HOLDINGS INC.

2494598 ONTARIO INC.

2516150 ONTARIO INC.

#### Corporate Number

1779690

2192193

2192189

2494598

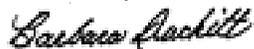
2516150

Request ID: 024188617  
Transaction ID: 74587154  
Category ID: (C)CC/E

Province of Ontario  
Ministry of Government Services

Date Report Produced: 2020/02/10  
Time Report Produced: 10:03:19  
Page: 3

Certified a true copy of the data as recorded on the Ontario Business Information System.



Director  
Ministry of Government Services  
Toronto, Ontario

## CORPORATION PROFILE REPORT

**Ontario Corp Number**

1965964

**Corporation Name**

EVERGREEN CONSUMER BRANDS INC.

**Administrator:**

**Name (Individual / Corporation)**

SAM  
ARONOW

**Address**

29856 WESTHAVEN DRIVE  
  
AGOURA  
CALIFORNIA  
UNITED STATES OF AMERICA 91301

**Date Began**

2016/11/30

**First Director**

NOT APPLICABLE

**Designation**

DIRECTOR

**Officer Type**

**Resident Canadian**

N

**Administrator:**

**Name (Individual / Corporation)**

BRUCE  
FRIEDMAN

**Address**

2401 KANAN ROAD  
  
AGOURA  
CALIFORNIA  
UNITED STATES OF AMERICA 91301

**Date Began**

2016/11/30

**First Director**

NOT APPLICABLE

**Designation**

OFFICER

**Officer Type**

CHAIRMAN

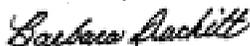
**Resident Canadian**

Request ID: 024188617  
Transaction ID: 74587154  
Category ID: (C)CC/E

Province of Ontario  
Ministry of Government Services

Date Report Produced: 2020/02/10  
Time Report Produced: 10:03:19  
Page: 4

Certified a true copy of the data as recorded on the Ontario Business Information System.



Director  
Ministry of Government Services  
Toronto, Ontario

## CORPORATION PROFILE REPORT

**Ontario Corp Number**

1965964

**Corporation Name**

EVERGREEN CONSUMER BRANDS INC.

**Administrator:**

**Name (Individual / Corporation)**

BRUCE  
FRIEDMAN

**Address**

2401 KANAN ROAD  
  
AGOURA  
CALIFORNIA  
UNITED STATES OF AMERICA 91301

**Date Began**

2016/11/30

**First Director**

NOT APPLICABLE

**Designation**

DIRECTOR

**Officer Type**

**Resident Canadian**

N

**Administrator:**

**Name (Individual / Corporation)**

BRUCE  
FRIEDMAN

**Address**

2401 KANAN ROAD  
  
AGOURA  
CALIFORNIA  
UNITED STATES OF AMERICA 91301

**Date Began**

2016/11/30

**First Director**

NOT APPLICABLE

**Designation**

OFFICER

**Officer Type**

PRESIDENT

**Resident Canadian**

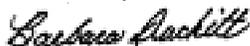
N

Request ID: 024188617  
Transaction ID: 74587154  
Category ID: (C)CC/E

Province of Ontario  
Ministry of Government Services

Date Report Produced: 2020/02/10  
Time Report Produced: 10:03:19  
Page: 5

Certified a true copy of the data as recorded on the Ontario Business Information System.



Director  
Ministry of Government Services  
Toronto, Ontario

## CORPORATION PROFILE REPORT

**Ontario Corp Number**

1965964

**Corporation Name**

EVERGREEN CONSUMER BRANDS INC.

**Administrator:**

**Name (Individual / Corporation)**

STEVE  
IMMEL

**Address**

1010 HIGHLAND PARK BLVD  
  
WAUSAU  
WISCONSIN  
UNITED STATES OF AMERICA 54403

**Date Began**

2016/11/30

**First Director**

NOT APPLICABLE

**Designation**

DIRECTOR

**Officer Type**

**Resident Canadian**

N

**Administrator:**

**Name (Individual / Corporation)**

STEVE  
IMMEL

**Address**

1010 HIGHLAND PARK BLVD  
  
WAUSAU  
WISCONSIN  
UNITED STATES OF AMERICA 54403

**Date Began**

2016/11/30

**First Director**

NOT APPLICABLE

**Designation**

OFFICER

**Officer Type**

PRESIDENT

**Resident Canadian**

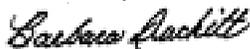
N

Request ID: 024188617  
Transaction ID: 74587154  
Category ID: (C)CC/E

Province of Ontario  
Ministry of Government Services

Date Report Produced: 2020/02/10  
Time Report Produced: 10:03:19  
Page: 6

Certified a true copy of the data as recorded on the Ontario Business Information System.



Director  
Ministry of Government Services  
Toronto, Ontario

## CORPORATION PROFILE REPORT

**Ontario Corp Number**

1965964

**Corporation Name**

EVERGREEN CONSUMER BRANDS INC.

**Administrator:**

**Name (Individual / Corporation)**

STEVE  
IMMEL

**Address**

1010 HIGHLAND PARK BLVD  
  
WAUSAU  
WISCONSIN  
UNITED STATES OF AMERICA 54403

**Date Began**

2016/11/30

**First Director**

NOT APPLICABLE

**Designation**

OFFICER

**Officer Type**

SECRETARY

**Resident Canadian**

N

**Administrator:**

**Name (Individual / Corporation)**

STEVE  
IMMEL

**Address**

1010 HIGHLAND PARK BLVD  
  
WAUSAU  
WISCONSIN  
UNITED STATES OF AMERICA 54403

**Date Began**

2016/11/30

**First Director**

NOT APPLICABLE

**Designation**

OFFICER

**Officer Type**

CHAIRMAN

**Resident Canadian**

Request ID: 024188617  
Transaction ID: 74587154  
Category ID: (C)CC/E

Province of Ontario  
Ministry of Government Services

Date Report Produced: 2020/02/10  
Time Report Produced: 10:03:19  
Page: 7

Certified a true copy of the data as recorded on the Ontario Business Information System.



Director  
Ministry of Government Services  
Toronto, Ontario

## CORPORATION PROFILE REPORT

Ontario Corp Number

1965964

Corporation Name

EVERGREEN CONSUMER BRANDS INC.

Last Document Recorded

Act/Code	Description	Form	Date
CIA	CHANGE NOTICE	1	2019/10/16 (ELECTRONIC FILING)

THIS REPORT SETS OUT THE MOST RECENT INFORMATION FILED BY THE CORPORATION ON OR AFTER JUNE 27, 1992, AND RECORDED IN THE ONTARIO BUSINESS INFORMATION SYSTEM AS AT THE DATE AND TIME OF PRINTING. ALL PERSONS WHO ARE RECORDED AS CURRENT DIRECTORS OR OFFICERS ARE INCLUDED IN THE LIST OF ADMINISTRATORS.

ADDITIONAL HISTORICAL INFORMATION MAY EXIST ON MICROFICHE.

The issuance of this certified report in electronic form is authorized by the Ministry of Government Services.

This is **Exhibit “B”**, referred to in the

Affidavit of Sonia de Lorenzi,  
sworn before me

this 10th day of February, 2020.



Roxana Gabriela Manó, a Commissioner, etc.,  
Province of Ontario, for  
Thomson Grout Finnigan LLP,  
Barristers and Solicitors.  
Expires June 5, 2021.

A Commissioner for taking Affidavits, etc.

**EVERGREEN CONSUMER BRANDS INC.  
as Borrower**

and

**NATIONAL BANK OF CANADA  
as Lender**

---

---

**US\$11,538,461.50 and \$10,250,000  
CREDIT AGREEMENT**

---

---

**June 1, 2018**



## TABLE OF CONTENTS

	<b>Page</b>
<b>ARTICLE 1 INTERPRETATION.....</b>	<b>1</b>
1.1    General Definitions.....	1
1.2    Extended Meanings.....	28
1.3    Continuing.....	31
1.4    References to Agreements .....	31
1.5    Reference to Statutes.....	32
1.6    Headings, etc.....	32
1.7    Grammatical Variations .....	32
1.8    Accounting Principles.....	32
1.9    References to Time and Time Periods .....	33
1.10   Rounding.....	33
<b>ARTICLE 2 THE CREDIT FACILITIES .....</b>	<b>33</b>
2.1    Establishment of Revolver Facility.....	33
2.2    Establishment of Term Facility.....	33
2.3    Establishment of MasterCard Facility .....	34
2.4    Credit Facility Limits.....	34
2.5    Availability .....	34
<b>ARTICLE 3 DRAWDOWN PROCEDURE .....</b>	<b>34</b>
3.1    Canadian Prime Rate Loans and US Base Rate Loans.....	34
3.2    Libor Loans, Acceptances and Standby Instruments.....	35
<b>ARTICLE 4 BANKERS' ACCEPTANCES UNDER A RELEVANT FACILITY.....</b>	<b>35</b>
4.1    Notice and Tenor.....	35
4.2    Face Amount of Drafts.....	35
4.3    Power of Attorney.....	36
4.4    Discount and Sale of Acceptances .....	36
4.5    Stamping Fee .....	36
4.6    Payment of Acceptances .....	37
4.7    Waivers .....	37
4.8    Notice of Maturing Acceptances .....	37
4.9    Clearing House System.....	37
4.10   Deemed Acceptances .....	38
<b>ARTICLE 5 CONVERSIONS AND ROLLOVERS .....</b>	<b>38</b>
5.1    Conversions.....	38
5.2    Rollovers.....	39
5.3    Limitations on Rollovers and Conversions.....	39
5.4    Conversions to and Rollovers of Acceptances.....	39
5.5    Not a Repayment.....	40

## TABLE OF CONTENTS

(continued)

	<b>Page</b>
5.6 Consolidations.....	40
<b>ARTICLE 6 STANDBY INSTRUMENT PROVISIONS .....</b>	<b>40</b>
6.1 Issuance.....	40
6.2 Reimbursement by the Borrower .....	41
6.3 Lender Not Liable .....	42
6.4 Standby Instrument Fees .....	43
<b>ARTICLE 7 INTEREST AND FEE CALCULATIONS AND CHANGES IN CIRCUMSTANCES .....</b>	<b>43</b>
7.1 Interest.....	43
7.2 Fees .....	44
7.3 Interest and Fee Calculations and Payments.....	44
7.4 Increased Costs .....	46
7.5 Market Disruption.....	47
7.6 Illegality .....	48
7.7 Withholding Taxes Generally .....	48
<b>ARTICLE 8 REPAYMENT AND PREPAYMENT.....</b>	<b>49</b>
8.1 Repayment of the Credit Facilities .....	49
8.2 Voluntary Repayments.....	50
8.3 Changes to and Cancellations of Commitments .....	50
8.4 Mandatory Prepayment.....	51
8.5 Manner of Repayment.....	52
8.6 Netting of Payments.....	53
8.7 Facility Excesses by Reason of Foreign Currency Fluctuations.....	53
8.8 Repayment Notice.....	53
<b>ARTICLE 9 CONDITIONS PRECEDENT.....</b>	<b>53</b>
9.1 Conditions Precedent to Closing.....	53
9.2 Conditions to all Borrowings .....	57
<b>ARTICLE 10 SECURITY.....</b>	<b>57</b>
10.1 Initial Security.....	57
10.2 Security from future Subsidiaries .....	58
10.3 Registration .....	60
10.4 Further Assurances.....	60
<b>ARTICLE 11 REPRESENTATIONS AND WARRANTIES.....</b>	<b>60</b>
11.1 Borrower Representations and Warranties .....	60
11.2 Repetition of Representations and Warranties.....	67

# TABLE OF CONTENTS

(continued)

	<b>Page</b>
11.3 Nature of Representations and Warranties .....	67
<b>ARTICLE 12 COVENANTS OF THE BORROWER.....</b>	<b>67</b>
12.1 Affirmative Covenants.....	67
12.2 Negative Covenants .....	72
12.3 Financial Covenants.....	78
<b>ARTICLE 13 EVENTS OF DEFAULT.....</b>	<b>78</b>
13.1 Events of Default .....	78
13.2 Termination and Acceleration.....	80
13.3 Waiver.....	81
<b>ARTICLE 14 GENERAL.....</b>	<b>82</b>
14.1 Costs and Expenses.....	82
14.2 Indemnification by the Borrower.....	82
14.3 Application of Payments.....	83
14.4 Set-Off.....	83
14.5 Rights in Addition.....	83
14.6 Certificate Evidence.....	83
14.7 Evidence of Debt.....	83
14.8 Notices .....	84
14.9 Anti-Money Laundering Legislation .....	85
14.10 Judgment Currency .....	85
14.11 Successors and Assigns.....	85
14.12 Protection of Lender .....	86
14.13 Survival.....	86
14.14 Time of the Essence .....	86
14.15 Governing Law .....	87
14.16 Jurisdiction.....	87
14.17 Limitation Period .....	88
14.18 Invalidation .....	88
14.19 Changes.....	88
14.20 Entire Agreement .....	88
14.21 This Agreement to Govern.....	89
14.22 Execution .....	89
<b>SCHEDULE 2 FORM OF BORROWING REQUEST .....</b>	<b>II</b>
<b>SCHEDULE 3 FORM OF CANCELLATION NOTICE .....</b>	<b>IV</b>
<b>SCHEDULE 4 FORM OF REPAYMENT NOTICE .....</b>	<b>V</b>
<b>SCHEDULE 5 FORM OF COMPLIANCE CERTIFICATE .....</b>	<b>VI</b>

**TABLE OF CONTENTS**  
(continued)

**Page**

**SCHEDULE 6 FORM OF REVOLVER BORROWING BASE REPORT .....IX**  
**SCHEDULE 7 PENSION PLAN AND BENEFIT PLAN COMPLIANCE .....XI**

## CREDIT AGREEMENT

THIS AGREEMENT is made as of June 1, 2018.

### BETWEEN:

**EVERGREEN CONSUMER BRANDS INC.**  
as Borrower

- and -

**NATIONAL BANK OF CANADA**  
as Lender

### BACKGROUND:

The Borrower has requested the Lender to make available to it (i) a committed revolving line of credit in the principal amount of \$10,000,000, (ii) a committed non-revolving term loan facility in the aggregate maximum principal amount of US\$11,538,461.50 and (iii) a \$250,000 MasterCard facility, and the Lender has agreed to do so subject to and upon the terms and conditions set out herein.

**NOW THEREFORE** in consideration of the mutual obligations contained herein and for other consideration, the receipt and sufficiency of which are acknowledged, the parties agree as follows:

### ARTICLE 1 INTERPRETATION

#### 1.1 General Definitions

Unless the context otherwise requires, in this Agreement:

“**Acceptance**” means a Draft drawn by the Borrower, accepted by the Lender and issued for value pursuant to a Relevant Facility.

“**Acceptance Proceeds**” means the cash proceeds realized on the sale of an Acceptance pursuant to this Agreement before deduction of the Stamping Fee.

“**Account Control Agreement**” means an agreement (i) amongst an Obligor, a depository institution and the Lender intended to grant control over a bank account maintained by that Obligor with that depository institution and any credit balance credited thereto or (ii) amongst an Obligor, a securities intermediary and the Lender intended to grant control to the Lender over a securities account maintained by that Obligor with that securities intermediary and the financial assets credited thereto; in each case in form and substance satisfactory to the Lender.

**“Acquisition”** means an acquisition of all or any part of the business of another person, including any line of business or division of the assets comprised therein, in a single transaction, or in a series of transactions, related or not, whether by way of acquisition of assets or of Capital Stock of that person or by way of Business Combination.

**“Advance”** means any amount of money or credit advanced, deemed advanced or to be advanced (as the context requires) by the Lender to the Borrower pursuant to this Agreement, whether by way of loan (including overdraft) or acceptance of Drafts, or any relevant portion thereof (as the context requires), or issue of a Standby Instrument.

**“Affiliate”** in relation to any person (the **“relevant party”**) means any other person (i) that, directly or indirectly, Controls, is Controlled by or is under common Control with, the relevant party, (ii) that beneficially owns or Controls a majority of the Voting Capital Stock, on an undiluted or a fully diluted basis, of the relevant party or (iii) of which a majority of the Voting Capital Stock, on an undiluted basis or a fully diluted basis, is beneficially owned or Controlled by the relevant party.

**“Agreement”** means this credit agreement.

**“Annual Forecast”** for any Fiscal Year means a detailed consolidated financial forecast for the Group for such Fiscal Year (broken out by Fiscal Quarter) which includes an income statement, balance sheet, statements of retained earnings, earnings and cash flows, a capital expenditures budget, a statement of material assumptions, narrative description, explanation and a comparison to the results of the prior Fiscal Year.

**“Anti-Corruption Laws”** shall mean all Applicable Laws concerning or relating to bribery or corruption in any jurisdiction in which the Borrower or any of its Subsidiaries or Affiliates is located or is doing business.

**“Anti-Money Laundering Laws”** means all applicable financial recordkeeping and reporting requirements and the money laundering statutes and the rules and regulations thereunder and any related or similar rules, regulations or guidelines, issued, administered or enforced by any governmental agency.

**“Applicable Accounting Principles”** means generally accepted accounting principles from time to time approved by the Chartered Professional Accountants of Canada, or any successor institute, including Accounting Standards for Private Enterprises (ASPE) set out in the CPA Canada Handbook and International Financial Reporting Standards (IFRS) as recommended by the Canadian Accounting Standards Board, applied on a consistent basis.

**“Applicable Law”** means the common law, the civil law or any international treaty, treaty with first nations peoples, domestic or foreign constitution or any multinational, federal, provincial, territorial, state, municipal, county or local

statute, law, ordinance, code, rule, regulation or Order (including any consent decree or administrative Order), applicable to, or any guideline, policy or authorization of any governmental authority, arbitrator or other decision-making authority having jurisdiction with respect to any specified person, property, transaction or event or any of such person's assets, whether or not having the force of law, and any judgment, Order or award in any proceeding to which the person in question is a party or by which such person or any of its assets is bound.

**"Applicable Margin"** in relation to any form of Advance or the Revolver Standby Fee as of any date means the percentage rate per annum determined in accordance with the table set forth in Schedule 1 by reference to the Total Debt/EBITDA Ratio most recently certified by the Borrower in a Compliance Certificate delivered to the Lender pursuant to Subsection 12.1.6, subject to change as provided for in Subsection 7.3.7.

**"Asset Disposal"** means any asset disposal by any Group Member, except (y) any asset disposed by an Obligor to another Obligor that is a Group Member, or (z) any asset disposal permitted by paragraphs (a) to (d) of Subsection 12.2.3.

**"Asset Purchase Agreement"** means the asset purchase agreement between the Borrower, BJW Enterprises Corp. and Jack Wilkinson and dated May 31, 2018 pursuant to which the Borrower will acquire the Target Brands.

**"Auditors"** means such recognized firm of chartered professional accountants as the Borrower may designate from time to time as its auditors that is not unacceptable to the Lender, acting reasonably.

**"Availability Period"** for a Credit Facility means (i) the Closing Date, in the case of the Term Facility, and (ii) the period from the Closing Date to the Business Day preceding the Final Maturity Date, in the case of the Revolver Facility.

**"BA Reference Rate"** in relation to any issue of Acceptances means the rate quoted by the Lender to the Borrower as being the rate at which it was receiving bids at or about 10:00 a.m. on the Borrowing Date of such issue of Acceptances to purchase its Canadian Dollar denominated bankers' acceptances of comparable term to the Tenor of such issue of Acceptances.

**"Bailee Waiver"** means an agreement (in form and substance satisfactory to the Lender) amongst the Lender, the Borrower and a warehouseman (or other person in similar relationship) pursuant to which such warehouseman (or other person in similar relationship) agrees to grant the Lender access to and allows the Lender to deal with goods of an Obligor being held or stored by that person.

**"Borrower"** means Evergreen Consumer Brands Inc., a corporation formed under the laws of the Province of Ontario as at the date hereof and (as the context so admits) its successors and assigns permitted hereunder.

**“Borrower’s Account”** means the Canadian Dollar or US Dollar denominated current account of the Borrower maintained by the Borrower with the Lender and designated by the Lender as the Borrower’s Account for the purposes of this Agreement.

**“Borrower’s Counsel”** means (i) in the Province of Ontario, Phil Thompson Professional Corporation, (ii) in each other relevant jurisdiction, such legal counsel of recognized local standing as the Borrower may designate as its legal counsel in each such jurisdiction and (iii) each additional or replacement legal counsel of recognized local standing as the Borrower may designate from time to time as its legal counsel.

**“Borrowing”** means a Conversion, Drawdown or Rollover, as the context requires.

**“Borrowing Date”** means a Conversion Date, Drawdown Date or Rollover Date, as the context requires.

**“Borrowing Request”** means a duly completed and signed notice from the Borrower requesting a Borrowing in the form of Schedule 2 (or in such other form to substantially similar effect as the Lender may accept).

**“Business Combination”** is used as defined in Subsection 12.2.6.

**“Business Day”** means (i) in respect of any Libor Loan or US Base Rate Loan in respect of which a payment or Borrowing is due to be made, a New York Banking Day, (ii) in respect of any determination of LIBOR, a London Banking Day and (iii) in respect of any matter, other than those referred to in Clauses (i) and (ii) of this definition, a day which is not a Saturday, Sunday or statutory holiday on which banks are generally open for commercial lending and foreign exchange business in Montreal, Quebec and Toronto, Ontario.

**“Canadian Dollars”** and the symbol “\$” each means the lawful currency of Canada.

**“Canadian Prime Rate”** on any day means the variable nominal interest rate equal on such day to the percentage rate per annum determined by the Lender (rounded up, if necessary, to be expressed to three (3) decimal places to the nearest 1/1000<sup>th</sup> of 1%) to be the greater of (i) the rate of interest which the Lender establishes at that time as the reference rate of interest for determination of the interest rates it will charge for loans made in Canadian Dollars in Canada and which it refers to as its prime rate (or its equivalent or analogous such rate) or (ii) the sum of (A) the yearly rate of interest to which one month CDOR is equivalent *plus* (B) one percent (1.0%). For the purposes of this definition “CDOR” on any day means the Canadian Dollar Offered Rate for Canadian Dollar denominated bankers’ acceptances for a period of one month displayed on the appropriate page of the Reuters service (or such other page or service as the

Lender may select) as of 10:00 a.m. on that day (or the preceding Business Day if that day is not a Business Day).

“**Canadian Prime Rate Loan**” means an Advance made by way of loan under a Credit Facility denominated in Canadian Dollars upon which the interest rate shall be calculated and payable in accordance with the applicable provisions of this Agreement with reference to the Canadian Prime Rate.

“**Cancellation Notice**” means a duly completed and signed notice from the Borrower in the form of or to substantially similar effect as Schedule 3 (or such other form to substantially similar effect as the Lender may accept).

“**Capital Expenditures**” means (without duplication) any expenditure (whether payable in cash or other property or accrued as a liability) made by a Group Member that, in conformity with Applicable Accounting Principles, would be required to be classified as a capital expenditure on the consolidated balance sheet of the Borrower. For certainty, Capital Expenditures includes (i) the cost of assets acquired under capital leases and (ii) expenditures for equipment which is purchased simultaneously with the trade-in of existing equipment owned by any Group Member, to the extent of the net purchase price of the purchased equipment after giving effect to any trade-in. Capital Expenditures, however, excludes (x) expenditures made in connection with the replacement, repair or restoration of buildings, fixtures or equipment to the extent reimbursed or financed from insurance or expropriation proceeds, (y) capital lease payments and (z) the cost of any Acquisition.

“**Capital Stock**” means common shares, preferred shares or other equivalent equity interests (howsoever designated) in a body corporate, partnership, trust or other artificial legal or commercial entity.

“**Cash Collateralize**” in relation to any Standby Instrument means a deposit with the Lender of an amount equal to 105% of the maximum amount available to be drawn under such Standby Instrument pursuant to such cash collateral documentation executed by the Borrower as the Lender may reasonably require.

“**Cash Equivalents**” means (i) short-term obligations of, or fully guaranteed by, the government of the United States of America or Canada, in each case having an approved credit rating, (ii) demand or current deposit accounts maintained in the ordinary course of business with the Lender; (iii) demand or current deposit accounts maintained in the ordinary course of business with other financial institutions acceptable to the Lender, provided such accounts are subject to an account control agreement in favour of the Lender in form and substance satisfactory to the Lender and (iv) certificates of deposit issued by and time deposits with the Lender; provided in each case that the same has a term not exceeding three months, provides for payment of both principal and interest (and not principal alone or interest alone) and is not subject to any contingency

regarding the payment of principal or interest (and for certainty, the mere passage of time is not a contingency).

“**Certificate**” from any person means a written certificate of that person signed by a Responsible Officer of that person.

“**Change in Control**” means the Principal Sponsors cease to own and/or Control, directly and/or indirectly through their respective Wholly-Owned Subsidiaries, at least sixty-six and two-thirds percent (66⅔%) of each class of the Capital Stock of the Borrower.

“**Change in Law**” means the introduction of, any change in, or the coming into effect of, any Applicable Law, or any change in the interpretation, administration or application thereof by any governmental authority, or compliance by the Lender with any Order issued on or after the Closing Date. Notwithstanding the foregoing, (i) the Dodd Frank Wall Street Reform and Consumer Protection Act and all requests, rules, guidelines or directives thereunder or issued in connection therewith and (ii) all requests, rules, guidelines or directives promulgated by the Bank for International Settlements, the Basel Committee on Banking Supervision (or any successor or similar authority) or any applicable Canadian or foreign governmental authority (including the Office of the Superintendent of Financial Institutions), in each case pursuant to Basel III, shall in each case be deemed to be a “Change in Law”, regardless of the date enacted, adopted or issued.

“**Closing**” means the time when the Lender confirms to the Borrower that each of the conditions precedent to closing set forth in Section 9.1 have been met or (to the extent not met) waived by the Lender to permit closing to occur.

“**Closing Date**” means the date on which the Closing occurs.

“**Closing Notice**” is used as defined in Section 9.1.

“**Collateral**” means all assets in or to which any Obligor now or hereafter has rights and which is subject to (or intended by the express or implied terms of any Loan Document to be subject to) the Security, or any item or part thereof.

“**Collateral Access Agreement**” means an agreement (in form and substance satisfactory to the Lender) amongst the Lender, the Borrower and a landlord of leased premises (or other person in similar relationship) pursuant to which such landlord (or other person in similar relationship) agrees to grant the Lender access to and allows the Lender to deal with goods of an Obligor located on those premises.

“**Commitment**” means the Revolver Commitment or the Term Commitment, as the context requires.

“**Compliance Certificate**” in respect of a Fiscal Quarter means a duly completed and signed Certificate of the Borrower substantially in the form attached as

Schedule 5 (or in such other form to substantially similar effect as the Lender may accept) setting out, among other things, a statement for the Test Period ending at the end of that Fiscal Quarter of the calculations of the financial tests set out in Section 12.3.

“**Constitutional Documents**” in relation to any person that is a corporation or other artificial legal or commercial entity means the articles, any unanimous shareholder agreement, the limited liability, operating or members’ agreement or the partnership agreement, declaration of trust or equivalent documents governing the incorporation or formation, capacity, powers, assets and affairs of that person; together, in each case, with the by-laws or other documents, regulating the organization, Control or internal management of that person.

“**Contaminant**” means any solid, liquid, gas, odour, heat, sound, vibration, radiation or combination of any of them that may (i) impair the quality of the Environment for any use that can be made of it, (ii) injure or damage property or plant or animal life, (iii) harm or materially discomfort any person, (iv) adversely affect the health of any individual, (v) impair the safety of any individual, (vi) render any property or plant or animal life unfit for use by man, (vii) cause loss of enjoyment of normal use of property, or (viii) interfere with the normal course of business, and includes any “contaminant” or “hazardous material” within the meaning assigned to such term in any Environmental Law.

“**Control**” when used with respect to any person, other than an individual, means the power to direct the management and policies of such person, directly or indirectly, whether through ownership of Voting Capital Stock, by contract or otherwise.

“**Conversion**” means a conversion of a Loan or an Acceptance pursuant to Section 5.1.

“**Conversion Date**” means any day on which a Conversion takes place.

“**Core Business**” means the business of owning, developing and managing its own brands of toiletry liquids, lotions and gels as well as a contract filler for these products.

“**Credit Amount**” when used in relation to any outstanding Advance at any time means:

- (a) if such Advance is outstanding under the Term Facility, (i) its outstanding principal balance if it is a Libor Loan or US Base Rate Loan, (ii) the maximum amount remaining available to be drawn upon under it if it is a Standby Instrument denominated in US Dollars and (iii) the Equivalent in US Dollars of the maximum amount remaining available to be drawn upon under it if it is a Standby Instrument denominated in any currency other than US Dollars; and

(b) if such Advance is outstanding under the Revolver Facility, (i) its aggregate face amount if it is an issue of Acceptances, (ii) its outstanding principal balance if it is a Canadian Prime Rate Loan, (iii) the maximum amount remaining available to be drawn upon under it if it is a Standby Instrument denominated in Canadian Dollars, (iv) the Equivalent in Canadian Dollars of its outstanding principal balance if it is a Libor Loan or US Base Rate Loan and (v) the Equivalent in Canadian Dollars of the maximum amount remaining available to be drawn upon under it if it is a Standby Instrument denominated in foreign currency.

“**Credit Facilities**” means the MasterCard Facility, the Revolver Facility and the Term Facility.

“**Current Assets**” at any time means the consolidated current assets (other than cash and Permitted Investments) of the Borrower and its Subsidiaries determined in accordance with Applicable Accounting Principles.

“**Current Liabilities**” at any time means the consolidated current liabilities of the Borrower and the Subsidiaries at such time determined in accordance with Applicable Accounting Principles, but excluding, without duplication, (w) the current portion of any long term Debt, (x) outstanding Advances, (y) the current portion of accrued interest and (z) the current portion of current or deferred income taxes.

“**Debt**” of any person at any time means obligations of such person to pay (in whole or in part) (i) liabilities which, in accordance with Applicable Accounting Principles, would be classified upon the unconsolidated balance sheet of that person prepared as at such time as indebtedness for borrowed money, including bank indebtedness, long-term debt, capital lease obligations and indebtedness to Affiliates and other financial indebtedness, (ii) amounts payable, actual or contingent, primary, secondary or by way of guarantee, matured or unmatured, under, by reason of or otherwise in respect of, any bankers’ acceptance, (iii) amounts payable, actual or contingent, primary, secondary or by way of guarantee, matured or unmatured, under, by reason of or otherwise in respect of any sale of promissory notes, sale of accounts, factoring, securitization or discounting arrangement to the extent recourse to such person or any Affiliate of it exists to recover such amounts payable, (iv) the principal amount of, and any premiums and capitalized interest payable in respect of, indebtedness for the deferred purchase price of property or services, (v) the principal amount of, and any premiums and capitalized interest payable in respect of, indebtedness payable under or in respect of any Lien upon any property acquired (whether or not assumed), (vi) Out-of-the-Money Derivative Exposure, (vii) amounts payable, actual or contingent, primary, secondary or by way of guarantee, matured or unmatured, under, by reason of or otherwise in respect of, (A) any standby credit, bank guarantee or performance bond issued to secure obligations that do not constitute trade obligations incurred in the ordinary course of conducting day-to-day business, (B) any liability under any sale and leaseback transaction which

does not create a liability on the consolidated balance sheet of such person prepared in accordance with Applicable Accounting Principles, (C) any liability under any financing lease or so-called “synthetic” lease transaction or (D) any obligations arising with respect to any other transaction which is the functional equivalent of or takes the place of borrowing but which does not constitute a liability on the consolidated balance sheet of such person and its Subsidiaries, prepared in accordance with Applicable Accounting Principles, (viii) amounts payable under convertible debentures and other like instruments, whether or not they would, in accordance with Applicable Accounting Principles, be included in shareholders equity in the consolidated balance sheet of such person, (ix) the redemption or retraction price of any Preferred Shares and (x) any amount payable under any direct or indirect guarantee of any amount of the nature described in any of Clauses (i) to (ix) above.

“**Default**” means any Event of Default or any default, breach, failure, event, state or condition which, unless remedied or waived, with the lapse of time, giving of notice, making of a determination, or any combination thereof or otherwise, would constitute or could reasonably be expected to result in the occurrence of an Event of Default.

“**Default Rate**” means the rate of interest payable pursuant to Subsection 7.1.4.

“**Derivative**” means any agreement (including any transaction contemplated thereby) now existing or hereafter entered into which is an interest rate swap, cap, floor or collar agreement, interest rate forward, future or option contract, cross-currency interest rate swap agreement or interest rate future or option contract, a spot or forward foreign exchange contract or any other derivative agreement relative to interest rates, foreign exchange, debt obligations, equities, commodities or other indices.

“**Derivative Exposure**” in relation to any person (the “relevant party”) at any time means the amount which is or (as the case may be) would be payable by or to its counterparty, or by its counterparty to the relevant party, as the case may be, pursuant to the agreement governing the Derivatives entered into by the relevant party and a counterparty and in effect at that time if those Derivatives have been or (as the case may be) were to be terminated at such time as the result of the default of the relevant party. If the Derivative Exposure is payable by the relevant party, it is referred to herein as “**Out-of-the-Money Derivative Exposure**”. If Derivative Exposure is payable to that relevant party, it is referred to herein as “**In-the-Money Derivative Exposure**”.

“**Distribution**” in relation to any person that is a corporation or other artificial legal or commercial entity means (i) the retirement, redemption, retraction, purchase, or other acquisition by such person of any of its Capital Stock, (ii) the declaration or payment of any dividend, return of capital or other distribution (in cash, securities or other property or otherwise) of, on or in respect of, its Capital Stock and (iii) any other payment or distribution (in cash, securities or other

property, or otherwise) by such person of, on or in respect of any Capital Stock of such person.

“**Draft**” means a blank non-interest bearing bill of exchange within the meaning of the *Bills of Exchange Act* (Canada) or a blank depository bill within the meaning of the *Depository Bills and Notes Act* (Canada), as applicable, drawn by the Borrower and addressed to the Lender, made payable to the Borrower, bearer or a clearing house bearing such distinguishing letters and numbers and being in such form as the Lender may require.

“**Drawdown**” means a new Advance which is not derived from a Conversion or Rollover.

“**Drawdown Date**” means any day on which a Drawdown takes place.

“**EBITDA**” for any period means the Net Income of a person for that period, adjusted (without duplication) on a consolidated basis as follows:

- (a) such Net Income shall be increased by (to the extent, if any, such Net Income was reduced by) the sum (without duplication) for that period of (i) Interest Expense, (ii) income tax expenses, (iii) depreciation, amortization and other reductions to income not involving an outlay of cash, (iv) extraordinary or unusual charges (if any) to the extent the Lender agrees to their inclusion for this purpose, (v) non-recurring charges (if any) to the extent the Lender agrees to their inclusion for this purpose, (vi) losses realized upon the disposal of capital property, (vii) foreign exchange translation losses, and (viii) losses on the purchase or redemption of securities issued by that person or any Subsidiary;
- (b) such Net Income shall be reduced by (to the extent, if any, such Net Income was increased by) the sum (without duplication) for that period of (i) extraordinary or unusual gains, (ii) non-recurring gains, (iii) gains realized upon the disposal of capital property, (iv) foreign exchange translation gains, (v) gains on the purchase or redemption of securities issued by that person or any Subsidiary of it, (vi) amounts attributable to minority equity investments and (vii) Distributions;
- (c) the Net Income during that period (adjusted as provided in paragraphs (a) and (b) above) attributable to any Subsidiaries acquired by that person during that period shall be included on a *pro forma* basis for that period (assuming such acquisition and the incurrence or assumption of any related Debt in connection therewith occurred on the first day of that period); and
- (d) the Net Income during that period (adjusted as provided in paragraphs (a) and (b) above) attributable to any Subsidiary disposed of by that person during that period shall be excluded on a *pro forma* basis for that period

(assuming such disposition and the repayment of any related Debt in connection therewith occurred on the first day of that period).

**“Eligible Inventory Amount”** at any time means the amount of the Borrower’s consolidated finished goods inventories determined from its most recent balance sheet; provided that, any inventory that is not subject to the Security or is subject to a Lien in favour of any other person, other than the Lender, ranking *pari passu* with or in priority to the Security (other than Statutory Prior Claims and rights of unpaid suppliers to repossession under Section 81.1 of the *Bankruptcy & Insolvency Act* (Canada) or the Quebec Civil Code so long as, in both cases, the amount payable in relation thereto is not overdue or delinquent) shall be excluded from Eligible Inventory Amount.

**“Eligible Trade Accounts Receivable”** means, at any time, the aggregate outstanding balance, net of allowance for credit losses, of all accounts receivable owned by a Group Member representing unconditional obligations to pay, arising from the provision of goods and/or services in the ordinary course of carrying on their respective businesses, existing at that time, and as determined in accordance with Applicable Accounting Principles; provided however that there shall be excluded from Eligible Trade Accounts Receivable the outstanding balance of any account receivable if (s) at that time any amount owing in respect of the relevant account receivable has been outstanding for more than 90 days, (t) the relevant account receivable is from a Related Person; (u) the relevant account receivable is subject to dispute or claims of set-off, counterclaim or cross-claim, in which event it shall not be taken into account to the extent of the actual amounts so disputed or claimed; (v) the relevant account receivable is owed by a person that is (A) not Solvent or (B) subject to any Insolvency Proceeding, (w) the relevant account receivable is not subject to the Security; (x) the relevant account receivable is subject to a Lien (other than Liens securing Statutory Prior Claims) in favour of any other person (other than the Lender) which ranks prior to or *pari passu* with the Security; (y) the relevant account receivable gives rise to a deferred revenue liability; or (z) the relevant account receivable is not payable by a person located in Canada or the United States of America.

**“Employee Benefit Plan”** means any employee benefit plan maintained or contributed to by any Group Member that are not Pension Plans, including any profit sharing, savings, supplemental retirement, retiring allowance, severance, pension, deferred compensation, welfare, bonus, incentive compensation, phantom stock, supplementary unemployment benefit plan or arrangement and any life, health, dental and disability plan or arrangements in which the employees or former employees of any Group Member participate or are eligible to participate, in each case whether written or oral, funded or unfunded, insured or self-insured, reported or unreported, but excluding all stock option or stock purchase plans.

**“Environment”** means the ambient air, all layers of the atmosphere, surface, water, underground water, all land, all living organisms and the interacting natural

systems that include components of air, land, water, organic and inorganic matter and living organisms, and includes indoor spaces.

“**Environmental Law**” means any Applicable Law relating to the Environment, the regulation of Contaminants or Waste or occupational health or safety which applies to the assets of any person.

“**Environmental Liabilities**” means liabilities arising under any Environmental Law.

“**Equivalent**” on any date means the amount in a specified currency which would result from the Conversion of a specified amount in another currency at the Spot Rate. For the purposes of this definition, “Spot Rate” as at any date with respect to the Conversion of an amount in one currency (the “original currency”) to another currency (the “other currency”) means the Lender’s spot rate of exchange on the immediately preceding Business Day for the purchase of such original currency with such other currency (and if neither currency is Canadian Dollars, purchasing Canadian Dollars first with such other currency and using the Canadian Dollars purchased to purchase the original currency).

“**Event of Default**” means any default, breach, failure, event, state or condition described in Section 13.1.

“**Excess Cash Flow**” for any period means an amount (if positive) equal to:

(a) the Net Income of the Borrower for such period increased, in each case, without duplication, by:

- (i) an amount equal to the amount of all non-cash charges (including depreciation and amortization) to the extent deducted in arriving at such Net Income, but excluding (y) any such non-cash charges representing an accrual or reserve for potential cash items in any future period and (z) amortization of a prepaid cash item that was paid in a prior period;
- (ii) net cash receipts in respect of Derivatives during such period to the extent not otherwise included in such Net Income;
- (iii) the aggregate amount of any non-cash loss recognized as a result of any Asset Disposal or Insurance Event that resulted in a decrease to Net Income (up to the amount of such decrease);

reduced by (without duplication):

(b) the sum, in each case, without duplication, of:

- (i) an amount equal to the amount of all non-cash credits included in arriving at such Net Income (excluding any non-cash credit to the

extent representing the reversal of an accrual or reserve described in clause (a)(i) above);

- (ii) the amount of any prepaid cash item deducted in part for such period, with the balance amortized over a subsequent period;
- (iii) the aggregate amount of all principal payments of Debt of the Borrower and its Subsidiaries (including (A) the principal component of payments in respect of Capital Lease Obligations and (B) the amount of any mandatory or voluntary prepayment of Debt (excluding (y) all prepayments in respect of any revolving credit facility (including the Revolver Facility), except to the extent there is an equivalent permanent reduction in commitments thereunder, and (z) mandatory prepayments of the Term Facility) made during such period;
- (iv) cash payments made by the Borrower and its Subsidiaries during such period in respect of the permanent reduction of long-term liabilities of the Borrower and its Subsidiaries (other than Debt) to the extent such payments are not expensed during such period or are not deducted in calculating Net Income;
- (v) the amount of Capital Expenditures that is not funded by Debt (other than Debt under this Agreement) or by way of Capital Lease, including the purchase of fixed assets, and the aggregate amount of cash consideration paid by the Borrower and its Subsidiaries in connection with Permitted Acquisitions made during such period;
- (vi) the aggregate amount of any premium, make-whole or penalty payments actually paid in cash by the Borrower and its Restricted Subsidiaries during such period that are made in connection with any prepayment, early extinguishment or conversion of Debt to the extent such payments are not expensed during such period or are not deducted in calculating Net Income;
- (vii) the amount of cash taxes (including penalties and interest) paid or tax reserves set aside or payable (without duplication) in such period to the extent they exceed the amount of tax expense deducted in determining Net Income for such period;
- (viii) cash expenditures in respect of Derivatives during such period to the extent not deducted in arriving at such Net Income;
- (ix) the aggregate amount of any non-cash gain recognized as a result of any Asset Disposal or Insurance Event that resulted in an increase to Net Income (up to the amount of such increase); and

- (x) the aggregate amount of fees, costs and expenses incurred in connection with any Permitted Acquisition or Asset Disposal to the extent not expensed and not deducted in calculating Net Income.

“**Excluded Taxes**” means any Taxes now or hereafter imposed, levied, collected, withheld or assessed on net income or net profits of the Lender or capital taxes or franchise taxes imposed on the Lender by any jurisdiction by reason of the Lender (i) having a permanent establishment in such jurisdiction, (ii) being organized under the laws of such jurisdiction, (iii) being resident in such jurisdiction, (iv) being engaged in a trade or business in such jurisdiction or (v) having any other present or former connection with such jurisdiction.

“**Federal Funds Effective Rate**” shall mean, for any day, the greater of (i) the weighted average of the rates on overnight Federal funds transactions with members of the Federal Reserve System, as published on the next succeeding Business Day by the Federal Reserve Bank of New York, and (ii) 0.00% per annum.

“**Fees**” means the Upfront Fee, any Stamping Fees, the Revolver Standby Fee, Standby Instrument Fees or other fees payable by the Borrower to the Lender pursuant to this Agreement.

“**Final Maturity Date**” means June 1, 2020 or the preceding Business Day if June 1, 2020 is not a Business Day.

“**Fiscal Quarter**” means one of the four (4) three-month accounting periods of the Borrower comprising a Fiscal Year.

“**Fiscal Year**” means the 12 month accounting period of the Borrower which, as at Closing, ends on November 30<sup>th</sup> of each calendar year.

“**Fixed Charge Coverage Ratio**” for any period means the ratio for that period of (i) the amount equal to (A) EBITDA of the Borrower *minus* (B) the sum (without duplication) of (1) Capital Expenditures that are not funded by Debt (other than Debt under this Agreement) or by way of Capital Lease *plus* (2) income tax expense paid in cash *plus* (3) cash Distributions paid by any Group Member to anyone who is not a Group Member *to* (ii) the sum (without duplication) of (A) Interest Expense paid in cash (net of cash interest income) *plus* (B) scheduled repayments of Total Debt (excluding Debt under the Term Facility due on the Final Maturity Date), all determined on a consolidated basis for the Borrower and its Subsidiaries;

“**Floating Rate**” means the Canadian Prime Rate or US Base Rate, as the context requires.

“**Floating Rate Loan**” means a Canadian Prime Rate Loan or US Base Rate Loan, as the context requires.

**“FWCU Subordination and Standstill Agreement”** means an agreement (in form and substance satisfactory to the Lender) amongst FWCU Capital Corp., the Lender and the Borrower pursuant to which FWCU Capital Corp. postpones the payment of the Debt owing by the Borrower to it to the prior payment in full of the Secured Obligations and subordinates its Liens to the Security.

**“Group”** means the Borrower and its Subsidiaries, and **“Group Member”** means any of them.

**“Group Facilities”** means all real property and rights therein of any Group Member and all buildings, plants, infrastructure and other facilities located thereon and all other machinery and equipment owned, leased, managed, controlled or operated by any Group Member or for which any Group Member is otherwise obligated under Environmental Law.

**“Guarantee”** means a guarantee of, *inter alia*, the Secured Obligations of the Borrower duly completed and executed by a Subsidiary in favour of the Lender in such form as the Lender may accept.

**“Guarantors”** at any time means each Subsidiary that has granted a Guarantee and Security to the Lender pursuant to Section 10.2.

**“Holding Body Corporate”** of any person that is a corporation or other artificial legal or commercial entity means another person that Controls that person.

**“Hostile Take-Over Bid”** means a Take-Over Bid by the Borrower or any of its Subsidiaries or in which the Borrower or any of its Subsidiaries is involved, in respect of which the board of directors (or equivalent governing body) of the target entity has not recommended acceptance of such Take-Over Bid to the target entity’s Capital Stock holders.

**“ICC Rules”** means (i) the Uniform Customs and Practice for Documentary Credits, ICC Publication 600, (ii) the International Standby Practices - ISP98, ICC Publication No. 590, (iii) the Uniform Rules for Demand Guarantees, ICC Publication No. 758 or (iv) any publication updating or replacing any of the foregoing, as applicable.

**“Immaterial”** means (i) is not, and could not reasonably be expected to be, Material and (ii) does not, and could not reasonably be expected to, have a Material Adverse Effect.

**“Indemnified Taxes”** means Taxes that are not Excluded Taxes.

**“Insolvency Event”** in relation to any person means (i) that person does not pay or perform its obligations generally as they become due or admits its inability to pay or perform its debts generally, (ii) that person commits an act of bankruptcy within the meaning of the *Bankruptcy and Insolvency Act* (Canada), (iii) any Insolvency Proceeding is instituted by or against that person (excluding any

Insolvency Proceeding being contested by that person in good faith by appropriate proceedings so long as enforcement remains stayed, none of the relief sought is granted (either on an interim or permanent basis) and such Insolvency Proceeding is dismissed within 30 days of its commencement) or (iv) that person takes corporate, partnership or other internal management action to authorize or consent to the relief sought in any Insolvency Proceeding commenced by or against it.

**“Insolvency Law”** means the *Bankruptcy and Insolvency Act* (Canada), the *Companies’ Creditors Arrangement Act* (Canada), the *Winding-Up and Restructuring Act* (Canada) or any other like, equivalent or analogous legislation of any jurisdiction, domestic or foreign and any plan of arrangement law provision of any corporations statute under which a corporation may propose a compromise or an arrangement with respect to its creditors or any class or the claims of any class of creditors of the corporation.

**“Insolvency Proceeding”** in relation to any person means any proceeding contemplated by any application, petition, assignment, filing of notice or other means, whether voluntary or involuntary, under any Insolvency Law seeking any moratorium, reorganization, adjustment, composition, proposal, compromise, arrangement, administration or other like or similar relief in respect of any or all of the obligations of that person, seeking the winding up, liquidation or dissolution of that person or all or any part of its property, seeking any judgment or Order declaring, finding or adjudging that person Insolvent or bankrupt, seeking the appointment (provisional, interim or permanent) of any receiver or resulting, by operation of law, in the bankruptcy of that person.

**“Insurance Event”** means any loss or damage to the assets of any Group Member occurring on or after the Closing Date that gives rise to a claim and payment to a Group Member under any insurance policy maintained by the Group.

**“Insurance Proceeds”** means an amount paid to any Group Member by reason of an Insurance Event.

**“Insured Accounts Receivable”** means Eligible Trade Accounts Receivable insured by Export Development Canada or any other export credit agency acceptable to the Lender in its sole discretion.

**“Intellectual Property Rights”** means all trade secrets, confidential information and know-how, software, patents, Trade-marks, registrations and applications, designs, logos, indicia, trade names, corporate names, company names, business names, domain names, trade styles, business identifiers, fictitious business names or characters, copyrights, copyright applications, integrated circuit topography rights, registrations and applications, semi-conductor chip rights, design rights, registrations and applications, design patents and other industrial designs, goodwill, letters patent and other industrial or intellectual property of whatever kind in which any Group Member now or hereafter has rights, and any item or part thereof, and each and every such right.

**“Interest Expense”** for any period means the total interest expense of the Borrower for that period determined on a consolidated basis, including dividends on Preferred Shares and all but the principal component of rentals in respect of capital leases, adjusted (to the extent applicable) in accordance with the net payments made by each Group Member pursuant to any interest rate swaps hedging interest rate exposure on Debt, and including interest expense actually paid in cash (as opposed to Capital Stock) attributable to convertible debentures and other like instruments which, in accordance with Applicable Accounting Principles, would be included in shareholders equity in the consolidated balance sheet of the Borrower, but excluding amortization of deferred financing costs and any other amounts of non-cash payments of interest.

**“Interest Payment Date”** means (i) with respect to each Floating Rate Loan or any amount on which interest is payable under Subsection 7.1.4 and any period of time elapsed in any calendar month, the third (3<sup>rd</sup>) Business Day of the immediately following calendar month and (ii) with respect to each Libor Loan, the last day of each Interest Period applicable to it and, with respect to each Libor Loan with an Interest Period longer than three (3) months, each day that falls every three (3) months after commencement of that Interest Period (or the next following Business Day if any such day is not a Business Day) during that Interest Period.

**“Interest Period”** for any Libor Loan means the period of one (1), two (2), three (3) or six (6) months, as selected by the Borrower in a Borrowing Request commencing on each Borrowing Date of that Libor Loan; provided that any Interest Period which would otherwise end on a day which is not a Business Day shall be extended or shortened by the Lender in accordance with the Modified Following Business Day Convention.

**“Investment”** means any loan, advance (other than commission, travel and similar advances to officers and employees made in the ordinary course of business), extension of credit (other than accounts receivable on customary or usual trade terms arising in the ordinary course of business) or contribution of capital to any other person or any acquisition of Capital Stock, deposit accounts, certificates of deposit, mutual funds, bonds, notes, debentures or other securities of any other person or any structured notes or Derivatives.

**“Investment Grade Receivables”** means those Eligible Trade Accounts Receivable owing by an account debtor that has a corporate investment grade rating by DBRS Limited, Fitch, Inc., Moody’s Canada Inc. or Standard & Poors Rating Services (Canada) or any successor thereof.

**“Lender”** means National Bank of Canada and its successors and assigns.

**“Lender’s Counsel”** means (i) in the Province of Ontario, the firm of Fasken Martineau DuMoulin LLP, (ii) in each other relevant jurisdiction, such local legal counsel as the Lender may designate as the Lender’s legal counsel in that

jurisdiction and (iii) in each case, such replacement or additional firm as the Lender may designate from time to time as the Lender's legal counsel.

**"Lending Office"** means the office of the Lender which the Lender notifies to the Borrower from time to time as being the office to and from which notices and payments to and by it are to be made pursuant to this Agreement.

**"Level"** means a level set out in the first column of the table contained in Schedule 1 corresponding to the range within which the Total Debt/EBITDA Ratio as of any Fiscal Quarter end falls.

**"LIBOR"** in relation to any Interest Period for any Libor Loan means the rate (rounded upwards to be expressed to three (3) decimal places) quoted by the Lender to leading banks in the London interbank market, as of 11:00 a.m. (London time) on the Quotation Date of that Interest Period for the offering of deposits in US Dollars for a period comparable to that Interest Period.

**"Libor Loan"** means an Advance made by way of loan denominated in United States Dollars under a Relevant Facility upon which interest shall be calculated and payable in accordance with the applicable provisions of this Agreement with reference to LIBOR.

**"Lien"** means (i) any right of set-off intended to secure the payment or performance of an obligation, (ii) any interest in property created by way of mortgage, pledge, charge, lien, assignment by way of security, hypothecation, security interest, hire purchase agreement, conditional sale agreement, deposit arrangement, title retention, capital lease, sale-lease-back transaction, or discount, factoring or securitization arrangement on recourse terms, (iii) any statutory deemed trust or lien, (iv) any preference, priority, adverse claim, levy, execution, seizure, attachment, garnishment or other encumbrance which binds property and (v) any agreement to grant any of the foregoing rights or interests described in Clauses (i) to (iv) of this definition.

**"Limited Recourse Guarantee and Pledge Agreement"** means an agreement (in form and substance satisfactory to the Lender) amongst a Shareholder, the Lender and the Borrower pursuant to which such Shareholder guarantees the payment of the Secured Obligations of the Borrower in favour of the Lender and grants a security interest in favour of the Lender in (and to which recourse under such guarantee is limited) all present and future Capital Stock and Debt issued by the Borrower to such Shareholder.

**"Loan"** means a Libor Loan or Floating Rate Loan, as the context requires.

**"Loan Documents"** at any time means, collectively, this Agreement, the Perfection Certificate, the FWCU Subordination and Standstill Agreement, each Guarantee, each Limited Recourse Guarantee and Pledge Agreement, each other Security Document executed by each Obligor, each Bailee Waiver, each Collateral Access Agreement and each other document delivered to or for the

benefit of the Lender pursuant to or otherwise in connection with any of the foregoing agreements at or before such time.

**“Loan Obligations”** in respect of any Obligor means the Debt and other obligations of such Obligor owing to the Lender arising under, pursuant to or otherwise in respect of each Loan Document to which such Obligor is party, and any item or part of any thereof.

**“London Banking Day”** means a day which is not a Saturday, Sunday or statutory holiday on which dealings by and between banks in US Dollar deposits may be transacted in the London interbank market.

**“MasterCard Facility”** means the MasterCard credit facility established by the Lender in favour of the Borrower under Section 2.3.

**“MasterCard Limit”** means \$250,000, as such amount may be changed from time to time pursuant to the provisions of this Agreement and/or the cardholders agreement governing the credit cards held by the Borrower subject thereto from time to time in effect.

**“Material”** means (i) material in relation to the business, operations, affairs, properties, prospects, revenues, assets, liabilities (including contingent liabilities), obligations, capitalization, results of operations (financial or otherwise), cash flows or condition (financial or otherwise) of the Borrower and its Subsidiaries taken as a whole, (ii) result in a material liability, loss or expense to any Group Member or (iii) result in a material decline in the consolidated revenues of the Group.

**“Material Adverse Change”** means any circumstance, occurrence, fact, condition (financial or otherwise), change (including a change in Applicable Law, event, development or effect (whether or not (a) foreseeable or known as of the date hereof or (b) covered by insurance)) that, individually or in the aggregate, in the Lender’s reasonable judgment, has, or could reasonably be expected to have, a Material Adverse Effect.

**“Material Adverse Effect”** means (i) a material adverse effect on the business, operations, affairs, properties, prospects, revenues, assets, liabilities (including contingent liabilities), obligations (whether absolute, accrued, conditional or otherwise), capitalization, results of operations (financial or otherwise), cash flows or condition (financial or otherwise) of the Borrower and its Subsidiaries and material joint ventures, on a consolidated basis, (ii) any material impairment of any Obligor’s ability to perform its Loan Obligations or (iii) any prejudice to, restriction on or rendering unenforceable or ineffective, any Guarantee, Limited Recourse Guarantee and Pledge or Security or any of the rights intended or purported to be granted under or pursuant to any Loan Document by any Obligor to or for the benefit of the Lender.

**“Modified Following Business Day Convention”** means the convention for adjusting any relevant date if it would otherwise fall on a day that is not a Business Day so that such relevant date will be the first following day that is a Business Day unless that day falls in the next calendar month, in which case that relevant date will be the first preceding day that is a Business Day.

**“Multi-Employer Plan”** means a “multi-employer pension plan”, as such term is defined in the *Pension Benefits Act* (Ontario) or any similar plan registered under pension standards legislation of another jurisdiction in Canada to which the Borrower or any Affiliate contributes for its employees or former employees employed in Canada.

**“Net Acceptance Proceeds”** means the cash proceeds realized on the issuance and sale of an Acceptance pursuant to this Agreement after deduction of the Stamping Fee.

**“Net Disposal Amount”** with respect to any Asset Disposal by the Borrower or any of its Subsidiaries means an amount equal to the difference between (i) the aggregate amount of consideration (valued at the fair market value thereof by the Borrower or such Subsidiary in good faith if not received in cash) received by the Borrower or such Subsidiary in respect of such Asset Disposal *minus* (ii) the sum of (A) all ordinary and reasonable out-of-pocket fees, costs and expenses actually paid by the Borrower or such Subsidiary to Unrelated Parties in connection with such Asset Disposal *plus* (B) all current taxes payable in respect of the Fiscal Year in which such Asset Disposal occurred which are directly attributable to such Asset Disposal; provided that if payment of any portion of the consideration received by the Borrower or such Subsidiary in respect of any such Asset Disposal is deferred and evidenced by a promissory note, any payment otherwise required pursuant to Subsection 8.4.1 by reason of such Asset Disposal shall be deferred until such deferred payment takes place. All amounts referred to in this definition shall be measured in Canadian Dollars (using the Equivalent in Canadian Dollars if not actually incurred or received in Canadian Dollars).

**“Net Income”** for any period means the net income (loss) of a person and its consolidated Subsidiaries determined for such period on a consolidated basis in accordance with Applicable Accounting Principles.

**“New York Banking Day”** means a day which is not a Saturday, Sunday or statutory holiday on which banks generally are open for the conduct of commercial lending and foreign exchange business in New York City.

**“Obligors”** at any time means (i) the Borrower and (ii) each Guarantor at such time.

**“OFAC”** means the Office of Foreign Assets Control of the U.S. Department of the Treasury.

“**Order**” means any order, directive, direction or request of any governmental authority, arbitrator or other decision-making authority of competent jurisdiction.

“**Other Accounts Receivable**” means Eligible Trade Accounts Receivable that are not Insured Accounts Receivable or Investment Grade Receivables.

“**Participant**” is used as defined in Subsection 14.11.3.

“**Pension Event**” means (i) the termination or wind-up in whole or in part of a Pension Plan, (ii) the occurrence of any circumstance or event that would provide any basis for a governmental authority to take steps to cause the termination or wind-up, in whole or in part, of any Pension Plan, the issuance of a notice (or a notice of intent to issue such a notice) to terminate in whole or in part any Pension Plan or the receipt of a notice of intent from a governmental authority to require the termination in whole or in part of any Pension Plan, revoking the registration of same or appointing a new administrator of such a plan, (iii) an event or condition which constitutes grounds under applicable pension standards or tax legislation for the issuance of an order, direction or other communication from any governmental authority or a notice of an intent to issue such an order, direction or other communication requiring the Borrower or any Affiliate to take or refrain from taking any action in respect of a Pension Plan, (iv) the issuance of either any order or charges which may give rise to the imposition of any fines or penalties to or in respect of any Pension Plan or the issuance of such fines or penalties, (v) the failure to remit by the Borrower or any Affiliate any contribution to a Pension Plan when due or the receipt of any notice from an administrator, a trustee or other funding agent or any other person that the Borrower or any Affiliate has failed to remit any contribution to a Pension Plan or a similar notice from a governmental authority relating to a failure to pay any fees or other amounts, (vi) the non-compliance by the Borrower or any Affiliate with any law applicable to any Pension Plan and (vii) the existence of a solvency deficiency with respect to any Pension Plan.

“**Pension Plan**” means a pension plan or plan that is a “registered pension plan” as defined in the *Income Tax Act* (Canada) or is subject to the funding requirements of the *Pension Benefits Act* (Ontario), or any similar pension benefits standards legislation in any Canadian jurisdiction, and which is maintained or contributed to by, or to which there is or may be an obligation to contribute by the Borrower or any Affiliate, in respect of its employees or former employees employed in Canada, and for greater certainty does not include a Multi-Employer Plan.

“**Perfection Certificate**” means a perfection certificate (in form and substance and satisfactory to the Lender) signed by a Responsible Officer of the Borrower disclosing the nature and location of all Collateral.

“**Period End Date**” means the last day of an Interest Period of a Libor Loan or of the Tenor of an issue of Acceptances, as the context requires.

“**Permitted Acquisition**” means an Acquisition which is permitted to be made pursuant to Subsection 12.2.9.

“**Permitted Debt**” means Debt permitted to exist pursuant to Subsection 12.2.1.

“**Permitted Distribution**” means a Distribution permitted to be made pursuant to Subsection 12.2.10.

“**Permitted Investment**” means an Investment permitted to be made pursuant to Subsection 12.2.8.

“**Permitted Liens**” means a Lien permitted to exist pursuant to Subsection 12.2.5.

“**Preferred Shares**” means Capital Stock of a specified person (i) that may be redeemed by that person, (ii) that is retractable at the option of the holder or (iii) which that person or any Affiliate of it may be required to purchase or otherwise acquire; in each case, before or within six (6) months after the Final Maturity Date.

“**Principal Sponsors**” means Bruce Friedman and Steve Immel.

“**Property Reinvestment Application**” means, with respect to any Asset Disposal, the application of an amount equal to the Net Disposal Amount (or a portion thereof) with respect to such Asset Disposal to the acquisition by any Obligor of capital assets from an Unrelated Party to be used in the business of that Obligor (in which event the Property Reinvestment Application shall be limited to the fair market value of such acquired operating assets).

“**Quotation Date**” in relation to any period for which an interest or discount rate is to be determined hereunder means (i) if the rate is the BA Reference Rate or CDOR, the first day of that period, or (ii) if the rate is LIBOR, two (2) London Banking Days before the first day of that period, unless market practice changes in the London interbank market, in which case the Quotation Date will be determined by the Lender in accordance with market practice in the London interbank market (and if quotations would normally be given by leading banks in the London interbank market on more than one day, the Quotation Date will be the last of those days).

“**Related Person**” means any other person (i) that is an Affiliate of the Borrower, (ii) that directly or indirectly through Subsidiaries beneficially owns or Controls ten percent (10%) or more of the Voting Capital Stock, on an undiluted or a fully diluted basis, of the Borrower, (iii) of which ten percent (10%) or more of the Voting Capital Stock, on an undiluted basis or a fully diluted basis, is directly or indirectly through Subsidiaries beneficially owned or Controlled by the Borrower, (iv) that is a Responsible Officer or director of the Borrower or any person referred to in any of Clauses (i), (ii) and (iii) of this definition or (v) that is an “associate” (as defined in the *Business Corporations Act* (Ontario)) of any person referred to in any of Clauses (i), (ii), (iii) and (iv) of this definition.

“**Relevant Commitment**” means the Revolver Commitment or Term Commitment, as the context requires.

“**Relevant Facility**” means the Revolver Facility or Term Facility, as the context requires.

“**Repayment Notice**” means a duly completed and signed notice from the Borrower in the form of Schedule 4 (or in such other form to substantially similar effect as the Lender may accept).

“**Responsible Officer**” means the president, chief executive officer, co-chief executive officer, chief operating officer, chief financial officer, treasurer or other executive officer of any Obligor with responsibility for the administration of this Agreement or any other Loan Document to which such Obligor is party.

“**Restricted Payment**” means (i) any Distribution by the Borrower of or on any of its Capital Stock, (ii) any purchase or other acquisition by any Subsidiary of any of the Borrower’s Capital Stock, (iii) any payment by any Obligor of, on or in respect of any Subordinated Debt of any Obligor, and (iv) any other payment or disposal of cash, securities or other assets to any holder of any Capital Stock or Subordinated Debt of any Obligor, or to any Related Person; provided that payments made in the ordinary course of business for wages, salaries, reimbursement of expenses incurred on behalf of the reimbursing person and other like payments to employees, directors, officers or members of management of the person making the payments shall not constitute Restricted Payments.

“**Revolver Borrowing Base**” at any time means the amount reported in the most recent Revolver Borrowing Base Report provided to the Lender pursuant to Subsection 9.1(a)(vii) or 12.1.6(c) equal to the sum of (i) 90% of Insured Accounts Receivable *plus* (ii) 85% of Investment Grade Receivables *plus* (iii) 75% of Other Accounts Receivable *plus* (iv) 50% of the lesser of (A) the Eligible Inventory Amount and (B) the Revolver Commitment *minus* (v) the aggregate amount of all Statutory Prior Claims.

“**Revolver Borrowing Base Report**” means a report of the Borrower substantially in the form of Schedule 6 (or in such other form to substantially similar effect as the Lender may accept) signed by a Responsible Officer of the Borrower setting out a statement of (i) the items that comprise the Revolver Borrowing Base and (ii) the calculation of the Revolver Borrowing Base.

“**Revolver Commitment**” at any time means \$10,000,000, minus all reductions to such amount pursuant to each applicable provision of this Agreement occurring at or before such time.

“**Revolver Facility**” means the committed revolving line of credit established by the Lender in favour of the Borrower under Section 2.1.

“**Revolver Standby Fee**” means the standby fee payable under Subsection 7.2.1.

“**Rollover**” means (i) the continuation on the Period End Date of an outstanding Libor Loan (or a portion thereof) for another Interest Period or (ii) a new issue of Acceptances issued on the Period End Date of an outstanding issue of Acceptances in an aggregate face amount equal to the Credit Amount of such outstanding issue of Acceptances (or a portion thereof).

“**Rollover Date**” means a Business Day on which a Rollover of all or a portion of a Libor Loan or an issue of Acceptances takes place.

“**Sanctioned Country**” at any time means a country, region or territory that is the subject or target of comprehensive Sanctions broadly prohibiting dealings with or in such country, region or territory.

“**Sanctioned Person**” means any person (i) listed in any Sanctions-related list of designated persons maintained by any Sanctions Authority, including the Specially Designated Nationals and Blocked Persons List maintained by OFAC, (ii) domiciled, organized or resident in a Sanctioned Country, or the government or any agency or instrumentality of the government of, any Sanctioned Country, (iii) owned or controlled by, or acting for or on behalf of, directly or indirectly, any person described in the foregoing Clauses (i) or (ii) or (iv) otherwise the subject or target of any Sanctions.

“**Sanctions**” means economic or financial sanctions or trade embargoes imposed, administered or enforced from time to time by any Sanctions Authority.

“**Sanctions Authority**” means (i) the Canadian government, (ii) the U.S. government, including OFAC and the U.S. Department of State; (iii) the United Nations Security Council; (iv) the European Union; (v) the United Kingdom, including Her Majesty’s Treasury; and (vi) any other relevant national or supra-national sanctions authority.

“**Secured Documents**” at any time means all agreements of any nature or kind between each Obligor and the Lender, including the Loan Documents, in effect at that time.

“**Secured Obligations**” in relation to any Obligor means all obligations of any nature or kind of such Obligor to the Lender, including its Loan Obligations and any obligations under any other Secured Documents to which it is party, and any item or part of any thereof.

“**Security**” at any time means the Liens created (or intended by their express or implied terms to be created) by any of the Security Documents.

“**Security Documents**” at any time means the documents delivered or required to be delivered (as the case may be) pursuant to this Agreement to or for the benefit of the Lender at or before such time to secure or guarantee, directly or indirectly, the payment or performance of any of the Secured Obligations.

“**Senior Debt**” at any time means the aggregate total sum of all Secured Obligations at that time.

“**Senior Debt/EBITDA Ratio**” for any period means the ratio of (i) Senior Debt at the end of that period to (ii) EBITDA of the Borrower for that period.

“**Shareholder**” means a legal and beneficial owner of Capital Stock in the Borrower.

“**Solvent**” when used with respect to a person means that (i) such person is not for any reason unable to meet its obligations as they generally become due, (ii) such person has not ceased paying its current obligations in the ordinary course of business as they generally become due and (iii) the aggregate property of such person is, at a fair valuation, sufficient, or, if disposed of at a fairly conducted sale under legal process, would be sufficient, to enable payment of all its obligations, due and accruing due.

“**Stamping Fee**” means the stamping fee payable to the Lender on an Acceptance at the time that Acceptance is issued, calculated and payable in the manner provided for in Section 4.5.

“**Standby Instrument**” means a documentary or trade letter of credit, a bank guarantee or a standby (within the meaning attributed thereto under the ICC Rules) issued or deemed issued by the Lender pursuant to this Agreement.

“**Standby Instrument Disbursement**” means an Advance deemed to be made by the Lender pursuant to Subsection 6.2.4.

“**Standby Instrument Fees**” means the fees payable pursuant to Section 6.4 in respect of Standby Instruments.

“**Statutory Prior Claims**” means claims for unpaid wages, vacation pay, worker’s compensation, unemployment insurance premiums, pension plan contributions, pension plan solvency deficiency, employee or non-resident withholding tax source deductions, realty taxes (including utility charges and business taxes which are collectable like realty taxes), unremitted goods and services taxes, provincial sales taxes, customs duties or similar statutory obligations secured by a Lien on any Group Member’s assets ranking prior to or *pari passu* with the Security.

“**Subordinated Debt**” means any Debt of any Group Member which is governed by agreements including the following terms and conditions: (i) it has no mandatory principal prepayment provisions, save for acceleration following an event of default, (ii) the representations, warranties, covenants and events of default applicable to it are no more restrictive or onerous than those contained in this Agreement, (iii) the obligations thereunder to pay principal, interest and all other amounts thereunder are subordinated and postponed to the prior payment in full of the Secured Obligations in a manner, form and substance (including

payment blockage at any time a Default is continuing, enforcement standstill provisions and consent to prior ranking secured financing) satisfactory to the Lender in its sole discretion and (iv) it has no scheduled principal repayment due on or before the date falling six (6) months after the Final Maturity Date.

“**Subsidiary**” of any person (the “relevant party”) at any time means and includes (i) any person that is Controlled by the relevant party and a majority of whose Voting Capital Stock is at that time owned by the relevant party directly or indirectly through Subsidiaries of the relevant party and (ii) any other person (A) the accounts of which are consolidated with those of the relevant party in the relevant party’s consolidated financial statements prepared in accordance with Applicable Accounting Principles and (B) that is Controlled by the relevant party. A person shall be deemed to be a Subsidiary of another person if it is a Subsidiary of a person that is that other’s Subsidiary. Unless otherwise expressly provided, all references herein to a “Subsidiary” shall mean a Subsidiary of the Borrower.

“**Take-Over Bid**” means a “take-over bid” as defined in the *Securities Act* (Ontario) except that all references to “Ontario” shall be amended to “any jurisdiction in the world”.

“**Target Brands**” means Salon Selectives and Daily Defense.

“**Tax**” or “**Taxes**” means all taxes of any kind or nature whatsoever, including income taxes, capital taxes, levies, imposts, transfer taxes, stamp taxes, documentary taxes, royalties, duties, charges to taxes, value added taxes, goods and services taxes, harmonized sales taxes, provincial sales taxes, business transfer taxes, excise taxes, property taxes, and all fees, deductions, withholdings and charges, imposed, levied, collected, withheld or assessed by any authority of or within any jurisdiction whatsoever having power to tax, together with penalties, fines, additions to tax and interest thereon.

“**Tenor**” for any Advance by way of Acceptances means the period of one (1), two (2), three (3) or six (6) months, as selected by the Borrower in a Borrowing Request commencing on (and including) the Borrowing Date of such Advance; provided that any Tenor that would otherwise end on a day which is not a Business Day shall be extended or shortened by the Lender in accordance with the Modified Following Business Day Convention.

“**Term Amortization Base Amount**” means the Credit Amount of the Drawdown made under the Term Facility.

“**Term Commitment**” at any time means US\$11,538,461.50 minus all reductions to such amount pursuant to each applicable provision of this Agreement occurring at or before such time.

“**Term Facility**” means the committed non-revolving term loan facility established by the Lender in favour of the Borrower under Section 2.2.

“**Test Period**” at any time means the period of four (4) consecutive Fiscal Quarters which has most recently ended.

“**Total Commitment**” means the total sum of all the Commitments of the Lender.

“**Total Debt**” at any time means the aggregate total sum of all Debt of the Borrower and its Subsidiaries at that time calculated on a consolidated basis in accordance with Applicable Accounting Principles.

“**Total Debt/EBITDA Ratio**” for any period means the ratio of (i) Total Debt at the end of that period to (ii) EBITDA of the Borrower for that period.

“**Trade-mark**” means all rights (and all related ancillary rights) arising under any Applicable Law in or relating to trade-marks, trade names, corporate names, company names, business names, fictitious business names, trade styles, service marks, logos and other source or business identifiers and, in each case, all goodwill associated therewith, all registrations and recordations thereof and all applications in connection therewith.

“**Type**” means, with respect to any Advance, other than a Standby Instrument, its form as a Canadian Prime Rate Loan, Libor Loan, US Base Rate Loan or an issue of Acceptances.

“**United States Dollars**”, “**US Dollars**” and the symbol “**US\$**” each means dollars which are the lawful money of the United States of America.

“**Unrelated Party**” means any person that deals at arm’s length with the Borrower and is not a Related Person.

“**Upfront Fee**” means the upfront fee payable under Subsection 7.2.2.

“**US Base Rate**” on any day means the variable nominal interest rate equal on such day to the percentage rate per annum determined by the Lender (rounded up, if necessary to be expressed to three (3) decimal places, to the nearest 1/1000<sup>th</sup> of 1%) to be the greatest of (i) the rate of interest which the Lender establishes from time to time as the reference rate of interest for determination of the interest rates it will charge for loans made in US Dollars in Canada and which it refers to as its base rate (or its equivalent or analogous such rate), (ii) the sum of (A) the yearly rate of interest to which the Federal Funds Effective Rate is equivalent plus (B) one percent (1.0%) and (iii) the sum of (A) one-month LIBOR plus (B) one percent (1.0%).

“**US Base Rate Loan**” means an Advance by way of loan denominated in United States Dollars under a Credit Facility on which interest shall be calculated and payable in accordance with the applicable provisions of this Agreement with reference to the US Base Rate.

“**Voting Capital Stock**” means Capital Stock of a person that is a corporation or other artificial legal or commercial entity which carries voting rights or the right to Control such person under any circumstances; provided that, Capital Stock which carries the right to vote or Control conditionally upon the happening of an event shall not be considered Voting Capital Stock until the occurrence of such event and then only during the continuance of such right to vote or Control.

“**Waste**” means ashes, garbage and refuse and includes domestic waste, industrial waste, municipal refuse or such other wastes as are designated as such under any Environmental Law.

“**Wholly-Owned Subsidiary**” of a person (the “relevant party”) means any Subsidiary, all of the outstanding Capital Stock of which, shall at the time be owned (except for director’s qualifying shares) and Controlled, directly or indirectly, by the relevant party or one or more Wholly-Owned Subsidiaries of the relevant party, or by the relevant party and one or more Wholly-Owned Subsidiaries of the relevant party. A person shall be deemed to be a Wholly-Owned Subsidiary of another person if it is a Wholly-Owned Subsidiary of a person that is that other’s Wholly-Owned Subsidiary. Unless otherwise expressly provided, all references herein to a “Wholly-Owned Subsidiary” shall mean a Wholly-Owned Subsidiary of the Borrower.

## 1.2 Extended Meanings

To the extent the context so admits, in this Agreement the following words and expressions shall be given the following corresponding extended meanings:

an “**agreement**” – any agreement, oral or written, any simple contract, deed or specialty, and includes any bond, bill of exchange, indenture, instrument or undertaking.

“**approved credit rating**” – a rating at or above the following rating categories issued by at least two (2) of the following credit rating organizations (or their respective successors) for the category of commercial paper/short term debt (or any replacement such rating category), namely (i) R-1 (low) issued by DBRS Limited, (ii) F1 issued by Fitch, (iii) P-1 issued by Moody’s Investors Service, Inc. or (iv) A-1 (Low) issued by Standard & Poor’s Ratings Services, a division of The McGraw Hill Financial, Inc.

“**arm’s length**” – the meaning attributed thereto under the *Income Tax Act* (Canada).

an “**asset**” – any undertaking, business, property (real, personal or mixed, tangible or intangible) or other asset.

an “**authorization**” – any authorization, approval, consent, exemption, licence, permit, franchise, quota, privilege or no-action letter from any governmental

authority or from any person in connection with any easements or contractual rights.

“**change**” – change, modify, alter, amend, supplement, extend, renew, compromise, novate, replace, terminate, release, discharge, cancel, suspend or waive.

“**claim**” – claim, claim over, counter-claim, cross-claim, defence, demand or liability (actual or contingent, now existing or arising hereafter), whether arising by agreement or statute, at law or in equity or otherwise, or any proceeding, judgment or order of any court or other governmental authority or arbitrator.

“**dispose**” – lease, sell, transfer, license or otherwise dispose of any property, or the commercial benefits of use or ownership of any property, including the right to profit or gain therefrom, whether in a single transaction or in a series of related transactions (other than the payment of money).

a “**document**” – a written agreement, consent, waiver, certificate, notice or other written document or instrument.

a “**final judgment**” – a judgment, order, declaration or award of a court, other governmental authority, arbitrator or other alternative dispute resolution authority of competent jurisdiction from which no appeal may be made or from which all rights of appeal have expired or been exhausted.

a “**government**” – (i) the Crown in right of Canada or in the right of any Province of Canada, (ii) the government of a Territory in Canada, (iii) a municipality in Canada or (iv) the government of a foreign country or any political subdivision of it.

a “**governmental authority**” – any court, administrative tribunal, regulatory authority, government, union of nations or any agency or other authority of a government or union of nations.

“**guarantee**” – any guarantee, indemnity, letter of comfort or other assurance made in respect of any Debt, other obligation or financial condition of another, including (i) any purchase or repurchase agreement, (ii) any obligation to supply funds or invest in such other, (iii) any keep-well, take-or-pay, through-put or other arrangement having the effect of assuring or holding harmless another against financial loss, or maintaining another’s solvency or financial viability or (iv) any obligation under any credit Derivative; but shall exclude endorsements on notes, bills and cheques presented to financial institutions for collection or deposit in the ordinary course of business.

“**include**” – include without limitation and such term shall not be construed to limit any word or statement which it follows to the specific items or matters immediately following it or similar terms or matters.

“**knowledge**” of any person – to the best of that person’s knowledge, information and belief after reasonable enquiry.

“**losses and expenses**” – losses, costs, expenses, damages, penalties, awards, Orders, claims, claims over, demands and liabilities, including any applicable court costs and legal fees and disbursements on a full indemnity basis.

“**obligations**” – indebtedness, obligations, promises, covenants, responsibilities, duties and liabilities (actual or contingent, direct or indirect, matured or unmatured, now existing or arising hereafter), whether arising by agreement or statute, at law, in equity or otherwise.

“**ordinary course of business**” in respect of any transaction involving any person – the ordinary course of such person’s business, as conducted by such person in accordance with past practice and undertaken by such person in good faith and not for purposes of evading any obligation or restriction contained in any Loan Document.

“**paid in full**” and “**repaid in full**” in relation to any payment obligation owing to any person (the “creditor”) – permanent, indefeasible and irrevocable payment in cash (or other freely available funds transfer as may be expressly provided for in the applicable document creating or evidencing such payment obligation) to the applicable creditor in full of such payment obligation in accordance with the express provisions of the applicable document creating or evidencing such payment obligation, without regard to any compromise, reduction or disallowance of all or any item or part thereof by virtue of the application of any bankruptcy, insolvency, fraudulent conveyance, assignment, preference or other similar such laws, any law affecting creditors’ rights generally or general principles of equity, and, if applicable, the cancellation or expiry of any commitment of the creditor to lend or otherwise extend credit.

a “**person**” – an individual, including an individual in his or her capacity as trustee, executor, administrator or other representative, a sole proprietorship, a partnership, an unincorporated association, an unincorporated syndicate, an unincorporated organization, a trust, including a business trust, a body corporate organized under the laws of any jurisdiction, a government or agency of a government or any other artificial legal or commercial entity.

a “**proceeding**” – any proceeding, legal action, lawsuit, arbitration, mediation, alternative dispute resolution proceeding or other proceeding.

a “**rate of exchange**” – the rate of exchange, including any premiums or costs payable in connection with any currency conversion being effected.

a “**receiver**” – a privately appointed or court appointed receiver or receiver and manager, interim receiver, liquidator, trustee-in-bankruptcy, administrator, administrative receiver and any other like or similar official.

“**register**” – register, file or record with an applicable governmental authority.

a “**representative**” – any person empowered to act for another, including an agent, an officer or other employee of a body corporate or association and a trustee, executor or administrator of an estate.

“**rights**” – rights, titles, benefits, interests, powers, authorities, discretions, privileges, immunities and remedies (actual or contingent, direct or indirect, matured or unmatured, now existing or arising hereafter), whether arising by agreement or statute, at law, in equity or otherwise.

“**set-off**” – any right or obligation of set-off, compensation, offset, combination of accounts, netting, retention, withholding, reduction, abatement, deduction, counter-claim or any similar right or obligation, or (as the context requires) any exercise of any such right or performance of such obligation.

“**successor**” of a person (the “relevant party”) – (i) any amalgamated or other body corporate of which the relevant party or any of its successors is one of the amalgamating or merging body corporates, (ii) any person resulting from any court approved arrangement of which the relevant party or any of its successors is party, (iii) any person to whom all or substantially all the assets of the relevant party is transferred, (iv) any body corporate resulting from the continuance of the relevant party or any successor of it under the laws of another jurisdiction of incorporation and (v) any successor (determined as aforesaid or in any similar or comparable procedure under the laws of any other jurisdiction) of any person referred to in Clause (i), (ii), (iii) or (iv) of this definition. Each reference in this Agreement to any party hereto or any other person shall (where the context so admits) include its successors.

“**written**” and “**in writing**” – an original writing, a pdf or facsimile copy of a writing or an e-mail.

### **1.3 Continuing**

A Default (other than an Event of Default) which occurs at any time shall be deemed to be continuing at all times thereafter unless it is expressly waived in writing by the Lender or cured or remedied by the Borrower. An Event of Default which occurs at any time shall be deemed to be continuing at all times thereafter unless it is expressly waived in writing by the Lender, whether or not the default, breach, failure, event, state or condition that gave rise to such Event of Default is remedied at any time after the Event of Default occurs.

### **1.4 References to Agreements**

Unless the context otherwise requires, each reference in this Agreement to any agreement or document (including this Agreement and any other defined term that is an agreement or document) shall be construed so as to include such agreement or document (including any attached schedules, appendices and exhibits) and each change made to it at or before the time in question; provided that (a) no change to this Agreement shall be effective

unless it is made in compliance with Section 14.19 and (b) any change to any agreement or document which is not made in compliance with the Loan Documents shall be disregarded for the purposes of determining whether or not the Obligor party thereto is in compliance with its obligations relative thereto under the Loan Documents (save for any obligations not to change such agreement or document contained in any Loan Document).

## **1.5 Reference to Statutes**

Unless the context otherwise requires, each reference in this Agreement to any code, statute, regulation, official interpretation, directive or other legislative enactment of any Canadian or foreign jurisdiction (including any political subdivision of any thereof) at any time shall be construed so as to include such code, statute, regulation, official interpretation, directive or enactment and each change thereto made at or before that time.

## **1.6 Headings, etc.**

The division of this Agreement into Articles, Sections and Schedules and the insertion of headings and titles are for the convenience of reference only and shall not affect the construction or interpretation of this Agreement. The terms “**this Agreement**”, “**hereof**”, “**hereunder**” and similar expressions refer to this Agreement and not to any particular Article, Section, Subsection, Schedule, paragraph, subparagraph, Clause or other portion of this Agreement.

## **1.7 Grammatical Variations**

In this Agreement, unless the context otherwise requires, (i) words and expressions (including words and expressions (capitalized or not) defined or given extended meanings) in the singular include the plural and *vice versa* (the necessary changes being made to fit the context), (ii) words in one gender include all genders and (iii) grammatical variations of words and expressions (capitalized or not) which are defined, given extended meanings or incorporated by reference in this Agreement shall be construed in like manner.

## **1.8 Accounting Principles**

Wherever in this Agreement reference is made to generally accepted accounting principles, such reference means generally accepted accounting principles from time to time approved by the Chartered Professional Accountants of Canada, or any successor institute, including (to the extent applicable) those set out in the CPA Canada Handbook. Where the character or amount of any asset or liability or item of revenue or expense is required to be determined, or any consolidation or other accounting computation is required to be made, for the purposes of this Agreement or any other Loan Document, including the contents of any Certificate to be delivered hereunder, such determination, consolidation or computation shall, unless the parties otherwise agree or the context otherwise requires, be made in accordance with such generally accepted accounting principles applied on a consistent basis; provided, however, that if any changes in accounting principles from those used in the preparation of the audited financial statements of the Borrower dated November 30, 2017 (“**Historic Applicable Accounting Principles**”) occur by reason of any change in the rules, regulations, pronouncements, opinions or other requirements of the Chartered Professional Accountants of

Canada (or any successor thereto or agency with similar function), including the adoption of International Financial Reporting Standards, and such change in accounting principles results in a change in the method or results of calculation of financial covenants or the terms related thereto contained in this Agreement, the Borrower shall, at its option, either (a) furnish to the Lender, together with each delivery of the consolidated financial statements of the Borrower and its Subsidiaries required to be delivered pursuant to Subsection 12.1.6, a written reconciliation setting forth the differences that would have resulted if such financial statements had been prepared utilizing Historic Applicable Accounting Principles (in which case the method and calculation of financial covenants and the terms related thereto hereunder shall continue to be determined in accordance with Historic Applicable Accounting Principles) or (b) agree with the Lender to amend such financial covenants or terms in such manner as the Lender shall require in order to reflect fairly such changes so that the criteria for evaluating the financial condition of the Borrower and its Subsidiaries shall be the same in commercial effect after, as well as before, such changes are made (in which case the method and calculation of financial covenants and the terms related thereto hereunder shall be determined in the manner so agreed).

### **1.9 References to Time and Time Periods**

Unless otherwise stated, each reference in this Agreement to (a) any time of the day shall be construed as a reference to Toronto time or (b) any period of time shall commence on (and include) the first day of such period and end on (but exclude) the last day of such period.

### **1.10 Rounding**

Unless otherwise stated, (a) all dollar amounts expressed in Canadian Dollars or US Dollars determined pursuant to this Agreement shall be rounded up, if necessary to be expressed in a whole number of cents, to the nearest cent and (b) all financial ratios required to be determined hereunder shall be truncated after five (5) decimal places without rounding.

## **ARTICLE 2 THE CREDIT FACILITIES**

### **2.1 Establishment of Revolver Facility**

Upon and subject to the terms and conditions of this Agreement, the Lender hereby establishes a committed revolving line of credit in the amount equal to the Revolver Commitment in favour of the Borrower (a) to finance Permitted Acquisitions and (b) for general corporate purposes of the Group.

### **2.2 Establishment of Term Facility**

Upon and subject to the terms and conditions of this Agreement, the Lender hereby establishes a committed non-revolving term loan facility in the amount equal to the Term Commitment in favour of the Borrower to finance the payment (in part) of the purchase price payable under the Asset Purchase Agreement for the Target Brands.

### **2.3 Establishment of MasterCard Facility**

Upon and subject to the terms and conditions of this Agreement, the Lender hereby establishes a discretionary demand credit card facility pursuant to the terms and conditions set forth in the prevailing MasterCard cardholders agreement in effect between the Borrower and the Lender to be used for general corporate purposes.

### **2.4 Credit Facility Limits**

2.4.1 *Revolver Facility.* On each Borrowing Date under the Revolver Facility, the Borrower shall ensure that the total Credit Amount of all Advances outstanding under the Revolver Facility does not exceed the lesser of (a) the Revolver Commitment and (b) the Revolver Borrowing Base.

2.4.2 *Term Facility.* On each Borrowing Date under the Term Facility, the Borrower shall ensure that the total Credit Amount of all Advances outstanding under the Term Facility does not exceed the Term Commitment.

2.4.3 *MasterCard Facility.* The Borrower shall ensure that the outstanding balance under the MasterCard Facility at no time exceeds the MasterCard Limit.

### **2.5 Availability**

2.5.1 *Revolver Facility.* During the Availability Period for the Revolver Facility, the Borrower may borrow, repay and reborrow Advances under the Revolver Facility on a revolving basis by way of Loans and issues of Acceptances. In addition, the Borrower may borrow by way of Standby Instruments under the Revolver Facility in accordance with the provisions of Article 6.

2.5.2 *Term Facility.* The Borrower may make only one Drawdown under the Term Facility on a non-revolving basis by way of a Canadian Prime Rate Loan and/or issue of Acceptances on the Closing Date.

## **ARTICLE 3 DRAWDOWN PROCEDURE**

### **3.1 Canadian Prime Rate Loans and US Base Rate Loans**

Each Advance by way of Canadian Prime Rate Loan or US Base Rate Loan under each Credit Facility shall be initially be made by the Lender on an overdraft basis by honouring cheques and other payment orders drawn by the Borrower on the Borrower's Account. At the end of each day, the Lender will, subject to Section 9.2, advance to the Borrower's Account the amount required to repay such overdraft amount (rounded up to the nearest \$25,000 or US\$25,000, as the case may be) The amount of each such advance from time to time shall be deemed to be a Canadian Prime Rate Loan (to the extent such overdraft is denominated in Canadian Dollars) or a US Base Rate Loan (to the extent such overdraft is denominated in US Dollars).

### **3.2 Libor Loans, Acceptances and Standby Instruments**

The Borrower must deliver a Borrowing Request to the Lender to obtain a Drawdown by way of Libor Loan, Acceptances or Standby Instrument under a Relevant Facility at the times and stipulating the information specified below:

- (a) for a Libor Loan under the Revolver Facility, before 10:00 a.m. on the Business Day before the Quotation Date for the Interest Period commencing on the proposed Drawdown Date specifying the principal amount (which must be US\$1,000,000, or a whole number multiple of US\$100,000 in excess thereof) and the proposed Interest Period (which must commence within the Availability Period for the Revolver Facility);
- (b) for an issue of Acceptances under either Relevant Facility, before 10:00 a.m. on the second Business Day before the commencement of the Tenor for such issue of Acceptances specifying the proposed Drawdown Date (which must be a Business Day falling within the Availability Period for the Relevant Facility) and otherwise as required in accordance with Article 4; and
- (c) for the issuance of a Standby Instrument, as required in accordance with Article 6.

The proceeds of each Drawdown by way of Loan under a Relevant Facility, shall, subject to Article 9, be advanced by the Lender to the Borrower by bank transfer to the credit of the Borrower's Account. The proceeds from the sale of Acceptances will be dealt with in accordance with Article 4 and Article 5.

## **ARTICLE 4 BANKERS' ACCEPTANCES UNDER A RELEVANT FACILITY**

### **4.1 Notice and Tenor**

Subject to Section 5.6, the Borrower may deliver a Borrowing Request to the Lender (which (unless the Lender otherwise agrees) must be received by the Lender before 10:00 a.m. on the second (2<sup>nd</sup>) Business Day before the commencement of the Tenor requested in the Borrowing Request to be effective) requesting that Drafts be accepted under a Relevant Facility on any proposed Borrowing Date and stating the aggregate face amount and the Tenor applicable to such Drafts. The Tenor of such Drafts must be a period of one (1), two (2), three (3) or six (6) months expiring on or before the Final Maturity Date. The Lender shall have the discretion to restrict the term and maturity date of an issue of Acceptances.

### **4.2 Face Amount of Drafts**

The aggregate face amount of an issue of Drafts to be accepted on any particular Borrowing Date must be \$1,000,000 or a whole number multiple of \$100,000 in excess thereof. The face amount of each Draft must be a whole number multiple of \$100,000.

### 4.3 Power of Attorney

In order to facilitate issues of Acceptances pursuant to this Agreement, the Borrower authorizes the Lender, and for this purpose appoints the Lender its lawful attorney with full right of substitution and delegation, to complete, sign and endorse Drafts issued in accordance with a Borrowing Request delivered to the Lender pursuant to Section 4.1 on its behalf signed manually or by mechanical signature and, once so completed, signed and endorsed, and following acceptance of them as Acceptances under this Agreement, then discount, negotiate or deliver such Acceptances in accordance with the provisions of this Article 4. Drafts so completed, signed, endorsed, negotiated or delivered on behalf of the Borrower by the Lender shall bind the Borrower as fully and effectively as if so performed by an authorized officer of the Borrower.

### 4.4 Discount and Sale of Acceptances

4.4.1 *Purchase at Discount.* Subject to Section 9.2, the Lender shall accept Drafts and purchase and take delivery of each issue of Acceptances for its own account on the Borrowing Date of such Acceptances at the purchase price equal to the face amount of such Acceptances less an amount equal to the amount that yields to the Lender (excluding the Stamping Fee) an interest rate per annum equal to the Lender's BA Reference Rate for the applicable Tenor of such Acceptances. The Lender shall be entitled to deduct from the Acceptance Proceeds derived from the purchase by it of Acceptances the Stamping Fee payable to it pursuant to Section 4.5. The Net Acceptance Proceeds for any Acceptances purchased by the Lender shall be determined in accordance with the following formula:

$$\text{Net Acceptance Proceeds} = \text{Face amount of Acceptances} \times \left( \frac{1}{1 + (\text{BA Reference Rate} \times n/365)} - (\text{AM} \times n/365) \right)$$

Where n is the number of days to elapse in the Tenor of the Acceptances, BA Reference Rate is expressed as a decimal and AM is the Applicable Margin expressed as a decimal.

4.4.2 *Payment and Advance of Net Acceptance Proceeds.* Subject to Sections 5.4 and 8.6 and Article 9, the Lender shall credit the Borrower's Account on the Borrowing Date of each issue of Acceptances with the Net Acceptance Proceeds of such issue of Acceptances.

4.4.3 *Dealings with Acceptances.* The Lender may at any time and from time to time purchase, hold, sell, rediscount or otherwise dispose of any Acceptance issued by it and no such dealing shall change the Borrower's obligations under Section 4.6.

### 4.5 Stamping Fee

The Borrower shall pay a stamping fee to the Lender on the issuance of each Acceptance which shall be in an amount equal to the product of (a) the face amount of such Acceptance multiplied by (b) the actual number of days to elapse in the Tenor of such

Acceptance *multiplied by* (c) the fraction of (i) the Applicable Margin *divided by* (ii) 365. The stamping fee is reflected in the computation of Net Acceptance Proceeds set out in Subsection 4.4.1 and the Lender is authorized by the Borrower to deduct the Stamping Fee from the Acceptance Proceeds of the Acceptances accepted by it.

#### **4.6 Payment of Acceptances**

Unless made subject to a Conversion or a Rollover, the Borrower shall pay to the Lender the full face amount of each Acceptance on the Period End Date of such Acceptance. If an issue of Acceptances matures and the Borrower has not made such payment or provided for its Conversion or Rollover, such issue of Acceptances shall be deemed to be Converted on its Period End Date into a Canadian Prime Rate Loan in an aggregate principal amount equal to their full aggregate face amount.

#### **4.7 Waivers**

The Borrower shall not claim from the Lender any days of grace for the payment at maturity of any Drafts presented and accepted by the Lender pursuant to this Agreement. In addition, the Borrower waives demand, presentment for payment, protest, noting of protest, dishonour, notice of dishonour and any other notice or defence to payment which might otherwise exist if for any reason an Acceptance is held by the Lender in its own right at the maturity thereof.

#### **4.8 Notice of Maturing Acceptances**

The Borrower shall give the Lender, before 10:00 a.m. on the second Business Day before the Period End Date of each issue of Acceptances, a Repayment Notice or a Borrowing Request in respect of such issue of Acceptances requesting a Conversion or Rollover on such Period End Date in order to permit the Lender to organize its internal funding requirements to fund the payment of the face amount of such issue of Acceptances to the respective holders thereof upon or following maturity.

#### **4.9 Clearing House System**

The Borrower agrees that the Lender may require that Drafts accepted by it be made payable to a clearing house (such as CDS & Co.) and that the resulting Acceptances (including the delivery thereof) may be subject to the rules, regulations, policies and other guidelines established from time to time by the applicable clearing house and that the Lender will be required to comply with the same at all times. The Borrower hereby consents to the deposit (by or on behalf of the Lender) of any Acceptance in the book-based system maintained by a recognized clearing house, and to the sale or resale (without recourse in the case of any subsequent holder thereof) of the whole or any item or part of any interest whatsoever held by the Lender or by any third party at any time in such Acceptance. Further, the Borrower agrees to abide by, and to assist and co-operate with the Lender in observing, complying with and fulfilling (to the extent that the Lender may reasonably require the Borrower do so), any and all obligations, requirements and directions issued by or on behalf of an applicable clearing house with respect to Acceptances issued hereunder.

#### **4.10 Deemed Acceptances**

Whenever the Lender is required under any provision of this Agreement to purchase and take delivery of any Acceptances, the Lender shall be deemed for all purposes of this Agreement to have completed and signed a Draft giving rise to such Acceptance pursuant to Section 4.3 and to have purchased and taken delivery of such Acceptance hereunder whether or not it actually does so.

### **ARTICLE 5 CONVERSIONS AND ROLLOVERS**

#### **5.1 Conversions**

5.1.1 *Generally.* Subject to Sections 5.3 and 5.6, the Borrower may request the Lender to Convert:

- (a) at any time, a Floating Rate Loan under the Revolver Facility or a portion thereof into a different Type of Advance available under the Revolver Facility;
- (b) at any time, a Canadian Prime Rate Loan under the Term Facility into an issue of Acceptances under the Term Facility;
- (c) on a Period End Date, a Libor Loan under the Revolver Facility or a portion thereof into a different Type of Advance available under the Revolver Facility; or
- (d) on a Period End Date, an issue of Acceptances under a Relevant Facility or a portion thereof into a Canadian Prime Rate Loan available under the same Relevant Facility,

upon delivering a Borrowing Request to the Lender specifying both the amount and Type of the Advance to be Converted and the amount and Type of the requested resulting Advance.

5.1.2 *Same Currency Denomination.* If the Borrower has requested a Conversion of an Advance to a Type of Advance denominated in the same currency, no payment shall be required to be made by the Borrower to the Lender on such Conversion, save to the extent required by Section 5.4 if the resulting Advance is an issue of Acceptances.

5.1.3 *Different Currency Denomination.* If the Borrower has requested a Conversion of an Advance to a Type of Advance denominated in a different currency, the Borrower shall repay the Advance (or relevant portion) being Converted and, subject to the foregoing provisions of this Section 5.1 and receipt by the Lender of such repayment, the Lender shall, subject to Section 9.2, make the Type of Advance requested on the Conversion to the Borrower on the Conversion Date in the same manner as a Drawdown.

5.1.4 *Acceptances.* If the Borrower has requested a Conversion into an issue of Acceptances, the Lender shall, subject to Section 9.2 and the foregoing provisions of this Section 5.1, accept Drafts and purchase and take delivery of the resulting issue of Acceptances for its own account on the Conversion Date in the manner provided for in Section 5.4.

## **5.2 Rollovers**

At or before 10:00 a.m. three (3) Business Days (which is also at least three (3) London Banking Days) in the case of a Libor Loan, or two (2) Business Days, in the case of an issue of Acceptances, before the Period End Date for each Advance by way of Libor Loan or issue of Acceptances, unless the Borrower has previously delivered to the Lender a Borrowing Request requesting a Conversion in accordance with Section 5.1 or a Repayment Notice, the Borrower may, subject to Sections 5.3 and 5.6, deliver a Borrowing Request to the Lender requesting a Rollover and selecting the next Interest Period applicable to the relevant Libor Loan or Tenor applicable to the relevant issue of Acceptances, which new Interest Period or Tenor shall commence on the current Period End Date of such Advance and expire on or before the Final Maturity Date. Subject to the foregoing, if the Borrower requests such a Rollover, such Advance shall continue as a Libor Loan for that new Interest Period or an issue of Acceptances for that new Tenor. If the Borrower fails to deliver any such request or notice to the Lender and fails to repay such Advance on the current Period End Date, then the relevant Advance shall be deemed to be Converted to a US Base Rate Loan, in the case of a Libor Loan, in the same principal amount or a Canadian Prime Rate Loan, in the case of an issue of Acceptances, in the principal amount equal to the aggregate face amount of such Acceptances, on the current Period End Date.

## **5.3 Limitations on Rollovers and Conversions**

The relevant provisions of this Agreement applicable to a Drawdown and availability of the same Type of Advance as the Advance which will result from a Conversion or Rollover (as well as any portion of an Advance which is not being repaid, Converted on such Conversion Date or Rolled Over on such Rollover Date) must be satisfied to effect any Conversion or Rollover requested under this Agreement (including the applicable notice provisions contained in Section 3.1), save that (x) the Borrowing Date of the Advance resulting from the Conversion or Rollover must fall before the Final Maturity Date, (y) the Interest Period for any Libor Loan and the Tenor for any issue of Acceptances must have a Period End Date falling on or before the Final Maturity Date and (z) the Borrower must ensure that Interest Periods and Tenors are selected in a manner so that the Relevant Total Commitment is not exceeded at any time without requiring prepayment of a Libor Loan during its Interest Period or of an Acceptance during its Tenor.

## **5.4 Conversions to and Rollovers of Acceptances**

On the Conversion Date of any Advance being Converted to an issue of Acceptances, and on the Rollover Date of any issue of Acceptances, the Lender shall accept Drafts and purchase and take delivery of the resulting issue of Acceptances for its own account in the manner provided for in Section 4.4, save that in lieu of remitting the Net Acceptance Proceeds of such resulting issue of Acceptances to the Borrower on the Borrowing Date of such resulting issue of Acceptances, the Lender shall retain such Net Acceptance Proceeds for its own account and the Borrower shall pay to the Lender on that Borrowing Date the amount by which the aggregate face amount of the resulting issue of Acceptances exceeds such Net Acceptance Proceeds.

## **5.5 Not a Repayment**

Neither a Rollover nor a Conversion of an Advance shall constitute a repayment or Drawdown by the Borrower, but rather shall constitute a continuation or change in the form of credit being extended by the Lender to the Borrower. The Borrower shall repay each such Advance resulting from any Rollover or Conversion to the Lender in accordance with the provisions of this Agreement as if such Advance had resulted from a Drawdown on the Rollover Date or Conversion Date.

## **5.6 Consolidations**

Each Libor Advance under the same Relevant Facility that has an Interest Period ending on the same Period End Date shall be consolidated on such Period End Date to form a single Advance, and each issue of Acceptances under the same Relevant Facility that has a Tenor ending on the same Period End Date shall be consolidated on such Period End Date to form a single Advance, unless and to the extent the Borrower elects to repay or effect a Conversion or Rollover of part, but not all, of such Advances. Unless the Lender notifies the Borrower to the contrary, the maximum number of Libor Loans outstanding at any time is limited to six (6) and the maximum number of issues of Acceptances outstanding at any time is limited to six (6).

# **ARTICLE 6 STANDBY INSTRUMENT PROVISIONS**

## **6.1 Issuance**

Standby Instruments may only be issued under the Revolver Facility and the following provisions shall apply to their issuance:

- (a) A Standby Instrument may be requested by the Borrower to be issued by the Lender in Canadian Dollars or US Dollars or, with the prior consent of the Lender, any other currency.
- (b) The aggregate Credit Amount of all Standby Instruments outstanding under the Relevant Facilities may not exceed \$1,000,000 at any time. In addition, the Lender shall have the right, in its sole discretion, to limit the term of any Standby Instrument so that it does not exceed one (1) year and/or expires on or before the Final Maturity Date. Following the occurrence of a Default, the Lender shall also have the right, in its sole discretion, to renew or extend the expiry date of any Standby Instrument.
- (c) The Borrower may not request the issuance of any Standby Instrument (i) if the aggregate Credit Amount of all Advances under the Revolver Facility would, after the issuance of the Standby Instrument in question, exceed the lesser of (A) the Revolver Commitment and (B) the Revolver Borrowing Base or (ii) having a term which expires beyond the Final Maturity Date or for more than one (1) year from its Drawdown Date.

- (d) The Borrower shall provide the Lender with the proposed form and content of such Standby Instrument complying with the foregoing provisions of this Section 6.1 no less than two (2) Business Days before the requested issuance of the Standby Instrument. The foregoing documentation must specify (i) the stated amount of the Standby Instrument requested, (ii) the requested date of issuance of such Standby Instrument, which must be a Business Day falling within the Availability Period for the Revolver Facility, (iii) the date on which such requested Standby Instrument is to expire (complying with paragraph (c)) and (iv) a Borrowing Request for the issuance of the requested Standby Instrument.
- (e) Upon receipt of the information and documentation in compliance with this Section 6.1 and subject to such changes to the form thereof as the Lender may reasonably require, the Lender shall, subject to Section 9.2, on the requested issue date issue a Standby Instrument in accordance with its usual and customary business practices. In addition, any amendment or renewal of any Standby Instrument shall be deemed to be an issuance of a new Standby Instrument and shall be subject to the requirements set forth above.

## **6.2 Reimbursement by the Borrower**

6.2.1 *Authorization.* The Borrower unconditionally and irrevocably authorizes the Lender to pay the amount of any demand made on the Lender in accordance with the terms of any Standby Instrument issued for its account on demand without requiring proof of the Borrower's agreement that the amount so demanded was due and notwithstanding that the Borrower may dispute the validity of any such demand or payment.

6.2.2 *Indemnity.* The Borrower shall indemnify and save the Lender harmless on a full indemnity basis from and against any and all payments, claims and losses and expenses which it may make, suffer or incur arising in any manner whatsoever out of the issuance of any Standby Instrument, including the making of, or refusal to make, any payments demanded thereunder (including any court costs and legal costs incurred in connection with any proceedings to restrain the Lender from making, or to compel the Lender to make, any such payment). This indemnity shall be unconditional, shall not be subject to any qualification or exception whatsoever and shall not be lessened, invalidated or otherwise prejudiced for any reason whatsoever, including by reason of (i) any lack of validity or enforceability of the Standby Instrument, (ii) any claim, set-off, defence or other right the Borrower may have against the beneficiary of the Standby Instrument, including any claim that a demand for payment under the Standby Instrument is fraudulent or (iii) any of the matters referred to in Section 6.3.

6.2.3 *Good Faith Payments.* Notwithstanding any other provision of this Agreement to the contrary, any payment made by the Lender in good faith in response to any demand for payment under any Standby Instrument shall be deemed to have been properly made, shall be binding upon the parties hereto and shall oblige the Borrower to reimburse and indemnify the Lender for such payment under Subsection 6.2.2.

6.2.4 *Standby Instrument Disbursement.* Any payment, loss and expense made or incurred by the Lender referred to in Subsection 6.2.2 shall be deemed to be an Advance under

the Revolver Facility made by the Lender on the date such payment, loss and expense is incurred in the amount and currency (or, at the option of the Lender, the equivalent amount in Canadian Dollars or US Dollars determined at the Lender's spot rate of exchange) of such payment, loss and expense.

6.2.5 *Saving.* Nothing in Subsections 6.2.2 or 6.2.3 or Section 6.3 shall prejudice any claim that the Borrower may otherwise have against the Lender for any loss and expense determined by a final judgment to have been directly caused by the gross negligence or wilful misconduct of the Lender.

### **6.3 Lender Not Liable**

6.3.1 *Waiver.* The Lender shall not have any obligation, responsibility or liability for, or duty to inquire into, the sufficiency, authorization, execution, signature, endorsement, correctness, genuineness or legal effect of any document presented to it pursuant to any Standby Instrument and the Borrower assumes all risks with respect to the same, including all risks of the acts or omissions of any beneficiary of any Standby Instrument with respect to the use by any beneficiary of any Standby Instrument. Without limiting the generality of the foregoing, the Lender shall not have any obligation, responsibility or liability:

- (a) for the validity or genuineness of documents delivered under or in connection with any Standby Instrument that appear on their face to be in order, even if such documents should in fact prove to be invalid, fraudulent or forged;
- (b) for errors, omissions, interruptions or delays in transmission or delivery of any messages by mail, cable, telegraph, telecopy, S.W.I.F.T., e-mail, internet, wireless or otherwise, whether or not they are in code;
- (c) for errors in translation or for errors in interpretation of technical terms or for errors in the calculation of amounts demanded under any Standby Instrument;
- (d) for any failure or inability by the Lender or anyone else to make payment under any Standby Instrument as a result of any Applicable Law or by reason of any control or restriction rightfully or wrongfully exercised by any person asserting or exercising governmental or paramount powers;
- (e) for any other consequences arising from causes beyond the control of the Lender;  
or
- (f) for any error, neglect or default of any correspondent of the Lender or of any advising, confirming, negotiating or paying bank,

and none of the above shall lessen, invalidate or otherwise prejudice any of the rights of the Lender hereunder or the obligations of the Borrower under Subsection 6.2.2.

6.3.2 *ICC Rules.* Save to the extent expressly provided otherwise in this Article 6, the rights and obligations between the Lender and the Borrower with respect to each Standby Instrument shall be determined in accordance with the applicable provisions of the ICC Rules.

## **6.4 Standby Instrument Fees**

6.4.1 *Applicable Margin.* The Borrower shall pay a fee in Canadian Dollars to the Lender based on the Credit Amount of each Standby Instrument issued or renewed under the Revolver Facility which shall be in the amount determined by the Lender to be equal to the sum of the products for each day during the term of such Standby Instrument obtained by multiplying (a) the Credit Amount thereof at the end of the day *multiplied by* (b) the quotient of (i) the Applicable Margin for Standby Instrument Fees *divided by* (ii) 365 or 366, as the case may be. Such fee shall be paid quarterly in arrears on the third (3<sup>rd</sup>) Business Day of each calendar quarter until the Credit Amount of such Standby Instrument is reduced to nil, at which time the final payment of such fee shall be paid.

6.4.2 *Advices, Amendments and Renewals.* In addition to the fees payable under Subsection 6.4.1, the Borrower shall pay the Lender its prevailing scheduled rates for services (including advices, amendments and renewals) provided by that Lender pertaining to outstanding Standby Instruments in accordance with its prevailing terms and conditions for such financial services.

## **ARTICLE 7 INTEREST AND FEE CALCULATIONS AND CHANGES IN CIRCUMSTANCES**

### **7.1 Interest**

7.1.1 *Canadian Prime Rate Loans.* The Borrower shall pay interest on the outstanding principal amount of each Canadian Prime Rate Loan borrowed by it under each Credit Facility calculated and payable from the Borrowing Date of such Canadian Prime Rate Loan until the date it is Converted or deemed to be Converted to another Type of Advance in accordance with the provisions hereof or the date it is due to be repaid hereunder, as applicable, at a percentage rate per annum equal to the sum of (a) the Canadian Prime Rate *plus* (b) the Applicable Margin for Floating Rate Loans.

7.1.2 *US Base Rate Loans.* The Borrower shall pay interest on the outstanding principal amount of each US Base Rate Loan borrowed by it under the Revolver Facility calculated and payable from the Borrowing Date of such US Base Rate Loan until the date it is Converted or deemed to be Converted to another Type of Advance in accordance with the provisions hereof or the date it is due to be repaid hereunder, as applicable, at a percentage rate per annum equal to the sum of (a) the US Base Rate *plus* (b) the Applicable Margin for Floating Rate Loans.

7.1.3 *Libor Loans.* The Borrower shall pay interest on the outstanding principal amount of each Libor Loan borrowed by it under the Revolver Facility calculated and payable from each Borrowing Date of such Libor Loan until the date it is Converted or deemed to be Converted to another Type of Advance in accordance with the provisions hereof or the date it is due to be repaid hereunder, as applicable, at a percentage rate per annum during each Interest Period relative to such Libor Loan equal to the sum of (i) LIBOR for that Interest Period *plus* (ii) the Applicable Margin for Libor Loans.

7.1.4 *Overdue Amounts.* If any sum payable by the Borrower under any provision of this Agreement is not paid when due and payable hereunder (whether on its stipulated due date, on demand, on acceleration or otherwise), the Borrower shall pay interest on the outstanding balance thereof at the percentage rate of interest per annum equal to the sum of (i) the Canadian Prime Rate, if the overdue sum is denominated in Canadian Dollars, or (as applicable) the US Base Rate, if the overdue sum is denominated in US Dollars *plus* (ii) the Applicable Margin for Floating Rate Loans *plus*, if an Event of Default has not occurred that is continuing, to the extent permitted by applicable law, (iii) two percent (2%) per annum.

## 7.2 Fees

7.2.1 *Revolver Facility.* The Borrower shall pay to the Lender a standby fee in relation to its Revolver Commitment based on the unused portion of the Revolver Facility payable in Canadian Dollars which shall be in the amount determined by the Lender to be equal to the sum of the products for each day during the Availability Period for the Revolver Facility of (a) the amount by which the Revolver Commitment exceeds the aggregate Credit Amount of all Advances outstanding under the Revolver Facility at the end of the day *multiplied by* (b) the fraction of (i) the Applicable Margin for the Revolver Standby Fee *divided by* (ii) 365 or 366, as the case may be.

7.2.2 *Upfront Fee.* The Borrower shall pay to the Lender an upfront fee of \$50,000 (computed as 20 basis points (0.2%) on the Total Commitment) on the Closing Date.

7.2.3 *Payment Dates For Revolver Standby Fee.* The first payment of the standby fee payable under Subsection 7.2.1, (the “**Revolver Standby Fee**”) (which for certainty, shall be for the period commencing on the Closing Date and ending June 30, 2018 will be made on July 5, 2018. Thereafter the Borrower shall pay the Revolver Standby Fee quarterly in arrears for each calendar quarter on the third (3<sup>rd</sup>) Business Day of the following calendar quarter. The final payment of the Revolver Standby Fee will be made on the Final Maturity Date or any earlier date of termination of the Revolver Facility.

7.2.4 *Calculations.* The Lender will calculate and notify the Borrower of the amount of each payment due under Subsection 7.2.1 on or before its due date.

## 7.3 Interest and Fee Calculations and Payments

7.3.1 *General.* Interest payable on any amount under this Agreement shall be (a) calculated upon the daily outstanding balance of such amount from the date it is first outstanding or advanced until the date it is paid or repaid in full to the Lender, (b) paid in the same currency in which such amount is denominated and (c) payable in arrears on each Interest Payment Date and on the date the final balance thereof is paid or repaid in full based upon the actual number of days elapsed in the relevant period of calculation. Interest payable on each such amount shall be payable both before and after demand, default and judgment at the applicable rate set out in Section 7.1 with interest on overdue interest at the same rate (except to the extent provided otherwise in Subsection 7.1.4).

7.3.2 *Day Count Fraction.* The rates of interest per annum payable on or in respect of Floating Rate Loans and Revolver Standby Fee and Standby Instrument Fees are expressed on

the basis of a 365 or 366 day year, as applicable. Each Stamping Fee, Acceptance Rate, CDOR and BA Reference Rate is expressed on the basis of a 365 day year. The rates of interest per annum payable on or in respect of Libor Loans and the Federal Funds Effective Rate are expressed on the basis of a 360 day year.

7.3.3 *Interest Act Compliance.* For the purposes of the *Interest Act* (Canada), any rate of interest made payable under the terms of this Agreement at a rate or percentage (the “**Contract Rate**”) for any period that is less than a consecutive 12 month period, such as a 360 or 365 day basis, (the “**Contract Rate Basis**”), is equivalent to the yearly rate or percentage of interest determined by multiplying the Contract Rate by a fraction, the numerator of which is the number of days in the consecutive 12 month period commencing on the date such equivalent rate or percentage is being determined and the denominator of which is the number of days in the Contract Rate Basis. The Borrower confirms that it fully understands and is able to calculate the rates of interest and fees applicable to Advances based on the methodology for calculating per annum rates provided for in this Agreement. The Lender agrees that if requested in writing by the Borrower it will calculate the nominal and effective per annum rate of interest or fees on any Advance outstanding at the time of such request and provide such information to the Borrower promptly following such request; provided that any error in any such calculation, or any failure to provide such information on request, shall not relieve the Borrower of any of its obligations under this Agreement or any other Secured Document, nor result in any liability to the Lender. To the extent permitted by law, the Borrower hereby irrevocably agrees not to plead or assert, whether by way of defence or otherwise, in any proceeding relating to any Secured Document, that the interest or fees payable under any Secured Document and the calculation thereof has not been adequately disclosed to the Borrower, whether pursuant to section 4 of the *Interest Act* (Canada) or any other applicable law or legal principle.

7.3.4 *No Deemed Reinvestment.* The principle of deemed reinvestment of interest shall not apply to any interest, discount or Fee calculation under this Agreement.

7.3.5 *Rates are Nominal Rates.* The rates of interest, discount and Fees stipulated in this Agreement are intended to be nominal rates and not effective rates or yields.

7.3.6 *Changes in Floating Rates.* Changes in each Floating Rate will cause an immediate adjustment of interest payable on or in respect of the corresponding Floating Rate Loans outstanding from time to time, without the necessity of any notice to the Borrower.

7.3.7 *Changes in Applicable Margin.* On the third (3<sup>rd</sup>) Business Day following each date the Borrower delivers a Compliance Certificate to the Lender pursuant to Subsection 12.1.6 which discloses a Total Debt/EBITDA Ratio at a Level which differs from the Level set at the Closing Date or, as the case may be, at which the Total Debt/EBITDA Ratio disclosed in the immediately preceding Compliance Certificate delivered to the Lender pursuant to this Agreement, the Applicable Margins shall change to reflect that new Level. The Applicable Margin applicable to all Loans outstanding on the date any such change takes effect and the Revolver Standby Fee will be adjusted immediately, but without retroactive effect. There will be no adjustments made with respect to outstanding Acceptances. Notwithstanding the foregoing: (i) the Total Debt/EBITDA Ratio shall be set at Level IV as of and from the Closing Date, (ii) if the Borrower fails to deliver a Compliance Certificate to the Lender by the date required to do so

under Subsection 12.1.6, the Total Debt/EBITDA Ratio shall be deemed as from such date to be at Level IV until such failure is cured, at which time the Applicable Margin shall be determined in accordance with the table set forth in the definition of Applicable Margin, but without any adjustments having retroactive effect, and (iii) if an Event of Default has occurred which has not been waived by the Lender, (A) any reduction in the Applicable Margin which would, but for this provision, take place shall be deferred until the first (1<sup>st</sup>) Business Day of the calendar month following the month in which the Lender waives such Event of Default and (B) the Applicable Margin applicable to all Types of Advances shall, to the extent permitted by applicable law, be increased by two percent (2%) per annum.

#### **7.4 Increased Costs**

If any Change in Law:

- (a) subjects the Lender to, or causes the withdrawal or termination of a previously available exemption with respect to, any Taxes or changes the basis of taxation of payments owing to the Lender or increases any Taxes payable by the Lender on or in respect of payments of principal, interest, Fees or other amounts payable by the Borrower to the Lender under this Agreement or any other Loan Document (excluding any imposition of Taxes or increase in the rate of Taxes payable on the net income or capital of the Lender);
- (b) imposes, modifies or deems applicable any reserve, liquidity, cash, margin, special deposit, deposit insurance or assessment, or any other regulatory or similar requirement against assets held by, or deposits with or for the account of, or loans or commitments by, or any other acquisition of funds for loans by, the Lender, or on any unutilized portion of any Credit Facility, or on any obligation of the Lender under any Loan Document;
- (c) imposes on the Lender any Taxes on reserves or deemed reserves in respect of the undrawn portion of any Credit Facility;
- (d) requires the Lender to maintain any capital adequacy or additional capital requirement (including a requirement which affects the Lender's allocation of capital resources to its obligations) in respect of any Credit Facility, any Advance, any Loan Document or the Lender's obligations hereunder or under any other Loan Document, or imposes any other condition or requirement with respect to the maintenance by the Lender of a contingent liability with respect to any Credit Facility, any Advance or any Loan Document; or
- (e) imposes on the Lender any other condition or requirement with respect to this Agreement, any other Loan Document or a Credit Facility,

and the Lender determines (which determination shall be conclusive and bind the Borrower) that such occurrence has the effect of:

- (f) increasing the cost to the Lender of agreeing to make or making, maintaining or funding any Advance, any Loan Obligation or any portion thereof;

- (g) reducing the net income received by the Lender in respect of any Credit Facility, any Advance, any Loan Document or any portion of any thereof;
- (h) directly or indirectly reducing the effective return to the Lender under any Loan Document on its overall capital as a result of the Lender entering into such Loan Document or as a result of any of the transactions or obligations contemplated by such Loan Document; or
- (i) causing the Lender to make any payment or to forego any interest, fees or other return on or calculated by reference to any sum received or receivable by the Lender under any Loan Document,

then, upon demand from time to time being made to the Borrower by the Lender accompanied in each case by a certificate of the Lender documenting the relevant calculations of the compensation being claimed by the Lender, the Borrower shall pay, within three (3) Business Days from the date of demand, to the Lender such additional amounts as are set out in each such certificate in order to fully compensate the Lender for such additional cost, reduction, payment, foregone interest or other return.

## **7.5 Market Disruption**

7.5.1 *Libor Loans.* If at any time prior to the commencement of a proposed Interest Period the Lender determines (which determination shall be conclusive and bind the Borrower) that:

- (a) by reason of circumstances affecting the London interbank market, or any bank participants therein, adequate and fair means do not exist for ascertaining the rate of interest with respect to a Libor Loan during the proposed Interest Period;
- (b) deposits in US Dollars are not being offered to the Lender in the London interbank market in the ordinary course of business;
- (c) the making or continuing by the Lender of any Libor Loan during the proposed Interest Period has been made impracticable by the occurrence of any change in national or international financial, political or economic conditions or currency exchange rates or exchange control, or an event (including an act of terrorism) which materially and adversely affects the London interbank market;
- (d) LIBOR for the proposed Interest Period does not accurately reflect the effective cost to the Lender of funding any Libor Loan for the proposed Interest Period; or
- (e) the Lender is unable to determine LIBOR for the proposed Interest Period of the Libor Loan,

(a “**Libor Disruption Event**”), then the Lender may give notice of such determination to the Borrower. Thereafter, and until the Lender notifies the Borrower that the Libor Disruption Event no longer exists or no longer applies, the Borrower’s right to require the Lender to make any

such Libor Loan available in the manner requested shall be suspended and the Lender shall instead make available an Advance by way of US Base Rate Loan.

7.5.2 *Acceptances.* If at any time on or prior to the proposed first day of the Tenor of a proposed issue of Acceptances the Lender determines (which determination shall be conclusive and bind the Borrower) that:

- (a) the issuance or discount of any Acceptances for the proposed Tenor thereof has been made impossible or impracticable by reason of the occurrence of any event affecting the Canadian money markets or any national or international financial, political, terrorist or economic event;
- (b) there does not exist a normal money market in Canada for the purchase and sale of bankers' acceptances or such money market has been disrupted by the occurrence of an extraordinary event or an act of terrorism; or
- (c) the Lender is unable to determine the BA Reference Rate for the proposed Tenor of the proposed issue of Acceptances,

(a “**BA Disruption Event**”) then the Lender will promptly notify the Borrower. Thereafter, and until the Lender notifies the Borrower that the BA Disruption Event no longer exists or no longer applies, the Borrower's right to request an Advance by way of Acceptances shall be suspended and any Borrowing Request given by the Borrower with respect to any proposed issue of Acceptances that has not yet been made shall be deemed to be replaced by a Borrowing Request for a Canadian Prime Rate Loan in the principal amount equal to the aggregate face amount of the requested issue of Acceptances.

## 7.6 **Illegality**

If at any time the Lender determines (which determination shall be conclusive and bind the Borrower) that any Change in Law has made it unlawful, impossible or impracticable for the Lender to make, fund or maintain any Advance or to give effect to its obligations in respect of such Advance (an “**Affected Advance**”), the Lender will promptly notify the Borrower. Upon giving such notice, the obligation of the Lender to make or continue any Affected Advance shall be suspended for so long as such condition exists. Thereafter, and until the Lender notifies the Borrower otherwise, the Borrower shall not have the right to require the Lender to make such Affected Advance available in the manner requested. Rather, except as otherwise provided in the next sentence, such Advance shall be made available by way of Canadian Prime Rate Loan (if it is denominated in Canadian Dollars) or US Base Rate Loan (if it is denominated in US Dollars) from the expiry of the applicable Interest Period or Tenor of an issue of Acceptances. If, however, the Affected Advance is a Canadian Prime Rate Loan or a US Base Rate Loan, the Borrower shall forthwith prepay the Lender such Affected Advance and the Lender shall not be required to make such Affected Advance available in any manner.

## 7.7 **Withholding Taxes Generally**

7.7.1 *No Withholding; Gross-Up Requirement.* Each payment required to be made by the Borrower under each Loan Document shall be made without set-off or counterclaim, free and

clear of, and without deduction or withholding for or on account of, any Indemnified Taxes, except to the extent such deduction or withholding is required by any Applicable Law, as modified by the administrative practice of any relevant governmental authority, then in effect. To the extent and each time the Borrower is so required to deduct or withhold Indemnified Taxes from or in respect of any such payment to or for the account of the Lender, then the Borrower will:

- (a) promptly notify the Lender of such requirement;
- (b) pay to the relevant governmental authority when due the full amount required to be deducted or withheld (including the full amount of Indemnified Taxes required to be deducted or withheld from any additional amount paid by the Borrower to or for the account of the Lender under this Subsection 7.7.1);
- (c) promptly forward to the Lender an official receipt (or a certified copy), or other documentation reasonably acceptable to the Lender, evidencing such payment to such governmental authority; and
- (d) forthwith pay to the Lender, in addition to the payment to which the Lender is otherwise entitled under such Loan Document, such additional amount as is necessary to ensure that the net amount actually received by the Lender (free and clear of, and net of, any such Indemnified Taxes, including the full amount of Taxes required to be deducted or withheld from any additional amount paid by the Borrower under this Subsection 7.7.1, whether assessed against the Borrower or the Lender) will equal the full amount the Lender would have received had no such deduction or withholding been required.

**7.7.2** *Indemnity.* If the Borrower fails to pay to the relevant governmental authority when due any Indemnified Taxes that it was required to deduct or withhold under Subsection 7.7.1 in respect of any payment to or for the benefit of the Lender under any Loan Document, or fails to promptly furnish the Lender with the documentation referred to in Subsection 7.7.1(c), the Borrower shall forthwith on demand indemnify the Lender on a full indemnity after-Taxes basis from and against the full amount of any Taxes (including interest and penalties), losses and expenses which the Lender may suffer or incur as a result of such failure.

**7.7.3** *Indemnity for Additional Income Tax.* The Borrower shall also indemnify the Lender on a full indemnity after-Tax basis, for any additional Taxes on net income that the Lender may be obliged to pay as a result of the payment of additional amounts under this Section 7.7.

## **ARTICLE 8 REPAYMENT AND PREPAYMENT**

### **8.1 Repayment of the Credit Facilities**

**8.1.1** *Revolver Facility.* The Borrower shall repay to the Lender all Advances outstanding under the Revolver Facility on the Final Maturity Date.

8.1.2 *Term Facility.* The Borrower shall repay to the Lender the Advances outstanding under the Term Facility in eight (8) consecutive quarterly instalments. The first four (4) instalments shall be in the Credit Amount equal to 2.5% of the Term Amortization Base Amount and shall be due and payable on each of September 1, 2018, December 1, 2018, March 1, 2019 and June 1, 2019 (or, in each case, the preceding Business Day if any such day is not a Business Day). Each of the immediately following three (3) installments shall be in the Credit Amount equal to 3.75% of the Term Amortization Base Amount and shall be due and payable on each of September 1, 2019, December 1, 2019 and March 1, 2020 (or, in each case, the preceding Business Day if any such day is not a Business Day). The Borrower shall repay all Advances remaining outstanding under the Term Facility on the Final Maturity Date.

8.1.3 *MasterCard Facility.* The Borrower shall pay all amounts owing to the Lender under the MasterCard Facility in accordance with the prevailing terms and conditions of the MasterCard cardholders agreement.

## **8.2 Voluntary Repayments**

8.2.1 *Facilities.* The Borrower shall have the right at any time and from time to time to repay all or any portion of each Loan made to it under each Credit Facility, without premium or penalty, which prepayments shall, in the case of a Libor Loan, be made on its current Period End Date. In the case of each Relevant Facility, such right may only be exercised if the Borrower delivers a Repayment Notice to the Lender specifying the proposed repayment date (which must be no earlier than (i) the third (3<sup>rd</sup>) London Banking Day thereafter if a Libor Loan is being repaid, and (ii) the Business Day thereafter if a Floating Rate Loan is being repaid) and the amount of such Loan to be repaid (which must be in an amount of US\$ or \$1,000,000 or a multiple of US\$ or \$100,000 in excess thereof). The Borrower shall repay such Loan on such repayment date to the extent specified in such Repayment Notice. An Acceptance may not be prepaid before its Period End Date.

8.2.2 *Effect of Voluntary Repayment.* Each Advance under the Revolver Facility voluntarily repaid pursuant to Subsection 8.2.1 shall not affect the amount of the Commitments under the Revolver Facility. However, the Term Commitment shall be permanently cancelled and reduced by the Credit Amount of each Advance under the Term Facility voluntarily prepaid pursuant to Subsection 8.2.1 and the Credit Amount of such prepayment shall be applied to satisfy the Borrower's repayment obligations under Subsection 8.1.2 in inverse chronological order.

## **8.3 Changes to and Cancellations of Commitments**

8.3.1 *Voluntary Cancellation.* The Borrower shall have the right at any time and from time to time to permanently cancel, without premium or penalty, all or any unused portion of the Revolver Facility. Subject to the next sentence, such right may only be exercised by the Borrower delivering a Cancellation Notice to the Lender specifying the proposed effective date of cancellation (which must be no less than five (5) Business Days thereafter) and the amount of the Revolver Facility to be cancelled (which must be in an amount of \$1,000,000 or a multiple of \$100,000 in excess thereof). The Total Commitment (together with the Revolver Commitment

shall permanently be cancelled and reduced on the effective date of each such cancellation in the amount so cancelled.

8.3.2 *Changes to Commitments.* The Revolver Commitment shall reduce to nil on the Final Maturity Date. The Term Commitment shall permanently reduce on each repayment date specified under Subsection 8.1.2 by the Credit Amount of each repayment due on such repayment date. The Term Commitment shall also permanently reduce at the close of business on the Closing Date by the amount of any undrawn portion of the Term Commitment at that time.

## **8.4 Mandatory Prepayment**

8.4.1 *Asset Disposals.* Except to the extent the Borrower is relieved of this obligation pursuant to Subsection 8.4.5, the Borrower shall prepay Advances outstanding under the Credit Facilities in the Credit Amount equal to the lesser of (a) the Net Disposal Amount from any Asset Disposal to the extent it is not applied or committed to being applied (and in fact is so applied within the ensuing ninety (90) days of such commitment being made) to a Property Reinvestment Application within ninety (90) days after such Asset Disposal and (b) the total Credit Amount of all Advances then outstanding under the Credit Facilities. Such prepayment shall be made on the third (3<sup>rd</sup>) Business Day after the anniversary of such Asset Disposal.

8.4.2 *Comprehensive Insurance Proceeds.* Except to the extent the Borrower is relieved of this obligation pursuant to Subsection 8.4.5, the Borrower shall prepay Advances outstanding under the Credit Facilities in the Credit Amount equal to the lesser of (or Equivalent in US Dollars of the lesser of) (a) the total Credit Amount of all Advances then outstanding under the Credit Facilities and (b) the Insurance Proceeds from any Insurance Event to the extent it is not applied or committed to being applied (and in fact is so applied within the ensuing ninety (90) days of such commitment being made) to repair or replace the property compensated for within ninety (90) days of receipt of such Insurance Proceeds. Such prepayment shall be made within ninety-five (95) days of receipt by the Borrower or any Subsidiary of such Insurance Proceeds.

8.4.3 *Debt Issues.* Except to the extent the Borrower is relieved of this obligation pursuant to Subsection 8.4.5, each time any Group Member receives proceeds of the issuance of Debt (other than Debt under this Agreement and Debt permitted to be incurred under Subsection 12.2.1) from anyone that is not a Group Member, the Borrower shall promptly notify the Lender of the amount of the net cash proceeds received therefrom and the Borrower shall prepay Advances outstanding under the Credit Facilities within five (5) Business Days of the day such net cash proceeds are so received to the extent of the Credit Amount equal to such net cash proceeds so received (or the Equivalent in Canadian Dollars or US Dollars, as the case may be).

8.4.4 *Equity Issues.* Except to the extent relieved of this obligation pursuant to Subsection 8.4.5, each time any Group Member receives proceeds from the issuance of Capital Stock or rights in respect of Capital Stock from anyone that is not a Group Member, the Borrower shall promptly notify the Lender of the amount of the net cash proceeds so received therefrom and the Borrower shall prepay Advances outstanding under the Credit Facilities within five (5) Business Days of the day such net cash proceeds are so received to the extent of the

Credit Amount equal to such net cash proceeds so received (or Equivalent in Canadian Dollars or US Dollars, as the case may be).

8.4.5 *Exemption.* The Borrower shall be relieved of its obligation to prepay Advances pursuant to Subsections 8.4.1, 8.4.2, 8.4.3 and 8.4.4 in respect of the events described therein occurring during each Fiscal Year until the aggregate total amount payable to the Lender pursuant to Subsections 8.4.1, 8.4.2, 8.4.3 and 8.4.4 collectively exceeds \$1,000,000 (or the Equivalent in US Dollars, as the case may be).

8.4.6 *Excess Cash Flow.* The Borrower shall prepay Advances outstanding under the Credit Facilities in the Credit Amount equal to (a) the lesser of (i) \$800,000 and (ii) 40% of Excess Cash Flow for the period (the “**Stub Period**”) from the Closing Date to November 30, 2018 and (b) the lesser of (i) \$500,000 and (ii) 25% of Excess Cash Flow for each Fiscal Year ending after the Stub Period. Each such prepayment shall be made within 120 days after the end of the Stub Period or relevant Fiscal Year end.

8.4.7 *Application of Repayments.* Each prepayment made pursuant to this Section 8.4 shall be applied (a) *first*, to prepay Advances under the Term Facility to the extent thereof, and (b) *second*, to prepay Advances under the Revolver Facility to the extent thereof. Each such prepayment of the Term Facility shall permanently cancel and reduce the Term Commitment to the extent of the Credit Amount of such repayment and be applied to the extent thereof to satisfy the Borrower’s repayment obligations under Subsection 8.1.2 in inverse chronological order.

## **8.5 Manner of Repayment**

On the date of each reduction of the Commitment of the Lender under each Relevant Facility, the Borrower shall repay to the Lender such amount as may be required to ensure that the Credit Amount outstanding under such Relevant Facility does not exceed the Commitment under such Relevant Facility at that time after giving effect to that reduction. On the Final Maturity Date, the Borrower shall repay all Advances then outstanding under each Relevant Facility. The Lender shall apply any amount so repaid to it as follows:

- (a) *first*, to repay its Loans under that Relevant Facility (with Floating Rate Loans being repaid before Libor Loans);
- (b) *second*, to prepay (or, at the option of the Lender, provide cash collateral for) the obligations of the Borrower under Section 4.6 in respect of Acceptances, if any, issued under that Relevant Facility; and
- (c) *third*, to prepay the Borrower’s obligations under Subsection 6.2.2 in respect of outstanding Standby Instruments, if any, issued by the Lender under that Relevant Facility (or, at the Lender’s option, Cash Collateralize such Standby Instruments) until such Standby Instruments expire or are drawn upon, whereupon the Lender shall account to the Borrower for the amount so paid to it to be applied to any other Loan Obligations then due or, if none, returned to the Borrower.

## **8.6 Netting of Payments**

If on any date payments of principal or face amounts of Advances would be due and payable under the Revolver Facility in the same currency by the Borrower to the Lender and by the Lender under the Revolver Facility to the Borrower, then, on such date, unless the Lender notifies the Borrower stating that netting is not to apply to such payments, the obligations of each such party to make payment of any such amount will be automatically satisfied and discharged and, if the aggregate amount that would otherwise have been payable by the Borrower to the Lender under the Revolver Facility exceeds the aggregate amount that would otherwise have been payable by the Lender to the Borrower under the Revolver Facility or *vice versa*, such obligations shall be replaced by an obligation upon whichever of the Borrower or the Lender would have had to pay the larger aggregate amount to pay to the other the excess of the larger aggregate amount over the smaller aggregate amount.

## **8.7 Facility Excesses by Reason of Foreign Currency Fluctuations**

If and each time the Lender determines (which determination shall be conclusive and bind the Borrower, absent manifest error) that the Credit Amount of all Advances under any Relevant Facility exceeds the Relevant Total Commitment by reason of fluctuations in exchange rates, the Lender may request the Borrower to repay the entire excess. Within five (5) Business Days of the receipt of any such request, the Borrower shall repay to the Lender such Advances outstanding under such Relevant Facility as may be required to ensure that the Credit Amount of all Advances outstanding under the Relevant Facility does not exceed the Relevant Total Commitment.

## **8.8 Repayment Notice**

The Borrower shall deliver a Repayment Notice to the Lender by 10:00 a.m. on the day that falls at least three (3) Business Days and three (3) London Banking Days in the case of Libor Loans and two (2) Business Days in the case of an issue of Acceptances, in each case, before any repayment is made pursuant to any Relevant Facility.

# **ARTICLE 9 CONDITIONS PRECEDENT**

## **9.1 Conditions Precedent to Closing**

The Borrower agrees to satisfy each of the following conditions precedent to closing on the date hereof. The Lender shall not be obliged to make any Drawdown available under this Agreement unless and until, in addition to satisfaction of the conditions precedent set forth in Section 9.2, the Lender notifies the Borrower that each of the conditions precedent to closing set forth below has been satisfied or (to the extent not satisfied) waived by the Lender to permit closing of the financing contemplated by this Agreement to occur (a “**Closing Notice**”):

- (a) the Lender has received each of the following in form and substance satisfactory to the Lender (in original or, at the Lender’s discretion, pdf, facsimile or other copy):

- (i) a Certificate of the Borrower (A) attaching true copies of (1) its Constitutional Documents and (2) all necessary internal corporate action taken by it to authorize the execution, delivery and performance of each Loan Document and the consummation of the transactions contemplated thereby, (B) as to incumbency and true signatures of its Responsible Officers, (C) confirming each representation and warranty made by the Borrower under each Loan Document is true, accurate and complete in all respects, (D) certifying that (1) no Material Adverse Change has occurred since November 30, 2017, (2) no Default has occurred that is continuing, (3) the Solvency of the Borrower, after giving effect to the transactions contemplated hereby and by the Asset Purchase Agreement, (4) the Asset Purchase Agreement contains all of the material terms of the Acquisition of the Purchased Brands, (5) upon receipt by the Borrower of the initial Drawdowns under the Credit Facilities, the proceeds of the issuance of Capital Stock or Subordinated Debt referred to in Clause (xiii) below and the proceeds of the Subordinated Debt subject to the FWCU Subordination and Standstill Agreement, the Borrower will have sufficient funds necessary to satisfy and pay for the purchase price of the Purchased Brands under the Asset Purchase Agreement, to pay the Debt referred to in Clause (xi) below and to pay all transaction costs incurred in connection with the Asset Purchase Agreement and at least \$4,000,000 will remain undrawn under the Revolver Facility after such transactions are complete and (E) as to such other matters as the Lender may reasonably require;
- (ii) a certificate of status with respect to the Borrower for its jurisdiction of incorporation and, if the Lender so requires, any other jurisdiction in which any Material assets of the Borrower are located or the Borrower conducts Material business;
- (iii) this Agreement and each other Loan Document referred to in Section 10.1 duly executed by each party thereto;
- (iv) such property and third party liability insurance policy certificates, including additional insured and loss payee endorsements, and certificates of insurance as the Lender may reasonably require;
- (v) a Perfection Certificate duly completed and executed by the Borrower;
- (vi) all “know your customer”, anti-money laundering, anti-terrorism or similar identification information required for the Lender to comply with Anti-Money Laundering Legislation and Sanction Laws, reasonably requested by the Lender;
- (vii) a *pro forma* Compliance Certificate dated as of February 28, 2018 giving *pro forma* effect to the transactions contemplated hereby to take place on the Closing Date demonstrating, *inter alia*, a Senior Debt/EBITDA Ratio of no more than 2.50:1;

- (viii) a Revolver Borrowing Base Report prepared as at April 30, 2018;
- (ix) copies of the most recent review engagement financial statements for the Borrower for the last two Fiscal Years;
- (x) copies of the most recent management prepared financial statements of the Borrower;
- (xi) payout statements for all Debt that is not Permitted Debt, discharge statements and/or releases for all Liens that are not Permitted Liens, amendments and/or discharges of Lien registrations that are capable of perfecting Liens in priority to or *pari passu* with the Security and/or limitation of interest letters and releases of or undertakings to release all such Debt and Liens;
- (xii) a certified true copy of the Asset Purchase Agreement;
- (xiii) evidence satisfactory to the Lender that (A) the Principal Sponsors have contributed at least \$300,000 to the Borrower by way of Capital Stock or Subordinated Debt on or before the Closing Date and (B) FWCU Capital Corp. has contributed at least \$10,000,000 to the Borrower by way of Subordinated Debt and all such funds remain available to complete the transactions contemplated hereby to take place on the Closing Date;
- (xiv) a funds flow/sources and use statement or other evidence detailing the source of all funds required to pay the purchase price of the Purchased Brands under the Asset Purchase Agreement, to pay the Debt referred to in Clause (xi) above and to pay all ancillary transaction costs on the Closing Date;
- (xv) an irrevocable direction from the Borrower directing the Lender to debit the Borrower's Account on the Closing Date with the amounts of and pay (A) the Fees referred to in paragraph (d) below and (B) the out-of-pocket fees, costs and expenses referred to in paragraph (e) below;
- (xvi) a solicitor's undertaking from the Borrower's Counsel undertaking to pay the converted amount in Canadian Dollars of the proceeds of the Drawdown made on the Closing Date under the Term Facility, together with the proceeds of the Drawdown made on the Closing Date under the Revolver Facility, transferred by the Lender to the Borrower's Counsel on the Closing Date, together with other funds received by the Borrower's Counsel from FWCU, to pay (A) Debt referred to in the payout statements referred to in clause (xi) above and (B) the purchase price of the Purchased Brands under the Asset Purchase Agreement;
- (xvii) net worth statements for each of the Principal Sponsors;

- (xviii) certified copies of the principal loan and security documentation entered into between the Borrower and FWCU Capital Corp.;
  - (xix) certified copies of all authorizations from governmental authorities or other persons required to enable each Obligor to execute, deliver, incur and perform its obligations under each Loan Document and the Asset Purchase Agreement and consummate the transactions contemplated thereby;
  - (xx) opinions from the Borrower's Counsel on all matters incident to the Loan Documents satisfactory to the Lender, as the Lender may require; and
  - (xxi) all other documents, declarations, certificates, agreements and notices that the Lender or Lender's Counsel may reasonably require;
- (b) the Lender has completed its due diligence with respect to the operations, management, material litigation, contingent liabilities and legal matters and the Lender has determined that the results thereof are to its satisfaction;
  - (c) the Security created under the Security Documents to which each Obligor is party has been registered wheresoever required by the Lender;
  - (d) all Fees then owing to the Lender hereunder have been paid in full;
  - (e) all reasonable out-of-pocket fees, costs and expenses incurred by the Lender in connection with this Agreement (including those payable to the Lender's Counsel) have been paid in full;
  - (f) the Acquisition of the Purchased Brands shall have been consummated, or substantially simultaneously with the initial Drawdowns under the Credit Facilities shall be consummated, in accordance with the Asset Purchase Agreement, and no provision of the Asset Purchase Agreement shall have been changed (including any consent thereunder) in a manner material and adverse to the Lender without the consent of the Lender; provided that, (x) any increase in the purchase price shall not be deemed to be materially adverse to the Lender if it is solely funded by a cash equity injection into the Borrower, and (y) any decrease in the purchase price of less than 10% shall be deemed not materially adverse to the Lender provided that such reduction of the purchase price is allocated as a reduction in the amounts to be funded under the Term Facility; and provided further that, any change in respect of the definition of "Material Adverse Effect" in the Asset Purchase Agreement shall be deemed to be material and adverse to the interests of the Lender;
  - (g) any conditions precedent set out in the Asset Purchase Agreement shall have been satisfied or waived to the extent permitted under paragraph (e) above;
  - (h) other than Permitted Liens, all security interests in and adverse claims to the Purchased Brands (other than the Security) are released and all registrations in

respect thereof are discharged to the satisfaction of the Lender, if so required by the Lender's Counsel; and

- (i) following completion of the Acquisition of the Purchased Brands and payment of the amounts referred to in clause (a)(xv) at least \$4,000,000 will remain undrawn under the Revolver Facility.

## **9.2 Conditions to all Borrowings**

The Borrower agrees to satisfy each of the following conditions precedent to each Borrowing. The Lender shall not be obliged to make or allow, any Borrowing, including the first Drawdown under this Agreement, unless and until the Lender has issued a Closing Notice and unless each of the following conditions precedent to Borrowing has been satisfied or (to the extent not satisfied) waived by the Lender to permit such Borrowing to occur:

- (a) the Lender has received a Borrowing Request for such Borrowing if it is an issue of Acceptances, a Libor Loan or a Standby Instrument;
- (b) each of the representations and warranties of the Borrower deemed to be repeated under Section 11.2 is true, accurate and complete in all respects as of the date such Borrowing is requested and as of the proposed Borrowing Date as though made on and as of each such date (except for those representations and warranties which speak solely as of an earlier date, in which event those representations and warranties must be true, accurate and complete in all respects as of such earlier date);
- (c) no Default has occurred that is continuing on the date such Borrowing is requested or on the proposed Borrowing Date, nor would any Default result after giving effect to the requested Borrowing; and
- (d) each other term and condition applicable to such Borrowing contained in this Agreement has been fully complied with.

## **ARTICLE 10 SECURITY**

### **10.1 Initial Security**

To secure the due payment and performance of the Secured Obligations, the Borrower shall deliver to the Lender at the Closing (each in form and substance satisfactory to the Lender):

- (a) a security agreement from the Borrower creating Liens in all of the assets of the Borrower to secure the payment and performance of the Secured Obligations owing by it;
- (b) from each Shareholder, a Limited Recourse Guarantee and Pledge Agreement, together with the certificates representing the Capital Stock in

which such Shareholder has rights and stock transfers in respect thereof duly executed in blank by such Shareholder; and

- (c) the FWCU Subordination and Standstill Agreement.

## **10.2 Post-Closing Deliverables**

To further secure the due payment and performance of the Secured Obligations, the Borrower shall deliver to the Lender within 45 days of the Closing Date (each in form and substance satisfactory to the Lender):

- (a) a Collateral Access Agreement from (i) the landlord to each material premises lease to which the Borrower is party and (ii) each charge/mortgagee of the lands of which the premises referred to in Clause (i) form part; for the purposes of this Article 10, “material premises lease” means a lease of premises (A) which is a distribution centre of any Obligor, (B) which is the head office or chief executive office of any Obligor, (C) on which assets of any Obligor having a value in excess of \$1,000,000 are located or (D) which the Lender reasonably determines are Material;
- (b) a Bailee Waiver from the operator of each warehouse facility used by the Borrower at which goods of the Borrower valued in excess of \$1,000,000 are located;
- (c) an Account Control Agreement relative to each bank account and securities account held by the Borrower with anyone other than the Lender on the Closing Date or evidence that such bank account has been closed; and
- (d) for each Shareholder, opinions from their respective California and Wisconsin legal counsel on all matters incident to the Limited Recourse Guarantee and Pledge Agreement to which it is party, as the Lender may require, each in form and substance satisfactory to the Lender.

## **10.3 Security from future Subsidiaries**

To further secure the due payment and performance of the Secured Obligations owing by the Borrower, and as a further condition to the right of the Borrower to borrow hereunder, the Borrower shall cause:

- (a) each person that is or becomes a Subsidiary of the Borrower after the Closing, to deliver to the Lender contemporaneously with it respectively becoming a Subsidiary:
  - (i) a Guarantee from it of the Secured Obligations owing by the Borrower in favour of the Lender;

- (ii) a security agreement creating Liens in all of the assets of such Subsidiary to secure the payment and performance of the Secured Obligations owing by it;
- (iii) if it owns rights in real property having a fair market value in excess of \$1,000,000 or a material premises lease, a debenture and debenture delivery agreement or charge/mortgage in respect of such real property and/or material premises lease creating Liens in such real property or material premises lease to secure the payment and performances of the Secured Obligations owing by it;
- (iv) if any rights in moveable and/or immovable property located in the Province of Quebec having a fair market value in excess of \$1,000,000 or material premises lease, an immovable hypothec creating Liens in all of the assets of such Subsidiary to secure the payment and performance of the Secured Obligations owing by it;
- (v) a Collateral Access Agreement from (A) the landlord to each material premises lease to which it is party and (B) each charge/mortgagee of the lands of which the premises referred to in Sub-clause (A) form part;
- (vi) a Bailee Waiver from the operator of each warehouse facility used by it at which goods of such Subsidiary valued in excess of \$1,000,000 are located; and
- (vii) an Account Control Agreement relative to each bank account and securities account held by it with anyone other than the Lender;

provided that the Borrower shall not be obliged to provide any particular Collateral Access Agreement referred to in Clause (v) or bailee waiver referred to in Clause (vi) if (y) the person from whom such document is sought is an Unrelated Party and (z) the Borrower demonstrates to the reasonable satisfaction of the Lender that it has been unable to obtain such document after expending commercially reasonable best efforts;

- (b) each person owning Capital Stock in each Subsidiary referred to in paragraph (a) above (a “**Pledgor**”) (i) if such Pledgor is not the Borrower, to deliver a Guarantee to the Lender if it has not already done so and (ii) to deliver a security agreement creating Liens in all Capital Stock owned by it in any Subsidiary referred to in paragraph (a) above in favour of the Lender to secure the payment and performance of the Secured Obligations owing by the Pledgor, together with the certificates representing such Capital Stock and stock transfers in respect thereof duly executed in blank by the Pledgor, in each case contemporaneously with the documents and security delivered by such Subsidiary pursuant to paragraph (a); and
- (c) a third party legal opinion from the Borrower’s Counsel concerning the Borrower, Subsidiary, Pledgors, Guarantee and Security referred to in paragraphs (a) and (b)

above and such other matters as the Lender may require, to be delivered to the Lender contemporaneously with such Guarantee and Security being provided.

Each such Guarantee, security agreement, debenture, debenture delivery agreement, charge/mortgage hypothec, Collateral Access Agreement, Bailee Waiver, Account Control Agreement and third party legal opinion must be in form and substance satisfactory to the Lender acting reasonably.

#### **10.4 Registration**

Unless the Lender notifies the Borrower otherwise, the Borrower shall cause the Borrower's Counsel and their respective agents to register the Security (or a financing statement, notice or other document in respect thereof) on behalf of the Lender in all offices where (a) such registration is necessary to create, preserve, protect and perfect the Security and its validity, effect, priority and perfection at all times, including any land registry or land titles office and/or (b) the Lender's Counsel specifically requests.

#### **10.5 Further Assurances**

The Borrower shall, forthwith and from time to time on request from the Lender, execute or cause to be executed, all such documents (including any change to any Loan Document) and do or cause to be done all such other matters and things which in the reasonable opinion of the Lender or the Lender's Counsel may be necessary or of advantage to give the Lender (so far as may be possible under any applicable law) the Liens and the priority intended to be created by the Loan Documents or to facilitate realization under such Liens. It is the intention of the parties that the Lender will, among other things, have (a) a first priority Lien, subject to Permitted Liens, over all assets of each Group Member, (b) a first priority Lien, subject only to Permitted Liens referred to in paragraph (a) of Subsection 12.2.5, over all Capital Stock of each Group Member and (c) such other Liens over the assets of such Group Members that are consistent with the Liens described in Clauses (a) and (b) above as the Lender may from time to time reasonably require.

### **ARTICLE 11 REPRESENTATIONS AND WARRANTIES**

#### **11.1 Borrower Representations and Warranties**

To induce the Lender to make the Credit Facilities available to the Borrower, the Borrower represents and warrants to and in favour of the Lender as follows:

11.1.1 *Existence and Good Standing.* Each Obligor is a corporation, general or limited partnership, trust or other legal person duly and validly incorporated or formed, organized and existing under the laws of its jurisdiction of incorporation or formation and has the legal capacity and right to own its assets and to carry on its business in each jurisdiction in which its assets are located or it carries on business.

11.1.2 *Authority.* Each Obligor has the legal capacity and right to enter into each Loan Document to which it is a party and do all acts and things and execute and deliver all documents

as are required thereunder to be done, observed or performed by it in accordance with the terms and conditions thereof.

11.1.3 *Shareholders Agreements.* There are no shareholders agreements, pooling agreements, voting trusts or other similar agreements with respect to the ownership or voting of any of the Capital Stock of the Borrower.

11.1.4 *Due authorization.* Each Obligor has taken all necessary action to authorize the execution and delivery of each Loan Document to which it is a party, the creation and performance of its obligations thereunder and the creation of the Liens over its assets and the consummation of the transactions contemplated thereby.

11.1.5 *Due Execution.* Each Obligor has duly executed and delivered each Loan Document to which it is a party.

11.1.6 *Validity of Loan Documents – Non-Conflict.* None of the authorization, execution, delivery or performance of the Loan Documents, nor the creation of any Liens over the assets of any Obligor nor the consummation of any of the transactions contemplated thereby:

- (a) requires any authorization to be obtained or registration to be made (except such as have already been obtained or made and are now in full force and effect);
- (b) conflicts with, contravenes or gives rise to any default under (i) any of the Constitutional Documents or internal corporate, partnership, trust and/or other management resolutions of any Obligor, (ii) the provisions of any indenture, instrument, agreement or undertaking to which any Obligor is a party or by which any Obligor or any of its assets is or may become bound or (iii) any Applicable Law; or
- (c) has resulted or will result in the creation or imposition of any Lien (other than the Security) upon any of the Collateral.

11.1.7 *Enforceability.* Each Loan Document to which each Obligor is a party constitutes a valid and legally binding obligation enforceable against it in accordance with its terms, subject only to bankruptcy, insolvency, winding-up, dissolution, administration reorganization, arrangement or other statutes or judicial decisions affecting the enforcement of creditors' rights in general and to general principles of equity under which specific performance and injunctive relief may be refused by a court in its discretion.

11.1.8 *Perfection and Priority of Security.* The Security is legal, valid, binding, effective and (to the extent applicable) perfected ranking in the priority in the manner contemplated hereby and by the Security Documents. Registration has been made in all public places of registration necessary or of advantage to preserve, protect and (to the extent applicable) perfect the Security with the priority and in the manner contemplated hereby and by the Security Documents.

11.1.9 *Absence of Litigation.* There is no existing, pending or, to its knowledge, threatened proceeding against any Group Member which, if adversely determined to any Group

Member or the Lender, could reasonably be expected to result in a Material Adverse Effect or, except for any proceeding notified to the Lender pursuant to Subsection 12.1.6(e), could reasonably be expected to result in any one or more judgments, Orders or awards ordering any Group Member or Group Members to pay more than \$1,000,000 (or the Equivalent in foreign currency) in the aggregate. No event has occurred, and no state or condition exists, which could reasonably be expected to give rise to any such proceeding, except for the subject matter of any proceeding notified to the Lender pursuant to Subsection 12.1.6(e), and there is no judgment, Order or award outstanding against any Group Member which could reasonably be expected to have a Material Adverse Effect.

11.1.10 *Financial Statements.* Each financial report and financial statement of each Group Member delivered to the Lender pursuant to or in connection with this Agreement have been prepared in accordance with Applicable Accounting Principles (subject to year-end audit adjustments and the absence of notes, in the case of quarterly financial statements) consistently applied, does not contain (or, if audited, would not contain) any qualification and fairly and accurately presents the financial information and the financial condition and results of operations of such person contained therein as at their respective preparation dates.

11.1.11 *Accuracy of Information.* No information furnished to the Lender by or on behalf of any Obligor in connection with any of the Loan Documents contains any material misstatement of fact or omits to state a material fact necessary to make the statements contained therein not misleading in light of the circumstances in which they were made and as of the date made. Each financial forecast and projection (“**Forecast**”) prepared and furnished by or on behalf of any Group Member to the Lender pursuant to or in connection with any Loan Document was based upon assumptions believed to be reasonable by that Group Member as of the date of preparation; there has been no material change in such assumptions or in the information on which such assumptions are based which has not been disclosed in writing to the Lender; it has no reason to believe that any such Forecast as it relates to periods ending after its date of preparation, when read in conjunction with the related assumptions and other information disclosed in writing to the Lender, fails to reflect the Borrower’s judgment as the most probable set of economic conditions and the Borrower’s planned courses of action given these conditions, and such Forecast as it relates to periods already ended, does not reflect results which are materially higher than the anticipated actual results for such periods.

11.1.12 *No Material Adverse Change.* Since the date of the most recent annual financial statements of the Borrower furnished to the Lender pursuant to or in connection with any Loan Document there has been no Material Adverse Change.

11.1.13 *Compliance with Laws.* Each Group Member is in compliance with all Anti-Money-Laundering Legislation and all Anti-Corruption Laws and, save for non-compliance which is Immaterial, all other Applicable Laws.

11.1.14 *All Authorizations Obtained and Registrations Made.* All authorizations and registrations necessary to permit each Group Member to execute, deliver and perform each Loan Document to which it is party, grant any Guarantee and Security and consummate the transactions contemplated thereby and own its assets and carry on its business have been obtained or effected and are in full force and effect, save and except for those authorizations that

have not been obtained and the consequences of which are Immaterial. Each Group Member is in compliance with the requirements of all such authorizations and registrations and there is no judgment, Order or award outstanding or proceeding existing, pending or, to its knowledge, threatened which could reasonably be expected to result in the revocation, cancellation, suspension or any adverse modification of any of such authorizations and registrations, except for any such authorization or registration the absence of which is Immaterial.

11.1.15 *No Default.* No Default has occurred which has not been either remedied (or otherwise ceased to be continuing) or expressly waived by the Lender in writing.

11.1.16 *Real Property.* Each Group Member has a subsisting leasehold interest in, or good and marketable title to, in each case free and clear of all Liens, other than Permitted Liens, all of the real property leased or owned by it which are reflected in the latest financial statements of the Group provided to the Lender, except for (y) real property interests disposed in the ordinary course of business to Unrelated Parties since the date of those financial statements (A) before the Closing Date provided the aggregate value of all real property interests so disposed of does not exceed \$1,000,000 and (B) on or after the Closing Date in compliance with the provisions of this Agreement and (z) title defects that do not, in the aggregate, detract from the value of any Material assets of any Group Member or impair the use thereof in the conduct of business of any Group Member.

11.1.17 *Personal Property.* Each Group Member is the sole legal and beneficial owner of, free and clear of all Liens, other than Permitted Liens, all personal property reflected as an asset in the latest financial statements of the Borrower provided to the Lender, except for (y) personal property disposed in the ordinary course of business to Unrelated Parties since the date of those financial statements (A) before the Closing Date provided the aggregate value of all personal property, other than inventory, so disposed of does not exceed \$1,000,000 and (B) on or after the Closing Date in compliance with the provisions of this Agreement and (z) title defects that do not, in the aggregate, detract from the value of any Material assets of any Group Member or impair the use thereof in the conduct of business of any Group Member.

11.1.18 *Intellectual Property.*

- (a) Each Group Member has used its Intellectual Property Rights that are Material in such manner as to preserve its rights therein, including the use of proper notices indicating ownership of and/or rights to use its Intellectual Property Rights that are Material, to the extent reasonably necessary for the protection of its Intellectual Property Rights that are Material.
- (b) No Group Member is aware of any claim having been made that the use of any Intellectual Property Rights of any Group Member that are Material or the sale or licensing of any such Intellectual Property Rights that are Material does or may violate the rights of any other person.
- (c) All Intellectual Property licences that are Material are in full force and effect unamended, each Group Member party thereto has duly observed and performed all of its covenants and obligations under each such license that is Material,

except for non-observance and non-performance that is Immaterial, and, to the knowledge of each Group Member, there has not been any default under or breach of any Intellectual Property licence that is Material by the other parties thereto.

11.1.19 *Group Organization.* The Borrower has no Subsidiaries other than those notified to the Lender pursuant to Section 12.1.6(j) within 30 days of their Acquisition by the Borrower.

11.1.20 *Taxes.* Each Group Member has:

- (a) delivered or caused to be delivered all Tax returns which are now due to the appropriate governmental authority;
- (b) paid and discharged all Taxes payable by it when due;
- (c) made provision for appropriate amounts in respect of any Taxes likely to be exigible in accordance with Applicable Accounting Principles;
- (d) withheld and collected all Taxes required to be withheld and collected by it and remitted such Taxes to the appropriate governmental authority when due; and
- (e) paid and discharged all Statutory Prior Claims when due,

save to the extent otherwise permitted under Subsection 12.1.10, and no assessment or appeal is, to its knowledge, being asserted or processed with respect to such returns, Taxes or Statutory Prior Claims, except for assessments or appeals respecting an aggregate Tax liability for the entire Group not exceeding \$1,000,000 (or the Equivalent in foreign currency).

11.1.21 *Solvency.* Each Group Member is Solvent.

11.1.22 *General Environmental Representations and Warranties.* With respect to the Environment:

- (a) the Group Facilities and all real estate (including the buildings, erections and facilities constructed thereon) and appurtenances comprising or used in connection therewith, are and have at all times been owned, leased, managed, controlled or operated in compliance with all Environmental Laws for the period they have been owned, leased, managed, controlled or operated by any Group Member (including its predecessors by amalgamation, merger or other business combination); and
- (b) to the knowledge of each Group Member, all real estate (including the buildings, erections and facilities constructed thereon) and appurtenances comprising or used in connection with the Group Facilities were at all times owned, leased, managed, controlled or operated by the predecessors in title to such real estate in compliance with all Environmental Laws,
- (c) the Borrower is not aware of, nor has any Group Member received notice of, any past, present or future condition, event, activity, practice or incident that,

individually or in the aggregate, would interfere with or prevent the compliance or continued compliance of the Group Facilities under all Environmental Laws;

- (d) to the Borrower's knowledge, the Obligors are not aware that any Contaminants or Waste exist on, about or within or have been used, generated, stored, transported, disposed of on, or released from any of the Group Facilities other than in compliance with all Environmental Laws;
- (e) the use which the Obligors have made and intend to make of the Group Facilities will not result in the use, generation, storage, transportation, accumulation, disposal, or release of any Contaminants on, in or from any of the Group Facilities;
- (f) there is no action, suit or proceeding, or, to its knowledge and belief, any investigation or inquiry, before any governmental authority pending or, to its knowledge, threatened against any of the Obligors relating in any way to any Environmental Law; and
- (g) no Obligor has (i) incurred any current and outstanding liability for any clean-up or remedial action under any Environmental Law with respect to current or past operations, events, activities, practices, incidents or the condition or use of the Group Facilities, (ii) received any outstanding written request for information (other than information to be provided in the normal course in connection with applications for licences, permits or approvals) by any person under any Environmental Law with respect to the condition, use or operation of the Group Facilities, or (iii) received any outstanding written notice or claim under any Environmental Law with respect to any material violation of or liability under any Environmental Law or relating to the presence of Contaminant on or originating from its Group Facilities,

with the exception in all cases of matters which are Immaterial and in respect of which either (i) disclosure has been made to the Lender pursuant to Subsection 12.1.6 or (ii) non-compliance has not resulted in and could not reasonably be expected to result in, individually or in the aggregate, a loss and expense to any Group Member in an amount exceeding \$1,000,000 (or the Equivalent in foreign currency).

#### 11.1.23 *Pension Plan and Benefit Plan Compliance.*

- (a) Schedule 7 lists all Employee Benefit Plans and Pension Plans maintained or contributed to by each Group Member. No such Pension Plan maintained or contributed to by any Group Member is a defined benefits plan. The Pension Plans listed in Schedule 7 are duly registered under the *Income Tax Act* (Canada) and all other Applicable Laws which require registration.
- (b) Except as could not, either individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect, (i) each Pension Plan has been maintained in compliance with its terms and with the requirements of any and all Applicable Laws and has been maintained, where required, in good standing with

applicable regulatory authorities and all contributions thereto have been withheld, remitted and paid in a timely manner in accordance with its terms and the requirements of any and all Applicable Laws, (ii) no Pension Event has occurred or is reasonably expected to occur and (iii) no Group Member has sponsored, sponsors, has contributed to or contributes to a Multi-Employer Plan.

11.1.24 *Sanctions.* Neither the Borrower, nor any Subsidiary nor any of their respective directors or officers or, to the knowledge of the Borrower, employees, agents or Affiliates: (a) is a Sanctioned Person; or (b) has engaged in any dealings or activities with, involving or for the benefit of any Sanctioned Person or otherwise taken any action, directly or indirectly, that would constitute or give rise to a violation of applicable Sanctions. The Borrower has implemented and maintains in effect policies and procedures designed to promote and achieve compliance by the Borrower and its Subsidiaries with applicable Sanctions.

11.1.25 *Anti-Money Laundering.* The operations of the Borrower and its Subsidiaries are and have been conducted at all times in material compliance with all applicable Anti-Money Laundering Laws and no action, suit or proceeding by or before any court or governmental agency, authority or body or any arbitrator involving the Borrower or any of its Subsidiaries with respect to the Anti-Money Laundering Laws is pending or, to the knowledge of the Borrower, threatened in writing.

11.1.26 *Anti-Corruption.* Neither the Borrower, nor any Subsidiary or nor any of their respective directors or officers or, to the knowledge of the Borrower, employees, agents or Affiliates has taken any action, directly or indirectly, that would constitute or give rise to a violation of applicable Anti-Corruption Laws in any material respect. The Borrower has implemented and maintains in effect policies and procedures designed to promote and achieve compliance by the Borrower, its Subsidiaries and their respective directors, officers, employees and agents with applicable Anti-Corruption Laws.

11.1.27 *Asset Purchase Agreement.* As of the Closing Date, the Borrower has delivered to the Lender a complete and correct copy of the Asset Purchase Agreement (including all schedules, exhibits, supplements, changes and assignments in respect thereof). The Borrower is not, and to the knowledge of the Borrower no other person party to the Asset Purchase Agreement is, in material default in the performance or compliance with any provisions thereof. The Asset Purchase Agreement complies with, and the transactions contemplated therein have been consummated in accordance with, all Applicable Laws in all material respects. The Acquisition contemplated by the Asset Purchase Agreement to occur on the Closing Date have been or (as the case may be) will be completed strictly in accordance with the terms and conditions of the Asset Purchase Agreement. The Asset Purchase Agreement is in full force and effect as of the Closing Date and has not been terminated, rescinded or withdrawn or modified in any manner material and adverse to the Lender. All requisite approvals by any governmental authority having jurisdiction over the Borrower or the transactions contemplated by the Asset Purchase Agreement and all third party authorizations have been obtained, and no such approvals or authorizations impose any conditions to the consummation of the transactions contemplated thereby or to the conduct by the Borrower of its businesses thereafter. No litigation, investigation or proceeding of or before any governmental authority, arbitrator or court is pending or, to the knowledge of the Borrower, threatened against the Borrower challenging,

enjoining the completion of, or otherwise in respect of, the transactions contemplated by the Asset Purchase Agreement which if determined against the Borrower could reasonably be expected to have a Material Adverse Effect

## **11.2 Repetition of Representations and Warranties**

The representations and warranties made in Section 11.1 shall be deemed to be repeated by the Borrower on each Borrowing Date by reference to the facts and circumstances then existing, it being understood that to the extent such representations and warranties relate solely to a specifically identified earlier date they need only be true and correct as of such earlier date.

## **11.3 Nature of Representations and Warranties**

The representations and warranties made in Section 11.1 or deemed repeated in Section 11.2 shall survive the execution and delivery of this Agreement and the making of each Borrowing notwithstanding any investigations or examinations which may be made by or on behalf of the Lender or Lender's Counsel, and the Lender shall be deemed to have relied on such representations and warranties in the making of each Borrowing.

# **ARTICLE 12 COVENANTS OF THE BORROWER**

## **12.1 Affirmative Covenants**

Until all Loan Obligations owing by the Borrower to the Lender have been paid in full, the Borrower agrees with the Lender that it will, and (to the extent the context so admits) it will cause each other Group Member to, duly perform and comply with, each of the following affirmative covenants (except to the extent waived by the Lender):

12.1.1 *Punctual Payment and Performance.* Each Obligor will duly and punctually pay each sum payable by it and punctually perform its other obligations under each Loan Document to which it is a party at the time and place and in the manner provided for in such Loan Document.

12.1.2 *Conduct of Business.* Except to the extent expressly otherwise permitted by Subsection 12.2.6, each Group Member will maintain in good standing and full force and effect its legal existence in its present jurisdiction of incorporation or formation and the authorizations, registrations, legal capacity, rights and qualifications necessary to carry on the Group's business that it carries on and own its assets in each jurisdiction in which it carries on business or its assets are located, save for jurisdictions in which such business is and such assets are Immaterial.

12.1.3 *Compliance with Applicable Laws.* Each Group Member will comply in all respects with all Applicable Laws, save for non-compliance that is Immaterial.

12.1.4 *Compliance with Contracts.* Each Group Member will comply in all respects with each contractual obligation owing by it to its customers, suppliers and other persons, save for non-compliance that is Immaterial.

12.1.5 *Financial Records.* Each Group Member will maintain complete records and books of account in accordance with Applicable Accounting Principles.

12.1.6 *Financial Statements and Other Information.* The Borrower will deliver or cause to be delivered to the Lender (either in paper or electronic (pdf) form as the Lender may request):

- (a) as soon as practicable and in any event within 120 days after the end of each Fiscal Year, (i) annual consolidated financial statements of Borrower prepared in accordance with Applicable Accounting Principles audited by its Auditors (without qualification) and (ii) an Annual Forecast for the following Fiscal Year;
- (b) as soon as practicable and in any event within 45 days after the end of each of the first three (3) Fiscal Quarters of each Fiscal Year, (i) management prepared unaudited quarterly consolidated financial statements of the Borrower for that Fiscal Quarter as well as for the current Fiscal Year to that Fiscal Quarter end, prepared in accordance with Applicable Accounting Principles (subject to annual year-end audit adjustments and the absence of notes), consisting in each case of a balance sheet and statements of retained earnings, earnings and cash flows, and (ii) a Compliance Certificate (together with the calculation thereof) from the Borrower prepared as at such Fiscal Quarter end together with a comparison to the results for the previous year;
- (c) as soon as practicable and in any event within thirty (30) days of the end of each calendar month, (i) a listing of aged accounts receivable and (ii) a Revolver Borrowing Base Report prepared as at such calendar month end;
- (d) as soon as it obtains knowledge of any Default, notice of such Default, together with an outline in reasonable detail of the action it is taking to remedy such Default;
- (e) as soon as it obtains knowledge of any judgment, Order or award or the commencement of any proceeding or dispute affecting any Group Member or any of its assets which, either alone or when aggregated with all other such proceedings, has resulted in, or could reasonably be expected to result in, (i) a Material Adverse Effect, or (ii) any single or multiple judgments, Orders or awards ordering any one or more Group Members to pay more than \$1,000,000 (or the Equivalent in foreign currency) in the aggregate, notice of such judgments, Orders or awards or proceedings; in each case, if requested by the Lender, together with an outline in reasonable detail of the particulars thereof, copies of all pleadings, Borrower's Counsel's assessment of the merits thereof and the action the Group Member is taking in respect thereof;
- (f) as soon as any Group Member obtains knowledge of any proceeding or dispute pertaining to liabilities or breach of Environmental Laws which, either alone or when aggregated with all other such proceedings or disputes, has resulted or could reasonably be expected to result in (i) a Material Adverse Effect or (ii) a loss and expense to any one or more Group Members in an amount (or the Equivalent in

foreign currency) in excess of \$1,000,000, notice of such proceeding or dispute, and, if requested by the Lender, copies of all corresponding judgments, Orders or awards and pleadings, a report on the status thereof and any assessment of the merits thereof by the Borrower's Counsel;

- (g) promptly, and in any event within 10 days, (i) after any Group Member fails to make a required instalment or other payment in accordance with a schedule of contributions according to the terms of any Pension Plan or as otherwise required by a governmental authority, a notification of such failure, (ii) of the occurrence of any Pension Event, and (iii) upon request by the Lender, copies of any Employee Benefit Plan or Pension Plan and related documents, reports and correspondence;
- (h) promptly, a copy of any waiver, amendment, notice or other written communication which is executed by or sent or received by the Borrower in accordance with the terms of the Asset Purchase Agreement;
- (i) as soon as it obtains knowledge of any actual or threatened strikes or work stoppages, notice thereof containing an outline in reasonable detail of the expected resolution thereof;
- (j) within ten (10) days of the Acquisition of any new Subsidiary by any Group Member, notice thereof, together with a copy of the Constitutional Documents of such new Subsidiary; and
- (k) from time to time, such additional information regarding any of the assets of the Group as the Lender may reasonably request.

12.1.7 *Rights of Inspection.* At any time and from time to time, each Group Member will permit any representative of the Lender, at the expense of the Borrower, to attend at the premises of such Group Member and examine and make copies of any abstracts from the records and books of account of any Group Member and to discuss any of the assets and liabilities of any Group Member with any of its directors, Responsible Officers and with its Auditors or other representatives.

12.1.8 *Maintenance of Properties.* Each Group Member will maintain in good repair, working order and condition (reasonable wear, tear and obsolescence excepted) its assets (whether owned or held under lease), other than those which are Immaterial, and from time to time make or cause to be made all needed and appropriate repairs, renewals, replacements, additions and improvements thereto consistent with prudent business judgment.

12.1.9 *Maintenance of Insurance.* The Borrower will insure, or cause to be insured at all times, all of the assets of the Group with financially sound and reputable insurance companies covering such assets in an amount of at least their replacement value and against public liability, in at least such amounts and against at least such risks as are usually insured against by persons of similar size and carrying on a similar business or holding similar assets and the Borrower shall furnish to the Lender upon written request, full information as to the insurance carried. The Borrower shall cause the Lender to be named in each such policy as secured party or mortgagee

and first loss payee (except in the case of assets leased by an Unrelated Party to a Group Member under an operating lease) and additional insured, as appropriate, in a manner acceptable to the Lender. Each policy of insurance shall contain a clause or endorsement requiring the insurer to give not less than 30 days (subject to any mandatory statutory reduction to 15 days) prior written notice to the Lender in the event of cancellation of the policy for any reason whatsoever and a clause or endorsement stating that the interest of the Lender shall not be impaired or invalidated by any act or neglect of any Group Member or the owner of any premises for purposes more hazardous than are permitted by such policy. No Group Member will do or omit to be done anything which could breach or invalidate any such insurance and the Borrower will punctually pay all premiums and other amounts necessary for maintaining such insurance as the same become due. The Borrower shall obtain and, upon request, provide the Lender with certificates of insurance for and certified copies of the policies effecting the insurance required by this Subsection 12.1.9.

12.1.10 *Payment of Taxes and Claims.* Each Group Member will:

- (a) pay and discharge all lawful claims for labour, material and supplies when due;
- (b) deliver or cause to be delivered all Tax returns when they are due to the appropriate governmental authority;
- (c) punctually pay and discharge all Taxes payable by it when due;
- (d) withhold and collect all Taxes required to be withheld and collected by it and remit such Taxes to the appropriate governmental authority when due in the manner required by Applicable Law; and
- (e) pay and discharge all Statutory Prior Claims when due;

provided, however, that, no Group Member shall be required to pay or discharge or to cause to be paid or discharged, any such amount so long as its validity or quantum is contested in good faith by appropriate proceedings, and a reserve has been established in its books and records in accordance with Acceptable Accounting Principles in an amount satisfactory to the Lender in their sole discretion, acting reasonably.

12.1.11 *Arm's Length Arrangements.* Each Group Member will only enter into or carry out an agreement, transaction or other arrangement with any Related Person or any other person with whom it is not dealing at arm's length if such agreement, transaction or arrangement is made (a) on commercially reasonable terms providing for immediate payment in cash (and not by way of set-off or deferred payment) at fair market value and consistent with commercial relations between persons dealing at arm's length or (b) between Obligors. This Subsection 12.1.11 shall not apply to (y) usual employee compensation benefits consistent with historic Group compensation arrangements and (z) any other Restricted Payments to the extent permitted to be paid pursuant to Subsection 12.2.11.

12.1.12 *Comply with Environmental Laws.* Each Group Member will cause its representatives to:

- (a) manage and operate the Group Facilities in compliance with all Environmental Laws;
- (b) maintain all authorizations and make all registrations required under all Environmental Laws in relation to the Group Facilities and remain in compliance therewith; and
- (c) store, treat, transport, generate, otherwise handle and dispose of all Contaminants and Waste owned, managed or controlled by it in compliance with all Environmental Laws,

with the exception of failure or non-compliance that (y) has not, and could not reasonably be expected to, result in losses and expenses to any Group Member, individually or in the aggregate, in excess of \$1,000,000 and (z) is Immaterial.

12.1.13 *Environmental Audits.* The Borrower will commission an Environmental site assessment/audit report of any Group Facility or an update of such assessment/audit report addressed to counsel for the Borrower and Lenders' Counsel (a) upon the written request of the Lender if, in its reasonable opinion, there is a material concern about its, or any Obligor's, compliance with Environmental Laws in respect of any Group Facility, all in scope, form and content satisfactory to the Lender, acting reasonably, (b) if such assessment/audit report has been prepared at the request of or on behalf of any governmental authority or (c) if a default relating to an Environmental matter has occurred in respect of any Group Facility, and the Lender has made a written request to the Borrower for such an assessment/audit report or update, within 30 days after such request; and all such assessments/audits reports or updates thereof shall be at the Borrower's expense and risk. An Environmental site assessment/audit includes, for purposes of this Subsection, any inspection, investigation, test, sampling, analysis or monitoring pertaining to air, land or water relating to the Group Facility.

12.1.14 *Plan Compliance.* Each Group Member shall establish, maintain and operate all Employee Benefit Plans and Pension Plans so as to comply in all respects with all Applicable Laws and the respective requirements of the governing documents for such plans, save for non-compliance that is Immaterial.

12.1.15 *Use of Proceeds.* The Borrower shall use the proceeds of each Advance under each Credit Facility solely for the respective purposes stipulated under Sections 2.1, 2.2 and 2.3.

12.1.16 *Non-Compliant Debt and Security.* The Borrower shall, contemporaneously with the initial Drawdown under the Credit Facilities, repay all Debt which is not Permitted Debt and to discharge all Liens which are not Permitted Liens.

12.1.17 *Sanctions.* The Borrower will not, directly or indirectly, use the proceeds of any Advances, or lend, contribute or otherwise make available any such proceeds to any Subsidiary or other person, to finance or facilitate any activities or business of, with or involving any

Sanctioned Person or in any other manner that would constitute or give rise to a violation of Sanctions by any person, including the Lender.

12.1.18 *Anti-Corruption.* The Borrower will not, directly or indirectly, use any part of the proceeds of the Advances in furtherance of an offer, payment, promise to pay, or authorization of the payment or giving of money, or anything else of value, to any person in violation of any Anti-Corruption Laws.

12.1.19 *Hedging.* The Borrower will enter into an interest rate swap with the Lender within 30 days of the Closing Date pursuant to which it will hedge to a fixed rate at least half of its interest rate exposure on the Term Facility. Such interest rate swap will be entered into pursuant to an ISDA 2002 Master Agreement (including its schedule) and confirmation in form and substance satisfactory to the Lender.

## **12.2 Negative Covenants**

Until all Loan Obligations owing by the Borrower to the Lender have been paid in full, the Borrower agrees with the Lender that it will, and (where the context so admits) it will cause each other Group Member to, duly perform and comply with each of the following negative covenants (except to the extent waived by the Lender):

12.2.1 *Limitations on Debt.* No Group Member will create, assume, incur, otherwise become liable upon or permit to exist any Debt, other than:

- (a) Debt secured by any Permitted Lien described in paragraphs (h), (j), (k) and (k) of Subsection 12.2.5;
- (b) unsecured Debt owing to Unrelated Parties; provided that the aggregate outstanding amount thereof at any time for the entire Group, when aggregated with the aggregate amount of secured Debt permitted under Subsection 12.2.5(h), does not exceed \$1,000,000 (or the Equivalent in foreign currency);
- (c) Debt under any Loan Document;
- (d) Out-of-the-Money Derivative Exposure under Derivatives permitted under Subsection 12.2.14;
- (e) unsecured Debt owing by one Obligor to another; and
- (f) Subordinated Debt.

12.2.2 *Financial Assistance.* No Group Member will provide any financial assistance by means of Investment, guarantee or otherwise to any person, other than:

- (a) to an Obligor;
- (b) by guaranteeing Debt of an Obligor that is Permitted Debt; and

- (c) Permitted Investments.

12.2.3 *Sale of Assets.* No Group Member will dispose of any of its assets, except for:

- (a) disposals of inventory made in the ordinary and usual course of carrying on its day to day business;
- (b) disposals of any of its assets to an Obligor;
- (c) disposals of defaulted accounts in order to realize on them in a commercially reasonable manner; and
- (d) disposals of assets that are not Material and are no longer used or useful in the Group's business to Unrelated Parties in any period of four (4) consecutive Fiscal Quarters having a fair market value for the entire Group not exceeding \$1,000,000 (or the Equivalent in foreign currency);

provided that no Default has occurred or could reasonably be expected to occur as a consequence of such disposal.

12.2.4 *Disposals of Subsidiaries.* No Group Member will dispose of any Capital Stock in any Subsidiary of it, or permit any Subsidiary of it to issue Capital Stock, to any person other than to an Obligor.

12.2.5 *Negative Pledge.* No Group Member will create, incur, assume or otherwise become liable upon or permit to exist any Lien on, against or with respect to any of its assets, except for:

- (a) Liens in respect of Statutory Prior Claims, but only if the obligations secured by such Liens are paid when due;
- (b) Liens for assessments or governmental charges or levies which are paid when due or, if overdue, the validity or amount of which is being contested in good faith by appropriate proceedings and in respect of which adequate steps have been taken (which may include cash being paid to or pledged with the relevant governmental authority) to prevent penalties from being imposed, interest from accruing and the commencement or continuation of enforcement proceedings and adequate reserves in accordance with Applicable Accounting Principles have been recorded on the consolidated balance sheet of the Borrower;
- (c) construction, mechanics', carriers', warehousemen's, storage, repairers' and materialmen's Liens; provided that the obligations secured by such liens are paid when due and no Lien has been registered against any assets of any Group Member or if a Lien has been registered, same is being vigorously defended in good faith by appropriate proceedings and appropriate steps have been taken to prevent any disposal of such assets;

- (d) Liens arising from court or arbitral proceedings; provided that the claims secured thereby are being contested in good faith by the relevant Group Member, execution thereon has been stayed and continues to be stayed and such Liens do not, in the aggregate, detract from the value of any asset of any Group Member or impair the use thereof in the conduct of business of any Group Member, other than in a manner that is Immaterial;
- (e) deposits of cash securities in connection with any appeal, review or contestation of any security or lien, or any matter giving rise to any security or lien, described in paragraph (d) above;
- (f) any pledge of cash by a Group Member to any insurer, guarantor, third party contractor, public utility or governmental authority made in the ordinary and usual course of business to secure the performance of bids, tenders, contracts (other than contracts of Debt), leases, customs duties and other similar obligations;
- (g) Liens arising solely by virtue of any statutory or common law provision relating to banker's liens, rights of combination of accounts or similar rights in the ordinary course of conducting day-to-day banking business in relation to deposit accounts or other funds maintained with a financial institution; provided that (A) such Liens (1) do not relate to any deposit account that is a dedicated cash collateral account which is subject to restrictions against access by the depositor or account holder, (2) do not relate to any deposit account intended by the depositor or account holder to provide collateral to the depository institution and (3) are not intended directly or indirectly to secure the payment or performance of Debt or any other obligation and (B) an Account Control Agreement governs that deposit account if it is not maintained with the Lender;
- (h) Liens over specific equipment in favour of Unrelated Parties securing Debt and other payment obligations outstanding at any time for the entire Group in an aggregate outstanding amount, when aggregated with the aggregate amount of unsecured Debt permitted under Subsection 12.2.1(b), does not exceed \$1,000,000 (or Equivalent in foreign currency);
- (i) Liens subject to the FWCU Subordination and Standstill Agreement securing amounts not exceeding \$10,000,000 in the aggregate;
- (j) the Liens created by the Security and any other Liens created in favour of the Lender; and
- (k) such other Liens securing such obligations as may be approved by the Lender from time to time.

12.2.6 *No Merger, Amalgamation, etc.* No Group Member will enter into any merger, amalgamation, arrangement, consolidation, business combination, capital reorganization, liquidation, winding-up, dissolution or similar transaction (each, a "**Business Combination**"), except that any Group Member that is a Wholly-Owned Subsidiary of the Borrower may vertically amalgamate with the Borrower or liquidate or dissolve voluntarily into the Borrower or

another such Wholly-Owned Subsidiary or merge, consolidate, amalgamate or otherwise combine with and into any other Group Member that is a Wholly-Owned Subsidiary of the Borrower so long as:

- (a) no Default has occurred and is continuing at such time nor would any result from such Business Combination;
- (b) the successor resulting from the Business Combination (the “**Merged Entity**”) possesses all the property, rights, privileges and franchises of each Group Member party to such Business Combination (each, a “**Merging Group Member**”) and assumes and is subject to all the obligations and liabilities of each such Merging Group Member under each Loan Document to which such Merging Group Member is party;
- (c) the benefits of each Loan Document to which each Merging Group Member is a party extend to the performance by the Merged Entity of its obligations under each Loan Document;
- (d) the validity, enforceability and effect of the Loan Documents, and the validity, effect, priority and perfection of the Security, shall not be affected in any adverse way;
- (e) the Merged Entity is the Borrower or a Wholly-Owned Subsidiary of the Borrower; and
- (f) legal counsel for each Merging Group Member and the Merged Entity shall have provided an opinion to the Lender, in form and substance satisfactory to the Lender, addressing such matters referred to in paragraphs (a) to (e) above as the Lender shall reasonably require.

12.2.7 *Nature of Business.* No Group Member will change the nature of the Group Business or cease to carry on the Core Business or any substantial part thereof; and no Group Member will engage in any new business other than a business engaged solely in a Core Business.

12.2.8 *Limitation on Investments.* No Group Member will make any new Investments, other than:

- (a) Investments in Cash Equivalents;
- (b) a Permitted Acquisition; and
- (c) Investments in a Group Member;

provided that no Default has occurred or could reasonably be expected to occur after such Investment is made.

12.2.9 *Limitation on Acquisitions.* No Group Member will make any Acquisition, except for Acquisitions valued (including any Debt assumed on a consolidated basis) at not more than \$1,000,000 in the aggregate for the entire Group during each Fiscal Year; provided that (i) substantially all business activities of the person acquired constitutes part of the Core Business carried on in North America and, if Capital Stock is acquired, it becomes a Wholly-Owned Subsidiary of the Borrower upon Acquisition, (ii) the assets acquired must be solely used or be useful in the Core Business, (iii) the person or assets acquired must have generated positive EBITDA with respect to the most recent four (4) Fiscal Quarters (the Borrower acknowledges that such contribution to EBITDA of the Borrower will be normalized in a manner satisfactory to the Lender to exclude the impact of expenses incurred in connection with non-arm's length payments which will not continue after such Acquisition), (v) no Default exists at the time of the Acquisition or would exist after giving effect to it, (vi) there is delivery of security in form and substance satisfactory to the Lender over all of the assets of and Capital Stock of the acquired entity if Capital Stock is acquired over all of the assets acquired if assets are acquired in accordance with Section 10.2, (vii) the Acquisition could not reasonably be expected to cause or result in a Material Adverse Effect or create any material contingent liabilities which are not in the ordinary course of business and (viii) the Acquisition is not completed by way of Hostile Take-Over Bid.

12.2.10 *Distributions.* No Group Member shall be restricted by its Constitutional Documents or become bound by any agreement other than this Agreement from making any Distributions. No Group Member will declare, set apart for payment, make or pay any Distributions, except for (a) any Distribution from a Group Member (other than the Borrower) to an Obligor that is a Group Member, and (b) any cash Distribution by the Borrower; provided that (i) no Default has occurred or could reasonably be expected to occur within 12 months of such Distribution being made and (ii) the Total Debt/EBITDA Ratio for the most recently concluded Test Period is less than 2.5:1.

12.2.11 *Restricted Payments.* No Subsidiary of the Borrower shall be restricted by its Constitutional Documents or become bound by any agreement other than this Agreement from making any Restricted Payments. No Group Member will make or pay any Restricted Payment except for (w) any Restricted Payment to the Borrower or any other Obligor, (x) any issuance of Capital Stock by the Borrower to a Shareholder; provided that, upon issuance, the Lender has a security interest therein perfected by control, (y) Distributions permitted by Subsection 12.2.10 and (z) any other payment to any Related Person; provided that (1) such payment is made in compliance with Subsection 12.1.11, (2) the Total Debt/EBITDA Ratio for the most recently concluded Test Period is less than 2.5:1 and (3) no Default has occurred and is continuing or could reasonably be expected to occur within 12 months of such Restricted Payment being made.

12.2.12 *Capital Expenditures.* No Group Member will incur any Capital Expenditure if the aggregate total amount of all Capital Expenditures incurred by the entire Group for any Fiscal Year would exceed the 110% of the amount forecast in the Annual Forecast for that Fiscal Year.

12.2.13 *Restriction on Subsidiaries.* No Group Member will form or acquire, directly or indirectly, any Subsidiary, unless such Subsidiary is a Wholly-Owned Subsidiary of the

Borrower on Acquisition and becomes an Obligor within 30 days of being formed or acquired and, in either case, the Acquisition of such Subsidiary is a Permitted Acquisition.

12.2.14 *Derivatives.* No Group Member will enter into any Derivative, except for the purpose of (a) paying or hedging its actual normal business capital expenditures and operating expenses denominated in foreign currency or (b) hedging its interest rate exposure on Advances outstanding under the Term Facility pursuant to a hedging program satisfactory to the Lender.

12.2.15 *Articles.* No Obligor will change its articles, save that an Obligor may change (w) its name if it gives the Lender 10 prior Business Days' notice thereof, (x) its registered office or head office if it gives the Lender prompt notice thereof and, if applicable, complies with Subsection 12.2.16, (y) the classes and number of its shares and rights under share and restrictions on share transfers and (z) its articles to give effect to a transaction permitted by Subsection 12.2.6.

12.2.16 *Chief Executive Office.* No Obligor shall change its chief executive office, domicile or location within the meaning of Section 7 of the *Personal Property Security Act* (Ontario) is located, unless (y) such jurisdiction is another Province or a Territory of Canada, other than Quebec, and (b) it provides the Lender with at least twenty (20) Business Days prior notice of such change.

12.2.17 *Fiscal Year.* No Group Member will change its fiscal year to any fiscal year other than to the Fiscal Year.

12.2.18 *Pension Plans.* No Group Member will:

- (a) permit any accumulated funding deficiency in respect of all Employee Benefit Plans and Pension Plans to exceed \$1,000,000 at any time;
- (b) permit any further unfunded liabilities with respect to any Pension Plan which would trigger a requirement to make an increase of more than \$1,000,000 in contributions to fund any such liabilities; or
- (c) fail, or permit any other Group Member to fail, to pay any required contributions or payments to a Pension Plan on or before the due date for such required instalment or payment.

12.2.19 *Unperfected Bank Accounts.* No Obligor shall maintain any cash balance or deposit account with any bank or other financial institution that is not either subject to an Account Control Agreement or maintained with the Lender.

12.2.20 *Unperfected Securities Accounts.* No Obligor shall maintain any securities account that is not subject to an Account Control Agreement.

12.2.21 *Sanctions and Anti-Corruption Laws.* Use, directly or indirectly, any part of the proceeds of any Advance (i) in furtherance of an offer, payment, promise to pay, or authorization of the payment or giving of money, or anything else of value, to any person in violation of any Anti-Corruption Laws; or (ii) to finance or facilitate any activities or business of, with or

involving any Sanctioned Person or in any other manner that would constitute or give rise to a violation of Sanctions by any person, including the Lender.

12.2.22 *No Indirect Actions.* Unless otherwise expressly stated, if an Obligor may not take or omit to take an action under this Agreement, then it may not take or omit to take that action indirectly, or assist or support any other person in taking or omitting to take that action directly or indirectly. "Taking an action or omitting to take indirectly" means taking or omitting to take an action that is not expressly prohibited for an Obligor but is intended to have substantially the same effects as the prohibited action or omission.

### **12.3 Financial Covenants**

Until all Loan Obligations owing by the Borrower to the Lender have been paid in full, the Borrower agrees with the Lender that it will ensure that each of the following financial tests is complied with (except to the extent waived by the Lender):

12.3.1 *Senior Debt/EBITDA Ratio.* The Borrower will not permit the Senior Debt/EBITDA Ratio to exceed (a) 3.0:1 for the Test Period ending August 31, 2018 and (b) 2.5:1 for each Test Period ending after August 31, 2018.

12.3.2 *Total Debt/EBITDA Ratio.* The Borrower will not permit the Total Debt/EBITDA Ratio to exceed (a) 4.0:1 for the Test Period ending August 31, 2018, (b) 3.75:1 for each Test Period ending on or after November 30, 2018 but on or before August 31, 2019 and (c) 3.5:1 for each Test Period ending after August 31, 2019.

12.3.3 *Fixed Charge Coverage Ratio.* The Borrower will not permit the Fixed Charge Coverage Ratio to be less than 1.20:1 for any Test Period.

## **ARTICLE 13 EVENTS OF DEFAULT**

### **13.1 Events of Default**

An "Event of Default" shall occur if any of the following defaults, breaches, failures, events, states or conditions occur or exist at any time.

13.1.1 *Non-Payment of Principal.* The Borrower fails to pay to the Lender any principal amount outstanding hereunder when due.

13.1.2 *Non-Payment of Interest and Other Amounts.* The Borrower fails to pay any interest, Fee or other amount (excluding principal) payable hereunder or under any other Loan Document when due and such failure continues unremedied for more than three (3) Business Days.

13.1.3 *Misrepresentation.* Any representation or warranty which is not already subject to a materiality qualification made or deemed made by any Obligor in any Loan Document is found to have been false or misleading in any material respect or any representation or warranty

which is subject to a materiality qualification made or deemed made by any Obligor in any Loan Document is found to have been false or misleading in any respect.

13.1.4 *Financial Tests.* Any financial test contained in Section 12.3 is not complied with.

13.1.5 *Breach of Certain Covenants.* The Borrower fails to perform or comply with any provision or obligation contained in Section 10.1, 10.2, 12.2 or Subsection 12.1.2.

13.1.6 *Breach of Other Borrower Covenants.* The Borrower fails to perform or comply with any provision or obligation contained in any Loan Document to which it is a party and such failure continues unremedied for a period of 30 days after the Borrower knows of such failure (other than those referred to in Subsections 13.1.1, 13.1.2, 13.1.3, 13.1.4 and 13.1.5 above).

13.1.7 *Breach by Other Obligors.* Any Obligor, other than the Borrower, fails to perform or comply with any provision or obligation contained in any Loan Document to which it is a party and such failure continues unremedied for a period of 30 days after such Obligor knows of such failure.

13.1.8 *Cross-Default.* Any Group Member defaults under any one or more agreements or documents relating to Debt (other than Debt under this Agreement) in an aggregate amount exceeding \$1,000,000 (or the Equivalent in foreign currency) and, if there is any cure period applicable to such default, such cure period lapses without the default being cured.

13.1.9 *Cross Acceleration.* Any Group Member becomes obligated to repay, prepay, pay, purchase or otherwise retire or acquire any Debt (other than Debt under this Agreement) in an aggregate amount exceeding \$1,000,000 (or the Equivalent in foreign currency) before its scheduled maturity date.

13.1.10 *Unsatisfied Judgments.* Any one or more judgments, Orders or awards for the uninsured payment of money in an aggregate amount for the entire Group exceeding \$1,000,000 (or the Equivalent in foreign currency) are rendered against any one or more Group Members and such Group Members do not discharge same in accordance with its terms, or procure a stay of execution thereof, within 30 days from the date of the entry of each such judgment, Order or award and in any event at least five (5) Business Days before any such judgment, Order or award may be executed upon.

13.1.11 *Enforcement of Liens.* Any one or more persons entitled to any Liens on any assets of any one or more Group Members having claims exceeding \$1,000,000 (or the Equivalent in foreign currency) in the aggregate take possession of any such assets or any one or more seizures, executions, garnishments, sequestrations, distresses, attachments or other equivalent processes in respect of claims against any one or more Group Member exceeding \$1,000,000 (or the Equivalent in foreign currency) are issued or levied against any assets of any one or more Group Members and such Group Members do not discharge the same or provide for the discharge in accordance with their terms, or procure a stay of execution thereof, within 30 days from the date such possession or process first takes effect and in any event at least five (5) Business Days before such assets are capable of being disposed of thereunder.

13.1.12 *Insolvency.* Any Insolvency Event with respect to any Group Member occurs; or any Group Member takes corporate or other internal administrative, management or other governance action to authorize any Insolvency Proceeding.

13.1.13 *Cessation of Business.* Except for a Business Combination permitted by Subsection 12.2.6, any Group Member ceases or suspends or threatens to cease or suspend all or a substantial portion of its business.

13.1.14 *Pension Event.* A Pension Event occurs which could reasonably be expected to result in (a) losses and expenses to any one or more Group Members in excess of \$1,000,000, individually or in the aggregate, or (b) a Material Adverse Effect.

13.1.15 *Security Imperilled.* If (a) any proceeding is commenced which, if determined adversely to any Obligor or to the rights of the Lender contemplated under the Loan Documents, would constitute a Material Adverse Change, (b) any Loan Document or any material right thereunder becomes or is determined by a court of competent jurisdiction to be invalid, unenforceable or ineffective, (c) the Lien of any Security is determined by a court of competent jurisdiction to be or ceases to be valid and perfected ranking in priority in the manner contemplated herein or in the Security Documents, other than by reason of the direct act or omission of the Lender or (d) any Obligor or Shareholder denies that it has any or further obligations under any Loan Document or challenges the validity of any provision thereof or of the Security.

13.1.16 *Material Adverse Change.* Any Material Adverse Change occurs.

13.1.17 *Change in Control.* Any Change in Control occurs.

13.1.18 *Change in Ownership.* Unless the Lender otherwise consents, following the initial Drawdown under the Credit Facilities, any Subsidiary of the Borrower ceases to be a Wholly-Owned Subsidiary of the Borrower, in each case except as otherwise expressly permitted by Subsections 12.2.4 and 12.2.6.

13.1.19 *Principal Sponsors.* The Principal Sponsors shall cease (other than on a temporary basis not exceeding 30 days) to be or to devote sufficient time and attention to discharge their duties and responsibilities as the Co-Chief Executive Officers of the Borrower, unless that person is replaced promptly by an individual or individuals satisfactory to the Lender acting reasonably.

## **13.2 Termination and Acceleration**

Upon the occurrence of an Event of Default, the Lender may do any one or more of the following:

- (a) declare the whole or any item or part of the Total Commitment or any unutilized portion of any Credit Facility to be cancelled, terminated or reduced, whereupon the Lender (to the extent applicable) shall not be required to make any further Borrowing available hereunder in respect of such portion of the Total

Commitment or each Credit Facility so declared, cancelled, terminated or reduced;

- (b) accelerate the maturity of all or any item or part of the Loan Obligations of the Borrower hereunder and declare them to be payable on demand or immediately due and payable, whereupon they shall be so accelerated and become so due and payable;
- (c) suspend any rights of the Borrower under any Loan Document, whereupon such rights shall be so suspended;
- (d) demand payment under any Guarantee and/or enforce any Security;
- (e) demand that the Borrower (i) pay the aggregate face amount of all outstanding Acceptances in prepayment of (or at the option of the Lender, as cash collateral for) its obligations under Section 4.6 in respect of outstanding Acceptances and (iii) prepay the Borrower's obligations under Subsection 6.2.2 in respect of outstanding Standby Instruments (or, at the Lender's option, Cash Collateralize all outstanding Standby Instruments) until they expire or are drawn upon, whereupon the Lender shall account to the Borrower and remit any overpayment to the Borrower; or
- (f) take any other action, commence and prosecute any proceeding or exercise such other rights as may be permitted by applicable law (whether or not provided for in any Loan Document) at such times and in such manner as the Lender may consider expedient,

all without any additional notice, demand, presentment for payment, protest, noting of protest, dishonour, notice of dishonour or any other action being required. If an Insolvency Event in relation to any Obligor occurs, unless the Lender otherwise agrees, the Total Commitment shall be immediately cancelled and the Loan Obligations shall be accelerated and become immediately due and payable automatically without any action on the part of the Lender being required.

### **13.3 Waiver**

The Lender may waive any Default. No waiver, however, shall be deemed to extend to a subsequent Default, whether or not the same as or similar to the Default waived, and no act or omission by the Lender shall extend to, or be taken in any manner whatsoever to affect, any subsequent Default or the rights of the Lender arising therefrom. Any such waiver must be in writing and signed by the Lender to be effective. No failure on the part of the Lender to exercise, and no delay by the Lender in exercising, any rights under any Loan Document shall operate as a waiver of such rights. No single or partial exercise of any such rights shall preclude any other or further exercise of such rights or the exercise of any other rights.

## ARTICLE 14 GENERAL

### 14.1 Costs and Expenses

The Borrower shall on demand pay to the Lender the amount of all reasonable out-of-pocket fees, costs and expenses incurred and disbursements made by the Lender (including the reasonable fees and out-of-pocket expenses of the Lender's Counsel and those of accountants, experts, consultants and other representatives retained by the Lender) in connection with each of (i) the preparation, negotiation, settlement, execution, delivery, entry into effect and administration of each Loan Document and/or the satisfaction of any conditions or obligations specified in Article 9, (ii) post-closing costs, (iii) each change to each Loan Document and (iv) the interpretation, defence, establishment, preservation, protection or enforcement of rights of the Lender under each Loan Document. The Borrower irrevocably authorizes and directs the Lender from time to time to debit the Borrower's Account with the amounts of, and apply the amounts so debited to pay, (y) all unpaid Fees then due and payable to the Lender and (z) all unpaid fees, costs and expenses then due and payable by the Lender to the Lenders' Counsel which the Borrower is obliged to pay to the Lender in accordance with the foregoing.

### 14.2 Indemnification by the Borrower

14.2.1 *Borrowings.* The Borrower shall indemnify and save harmless the Lender on a full indemnity basis from and against all claims and losses and expenses, including claims and losses and expenses sustained by the Lender in connection with the liquidation or redeployment, in whole or in part, of deposits or funds borrowed or acquired by the Lender to fund any Borrowing, which the Lender sustains or incurs (i) if for any reason a Borrowing does not occur on a date requested by the Borrower, unless the Borrowing does not occur by reason of the breach by the Lender of its obligations under this Agreement, (ii) if the Borrower fails to give any notice required to be given by it hereunder in the manner and at the time specified herein, (iii) as a consequence of any failure by the Borrower to repay any amount when required by the terms of this Agreement or (iv) if the whole or any part of any Libor Loan made available to the Borrower is paid to the Lender or Converted to another Type of Advance other than on the Period End Date relating thereto.

14.2.2 *Other.* The Borrower shall defend, indemnify and save harmless the Lender and its representatives (each, an "**Indemnified Party**") on a full indemnity basis from and against any and all claims and losses and expenses (including interest and, to the extent permitted by applicable law, penalties, fines and monetary sanctions) which an Indemnified Party suffers or incurs as a result of or otherwise in respect of (i) any Environmental Liabilities of any kind which arises out of the Lien created under, performance of, or the enforcement or exercise of any right under, any Loan Document, including any claim in nuisance, negligence, strict liability or other cause of action arising out of a discharge of Contaminants into the Environment, any fines or orders of any kind that may be levied or made pursuant to an Environmental Law in each case relating to or otherwise arising out of any of the assets of any Group Member, (ii) the direct or indirect use or proposed use of the proceeds of any Advance, (iii) any Default or (iv) any proceeding to which any Indemnified Party is party arising out of the execution, delivery or performance of, or the enforcement of any right under any Loan Document. The Lender shall be

constituted as the agent and bare trustee of each Indemnified Party who is its own representative and shall hold and enforce each such Indemnified Party's rights under this paragraph for such party's benefit. The foregoing indemnity shall not apply in respect of claims or losses and expenses of an Indemnified Party to the extent that they are determined by a final judgment to have directly resulted from the gross negligence or wilful misconduct of that Indemnified Party.

### **14.3 Application of Payments**

Any payments received by the Lender in respect of the Loan Obligations from time to time may, notwithstanding any appropriation by the Borrower or any other Obligor, be appropriated to such parts of the Loan Obligations then due and owing by the Borrower or such other Obligor to the Lender and in such order as the Lender sees fit, and the Lender shall have the right to change any appropriation at any time.

### **14.4 Set-Off**

The Loan Obligations will be paid by the Borrower without regard to any equities between the Borrower and the Lender or any right of set-off or counterclaim. Any Debt owing by the Lender to the Borrower, direct or indirect, extended or renewed, actual or contingent, matured or not, may be set-off or applied against, or combined with, the Loan Obligations by the Lender at any time, either before or after maturity, without demand upon or notice to anyone, and the terms of such Debt shall be changed hereby to the extent required to permit such set-off, application and combination.

### **14.5 Rights in Addition**

The rights conferred by each Loan Document are in addition to, and not in substitution for, any other rights the Lender may have under that Loan Document or any other Loan Document, at law, in equity or by or under Applicable Law or any agreement. The Lender may proceed by way of any proceeding at law or in equity and no right of the Lender shall be exclusive of or dependent on any other. The Lender may exercise any of their respective rights separately or in combination and at any time.

### **14.6 Certificate Evidence**

A certificate prepared by the Lender and provided to the Borrower setting forth any interest rate or any amount payable under this Agreement, including the amount of compensation or loss and expense payable under Section 7.4 or 14.2, shall be conclusive and bind the Borrower, absent manifest error.

### **14.7 Evidence of Debt**

The Lender shall open and maintain on its books accounts evidencing all Borrowings under each Credit Facility and all amounts owing by the Borrower to the Lender under each Credit Facility. The Lender shall enter in the accounts details of all amounts from time to time owing, paid or repaid by the Borrower under each Credit Facility. The information entered in the accounts shall constitute, in the absence of manifest error, *prima facie* evidence of the existence and quantum of the obligations of the Borrower to the Lender under each Credit

Facility. The Borrower shall, on reasonable notice to the Lender, be entitled to obtain promptly from the Lender copies of extracts of all entries made in such accounts.

#### **14.8 Notices**

Any notice, demand, consent, approval or other communication to be made or given under or in connection with this Agreement (a “**Notice**”) shall be in writing and may be made or given by personal delivery, by facsimile or by e-mail addressed to the Lender and the Borrower at their respective addresses set out below:

##### ***To the Borrower:***

Evergreen Consumer Brands Inc.  
100 Delta Park Blvd., Unit 1  
Brampton, Ontario  
L6T 5E7

Attention: Mr. Friedman and Mr. Immel  
Telephone: 905.458.7002  
Facsimile: 905.458.8650  
e-mail: bfriedman.ecb@gmail.com and/or steveimmelfcp@gmail.com

##### ***To the Lender:***

National Bank of Canada  
130 King Street West, 8<sup>th</sup> Floor  
Toronto, Ontario  
M5X 1J9

Attention: Phil Damecour  
Telephone: (416) 367-0731  
Facsimile: (416) 864-7819  
email: phil.damecour@nbc.ca

or to such other address as such party may from time to time notify the other in accordance with this Section 14.8. Any Notice made or given by personal delivery shall be conclusively deemed to have been given at the time of actual delivery or, if made or given by facsimile or e-mail at the opening of business on the first Business Day following the transmittal thereof; provided that the party sending such Notice receives confirmation of receipt from the recipient’s telecopy machine or, as the case may be, does not receive a notice of delivery failure in respect of such e-mail. Notwithstanding the foregoing, (a) the Lender shall be deemed not to have received any Notice until it is actually received by and brought to the attention of an officer of the Lender charged with the administration of this Agreement, (b) the Lender may in its discretion act upon verbal Notice from any person reasonably believed by the Lender to be a person authorized by the Borrower to give instructions under or in connection with this Agreement, including any request by the Borrower for a Borrowing and (c) any Notice received by the Lender on a day which is

not a Business Day or after 10:00 a.m. on any Business Day shall, unless the Lender waives this Clause (c), be deemed to be received by the Lender at 9:00 a.m. on the next Business Day.

#### **14.9 Anti-Money Laundering Legislation**

The Borrower acknowledges that, pursuant to Anti-Money Laundering Legislation, the Lender may be required to obtain, verify and record information regarding each Group Member, its directors, authorized signing officers, direct or indirect shareholders or other persons in Control of such Group Member, and the transactions contemplated hereby, and disclose such information to governmental authorities. The Borrower consents to such information being obtained, verified, recorded and disclosed to governmental authorities and agrees to promptly provide to the Lender all such information, including supporting documentation and other evidence, as may be reasonably requested by the Lender, or any prospective Transferee or Participant of the Lender, in order to comply with Anti-Money Laundering Legislation.

#### **14.10 Judgment Currency**

If, for the purposes of obtaining or enforcing judgment in any court in any jurisdiction, it becomes necessary to convert into the currency of the jurisdiction in which the court rendering such judgment is located (the “**Judgment Currency**”) an amount due under any Loan Document in any other currency (the “**Original Currency**”), then the date on which the rate of exchange for conversion is selected by that court is referred to herein as the “**Conversion Date**”. If there is a change in the rate of exchange between the Judgment Currency and the Original Currency between the Conversion Date and the actual receipt by the Lender of the amount due to it under such Loan Document or under such judgment, the Borrower shall, notwithstanding such judgment, pay all such additional amounts as may be necessary to ensure that the amount received by the Lender in the Judgment Currency, when converted at the rate of exchange prevailing on the date of receipt, will produce the amount due in the Original Currency. The Borrower’s liability hereunder constitutes a separate and independent liability which shall not merge with any judgment or any partial payment or enforcement of payment of sums due under this Agreement.

#### **14.11 Successors and Assigns**

14.11.1 *Benefit & Burden.* The Loan Documents shall enure to the benefit of and be binding on the parties thereto, their respective successors and each assignee of some or all of the rights or obligations of the parties under the Loan Documents permitted by this Section 14.11. Any reference in any such Loan Document to any party thereto shall (to the extent the context so admits) be construed accordingly.

14.11.2 *Borrower.* The Borrower may not assign all or any part of any of its rights or obligations in respect of any Credit Facility or under any Loan Document.

14.11.3 *Participation.* The Lender may grant a participation (whether by way of equitable assignment, limited recourse deposit or otherwise) to any other person (a “**Participant**”) in the whole or any part of any of its Commitments under which the Participant shall be entitled to the benefit of the same rights under this Agreement with respect to such Participation as if it were a

party hereto in the place and stead of the Lender; provided that in respect of such participated share of its Commitments and as between the Participant and the Borrower, (x) the Lender (and not the Participant) shall remain solely entitled to enforce such rights, and shall remain solely responsible for the performance of all obligations, of the Lender under this Agreement with respect to such participated share, (y) such Participant shall have no direct enforceable rights against the Borrower in respect of such participated share, other than against the Lender; and (z) no party hereto, other than the Lender, shall have any obligations to such Participant with respect to such participated share.

14.11.4 *Assignments.* The Lender may assign any of its Commitments (including its rights and obligations and any related Advances made thereunder), or any part thereof to any other person.

14.11.5 *Disclosure.* The Lender may disclose to any prospective or actual Participant in or assignee of any rights or obligations in respect of any Credit Facilities any information regarding any Group Member, its assets or any of its business affairs so long as the prospective or actual Participant or assignee agrees to be bound by the confidentiality provisions of this Subsection 14.11.5. The Lender shall keep confidential and not disclose to any third party (excluding for certainty its own representatives and Affiliates) any confidential information received by the Lender from the Borrower pursuant to this Agreement, save that the Lender may disclose any such confidential information (a) as provided in the preceding sentence, (b) to the extent required by Applicable Law, (c) to any bank supervisory authority (including the Office of the Superintendent of Financial Institutions and the Bank of Canada), (d) to the extent required to protect the rights of the Lender in any actual, pending or threatened proceeding, or (e) as may be necessary or desirable in order to enforce the rights of the Lender under any Secured Document.

## **14.12 Protection of Lender**

The Lender shall not be liable for any action taken or omitted to be taken by it under any Loan Document or in connection therewith, except to the extent of any losses and expenses that are determined by a final judgment to have directly resulted from the gross negligence or wilful misconduct of the Lender. In no event shall the Lender be liable to the Borrower for special, indirect, consequential or punitive damages (including loss of profit, business or anticipated savings) arising out of or in connection with, or as a result of any Loan Document or the performance, improper performance or non-performance of any obligation thereunder

## **14.13 Survival**

The Loan Obligations under Sections 7.4, 7.7, 14.1, and 14.2 (“**Indemnity Obligations**”), shall survive the termination of this Agreement and the payment and performance in full of all other Loan Obligations owing by the Borrower to the Lender and shall continue in full force and effect until such Indemnity Obligations are irrevocably paid and performed in full.

## **14.14 Time of the Essence**

Time is of the essence of each provision of each Loan Document.

## **14.15 Governing Law**

This Agreement shall be governed by, and construed and interpreted in accordance with, the laws in force in the Province of Ontario, including the federal laws of Canada applicable therein, but excluding choice of law rules. Such choice of law shall, however, be without prejudice to or limitation of any other rights available to the Lender under the laws of any jurisdiction where the Borrower or any other Obligor or its assets may be located.

## **14.16 Jurisdiction**

14.16.1 *Submission to Jurisdiction and Waiver of Objections.* With respect to any claim arising out of this Agreement, any other Loan Document or any other agreement relating to any Loan Document (in this Section 14.16, collectively, the “**Loan Related Documents**”) (a) for the exclusive benefit of the Lender, the Borrower irrevocably and unconditionally submits, for itself and its property, to the non-exclusive jurisdiction of the courts of (i) the Province of Ontario, Canada located at Toronto and (ii) the jurisdiction in which the chief executive office of the Borrower or any other Obligor is located or in which it is incorporated or under the laws of which it is formed located at the principal financial center of such jurisdiction, including any appellate court from any thereof, (in this Section 14.16, “**Courts of Primary Jurisdiction**”), (b) the Borrower irrevocably waives (i) any objection which it may have at any time to the laying of venue of any proceeding arising out of or relating to any of the Loan Related Documents brought in any Court of Primary Jurisdiction, (ii) any claim that any such proceeding brought in any Court of Primary Jurisdiction has been brought in an inconvenient forum, (iii) the right to object, with respect to such proceeding brought in any Court of Primary Jurisdiction, that such court does not have jurisdiction over the Borrower and (iv) the right to require the Lender to post security for costs in any proceeding brought in any Court of Primary Jurisdiction.

14.16.2 *Lender May Sue in Another Jurisdiction.* Nothing in this Agreement will be deemed to preclude the Lender from bringing any proceeding in respect of any Loan Related Document in any other jurisdiction.

14.16.3 *Final Judgment.* The Borrower agrees that a final judgment in any proceeding commenced in any Court of Primary Jurisdiction shall be conclusive and may be enforced in any other jurisdictions by suit on the judgment or in any other manner provided by law.

14.16.4 *Manner of Service.* The Borrower irrevocably consents to the service of process out of the Courts of Primary Jurisdiction in accordance with the local rules of civil procedure or by mailing a copy thereof, by registered mail, postage prepaid to the Borrower at the address of the Borrower, or by sending a copy thereof by facsimile or e-mail in pdf format to the Borrower at the facsimile number or e-mail address of the Borrower determined under Section 14.8.

14.16.5 *Appointments of Lender for Service.* The Borrower irrevocably designates and appoints each other Obligor as its agent to accept and acknowledge on its behalf any and all process which may be served in connection with any proceeding arising out of or relating to any Loan Related Document brought in any of the Courts of Primary Jurisdiction, such service, to the extent permitted by applicable law, being hereby conclusively acknowledged by the Borrower to be effective and binding service on it in every respect whether or not it is carrying on, or has at

any time carried on, business in the jurisdiction in which the Courts of Primary Jurisdiction are located. The Borrower irrevocably consents to the service of process out of the Court of Primary Jurisdiction by personal service on the Borrower or on any such process agent.

14.16.6 *Acceptances of Appointments.* The Borrower confirms to the Lender that it has accepted its appointment to act as process agent on behalf of each other Obligor contained in any Loan Related Document to which each such other Obligor is party which may be served in connection with any proceeding arising out of or relating to any such other Loan Related Document brought in any of the Courts of Primary Jurisdiction. Until the Loan Obligations are paid in full, the Borrower covenants and agrees to maintain each such appointment as such process agent.

#### **14.17 Limitation Period**

The Borrower agrees with the Lender to vary the limitation period under the *Limitations Act, 2002* (Ontario), other than one established by Section 15 of that Act, applicable to each Loan Document to which the Borrower is party and any claim thereunder to six (6) years.

#### **14.18 Invalidity**

If any provision of any Loan Document is determined to be invalid or unenforceable by a final judgment, that provision shall be deemed to be severed therefrom, and the remaining provisions of such Loan Document shall not be affected thereby and shall remain valid and enforceable. The parties hereto shall (and, in the case of the Borrower, the Borrower shall cause each other Obligor to), at the request of the Lender, negotiate in good faith with the Lender to replace any invalid or unenforceable provision contained in any Loan Document with a valid and enforceable provision which has the commercial effect as close as possible to that of the invalid or unenforceable provision, to the extent permitted by law.

#### **14.19 Changes**

No agreement purporting to change (other than waive) any provision of any Loan Document shall be binding upon the parties hereto or thereto unless that agreement is in writing and signed by the Lender and the Obligor party thereto. No waiver of strict performance or compliance with any provision of any Loan Document shall be binding on any party hereto or thereto unless such waiver is in writing signed by the party sought to be bound thereby.

#### **14.20 Entire Agreement**

There are no representations, warranties, conditions, other agreements or acknowledgments, whether direct or collateral, express or implied, binding on the Lender that form part of or affect this Agreement or any other Loan Document, other than as expressed herein, in the Commitment Letter or in such other Loan Document. The execution of each Loan Document by the Borrower has not been induced by, nor does the Borrower rely upon or regard as material, any representations, warranties, conditions, other agreements or acknowledgments not expressly made in any Loan Document.

**14.21 This Agreement to Govern**

If there is any inconsistency between the provisions of this Agreement and the provisions of any other Loan Document to which the Borrower is party, the provisions hereof shall govern and apply to the extent of the inconsistency.

**14.22 Execution**

This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original and all of which taken together shall be deemed to constitute one and the same instrument, and it shall not be necessary in making proof of this Agreement to produce or account for more than one such counterpart. Transmission of a copy of an executed signature page of this Agreement (including any change to this Agreement) by one party hereto to the other party hereto by facsimile transmission or e-mail in pdf format, shall be as effective as delivery to the other parties hereto of an original manually executed counterpart hereof.

*[Remainder of page intentionally left blank.]*

IN WITNESS WHEREOF the parties have executed this credit agreement as of the date first written above.

BORROWER:

EVERGREEN CONSUMER BRANDS INC.

By:   
Name: STEVE IMMEL  
Title: CO-CEO

By:   
Name: Bruce Friedman  
Title: CO CEO

**LENDER:**

**NATIONAL BANK OF CANADA**

By: PHD Damecour  
Name: Phil Damecour  
Title: Senior Director

By: PK  
Name: Paul Keast  
Title: Associate Vice President

**SCHEDULE 1  
APPLICABLE MARGINS**

Levels	When R is	Applicable Margin is					
		Prime Rate	US Base Rate	Libor	Bankers' Acceptance stamping fee	Standby Instrument Fee	Revolver Standby Fee <sup>1</sup>
I	$R \leq 2.5x$	0.25%	0.25%	2.00%	2.00%	2.00%	0.50%
II	$3.0x \geq R > 2.5x$	0.75%	0.75%	2.50%	2.50%	2.50%	0.625%
III	$3.5x \geq R > 3.0x$	1.00%	1.00%	2.75%	2.75%	2.75%	0.6875%
IV	$R > 3.5x$	1.50%	1.50%	3.25%	3.25%	3.25%	0.8125%

Where R is Total Debt/EBITDA Ratio, determined on the basis of the most recent consolidated quarterly financial statements of the Borrower.

---

<sup>1</sup> The Revolver Standby Fee is calculated on the undrawn portion of the Revolver Facility.

**SCHEDULE 2  
FORM OF BORROWING REQUEST**

**TO: National Bank of Canada  
130 King Street West, 8<sup>th</sup> Floor  
Toronto, Ontario  
M5X 1J9**

**Attention: Phil Damecour  
Facsimile: (416) 864-7819**

**RE: Credit Facilities for Evergreen Consumer Brands Inc.**

---

Reference is made to the credit agreement dated as of June 1, 2018 (as changed and in effect from time to time, the “**Credit Agreement**”) between Evergreen Consumer Brands Inc., as Borrower, and National Bank of Canada, as Lender. All words used in this Borrowing Request which are defined or given extended meanings in the Credit Agreement have the respective meanings attributed to them in the Credit Agreement.

**2. Request.** The Borrower hereby requests a Borrowing as follows:

(a) Credit Facility

\_\_\_\_\_

(b) Borrowing Date

\_\_\_\_\_

(c) Aggregate amount of Borrowing

\$ \_\_\_\_\_

US\$ \_\_\_\_\_

(d) Type and Amount of Borrowing

	<u>Amount</u>	<u>Converted From (if Applicable)</u>
( ) Canadian Prime Rate Loan	\$ _____	_____
( ) US Base Rate Loan	US\$ _____	_____

( ) Acceptances

<u>Face Amount</u>	<u>Tenor in Months</u>	<u>Rollover Amount (if Applicable)</u>	<u>Converted From (if Applicable)</u>
\$ _____	_____	\$ _____	_____

( ) Libor Loan

<u>Amount</u>	<u>Interest Period in Months</u>	<u>Rollover Amount (if Applicable)</u>	<u>Converted From (if Applicable)</u>
US\$ _____	_____	US\$ _____	_____

3. **Other.** The Borrower represents, warrants and agrees:

- (a) Each of the representations and warranties deemed to be repeated in Section 11.2 of the Credit Agreement is true, accurate and complete in all respects on and as of the date hereof.
- (b) No Default has occurred and is continuing on the date hereof or will result from the Borrowing requested herein.
- (c) The undersigned will immediately notify you if it becomes aware of the occurrence of any event between the date hereof and the Borrowing Date which would mean that the statements in the immediately preceding paragraphs (a) and (b) would not be true, accurate and complete if made on the Borrowing Date.
- (d) All other conditions precedent to this Borrowing set out in Article 9 of the Credit Agreement have been fulfilled or waived in writing by the Lender.

**DATED** this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

**EVERGREEN CONSUMER BRANDS INC.**

By: \_\_\_\_\_  
Name:  
Title:

By: \_\_\_\_\_  
Name:  
Title:

**SCHEDULE 3  
FORM OF CANCELLATION NOTICE**

**TO: National Bank of Canada  
130 King Street West, 8<sup>th</sup> Floor  
Toronto, Ontario  
M5X 1J9**

**Attention: Phil Damecour  
Facsimile: (416) 864-7819**

**RE: Credit Facilities for Evergreen Consumer Brands Inc.**

---

Reference is made to the credit agreement dated as of June 1, 2018 (as changed and in effect from time to time, the “**Credit Agreement**”) between Evergreen Consumer Brands Inc., as Borrower, and National Bank of Canada, as Lender. All words used in this Cancellation Notice which are defined or given extended meanings in the Credit Agreement have the respective meanings attributed to them in the Credit Agreement.

Notice is hereby given in accordance with Subsection 8.3.1 of the Credit Agreement that the undersigned wishes to cancel the Revolver Commitment by the amount of \$\_\_\_\_\_ with effect on \_\_\_\_\_, 20\_\_.

**DATED** this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_.

**EVERGREEN CONSUMER BRANDS INC.**

By: \_\_\_\_\_  
Name:  
Title:

By: \_\_\_\_\_  
Name:  
Title:

**SCHEDULE 4  
FORM OF REPAYMENT NOTICE**

**TO: National Bank of Canada  
130 King Street West, 8<sup>th</sup> Floor  
Toronto, Ontario  
M5X 1J9**

**Attention: Phil Damecour  
Facsimile: (416) 864-7819**

**RE: Credit Facilities for Evergreen Consumer Brands Inc.**

Reference is made to the credit agreement dated as of June 1, 2018 (as changed and in effect from time to time, the “**Credit Agreement**”) between Evergreen Consumer Brands Inc., as Borrower, and National Bank of Canada, as Lender. All words used in this Repayment Notice which are defined or given extended meanings in the Credit Agreement have the respective meanings attributed to them in the Credit Agreement.

Notice is hereby given in accordance with Section \_\_\_\_\_ of the Credit Agreement that the undersigned commits to repay the \_\_\_\_\_<sup>1</sup> under the \_\_\_\_\_<sup>2</sup> Facility [which has a current Period End Date expiring on \_\_\_\_\_, \_\_\_\_\_] in the amount of [\$/US\$] \_\_\_\_\_ on \_\_\_\_\_, \_\_\_\_\_.

**DATED** this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_.

**EVERGREEN CONSUMER BRANDS INC.**

By: \_\_\_\_\_  
Name:  
Title:

By: \_\_\_\_\_  
Name:  
Title:

<sup>1</sup> Specify type of Borrowing

<sup>2</sup> Specify Credit Facility

**SCHEDULE 5  
FORM OF COMPLIANCE CERTIFICATE**

**TO: National Bank of Canada  
130 King Street West, 8<sup>th</sup> Floor  
Toronto, Ontario  
M5X 1J9**

**Attention: Phil Damecour  
Facsimile: (416) 864-7819**

**RE: Credit Facilities for Evergreen Consumer Brands Inc.**

---

Reference is made to the credit agreement dated as of June 1, 2018 (as changed and in effect from time to time, the “**Credit Agreement**”) between Evergreen Consumer Brands Inc., as Borrower, and National Bank of Canada, as Lender. All words used in this Compliance Certificate which are defined or given extended meanings in the Credit Agreement have the respective meanings attributed to them in the Credit Agreement.

This Compliance Certificate is given pursuant to Subsection 12.1.6 of the Credit Agreement in respect of the Test Period ending on \_\_\_\_\_, 20\_\_\_\_ (the “**Relevant Test Period**”).

The Borrower hereby certifies as follows:

- (a) **Senior Debt/EBITDA Ratio.** The attachment shows the calculation of the Senior Debt/EBITDA Ratio for the Relevant Test Period to be \_\_\_\_:1 which does not exceed the maximum limit of \_\_\_\_:1 prescribed for this ratio.
- (b) **Total Debt/EBITDA Ratio.** The attachment hereto shows the calculation of the Total Debt/EBITDA Ratio for the Relevant Test Period to be \_\_\_\_:1.0 which does not exceed the maximum limit of \_\_\_\_:1 prescribed for this ratio.
- (c) **Fixed Charge Coverage Ratio.** The attachment hereto shows the calculation of the Fixed Charge Coverage Ratio for the Relevant Test Period to be \_\_\_\_:1.0 which is not less than the minimum limit of 1.20:1 prescribed for this ratio.
- (d) **Aggregate Net Disposal Amount.** The attachment hereto shows the calculation of the aggregate total amount of all Net Disposal Amounts from all Asset Disposals to the extent they were not applied or committed to being applied (and in fact were so applied within the ensuing ninety (90) days of such commitment being made) to Property Reinvestment Applications within ninety (90) days after such Asset Disposals during the Relevant Test Period.
- (e) **Insurance Proceeds.** The attachment hereto shows the calculation of all Insurance Proceeds to the extent they were not applied or committed to being

applied (and in fact were so applied within the ensuing ninety (90) days of such commitment being made) to repair or replace the property compensated for with ninety (90) days after receipt of such Insurance Proceeds during the Relevant Test Period.

- (f) **Debt Issues.** The attachment hereto shows the calculation of all proceeds of the issuance of Debt of the Group referred to in Subsection 8.4.3 of the Credit Agreement during the Relevant Test Period.
- (g) **Equity Issues.** The attachment hereto shows the calculation of all proceeds of the issuance of Capital Stock or rights in respect of Capital Stock of the Group referred to in Subsection 8.4.4 of the Credit Agreement during the Relevant Test Period.
- (h) **Applicable Margin.** The attachment shows that the Applicable Margin has changed to / remains the same as set out below:

Level	Total Debt/ EBITDA Ratio	Applicable Margin for Floating Rate Loans	Applicable Margin for Libor Loans, Acceptances and Standby Instruments	Applicable Margin for Revolver Standby Fee
_____	_____ :1	_____ %	_____ %	_____ %

- (i) **Mandatory Prepayments.** If the Relevant Test Period is a Fiscal Year, the attachment hereto shows:
  - (i) the calculation of the other mandatory prepayments required to be made pursuant to Section 8.4 for the Relevant Test Period to be \$\_\_\_\_\_; and
  - (ii) the calculation of Excess Cash Flow for the Relevant Test Period and of the amount of any mandatory prepayment required under Subsection 8.4.6 of the Credit Agreement to be \$\_\_\_\_\_.

Each of the calculations in the attachment hereto demonstrates compliance with the relevant financial tests listed above as at, or for the Relevant Test Period.

The undersigned represents, warrants and agrees:

- (i) Each of the representations and warranties deemed to be repeated in Section 11.2 of the Credit Agreement is true, accurate and complete in all respects on and as of the date hereof.
- (ii) No Default has occurred and is continuing on the date hereof.

**DATED** this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

Yours very truly,

**EVERGREEN CONSUMER BRANDS INC.**

By: \_\_\_\_\_

Name:

Title:

By: \_\_\_\_\_

Name:

Title:

**SCHEDULE 6  
FORM OF REVOLVER BORROWING BASE REPORT**

**TO: National Bank of Canada  
130 King Street West, 8<sup>th</sup> Floor  
Toronto, Ontario  
M5X 1J9**

**Attention: Phil Damecour  
Facsimile: (416) 864-7819**

**RE: Credit Facilities for Evergreen Consumer Brands Inc.**

---

This Revolver Borrowing Base Report is delivered to you pursuant to Section \_\_\_\_<sup>3</sup> of the credit agreement dated as of June 1, 2018 (as changed and in effect from time, the “**Credit Agreement**”) between Evergreen Consumer Brands Inc., as Borrower, and National Bank of Canada, as Lender. Unless otherwise defined herein or the context otherwise requires, capitalized terms used herein which are defined in the Credit Agreement have the respective meanings provided in the Credit Agreement.

The Borrower refers to the list of the Eligible Trade Accounts Receivable appended hereto prepared as at \_\_\_\_\_, 20\_\_ (the “**Relevant Month End**”). The following is the computation of the Revolver Borrowing Base:

**CALCULATION:**

<b>A</b>	Amount of Eligible Trade Accounts Receivable	\$ _____
<b>B</b>	Amount of Insured Accounts Receivable	\$ _____
<b>C</b>	Amount of Investment Grade Receivables	\$ _____
<b>D</b>	Amount of Other Accounts Receivable	\$ _____
<b>E</b>	Eligible Inventory Amount	\$ _____
<b>F</b>	Statutory Prior Claims	\$ _____

**REVOLVER BORROWING BASE:** lesser of (i) Revolver Commitment = **<\$10,000,000>** and (ii) the sum of 90% of A *plus* 85% of B *plus* 75% of C *plus* 50% of the lesser of E and the Revolver Commitment (= **<\$10,000,000>**) *minus* F which is \$ \_\_\_\_\_.

---

<sup>3</sup> Specify Section 9.1(a)(viii) or 12.1.6(c), as applicable.

The Borrower, by its duly authorized signing officer(s), hereby represents and warrants to the Lender that:

All information contained herein or appended hereto is true and correct in all material respects as of the Relevant Month End and does not contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the information not materially misleading.

The information appended hereto has been prepared in accordance with Applicable Accounting Principles on a consistent basis with prior reporting periods.

**DATED** as of the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

**EVERGREEN CONSUMER BRANDS INC.**

By: \_\_\_\_\_  
Name:  
Title:

By: \_\_\_\_\_  
Name:  
Title:

**SCHEDULE 7**  
**PENSION PLAN AND BENEFIT PLAN COMPLIANCE**

This is **Exhibit “C”**, referred to in the

Affidavit of Sonia de Lorenzi,  
sworn before me

this 10th day of February, 2020.



Roxana Gabriela Mancea, a Commissioner, etc.,  
Province of Ontario, for  
Thornton Grout Finnigan LLP,  
Barristers and Solicitors.  
Expires June 5, 2021.

---

A Commissioner for taking Affidavits, etc.

## SECURITY AGREEMENT

**THIS AGREEMENT** is made as of the 1st day of June, 2018 by each of **EVERGREEN CONSUMER BRANDS INC.**, (the “**Borrower**”), and each Subsidiary that hereafter becomes party hereto from time to time as a Grantor pursuant to Article 7 hereof in favour of **NATIONAL BANK OF CANADA** (the “**Lender**”).

### BACKGROUND:

Pursuant to a credit agreement of even date herewith (the “**Credit Agreement**”) between the Borrower and the Lender among other things, the Lender has agreed to extend certain Credit Facilities to the Borrower for the purposes outlined therein.

It is a condition to the initial and ongoing extensions of credit by the Lender pursuant to the Credit Agreement that each Grantor enter into this Security Agreement and grant Liens on all of its assets in favour of the Lender to secure the Secured Obligations, subject to and upon the terms and conditions set out herein.

**FOR VALUABLE CONSIDERATION** (the receipt and sufficiency of which are hereby acknowledged), each Grantor covenants, acknowledges, represents and warrants in favour of the Lender, as follows:

### ARTICLE 1 INTERPRETATION

#### 1.1 Definitions

Each word and expression defined in Schedule 1.1 is used in this Security Agreement with the respective defined meaning given to it in Schedule 1.1. Each word and expression (capitalized or not) defined or given an extended meaning in the Credit Agreement, and not otherwise defined herein, is used in this Security Agreement with the respective defined or extended meaning given to it in the Credit Agreement. Words and expressions defined in the PPSA and/or the STA and used without initial capitals in this Security Agreement (including in Schedule 1.1) have the respective defined meanings given to them in the PPSA and/or the STA, unless the context otherwise requires.

#### 1.2 Statutes

Each reference in this Security Agreement to any code, statute, regulation, official interpretation, directive or other legislative enactment of any Canadian jurisdiction (including any political subdivision thereof) at any time shall be construed so as to include such code, statute, regulation, official interpretation, directive or enactment and each change thereto made at or before the time in question.

#### 1.3 Reference to Agreements and Documents

Each reference in this Security Agreement to any agreement or document (including this Security Agreement and any other term defined in Schedule 1.1 that is an

agreement or document) shall be construed so as to include such agreement or document (including any attached schedules, appendices and exhibits), and each change made to it at or before the time in question.

#### **1.4 Headings**

The Article and Section headings in this Security Agreement are included solely for convenience, are not intended to be full or accurate descriptions and shall not be considered part of this Security Agreement.

#### **1.5 Grammatical Variations**

In this Security Agreement, (a) words and expressions (including defined terms and words and expressions (capitalized or not) given extended meanings) in the singular include the plural and vice versa (the necessary changes being made to fit the context), (b) words in one gender include all genders and (c) grammatical variations of words and expressions (capitalized or not) defined, given extended meanings or incorporated by reference herein shall be construed in like manner.

### **ARTICLE 2 GRANT OF SECURITY**

#### **2.1 Security**

Each Grantor, as general and continuing collateral security, without impairment or novation, for the due payment and performance of the Secured Obligations, and subject to Sections 2.11, 2.13 and 2.15 hereby grants a security interest in all of such Grantor's present and after-acquired real and personal property to and in favour of the Lender and without limitation:

- (a) grants, assigns, conveys, hypothecates, mortgages and charges the following assets as and by way of a fixed and specific mortgage and charge to and in favour of the Lender:
  - (i) all freehold, real or immovable property in which the Grantor now or hereafter has rights, together with all buildings, erections and fixtures now or hereafter constructed, erected or installed thereon;
  - (ii) all leasehold real or immovable property in which the Grantor now or hereafter has rights, together with all buildings, erections and fixtures now or hereafter constructed, erected or installed thereon;
  - (iii) all rights to the assets referred to in clauses (i) and (ii) above and related benefits, easements, franchises, immunities, licenses, privileges, rights of way, undersurface rights, servitudes, and other interests appertaining thereto or connected therewith; and
  - (iv) all Proceeds and Replacements of or to assets referred to in clauses (i), (ii) and (iii) above, including all rights thereto;

- (b) charges, mortgages, hypothecs, pledges and assigns and grants a security interest in the following assets as and by way of a fixed and specific security to and in favour of the Lender:
- (i) Accounts;
  - (ii) Chattel Paper;
  - (iii) Documents of Title;
  - (iv) Equipment;
  - (v) Instruments;
  - (vi) Intangibles, other than Trade-marks;
  - (vii) Intellectual Property, other than Trade-marks;
  - (viii) Inventory;
  - (ix) Investment Property (other than Unlimited Liability Shares and Security Entitlements to Unlimited Liability Shares);
  - (x) Money;
  - (xi) Records;
  - (xii) all agreements to which it is party;
  - (xiii) all insurance policies in which such Grantor now or hereafter has rights;
  - (xiv) the business, undertakings and goodwill of such Grantor;
  - (xv) all rights of such Grantor to the property referred to in clauses (i) to (xiii) inclusive above; and
  - (xvi) all Proceeds and Replacements (other than Proceeds or Replacements comprised of Trade-marks, Unlimited Liability Shares or Security Entitlements to Unlimited Liability Shares which shall be subject to the security interest granted under paragraph (c) below) of or to property referred to in clauses (i) to **Error! Reference source not found.** inclusive above, including all rights thereto;
- (c) grants a security interest in the following property as and by way of a fixed and specific security in favour of the Lender:
- (i) Trade-marks;

- (ii) Unlimited Liability Shares and Security Entitlements to Unlimited Liability Shares;
  - (iii) all rights of such Grantor to the property referred to in clauses (i) and (ii) above; and
  - (iv) all Proceeds and Replacements of or to property referred to in clauses (i), (ii) and (iii) above, including all rights thereto; and
- (d) grants a security interest in the following property, and grants, assigns, conveys, mortgages and charges the following property as and by way of a floating charge to and in favour of the Lender:
- (i) the business, undertakings and goodwill of such Grantor and all personal property, tangible and intangible, of whatever nature and kind in which such Grantor now or hereafter has rights, its uncalled capital (if any) and all its present and future revenues, save and except such assets as are validly and effectively subject to the fixed and specific security created by paragraphs (a), (b) and (c) above;
  - (ii) all rights of such Grantor to the property referred to in clause (i) above; and
  - (iii) all Proceeds and Replacements (other than Proceeds or Replacements comprised of Trade-marks, Unlimited Liability Shares or Security Entitlements to Unlimited Liability Shares which shall be subject to the security interest only granted under this paragraph (d)) of or to property referred to in clauses (i) and (ii) above, including all rights thereto.

## **2.2 Attachment**

Each Grantor agrees that value has been given, that such Grantor and the Lender have not agreed to postpone the time for attachment of the Security and that the Security is intended to attach, as to all of the Collateral in which such Grantor now has rights, when such Grantor executes this Security Agreement, and, as to all Collateral in which such Grantor only has rights after the execution of this Security Agreement, when such Grantor first has such rights. For certainty, each Grantor confirms and agrees that the Security is intended to attach to all present and future Collateral of each Grantor and each successor of such Grantor.

## **2.3 Habendum**

The Lender agrees to deal with the Collateral in the manner provided for in this Security Agreement and/or the Credit Agreement.

## **2.4 Duty of Care**

The Lender shall not have any duty of care to any Grantor with respect to Collateral in physical form which is delivered to the Lender to be held by it pursuant to this Security Agreement, other than to use the same care in the physical custody and physical

preservation of such Collateral as it would with its own physical property of like nature. The Lender shall have no obligation to (a) take any action with respect to calls, conversions, exchanges, maturities, tenders or other matters relative to the Collateral or (b) take any necessary actions required to preserve rights against any persons with respect to Collateral.

## **2.5 Disposal of Collateral**

So long as no Event of Default has occurred that is continuing, each Grantor may, provided to do so is not contrary to any provision hereof or any Secured Document, dispose of and otherwise deal with the Collateral in the ordinary course of its business and for the purpose of carrying on such business. All Proceeds, including all rights of such Grantor as vendor, consignor or lessor and all resulting Accounts, shall be subject to the Security.

## **2.6 RESERVED**

## **2.7 Proceeds Held in Trust**

Once the Lender becomes entitled to enforce the Security in accordance with the provisions of the Credit Agreement, each Grantor shall receive and hold all Proceeds in trust for the benefit of the Lender, separate and apart from other monies, instruments or property, and shall forthwith endorse as necessary and pay over or deliver them to the Lender to be dealt with in the manner provided for in this Security Agreement and/or the Credit Agreement.

## **2.8 Account Debtors**

If an Event of Default has occurred and is continuing, the Lender may require any account debtor of each Grantor to make payment directly to the Lender and the Lender may hold all amounts acquired from any such account debtors and any Proceeds as part of the Collateral to be dealt with in the manner provided for in this Security Agreement and/or the Credit Agreement.

## **2.9 Collection of Accounts**

Each Grantor shall take all commercially reasonable steps to collect all Accounts owing to it.

## **2.10 Securities**

The following provisions shall apply to Securities and Security Entitlements in which any Grantor now or hereafter has rights:

- (a) Contemporaneously with the execution and delivery of this Security Agreement (with respect to Securities and Securities Entitlements in which each Grantor now has rights) and within three (3) Business Days of such Grantor first having rights in Securities and Securities Entitlements (with respect to Securities and Securities Entitlements in which such Grantor only has rights after the execution and delivery of this Security Agreement), such Grantor shall:

- (i) physically deliver to the Lender each certificated Security that is in bearer form;
- (ii) physically deliver to the Lender each certificated Security that is in registered form and not registered in the name of a clearing agency and, except for Unlimited Liability Shares, either (as the Lender shall direct) endorse the Security certificate to the Lender or in blank by an effective endorsement or register the Security certificate in the name of the Lender or its representative;
- (iii) deliver to the Lender each uncertificated Security, except for Unlimited Liability Shares, or cause the issuer of that uncertificated Security to agree with the Lender (pursuant to an agreement in form and substance satisfactory to the Lender acting reasonably) that such issuer will comply with the instructions originated by the Lender without the further consent of such Grantor or any other entitlement holder or person;
- (iv) do one of the following (as the Lender shall direct):
  - (A) cause the Lender or its representative to become the entitlement holder of each Security Entitlement, except for a Security Entitlement in Unlimited Liability Shares,
  - (B) cause the securities intermediary to agree with the Lender (pursuant to an agreement in form and substance satisfactory to the Lender) that such securities intermediary will comply with entitlement orders in relation to each Security Entitlement that are originated by the Lender without the further consent of such Grantor or any other entitlement holder or person, or
  - (C) cause another person that has control on behalf of the Lender, or having previously obtained control acknowledges that such person has control on behalf of the Lender to have control of any Security Entitlement in the manner contemplated by subclause (A) or (B).

Any Security, including any Security Entitlement, held or controlled by the Lender pursuant to the foregoing provisions of this Subsection 2.10(a) shall be held as Collateral under this Security Agreement to be dealt with in the manner provided for in this Security Agreement and/or the Secured Documents.

- (b) Subject to Subsection 2.10(c), all rights conferred by statute or otherwise upon a registered holder of Securities shall:
  - (i) with respect to any Securities or Security Entitlement held directly by the Lender or its representative, be exercised as the applicable Grantor may direct and for this purpose, the Lender shall, promptly upon the request of the Grantor, execute and deliver to the Grantor all such proxies and powers of attorney as the Grantor may reasonably request for the purpose

of enabling the Grantor to exercise the rights and powers that it is entitled to exercise pursuant to this Section 2.10(b)(i); and

- (ii) with respect to any Securities or Security Entitlement held directly by any Grantor or its representatives, be exercised by such Grantor.
- (c) With respect to any Grantor's rights relating to any Securities:
  - (i) such rights shall not be exercised in any manner which is prohibited by this Security Agreement or any other Secured Document or is reasonably likely to be inconsistent with the rights intended to be conferred on the Lender by or pursuant to this Security Agreement;
  - (ii) such Grantor shall not, unless expressly permitted under the Credit Agreement, by the exercise of any of such rights or otherwise, permit or agree to any variation of the rights attached to or conferred by any of the Securities, participate in any rights issue, elect to receive or vote in favour of receiving any dividends other than in the form of cash or participate in any vote concerning a dissolution, liquidation or winding-up of an issuer of Securities pursuant to its incorporating statute (or any similar proceeding), other than as expressly permitted by written agreement with the Lender;
  - (iii) unless and until an Event of Default shall have occurred and be continuing, the Grantor shall be entitled to receive and retain any cash dividends paid on the Securities and any Proceeds derived from any sale of Securities permitted by the Credit Agreement; and
  - (iv) upon the occurrence of an Event of Default and while it is continuing (and without any consent or authority on the part of such Grantor), the Lender and its representatives may at the Lender's discretion (in the name of such Grantor or otherwise) exercise or cause to be exercised in respect of any of the Securities (other than Securities comprised of Unlimited Liability Shares) any voting rights or rights to receive dividends, interest, principal or other payments of money, as the case may be, forming part of the Securities and all other rights conferred on or exercisable by the bearer or holder thereof.

## **2.11 Unlimited Liability Shares**

Notwithstanding any provisions to the contrary contained in this Security Agreement or any other document or agreement among all or some of the parties hereto, each applicable Grantor is the sole registered and beneficial owner of each Unlimited Liability Share subject to the Security and will remain so until such time as such Unlimited Liability Shares are effectively transferred into the name of the Lender or another person on the books and records of the Unlimited Company issuer thereof. Accordingly, such Grantor shall be entitled to receive and retain for its own account any dividend on or other distribution, if any, in respect of such Unlimited Liability Shares (except insofar as such Grantor has granted a security interest in such

dividend or other distribution in favour of the Lender hereunder, and any Securities which constitute Collateral shall be delivered forthwith upon receipt by such Grantor to the Lender to hold as Collateral hereunder) and shall have the right to vote such Unlimited Liability Shares and to control the direction, management and policies of the issuer Unlimited Company to the same extent as such Grantor would if such Unlimited Liability Shares were not subject to the Security. Nothing in this Security Agreement or any other document or agreement among all or some of the parties hereto is intended to, and nothing in this Security Agreement or any other document or agreement among all or some of the parties hereto shall, constitute the Lender or any person other than such Grantor, a member of any Unlimited Company for the purposes of any applicable governing statute of such Unlimited Company until such time as notice is given to such Grantor (and not revoked) as provided herein and further steps are taken thereunder so as to register the Lender or such other person as holder of such Unlimited Liability Shares. To the extent any provision hereof would have the effect of constituting the Lender as a member of the Unlimited Company issuer, such provision shall be severed therefrom and ineffective without otherwise invalidating or rendering unenforceable this Security Agreement or such provision insofar as it relates to property which is not Unlimited Liability Shares. Except upon the exercise of rights to sell or otherwise dispose of Unlimited Liability Shares upon the occurrence of an Event of Default and while it is continuing, such Grantor shall not cause, permit or enable any Unlimited Company issuer to cause, permit, or enable the Lender to (a) be registered as a shareholder or member of the Unlimited Company, (b) have any notation entered in its favour in the share register in respect of Unlimited Liability Shares, (c) hold the Lender out as a shareholder or member of an Unlimited Company, (d) act or purport to act as a member of an Unlimited Company, or obtain, exercise or attempt to exercise any rights of a shareholder or member, of the Unlimited Company, (e) be held out as shareholder or member of the Unlimited Company, (f) receive, directly or indirectly, any dividends, property or other distributions from the Unlimited Company by reason of the Lender holding a security interest in the Unlimited Liability Shares or (g) act as a shareholder or member of the Unlimited Company, or exercise any rights of a shareholder or member including the right to attend a meeting of, or to vote the shares of, an Unlimited Company or to be entitled to receive or receive any distribution in respect of Unlimited Liability Shares. The foregoing limitation shall not restrict the Lender from exercising the rights which it is entitled to exercise hereunder in respect of any Collateral constituting Unlimited Liability Shares or Security Entitlements in Unlimited Liability Shares at any time that the Lender shall be entitled to enforce the Security and realize on all or any portion of the Collateral pursuant to the Security.

## **2.12 General Partnership Interests**

Notwithstanding any provision to the contrary contained in this Security Agreement or any other agreement or document among all or some of the parties hereto, each applicable Grantor is the sole registered and beneficial owner of each interest held by it in any general partnership and general partnership interest in any limited partnership subject to the Security and will remain so until such time as such interest is effectively transferred into the name of another person on the books and records of the issuer thereof. To the extent any provision hereof would have the effect of constituting the Lender as a general partner of any limited or general partnership, such provision shall be severed herefrom and ineffective without otherwise invalidating or rendering unenforceable this Security Agreement or such provision insofar as it relates to property which is not such a general partner interest in a partnership.

### 2.13 **Commingled Goods**

If Collateral subsequently becomes part of a product or mass to which the security interest of another secured party attaches, then the Security shall continue in such product or mass and extend to all Accounts, Replacements or Proceeds arising from any dealing with such product or mass, ranking in priority to those Liens of any other person holding a Lien upon such product or mass other than any Permitted Liens permitted under the Credit Agreement to rank in priority to the Lender's Liens. Except for Permitted Liens permitted under the Credit Agreement to rank in priority to the Lender's Liens, no Grantor shall grant or permit to subsist any Lien in favour of any other creditor in goods that become part of any such product or mass, unless that creditor first agrees to the subordination of its interest to that of the Lender in all Accounts, Replacements and Proceeds arising from dealings with such product or mass, and each Grantor shall use commercially reasonable best efforts to obtain the consent of each existing such creditor to the rights granted to the Lender in this Section 2.13.

### 2.14 **Leases**

The last day of the term of any lease, oral or written, or any agreement therefor, now held or hereafter acquired by any Grantor shall be excepted from the Security and shall not form part of the Collateral but such Grantor shall stand possessed of such one day remaining upon trust to assign and dispose of the same as the Lender directs. If any such lease or agreement therefor contains a provision which provides in effect that such lease or agreement may not be assigned, sub-leased, charged or made the subject of any Lien without the consent of the lessor, the application of the Security to any such lease or agreement shall be conditional upon such consent being obtained.

### 2.15 **Operating Rights**

- (a) Notwithstanding anything to the contrary contained in any other provision of this Security Agreement, if any Grantor cannot lawfully grant the Security in any agreement, right, franchise, equipment lease or sublease, Intellectual Property right or Licence in which it now or hereafter has rights (each, an "**Operating Right**") because the terms of such Operating Right prohibit or restrict such Security, the Operating Right requires the consent of any person which has not been obtained or the grant of such Security in the Operating Right would contravene or is void under any applicable statute or regulation, result in a material loss and expense to such Grantor or (in the judgment of the Lender) materially adversely affect the Security in any material way in any other Collateral, that Operating Right shall not, to the extent it would be illegal, void, result in a material loss and expense to such Grantor or materially adversely affect the Security in any material way in other Collateral (each, a "**Prescribed Operating Right**"), be subject to the Security (save to the extent provided below), unless and until such agreements, consents, waivers and approvals as may be required to avoid such illegality, voidness, material loss and expense or material adverse effect have been obtained ("**Required Approvals**"). The Security shall nonetheless immediately attach to any rights of such Grantor arising under, by reason of, or otherwise in respect of such Prescribed Operating Right, such as the right to receive payments thereunder and all Proceeds and

Replacements of the Prescribed Operating Right (“**Related Rights**”), (i) if and to the extent and as at the time such attachment to the Related Rights is not illegal, void, would not result in a material loss and expense to such Grantor or materially adversely affect the Security in any material way in any other Collateral, (ii) if such prohibition or restriction is not enforceable against third parties such as the Lender or (iii) if an Event of Default occurs.

- (b) To the extent permitted by applicable statute or regulation, each Grantor will hold in trust for the Lender, and provide the Lender with the benefits of, each Prescribed Operating Right and following the occurrence of an Event of Default and while it is continuing, will enforce all Prescribed Operating Rights at the direction of the Lender or at the direction of such other person (including any purchaser of Collateral from the Lender or any Receiver) as the Lender may designate, provided that until the security interest created hereby becomes enforceable, such Grantor shall, to the extent permitted by the Secured Documents, be entitled to receive all proceeds relating to the Prescribed Operating Rights, subject to the Security.
- (c) In the event any Grantor after the date hereof enters into any Material agreement, such Grantor will insure that the terms of such Material agreement provide, *inter alia*, that (i) the rights of the Grantor under such Material agreement may be assigned to and otherwise made subject to a security interest in favour of the Lender as security for the Secured Obligations pursuant to the terms of this Agreement and the Security and (ii) as a result of such assignment, the Lender shall not have any obligations to either party to such Material agreement as a result of such assignment and security interest.

## **2.16 Blocked Accounts**

Upon request from time to time by the Lender, each Grantor shall enter into an Account Control Agreement and/or, a lock box agreement (as the Lender may reasonably require) with the Lender and any bank, trust company or other financial institution (other than the Lender) with whom such Grantor maintains any deposit, current or other accounts in form and substance satisfactory to the Lender

## **2.17 Instruments and Chattel Paper**

Unless the Lender shall otherwise consent in writing (which consent may be revoked in writing), each Grantor shall deliver to the Lender all Collateral consisting of Instruments and Chattel Paper (in each case accompanied by such instruments of transfer as the Lender shall reasonably require) under which amounts in excess of \$500,000 (or equivalent in foreign currency) are payable promptly after such Grantor receives the same, save for Instruments deposited to accounts subject to an Account Control Agreement.

## **2.18 Consumer Goods**

Each Grantor shall ensure that Collateral does not and shall at no time include consumer goods.

**2.19 Revisions to Schedules**

Each Grantor shall forthwith revise and provide the Lender with updated Schedules hereto to ensure that the representations and warranties relative thereto made by such Grantor are true, accurate and complete in all material respects at all times.

**ARTICLE 3  
REPRESENTATIONS AND WARRANTIES**

Each Grantor represents and warrants to and in favour of the Lender as follows:

**3.1 Locations of Collateral**

The registered office, places of business, chief executive office, principal place of residence and location of each Grantor and the locations of the Collateral, including its Records relating thereto, are listed in Schedule 3.1.

**3.2 Intellectual Property**

Schedule 3.2 includes a complete list of all registered Software, patents, trademarks, copyrights and industrial designs owned or used by each Grantor in carrying on the Grantor's business subdivided into the categories (i) owned by such Grantor, (ii) licensed for use to such Grantor and (iii) licensed for use by such Grantor.

**3.3 Securities**

Schedule 3.3 includes a complete list of all Securities and Securities Accounts in which each Grantor has rights.

**3.4 Bank Accounts**

Schedule 3.4 includes a complete list of all deposit accounts current and other accounts maintained with any bank, trust company or other financial institution, other than the Lender, in which each Grantor has rights.

**3.5 Chattel Paper**

Schedule 3.5 lists all Chattel Paper having a value in excess of \$500,000 (or equivalent in foreign currency) in which each Grantor has rights. All action necessary or desirable to protect and perfect the Security on each such item of Chattel Paper has been duly taken.

**3.6 Repetition of Representations and Warranties**

The representations and warranties made pursuant to this Article 3 shall be deemed to be repeated each time the representations and warranties of the Borrower are made or deemed to be repeated under or pursuant to the Credit Agreement.

**3.7 Reliance and Survival**

All representations and warranties of each Grantor made herein or in any certificate or other document delivered by or on behalf of each Grantor to the Lender are material, shall survive the execution and delivery of this Security Agreement and shall continue in full force and effect until the Secured Obligations are paid in full. The Lender shall be deemed to have relied upon each such representation and warranty notwithstanding any investigation made by or on behalf of the Lender at any time.

**ARTICLE 4  
COVENANTS OF THE GRANTORS**

**4.1 Payment of Secured Obligations**

Each Grantor shall punctually pay and perform its Secured Obligations.

**4.2 Liens**

No Lien shall be entitled to priority over the Security, other than any Permitted Lien permitted under the Credit Agreement to rank in priority to the Lender's Liens. Nothing in this Security Agreement is intended to create any rights (including subordination rights or any release of Security) in favour of any person other than the Lender, any Receiver and the other Indemnified Parties.

**4.3 Further Assurances**

Each Grantor shall at all times do, execute, acknowledge and deliver or cause to be done, executed, acknowledged or delivered all such further acts, deeds, transfers, mortgages, pledges and charges, assignments, documents and assurances as the Lender may reasonably require in order to give effect to the provisions of this Security Agreement and for the better securing or perfecting the Security and the priority accorded to the Security intended under the Secured Documents and/or this Security Agreement. Subject to Sections 2.11, 2.14 and 2.15 upon the request of the Lender, each Grantor shall specifically mortgage, pledge, charge, grant a security interest in, or assign in favour of the Lender any Collateral in which such Grantor now or hereafter has rights and shall execute all documents reasonably required by the Lender in connection therewith. Each Grantor constitutes and appoints the Lender to be its attorney with full power of substitution to do on such Grantor's behalf anything that such Grantor can lawfully do by an attorney, including to do, make and execute all such assignments, documents, acts, matters or things, with the right to use the name of such Grantor, whenever and wherever it deems necessary or expedient and to carry out such Grantor's obligations under this Security Agreement. Such power of attorney, being granted by way of security and coupled with an interest, is irrevocable until the Secured Obligations of each Grantor are paid in full. Such power of attorney shall not be exercisable by the Lender unless an Event of Default has occurred and while it is continuing.

**4.4 Notice of Change**

Each Grantor shall notify the Lender in writing:

- (a) promptly of any uninsured loss of or damage to any Collateral in a value exceeding \$500,000 (or equivalent in foreign currency); and
- (b) at least 10 Business Days prior to (i) any change of name, or the adoption of a French or combined English/French or French/English form of the name, of such Grantor, (ii) any transfer of such Grantor's interest in any Collateral not expressly permitted under the Credit Agreement, (iii) any change in or addition to the location of any Collateral from those locations referred to in Section 3.1, (iv) any change in the jurisdiction where (A) such Grantor is incorporated, formed or continuing or is located or (B) where the registered office, chief executive office or principal place of residence of such Grantor is located.

#### **4.5 Costs and Expenses**

Each Grantor shall within five (5) days of demand pay to the Lender the amount of all reasonable out-of-pocket fees, costs and expenses incurred and disbursements made by the Lender or any Receiver (including the reasonable fees and out-of-pocket expenses of the Lender's Counsel and those of accountants, experts, consultants and other representatives retained by the Lender or any Receiver) in connection with each of (i) the preparation, negotiation, settlement, execution, delivery, entry into effect and administration of each Secured Document and/or the satisfaction of any conditions or obligations specified in Article 9 of the Credit Agreement, (ii) post-closing costs, (iii) each change to each Loan Document and (iv) the interpretation, defence, establishment, preservation, protection or enforcement of rights of the Lender under each Secured Document.

#### **4.6 Reimbursements as Secured Obligations**

All amounts for which any Grantor is required hereunder to reimburse the Lender or any Receiver shall, from the date of disbursement until the date the Lender or such Receiver receives reimbursement, be deemed advanced to such Grantor by the Lender or such Receiver, as the case may be, on the faith and security of this Security Agreement shall be deemed to be Secured Obligations of such Grantor secured by the Security and shall bear interest from the date of disbursement, compounded and payable monthly, both before and after demand, default and judgment, until payment of such amount is paid in full at the Default Rate.

#### **4.7 General Indemnity**

Each Grantor will indemnify each of the Lender, any Receiver and their respective representatives, (each, an "**Indemnified Party**") in respect of, and save each Indemnified Party fully harmless from and against, all claims and losses and expenses which such Indemnified Party may suffer or incur in connection with (a) the exercise by the Lender or any Receiver of any of its rights hereunder, (b) any breach by such Grantor of the representations or warranties of such Grantor contained herein, or (c) any breach by such Grantor of any of its obligations under this Security Agreement, save that such Grantor shall not be obliged to so indemnify any Indemnified Party to the extent such claims and losses and expenses are determined by a final judgment to have directly resulted from the wilful misconduct or gross negligence of such Indemnified Party. The Lender shall be constituted as the trustee of each

Indemnified Party, other than itself, and shall hold and enforce each such other Indemnified Party's rights under this Section 4.7 for their respective benefits.

#### **4.8 Registration**

Each Grantor shall, to the extent the Lender has not caused the Lender's Counsel to do so, cause its representatives to forthwith register, file and record this Security Agreement or notice thereof, on behalf of the Lender, at all proper offices where, in the opinion of the Lender's Counsel, such registration, filing or recording may be necessary or advantageous to create, perfect, preserve or protect the Security in the Collateral and its priority and shall cause its representatives to maintain all such registrations, filings and recordings on behalf of the Lender in full force and effect.

### **ARTICLE 5 DEFAULT**

#### **5.1 Default**

Once the Lender becomes entitled to enforce the Security in accordance with the provisions of the Credit Agreement, unless the Lender notifies any Grantor to the contrary and subject to such terms and conditions as may be contained in such notice, the Security shall become immediately crystallized and enforceable without the necessity for any further action or notice by the Lender, except that no Security over Unlimited Liability Shares or Security Entitlements to Unlimited Liability Shares shall be enforceable without notice in writing from the Lender to such Grantor that specifically identifies the Unlimited Liability Shares or Security Entitlements to Unlimited Liability Shares and the intention of the Lender to enforce its Security therein, which notice has not been revoked.

#### **5.2 Security Enforceable**

The fact that this Security Agreement provides for Defaults and rights of acceleration shall not derogate from the demand nature of any Secured Obligation payable on demand.

#### **5.3 Waiver**

The Lender may waive any Default or any breach by any Grantor of any of the provisions of this Security Agreement. No waiver, however, shall be deemed to extend to a subsequent breach or Default, whether or not the same as or similar to the breach or Default waived, and no act or omission by the Lender shall extend to, or be taken in any manner whatsoever to affect, any subsequent breach or Default or the rights of the Lender arising therefrom. Any such waiver must be in writing and signed by the Lender to be effective. No failure on the part of the Lender to exercise, and no delay by the Lender in exercising, any right under this Security Agreement shall operate as a waiver of such right. No single or partial exercise of any such right shall preclude any other or further exercise of such right or the exercise of any other right.

## ARTICLE 6 REMEDIES ON DEFAULT

### 6.1 Remedies of Lender

If the Security becomes enforceable in accordance with Article 5, the Lender shall have the rights set out in this Article 6.

### 6.2 Right to Appoint a Receiver

The Lender may appoint by instrument in writing one or more Receivers of any Collateral. Any such Receiver shall have the rights set out in this Article 6. In exercising such rights, any Receiver shall act as and for all purposes shall be deemed to be the agent of any Grantor and no Senior Lender shall be responsible for any act or default of any Receiver. The Lender may remove any Receiver and appoint another from time to time. An officer or employee of the Lender may be appointed as a Receiver. No Receiver appointed by the Lender need be appointed by, nor need its appointment be ratified by, or its actions in any way supervised by, a court. If two or more Receivers are appointed to act concurrently, they shall, unless otherwise expressly provided in the instrument appointing them, so act severally and not jointly and severally. The appointment of any Receiver or anything done by a Receiver or the removal or termination of any Receiver shall not have the effect of constituting the Lender a mortgagee in possession in respect of the Collateral.

### 6.3 Rights of a Receiver

Any Receiver appointed by the Lender shall have the following rights:

- (a) *Power of Entry.* Any Receiver may at any time enter upon any premises owned, leased or otherwise occupied by any Grantor or where any Collateral is located to take possession of, disable or remove any Collateral, and may use whatever means available under applicable law the Receiver considers advisable to do so.
- (b) *Right to Possession.* Any Receiver shall be entitled to immediate possession of Collateral by any method permitted by applicable law and any Grantor shall forthwith upon demand by any Receiver deliver up possession to a Receiver of any Collateral.
- (c) *Power of Sale.*
  - (i) Any Receiver may sell, lease, consign, license, assign or otherwise dispose of any Collateral by public auction, private tender or private contract with or without notice, advertising or any other formality, all of which are hereby waived by each Grantor to the extent permitted by applicable law. Any Receiver may, at its discretion, establish the terms of such disposition, including terms and conditions as to credit, upset, reserve bid or price. All payments made pursuant to such dispositions shall be credited against the Secured Obligations only as they are actually received. Any Receiver may buy in, rescind or vary any contract for the

disposition of any Collateral and may dispose of any Collateral again without being answerable for any loss occasioned thereby. Any such disposition may take place whether or not the Receiver has taken possession of the Collateral. The exercise by the Receiver of any power of sale does not preclude the Receiver from further exercise of its power of sale in accordance with this clause.

- (ii) Each Grantor agrees that any Receiver may, in its discretion, approach a restricted number of potential purchasers to effect any sale of any Securities comprised in the Collateral pursuant to Subsection 6.3(c)(i) and that a sale under such circumstances may yield a lower price for Collateral than would otherwise be obtainable if the same were registered and sold in the open market. Each Grantor agrees that:
  - (A) in the event any Receiver shall so sell Collateral at such private sale or sales, the Receiver shall have the right to rely upon the advice and opinion of any person who regularly deals in or evaluates Securities of the type constituting the Collateral as to the best price obtainable in a commercially reasonable manner; and
  - (B) such reliance shall be conclusive evidence that the Receiver handled such matter in a commercially reasonable manner.
- (d) *Carrying on Business.* Any Receiver may carry on, or concur in the carrying on of, any of the business or undertaking of each Grantor and may, to the exclusion of all others, including each Grantor, enter upon, occupy and use any of the premises, buildings, plant and undertaking of or occupied or used by such Grantor and may use any of the Equipment and Intangibles of such Grantor for such time and such purposes as the Receiver sees fit. No Receiver shall be liable to such Grantor for any negligence in so doing or in respect of any rent, charges, costs, depreciation or damages in connection with any such action.
- (e) *Pay Liens.* Any Receiver may pay any liability secured by any actual or threatened Lien against any Collateral. A Receiver may borrow money for the maintenance, preservation or protection of any Collateral or for carrying on any of the business or undertaking of each Grantor and may grant Liens in any Collateral in priority to the Security as security for the money so borrowed. Such Grantor will forthwith on demand reimburse the Receiver for all such payments and borrowings.
- (f) *Dealing with Collateral.* Any Receiver may seize, collect, realize, dispose of, enforce, release to third parties or otherwise deal with any Collateral in such manner, upon such terms and conditions and at such time as it deems advisable without notice to any Grantor (except as otherwise required by applicable law), and may charge on its own behalf and pay to others its costs and expenses (including legal, Receiver's and accounting fees and expenses on a full indemnity basis) incurred in connection with such actions. Such Grantor will forthwith upon demand reimburse the Receiver for all such costs or expenses.

- (g) *Dealing with Leases.* Any Receiver, for the purpose of vesting the one day residue of the term of any leasehold interest or renewal thereof in any purchaser, shall be entitled by deed or writing to appoint such purchaser or any other person as a new trustee of the aforesaid residue of any such term or renewal thereof in the place and stead of any Grantor and to vest the same accordingly in such new trustee so appointed free from any obligation respecting the same.
- (h) *Powers re Collateral.* Any Receiver may have, enjoy and exercise all of the rights of and enjoyed by any Grantor with respect to the Collateral or incidental, ancillary, attaching or deriving from the ownership by such Grantor of the Collateral, including the right to enter into agreements pertaining to Collateral, the right to commence or continue proceedings to preserve or protect Collateral and the right to grant or agree to Liens and grant or reserve profits à prendre, easements, rights of ways, rights in the nature of easements and licenses over or pertaining to the whole or any part of the Collateral.
- (i) *Retain Services.* Any Receiver may retain the services of such real estate brokers and Lenders, lawyers, accountants, appraisers and other consultants as the Receiver may deem necessary or desirable in connection with anything done or to be done by the Receiver or with any of the rights of the Receiver set out herein and pay their commissions, fees and disbursements (which payment shall constitute part of the Receiver's disbursements reimbursable by the applicable Grantor hereunder). Each Grantor shall forthwith on demand reimburse the Receiver for all such payments.

#### **6.4 Right to have Court Appoint a Receiver**

The Lender may, at any time, apply to a court of competent jurisdiction for the appointment of a Receiver, or other official, who may have powers the same as, greater or lesser than, or otherwise different from, those capable of being granted to a Receiver appointed by the Lender pursuant to this Security Agreement.

#### **6.5 Lender may exercise rights of a Receiver**

In lieu of, or in addition to, exercising its rights under Sections 6.3 and 6.4, but subject to Section 2.11 and 2.12, the Lender has, and may exercise, any of the rights which are capable of being granted to a Receiver appointed by the Lender pursuant to this Security Agreement. Notwithstanding any provisions to the contrary contained in this Security Agreement, only the Lender, and not the Receiver, shall have the right to exercise the rights of a Receiver with respect to Unlimited Liability Shares and Security Entitlements to Unlimited Liability Shares.

#### **6.6 Retention of Collateral**

The Lender, may elect to retain any Collateral in satisfaction of the Secured Obligations of a Grantor. The Lender may designate any part of the Secured Obligations of a Grantor to be satisfied by the retention of particular Collateral which the Lender considers to have a net realizable value approximating the amount of the designated part of the Secured

Obligations, in which case only the designated part of the Secured Obligations shall be deemed to be satisfied by the retention of the particular Collateral.

**6.7 Limitation of Liability**

Neither the Lender nor any Receiver shall be liable or accountable for any failure of the Lender or any Receiver to seize, collect, realize, dispose of, enforce or otherwise deal with any Collateral nor shall any of them be bound to institute proceedings for any such purposes or for the purpose of preserving any rights of the Lender, any Grantor or any other person in respect of any Collateral. Neither the Lender nor any Receiver shall be liable or responsible for any loss and expense whatever which may accrue in consequence of any such failure, except to the extent of any losses and expenses that are determined by a final judgment to have directly resulted from the gross negligence or wilful misconduct of the Lender, Receiver or representative. If any Receiver or the Lender takes possession of any Collateral, neither the Lender nor any Receiver shall have any liability as a mortgagee in possession or be accountable for anything except actual receipts.

**6.8 Extensions of Time**

The Lender and any Receiver may grant renewals, extensions of time and other indulgences, take and give up Liens, accept compositions, grant releases and discharges, perfect or fail to perfect any Liens, release any Collateral to third parties and otherwise deal or fail to deal with any Grantor, debtors of any Grantor, guarantors, sureties and others and with any Collateral and other Liens as the Lender may see fit, all without prejudice to the liability of any Grantor to the Lender or the rights of the Lender and any Receiver under this Security Agreement.

**6.9 Set-Off, Combination of Accounts and Crossclaims**

The Secured Obligations will be paid by any Grantor without regard to any equities between such Grantor and the Lender or any right of set-off or cross-claim. Any indebtedness owing by the Lender to such Grantor, direct or indirect, extended or renewed, actual or contingent, mutual or not, may be set off or applied against, or combined with, the Secured Obligations by the Lender at any time either before or after maturity, without demand upon or notice to anyone and the terms of such indebtedness shall be changed hereby to the extent necessary to permit such set-off, application and combination.

**6.10 Deficiency**

If the proceeds of the realization of any Collateral are insufficient to repay all Secured Obligations, each Grantor shall forthwith pay or cause to be paid to the Lender such deficiency.

**6.11 Validity of Sale**

No person dealing with the Lender or any Receiver or with any representative of the Lender or any Receiver shall be concerned to inquire whether the Security has become enforceable, whether any right of the Lender or any Receiver has become exercisable, whether

any Secured Obligations remain outstanding or otherwise as to the propriety or regularity of any dealing by the Lender or any Receiver with any Collateral or to see to the application of any money paid to the Lender or any Receiver, and in the absence of fraud on the part of such person such dealings shall be deemed, as regards such person, to be within the rights hereby conferred and to be valid and effective accordingly.

**6.12 Lender and Receiver Not Obligated to Preserve Third Party Interests**

To the extent that any Collateral constitutes an Instrument or Chattel Paper, neither the Lender nor any Receiver shall be obliged to take any steps to preserve rights against prior parties in respect of any such Instrument or Chattel Paper.

**6.13 No Marshalling**

Each Grantor hereby waives any rights it may have under applicable law to assert the doctrine of marshalling or to otherwise require the Lender to marshal any Collateral or any other collateral of such Grantor or any other person for the benefit of such Grantor.

**6.14 Lender or Receiver may Perform**

If any Grantor fails to perform any of its obligations hereunder, without limiting any other provision hereof, the Lender or any Receiver may perform those obligations as attorney for such Grantor in accordance with Section 4.3. Each Grantor shall remain liable under each Operating Right and each agreement and Licence to which it is party or by which it or any of its property is bound and shall perform all of its obligations thereunder, and shall not be released from any of its obligations under any such Operating Right, agreement or Licence by the exercise of any rights by the Lender or any Receiver. Neither the Lender nor any Receiver shall have any obligation under any such Operating Right, agreement or Licence, by reason of this Security Agreement, nor shall the Lender nor any Receiver be obliged to perform any of the obligations of such Grantor thereunder or to take any action to collect or enforce any claim made subject to the security of this Security Agreement. The rights conferred on the Lender and any Receiver under this Security Agreement are for the purpose of protecting the Security in the Collateral and shall not impose any obligation upon the Lender or any Receiver to exercise any such rights.

**6.15 Effect of Appointment of Receiver**

As soon as the Lender takes possession of any Collateral or appoints a Receiver over any Collateral, all rights of each of the representatives of each Grantor with respect to that Collateral shall cease, unless specifically continued by the written consent of the Lender or the Receiver.

**6.16 Rights in Addition**

The rights conferred by this Article 6 are in addition to, and not in substitution for, any other rights the Lender may have under this Security Agreement, at law, in equity or by or under applicable law or any other Secured Document or agreement. The Lender may proceed by way of any proceeding at law or in equity, including (a) the right to take proceedings in any

court of competent jurisdiction for the sale or foreclosure of the Collateral and (b) filing proofs of claim and other documentation to establish the claims of the Lender in any proceeding relating to any Grantor. No right of the Lender or any Receiver shall be exclusive of or dependent on any other. Any such right may be exercised separately or in combination, and at any time. The exercise by the Lender or any Receiver of any right hereunder does not preclude the Lender or any Receiver from further exercise of such right in accordance with this Security Agreement.

**6.17 Application of Payments Against Secured Obligations**

Each Recovery received by the Lender shall, notwithstanding any appropriation by any Grantor, be appropriated by the Lender against such Secured Obligations in the manner set out in the Credit Agreement. If any Recovery is received or appropriated by the Lender in respect of Secured Obligations not yet due, they shall be credited to a cash collateral account opened by the Lender for such purpose in its own records of account and appropriated to the Secured Obligations in accordance with the Credit Agreement.

**ARTICLE 7  
ADDITIONAL GRANTORS**

**7.1 Additional Grantors**

Any Subsidiary of the Borrower that is required pursuant to the terms of the Credit Agreement to enter into a security agreement in favour of the Lender may do so by executing and delivering to the Lender a supplement to this Security Agreement in the form of Schedule 7.1. After execution and delivery of such supplement to the Lender, such Subsidiary shall become a Grantor hereunder with the same force and effect as if originally named as a Grantor herein upon acceptance by the Lender of such supplement. The execution and delivery of any document adding an additional Grantor as a party to this Security Agreement shall not require the consent of any other Grantor hereunder. The rights and obligations of each Grantor hereunder shall remain in full force and effect notwithstanding the addition of any new Grantor as a party to this Security Agreement.

**ARTICLE 8  
GENERAL**

**8.1 Security in Addition**

The Security does not replace or otherwise affect any existing or future Lien held by the Lender. Neither the taking of any proceeding, judicial or extra-judicial, nor the refraining from so doing, nor any dealing with any other security for any Secured Obligations shall release or affect the Security. Neither the taking of any proceeding, judicial or extra-judicial, pursuant to this Security Agreement, nor the refraining from so doing, nor any dealing with any Collateral shall release or affect any of the other Liens held by the Lender for the payment or performance of the Secured Obligations.

## **8.2 No Merger**

This Security Agreement shall not operate by way of a merger of the Secured Obligations or of any guarantee, agreement or document by which the Secured Obligations now or at any time hereafter may be represented or evidenced. Neither the taking of any judgment nor the exercise of any power of seizure or disposition shall extinguish the liability of any Grantor to pay and perform the Secured Obligations nor shall the acceptance of any payment or alternate security constitute or create any novation. No covenant, representation or warranty of such Grantor herein shall merge in any judgment.

## **8.3 Notices**

Any notice, demand, consent, approval or other communication to be made or given under or in connection with this Security Agreement shall be given or made and take effect in the manner provided for notices in Section 14.8 of the Credit Agreement. Notices to each Grantor other than the Initial Grantors shall be given to such Grantor care of the address, facsimile number or email address, as applicable, of the Initial Grantors specified in Section 14.8 of the Credit Agreement.

## **8.4 Time of the Essence**

Time is and shall remain of the essence of this Security Agreement and each of its provisions.

## **8.5 Governing Law**

This Security Agreement shall be governed by, and construed and interpreted in accordance with, the laws in force in the Province of Ontario, including the federal laws of Canada applicable therein, but excluding choice of law rules. Each Grantor irrevocably attorns to and submits to the non-exclusive jurisdiction of the courts of the Province of Ontario located at Toronto with respect to any matter arising hereunder or related hereto. Such choice of law shall, however, be without prejudice to or limitation of any other rights available to the Lender under the laws of any other jurisdiction where Collateral may be located.

## **8.6 Security Effective Immediately**

Neither the issuance nor registration of, or any filings with respect to, this Security Agreement, nor any partial advance or extension of credit by the Lender, shall bind the Lender to advance any amounts, grant any credit or supply any financial services to any Grantor, but the Security shall take effect forthwith upon the issuance of this Security Agreement by such Grantor.

## **8.7 Entire Agreement**

There are no representations, warranties, covenants, agreements or acknowledgments whether direct or collateral, express or implied, that form part of or affect this Security Agreement or any Collateral, other than as expressed herein or in any other Secured Document. The execution of this Security Agreement has not been induced by, nor does any

Grantor rely upon or regard as material, any representations, warranties, conditions, other agreements or acknowledgments not expressly made in this Security Agreement and the other written agreements and other documents to be delivered pursuant hereto or contemporaneously herewith.

#### **8.8 Provisions Reasonable**

Each Grantor acknowledges that the provisions of this Security Agreement and, in particular, those respecting rights of the Lender or any Receiver against such Grantor, its property and any Collateral upon an Event of Default, are commercially reasonable and not manifestly unreasonable.

#### **8.9 Invalidity**

If any provision of this Security Agreement is found to be invalid or unenforceable, by a final judgment of a court of competent jurisdiction, to the fullest extent permitted by applicable law, (a) in such jurisdiction that provision shall be deemed to be severed herefrom and the remaining provisions of this Security Agreement shall not be affected thereby but shall remain valid and enforceable and (b) such invalidity or unenforceability shall not affect the validity or enforceability of such provision in any other jurisdiction. Each Grantor shall, at the request of the Lender, negotiate in good faith with the Lender to replace any invalid or unenforceable provision contained in this Security Agreement with a valid and enforceable provision that has the commercial effect as close as possible to that of the invalid or unenforceable provisions, to the extent permitted by applicable law.

#### **8.10 Successors and Assigns**

This Security Agreement and the rights and obligations of the Lender hereunder may be assigned and transferred by the Lender to any successor, transferee, assignee or replacement Lender pursuant to the Credit Agreement and any such successor, transferee, assignee or replacement shall be entitled to all of the rights and bound by all of the obligations of the Lender hereunder. No Grantor may assign this Security Agreement or any right or obligation hereunder. This Security Agreement shall enure to the benefit of each of the Indemnified Parties and their respective successors and assigns and shall be binding upon each Grantor, its legal representatives (including receivers) and its successors. Each reference in this Security Agreement to any person (including any Grantor and any Indemnified Party) shall (to the extent the context so admits) be construed so as to include the successors of that person and (in the case of each Indemnified Party) the assigns of that person as permitted by the Secured Documents.

#### **8.11 Amalgamation**

Each Grantor acknowledges that if it amalgamates with any other corporation or corporations, then (i) the Collateral and the Security shall extend to and include all the assets of the amalgamated corporation and to any assets of the amalgamated corporation thereafter owned or acquired, (ii) the term "Grantor", where used in this Security Agreement, shall extend to and include the amalgamated corporation, and (iii) the term "Secured Obligations", where used in this Security Agreement, shall extend to and include the Secured Obligations of the amalgamated corporation.

## 8.12 Statutory Waivers

To the fullest extent permitted by applicable law, each Grantor waives all of the rights, benefits and protections given by the provisions of any existing or future statute which imposes limitations upon the rights of a secured party or upon the methods of realization of security, including any seize or sue or anti-deficiency statute or any similar provisions of any other statute.

## 8.13 Land Registration

- (a) Covenants 1.v and 1.vi deemed to be included in a charge by subsection 7(1) of the *Land Registration Reform Act* (Ontario) are expressly excluded.
- (b) Covenant 1.vii deemed to be included in a charge by subsection 7(1) of the *Land Registration Reform Act* (Ontario) is expressly varied by providing that the Grantor or its successors and assigns will, before and after event of default, execute such assurances of the property herein described and do such other acts, at the Grantor's expense, as may be reasonably required by the Lender.
- (c) Where a conflict exists between the terms of this Security Agreement and the Standard Charge Terms number referred to in any Charge/Mortgage of Land to which this Security Agreement may be annexed as a schedule for the purpose of registration in any Land Registry Office, which terms are filed as such number in such Land Registry Office, the terms of this Security Agreement shall prevail.

## 8.14 Currency

All references in this Security Agreement to monetary amounts, unless specifically provided, are to lawful currency of Canada. All sums of money payable under the Secured Documents shall be paid in the currency in which such sums are incurred or expressed as due thereunder.

## 8.15 Currency Conversions

If the Lender receives any Recovery in a currency (the "**Recovered Amount**") which is different than the currency in which the Secured Obligations are expressed (the "**Contract Currency**"), the Lender may convert the Recovered Amount to the Contract Currency at the rate of exchange which the Lender is able, acting in a reasonable manner and in good faith, to purchase the relevant amount of the Contract Currency. The amount of the Contract Currency resulting from any such conversion shall then be applied in accordance with the provisions of Section 6.17.

## 8.16 Judgment Currency

If, for the purposes of obtaining or enforcing judgment in any court in any jurisdiction, it becomes necessary to convert into the currency of the country in which the court rendering such judgment is located (the "**Judgment Currency**") any Secured Obligation denominated in a different currency (the "**Agreed Currency**"), then the date on which the rate of

exchange for conversion is selected by the court is referred to herein as the “**Conversion Date**”. If there is a change in the rate of exchange between the Judgment Currency and the Agreed Currency between the Conversion Date and the actual receipt by the Lender or any Receiver of the amount of such Secured Obligation or under any such judgment, such Grantor will, notwithstanding any such judgment, pay all such additional amounts as may be necessary to ensure that the amount received by the Lender or Receiver in the Judgment Currency, when converted at the rate of exchange prevailing on the date of receipt, will produce the amount due in the Agreed Currency. Each Grantor’s liability hereunder constitutes a separate and independent liability which shall not merge with any judgment or any partial payment or enforcement of payment of sums due under this Security Agreement.

#### **8.17 Change**

No agreement purporting to change (other than an agreement purporting to waive performance or compliance with) any provision of this Security Agreement shall be binding upon any Grantor or the Lender unless that agreement is in writing and signed by such Grantor and the Lender. No waiver of performance or compliance with any provision hereof shall be binding upon any party hereto unless such waiver is in writing signed by the parties sought to be bound thereby.

#### **8.18 Receipt of Copy**

Each Grantor acknowledges receipt of a copy of this Security Agreement and copies of the verification statements pertaining to the financing statements filed under the PPSA and under the personal property security statutes of other provinces by the Lender, in respect of this Security Agreement. To the extent permitted by applicable law, each Grantor irrevocably waives the right to receive a copy of each financing statement or financing change statement (or any verification statement pertaining thereto) filed under the PPSA or under such other personal property security statutes by the Lender in respect of this Security Agreement or any other security agreement, and releases any and all claims or causes of action it may have against the Lender for failure to provide any such copy.

#### **8.19 Limitation Period**

The parties hereto agree to extend the limitation period under the Limitations Act, 2002 (Ontario), other than one established by Section 15 of that Act, applicable to this Security Agreement, and each provision hereof and any claim thereunder, to six (6) years, save and except to the extent the *Real Property Limitations Act* (Ontario) applies to any particular provision hereof or claim arising thereunder requiring a shorter limitation period which cannot be waived by an agreement made on this date.

#### **8.20 Information**

At any time the Lender may provide to any person that claims an interest in Collateral copies of this Security Agreement or information about it or about the Collateral or the Secured Obligations.

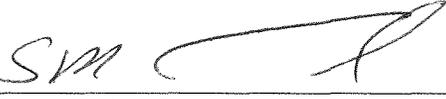
**8.21 Credit Agreement to Govern**

If there is any conflict between the provisions of this Security Agreement and the provisions of the Credit Agreement, the provisions of the Credit Agreement shall govern and apply to the extent of the conflict. Notwithstanding the foregoing, this Section 8.21 shall not apply to limit, restrict, prejudice or otherwise affect or impair in any way the rights of the Lender under this Security Agreement after the Security has become enforceable.

*[Remainder of page intentionally left blank.]*

**TO WITNESS THIS AGREEMENT**, each Grantor has caused this Security Agreement to be duly executed as of the date set out at the commencement hereof.

**EVERGREEN CONSUMER BRANDS INC.**

By:   
Name: STEVE IMMEL  
Title: CO-CEO

By:   
Name: Bruce Friedman  
Title: CO COO

## SCHEDULE 1.1

### DEFINITIONS

1. **General Definitions.** Unless the context otherwise requires, in this Security Agreement the following terms are used with their corresponding defined meanings:

“**Accounts**” in relation to any Grantor means all accounts including rights to receive royalties or license fees and rights to payment under a mortgage, charge or lease of real property in which a Grantor now or hereafter has rights, excluding the Grantor’s rights in the associated real property, which are now owned by or are due, owing or accruing due to such Grantor or which may hereafter be owned by or become due, owing or accruing due to such Grantor or in which such Grantor now or hereafter has any other rights, including all debts, claims and demands of any kind whatever, claims against the Crown and claims under insurance policies, and (as the context so admits) any item or part thereof.

“**Borrower**” is used as defined in the introduction to this Agreement;

“**Chattel Paper**” in relation to any Grantor means all chattel paper in which such Grantor now or hereafter has rights, and (as the context so admits) any item or part thereof.

“**Collateral**” means all assets in or to which any Grantor now or hereafter has rights, or any item or part thereof.

“**Credit Agreement**” is used as defined in the background to this Security Agreement.

“**Documents of Title**” in relation to any Grantor means all documents of title, whether negotiable or non-negotiable, including all warehouse receipts and bills of lading, in which such Grantor now or hereafter has rights, and (as the context so admits) any item or part thereof.

“**Equipment**” in relation to any Grantor means all goods in which such Grantor now or hereafter has rights, other than Inventory or consumer goods, and (as the context so admits) any item or part thereof.

“**Grantor**” means the Borrower or any Subsidiary of the Borrower that becomes party hereto as a Grantor pursuant to Article 7, as the context requires.

“**Indemnified Party**” is used as defined in Section 4.7.

“**Instruments**” in relation to any Grantor means all letters of credit, advices of credit and all other instruments in which such Grantor now or hereafter has rights, and (as the context so admits) any item or part thereof.

“**Intangibles**” in relation to any Grantor means all intangibles, all IP Licences and all authorizations of whatever kind in which such Grantor now or hereafter has rights,

including all of any Grantor's choses in action, contractual rights, goodwill and Intellectual Property, and (as the context so admits) any item or part thereof.

**"Intellectual Property"** means trade secrets, confidential information and know-how, Software, patents, Trade-marks, patent or Trade-mark rights, registrations and applications, designs, logos, indicia, trade names, corporate names, company names, domain names, business names, trade styles, business identifiers, fictitious business names or characters, copyrights and copyright registrations and applications, integrated circuit topography rights, registrations and applications, semi-conductor chip rights, designs, design patents and other industrial design rights, registrations and applications, goodwill, letters patent and other industrial or intellectual property of whatever kind in which any Grantor now or hereafter has rights, and (as the context so admits) any item or part thereof.

**"Inventory"** in relation to any Grantor means all inventory of whatever kind in which such Grantor now or hereafter has rights, including all goods, wares, merchandise, materials, supplies, raw materials, goods in process, finished goods and other tangible personal property, including all goods, wares, materials and merchandise used or procured for packing or storing thereof, now or hereafter held for sale, lease, resale or exchange or that are to be furnished or have been furnished under a contract of service or that are used or consumed in the business of such Grantor, and (as the context so admits) any item or part thereof.

**"Investment Property"** in relation to any Grantor means all investment property in which such Grantor now or hereafter has rights, and (as the context so admits) any item or part thereof.

**"IP Licence"** in relation to any Grantor means any license agreement pursuant to which such Grantor is granted a right to use Intellectual Property or such Grantor grants a right to use Intellectual Property.

**"Licence"** in relation to any Grantor means (i) any authorization from any governmental authority having jurisdiction with respect to such Grantor or its property, (ii) any authorization from any person granting any easement or license with respect to any real or immovable property or (iii) any IP Licence, as the context requires.

**"Money"** means all money in which any Grantor now or hereafter has rights, and (as the context so admits) any item or part thereof.

**"PPSA"** shall mean the *Personal Property Security Act* (Ontario); provided, however, that, in the event that, by reason of any provisions of law, any of the attachment, validity, effect, perfection or priority of the Lender's security interest in any Collateral is governed by the Personal Property Security Act as in effect in a jurisdiction other than the Province of Ontario, such term shall mean the Personal Property Security Act as in effect in such other jurisdiction for purposes of the provisions hereof relating to such attachment, perfection or priority and for purposes of definitions related to such provisions.

**"Prescribed Operating Right"** is used as defined in Subsection 2.15(a).

**“Proceeds”** means all proceeds and personal property in any form derived directly or indirectly from any disposal of or other dealing with any Collateral, or that indemnifies or compensates for such Collateral stolen, lost, destroyed or damaged, and proceeds of Proceeds whether or not of the same type, class or kind as the original Proceeds, and (as the context so admits) any item or part thereof.

**“Receiver”** means any receiver for the Collateral or any of the business, undertakings, property and assets of any Grantor appointed by the Lender pursuant to this Security Agreement or by a court on application by the Lender.

**“Records”** means all books, accounts, invoices, letters, papers, security certificates, documents and other records in any form evidencing or relating in any way to any item or part of the Collateral and all agreements, Licences and other rights and benefits in respect thereof, and (as the context so admits) any item or part thereof.

**“Recovery”** means any monies received or recovered by the Lender pursuant to this Security Agreement on account of the Secured Obligations, whether pursuant to any enforcement of the Security, any proceeding, any settlement thereof or otherwise.

**“Related Rights”** is used as defined in Subsection 2.15(a).

**“Replacements”** means all increases, additions and accessions to, and all substitutions for and replacements of, any item or part of the Collateral, and (as the context so admits) any item or part thereof.

**“Required Approvals”** is used as defined in Subsection 2.15(a).

**“Secured Obligations”** means the Secured Obligations (as defined in the Credit Agreement) of each Grantor.

**“Securities”** in relation to any Grantor means all shares, stock, warrants, bonds, debentures, debenture stock, bills, notes and other securities in which such Grantor now or hereafter has rights, and (as the context so admits) any item or part thereof.

**“Security”** means the Liens created by this Security Agreement.

**“Security Agreement”** means this security agreement and all schedules attached hereto. All uses of the words **“hereto”**, **“herein”**, **“hereof”**, **“hereby”** and **“hereunder”** and similar expressions refer to this Security Agreement and not to any particular section or portion of it. References to an **“Article”**, **“Section”**, **“Subsection”** or **“Schedule”** refer to the applicable article, section, subsection or schedule of this Security Agreement.

**“Security Entitlement”** in relation to any Grantor means all security entitlements in which such Grantor now or hereafter has rights, and (as the context so admits) any item or part thereof.

**“Software”** means computer programs and databases owned by or licenced to any Grantor in whatever form and on whatever medium those programs or databases might be expressed, fixed, embodied or stored from time to time, including the object code and

source code versions thereof and all corrections, updates, enhancements, translations, modifications, derivations and new versions thereof, together with both the media upon or in which such software and databases are expressed, fixed, embodied or stored (such as disks, diskettes, tapes and semiconductor chips), and all flow charts, manuals, instructions, documentation and other material relating thereto.

“**STA**” means the *Securities Transfer Act* (Ontario).

“**Unlimited Company**” means any unlimited company or unlimited liability corporation incorporated or otherwise constituted under the laws of the Province of Alberta, British Columbia or Nova Scotia or any similar body corporate formed under the laws of any other jurisdiction whose members may at any time become responsible for any of the obligations of that body corporate.

“**Unlimited Liability Shares**” in relation to any Grantor means member or shareholder interests in an Unlimited Company in which such Grantor now or hereafter has rights, and (as the context so admits) any item or part thereof.

**SCHEDULE 3.1**

**LOCATIONS OF REGISTERED OFFICE, CHIEF EXECUTIVE OFFICE,  
PRINCIPAL PLACE OF RESIDENCE,  
PLACES OF BUSINESS, RECORDS AND COLLATERAL  
EVERGREEN CONSUMER BRANDS INC.**

<b><i>Jurisdiction of Incorporation/Formation:</i></b>	Ontario
<b><i>Registered Office:</i></b>	100 Delta Park Blvd., Brampton ON L6T 5E7
<b><i>Chief Executive Office:</i></b>	100 Delta Park Blvd., Brampton ON L6T 5E7
<b><i>Places of Business:</i></b>	100 Delta Park Blvd., Brampton ON L6T 5E7
<b><i>Locations of Records:</i></b>	100 Delta Park Blvd., Brampton ON L6T 5E7
<b><i>Locations of Tangible Collateral:</i></b>	100 Delta Park Blvd., Brampton ON L6T 5E7  8 Tracey Blvd., Unit 2, Brampton, Ontario L6T 5R9  145 Gruner Road, Cheektowaga, N.Y., 14227

**SCHEDULE 3.2**

**LIST OF INTELLECTUAL PROPERTY**

**OWNED BY EVERGREEN CONSUMER BRANDS INC.**

<b>ITEM #</b>	<b>DESCRIPTION*</b>	<b>REGISTRATION #</b>	<b>APPLICATION #</b>
1.			

**LICENSED TO EVERGREEN CONSUMER BRANDS INC.**

<b>ITEM #</b>	<b>LICENSOR</b>	<b>DESCRIPTION*</b>	<b>REGISTRATION #</b>	<b>APPLICATION #</b>
1.				

**LICENSED BY EVERGREEN CONSUMER BRANDS INC.**

<b>ITEM #</b>	<b>LICENSEE</b>	<b>DESCRIPTION*</b>	<b>REGISTRATION #</b>	<b>APPLICATION #</b>
1.				

**PLEASE SEE ATTACHED**

<b>TRADEMARK</b>	<b>OWNER</b>
EARTHSCENTS	EVERGREEN CONSUMER BRANDS, INC.
FRESHOLOGY	EVERGREEN CONSUMER BRANDS, INC.
INSPIRE	EVERGREEN CONSUMER BRANDS, INC.
LAVORIS & DESIGN	EVERGREEN CONSUMER BRANDS, INC.
SILKIENCE	EVERGREEN CONSUMER BRANDS, INC.
SILKIENCE REDLINE	EVERGREEN CONSUMER BRANDS, INC.
SPA HAÜS	EVERGREEN CONSUMER BRANDS, INC.
TAME	EVERGREEN CONSUMER BRANDS, INC.
LAVORIS	EVERGREEN CONSUMER BRANDS, INC.
SILKIENCE	EVERGREEN CONSUMER BRANDS, INC.
SAFE FOR PEOPLE, PETS & THE PLANET	EVERGREEN CONSUMER BRANDS, INC.

COUNTRY	STATUS	SER. NO.	DATE FILED	REG. NO.	REG. DATE
United States of America	Registered	85216866	13-Jan-11	4018755	30-Aug-11
United States of America	Pending	87767824	24-Jan-18		
United States of America	Pending	87764883	22-Jan-18		
United States of America	Pending	87666684	31-Oct-17		
United States of America	Pending	87347088	23-Feb-17		
United States of America	Pending	87764871	22-Jan-18		
United States of America	Pending	87666389	31-Oct-17		
United States of America	Pending	87764876	22-Jan-18		
Canada	Registered	330077	12-Feb-70	TMA175438	8-Apr-71
Canada	Registered	1372181	15-Nov-07	TMA766624	12-May-10

**IMAGE**

**GOODS AND SERVICES**



HOUSEHOLD CLEANING PREPARATIONS  
WHITENING PREPARATIONS; COSMETIC  
PREPARATIONS FOR THE CARE OF MOUTH AND TEETH  
CONDITIONERS AND SHAMPOOS; BODY WASH; BODY  
SPRAY

WHITENING PREPARATIONS; COSMETIC  
PREPARATIONS FOR THE CARE OF MOUTH AND TEETH  
HUMANS; HAIR AND BODY WASHES FOR HUMANS;  
NON-MEDICATED SKIN CARE PREPARATIONS  
WASHES FOR HUMANS; NON-MEDICATED SKIN CARE  
PREPARATIONS

HUMANS; HAIR AND BODY WASHES FOR HUMANS;  
NON-MEDICATED SKIN CARE PREPARATIONS;  
DRESSING, HAIR SPRAY, AND HAIR CONDITIONERS  
AND SHAMPOOS

Preparation for use as a mouthwash and gargle, and  
breath spray used as a breath fresher  
Hair and cosmetic products, namely, hair care  
preparations, shampoo, hair conditioners, hair spray,  
soaps, body wash, skin care preparations, hand and  
body lotions.

<u>Trademark</u>	<u>Country</u>	<u>Filing Date</u>	<u>Appn No.</u>	<u>Registration Date</u>	<u>Registration No.</u>	<u>Status</u>	<u>Comments</u>
SALON SELECTIVES	Argentina	March 26, 2014	3317245	April 13, 2015	2717641	Registered	RENEWAL: April 13, 2025
SALON SELECTIVES	Canada	October 14, 1986	570907	May 19, 1989	TMA355863	Registered	RENEWAL: May 19, 2019
SALON SELECTIVES	Canada	January 12, 1994	745073	February 12, 1997	TMA470868	Registered	RENEWAL: February 12, 2027
SALON SELECTIVES	Costa Rica	June 10, 2014	2014-0004877	November 7, 2014	239629	Registered	RENEWAL: November 7, 2024
SALON SELECTIVES	Ecuador	April 26, 2012	20527	April 24, 2013	3909-13	Registered	RENEWAL: April 24, 2023
SALON SELECTIVES	El Salvador	June 6, 2014	2014-0202312	February 18, 2016	73635	Registered	RENEWAL: February 18, 2026
SALON SELECTIVES	Honduras	June 5, 2014	2014-019884	June 5, 2014	130452	Registered	RENEWAL: June 5, 2024
SALON SELECTIVES	Israel	October 24, 2013	259977	July 2, 2015	259977	Registered	RENEWAL: October 24, 2023
SALON SELECTIVES	Jordan	March 19, 2014	140994	March 19, 2014	140994	Registered	RENEWAL: March 19, 2024
SALON SELECTIVES	Mexico	September 5, 2012	1306234	December 19, 2012	1340765	Registered	PROOF OF USE: July 22, 2019
SALON SELECTIVES	Nicaragua	June 18, 2014	2014-002213	December 17, 2014	2014107810 LM	Registered	RENEWAL: December 16, 2024
SALON SELECTIVES	Panama	February 25, 2014	229915-01	February 25, 2014	229915-01	Registered	RENEWAL: February 25, 2024
SALON SELECTIVES	Peru	April 23, 2012	490960	July 12, 2013	201526	Registered	RENEWAL: July 12, 2023
SALON SELECTIVES	UAE	May 15, 2014	211710	January 28, 2015	211710	Registered	RENEWAL: May 15, 2024
SALON SELECTIVES	U.S.	July 29, 2010	85096000	June 11, 2013	4350507	Registered	SECTION 8 - 6 YR DD: June 11, 2019
SALON SELECTIVES	U.S.	November 16, 1987	73695670	February 7, 1989	1523097	Registered	RENEWAL: February 7, 2019
SALON SELECTIVES	U.S.	January 28, 1987	73641581	March 8, 1988	1479244	Registered	FINAL DD TO RENEW: September 8, 2018
SALON SELECTIVES	U.S.	June 30, 1986	73607222	March 8, 1988	1479236	Registered	FINAL DD TO RENEW: September 8, 2018

SALON SELECTIVES & Design 	Canada	February 1, 2002	1130229	April 1, 2003	TMA578672	Registered	FINAL DD TO RENEW: October 1, 2018
SALONSELECTIVES & Design (colour) 	Canada	August 4, 2000	1069957	August 26, 2003	TMA588169	Registered	RENEWAL: August 26, 2018
SALONSELECTIVES GET IN SHAPE POUR LA FORME & Design  get in shape pour la forme	Canada	August 4, 2000	1069956	August 27, 2003	TMA588293	Registered	RENEWAL: August 27, 2018
SALON SELECTIVES COLOUR SHIELD & Design 	Canada	October 19, 1999	1032988	August 22, 2002	TMA566210	Registered	RENEWAL: August 22, 2032
SALONSELECTIVES	Canada	August 8, 2001	1112180	March 31, 2003	TMA578615	Registered	RENEWAL: September 30, 2018
SELECTIONS SALON	Canada	October 14, 1986	570908	May 26, 1989	TMA356464	Registered	RENEWAL: May 26, 2019
SELECTIONS SALON	Canada	February 2, 1994	746801	May 5, 1995	TMA442564	Registered	RENEWAL: May 5, 2025

SELECTIONS SALON COLOUR SHIELD & Design 	Canada	October 19, 1999	1032987	August 20, 2002	TMA566085	Registered	RENEWAL: August 20, 2032
GET IN SHAPE	Canada	June 19, 2000	1063869	July 18, 2003	TMA585594	Registered	RENEWAL: July 18, 2018
LIKE YOU JUST STEPPED OUT OF A SALON	U.S.	January 8, 2007	77078127	November 11, 2008	3531607	Registered	RENEWAL: November 11, 2018
<b>Trademark</b>	<b>Country</b>	<b>Filing Date</b>	<b>Application No.</b>	<b>Registration Date</b>	<b>Registration No.</b>	<b>Status</b>	<b>Next Deadline</b>
DAILY DEFENSE	Australia	March 20, 2014	1612658	March 20, 2014	1612658	Registered	RENEWAL: March 20, 2024
DAILY DEFENSE	Canada	April 17, 1997	842508	November 23, 2000	TMA537647	Registered	RENEWAL: November 23, 2030
DAILY DEFENSE	China	April 28, 2014	14469701	June 14, 2015	14469701	Registered	RENEWAL: June 13, 2025
DAILY DEFENSE	Egypt	May 18, 2014	302513			Pending	
DAILY DEFENSE	Europe	November 8, 2011	10399608	March 20, 2012	10399608	Registered	RENEWAL: November 8, 2021
DAILY DEFENSE	Mexico	April 25, 2012	1269198	May 30, 2014	1459716	Registered	PROOF OF USE: June 9, 2020
DAILY DEFENSE	Philippines	April 2, 2014	4-2014-004077	November 27, 2014	4-2014-004077	Registered	PROOF OF USE: November 27, 2019
DAILY DEFENSE	UAE	May 15, 2014	211711			Pending	
DAILY DEFENSE	Ukraine	October 20, 2014	M 2014 14829	November 10, 2016	218466	Registered	PROOF OF USE: November 10, 2021
DAILY DEFENSE	U.S.	August 1, 1996	75143709	February 23, 1999	2226528	Registered	RENEWAL: February 23, 2019

DAILY DEFENSE & Design 	Costa Rica	September 1, 2016	2016-0008527	January 13, 2017	258807	Registered	RENEWAL: January 13, 2027
DAILY DEFENSE & Design 	Colombia	June 1, 2017	SD2017/0040673			Pending	
DAILY DEFENSE & Design 	Canada	August 14, 1997	853667	November 23, 2000	TMA537576	Registered	RENEWAL: November 23, 2030
DEFENSE QUOTIDIENNE	Canada	September 11, 1997	855769	November 23, 2000	TMA537575	Registered	RENEWAL: November 23, 2030
DAILY DEFENSE NATURALS & Design 	Europe	November 24, 2011	10442507	April 11, 2012	10442507	Registered	RENEWAL: November 24, 2021
DAILY DEFENSE NATURALS & Design 	Europe	November 24, 2011	10442408	May 9, 2012	10442408	Registered	RENEWAL: November 24, 2021
HAIR LOVE	Canada	October 17, 2017	1863205			Pending	

**SCHEDULE 3.3**

**LIST OF SECURITIES AND SECURITIES ACCOUNTS**

**EVERGREEN CONSUMER BRANDS INC.**

*Securities:*

<b>Registered Owner</b>	<b>Issuer</b>	<b>Certificate Number</b>	<b>Description of Interest</b>	<b>% of Outstanding Interests</b>
None.				

*Security Entitlements:*

<b>Brokerage Firm</b>	<b>Securities Account No(s)</b>
None.	

**SCHEDULE 3.4**

**LIST OF BANK ACCOUNTS**

**EVERGREEN CONSUMER BRANDS INC.**

<b>Bank/Trust Company</b>	<b>Branch Address</b>	<b>Account No.</b>
Royal Bank of Canada	1181 Davis Drive East, Newmarket, ON L3Y 7V1, Canada	CDN A/c no. 1027648 Transit# 03322
Royal Bank of Canada	1181 Davis Drive East, Newmarket, ON L3Y 7V1, Canada	USD A/c no. 4005427 Transit# 03322
RBC Bank (Georgia)	N.A 8081 Arco Corporate Drive, Suite 400 Raleigh, NC 27617 U.S.A	USD A/c no. 501709435

**SCHEDULE 3.5**

**CHATTEL PAPER**

**EVERGREEN CONSUMER BRANDS INC.**

NONE.

## SCHEDULE 7.1

### FORM OF SUPPLEMENT FOR ADDITIONAL GRANTORS

**SUPPLEMENT** to the Security Agreement dated as of June <@>, 2018, among **EVERGREEN CONSUMER BRANDS INC.**, (the “**Borrower**”) and **NATIONAL BANK OF CANADA** (the “**Security Agreement**”).

Each word and expression (capitalized or not) defined or given an extended meaning in the Security Agreement, and not otherwise defined herein, is used in this Supplement with the respective defined or extended meaning assigned in the Security Agreement.

#### **BACKGROUND:**

Pursuant to a credit agreement dated June <@>, 2018 (as amended, supplemented, modified, amended and /or restated from time to time, the “**Credit Agreement**”) between the Borrower and the Lender, among other things, the Lender has agreed to extend certain Credit Facilities to the Borrower for the purposes outlined therein.

It is a condition of the Credit Agreement that the undersigned must, *inter alia*, become a party to the Security Agreement and grant first ranking Liens on all of its assets in favour of the Lender to secure the Secured Obligations, subject to and upon the terms and conditions set out therein.

Section 7.1 of the Security Agreement provides that each Subsidiary must become a Grantor under the Security Agreement by executing and delivering a Supplement to the Lender.

The undersigned is executing this Supplement, in accordance with the requirements of the Credit Agreement, to become a Grantor under the Security Agreement in order to satisfy the conditions of the Credit Agreement and to induce the Lender, as applicable, to continue to extend credit to the Borrower under the Credit Agreement.

**FOR VALUABLE CONSIDERATION** (the receipt and sufficiency of which are hereby acknowledged), the undersigned covenants, acknowledges, represents and warrants in favour of the Lender as follows:

1. **Agreement to be Bound by the Security Agreement.**

In accordance with Section 7.1 of the Security Agreement, the undersigned by its signature below becomes a Grantor under the Security Agreement with the same force and effect as if originally named therein as a Grantor, and agrees to all the terms and conditions of the Security Agreement applicable to it as a Grantor thereunder.

Each reference to an “Grantor” in the Security Agreement shall be deemed to include the undersigned. The Security Agreement is hereby incorporated herein by reference.

Without limiting the generality of the foregoing, the undersigned hereby grants, charges, mortgages, hypothecs, pledges and assigns and grants a security interest in all of its present and after-acquired real and personal property to and in favour of the Lender to the extent and in the manner contemplated by Section 2.1 of the Security Agreement. Attached hereto are supplements to Schedules 3.2, 3.3 and 3.4 of the Security Agreement pertaining to the undersigned.

2. **Representations and Warranties.**

The undersigned hereby makes the representations and warranties contained in Article 3 of the Security Agreement with references therein to each Grantor and the Security Agreement being construed respectively as to references to the undersigned and this Supplement and the Security Agreement as supplemented by this Supplement.

3. **Miscellaneous.**

3.1 Security Effective Immediately

Neither the issuance nor registration of, nor any filings with respect to, this Supplement, nor any partial advance or extension of credit by any of the Lender, shall bind the Lender to advance any amounts, grant any credit or supply any financial services to the Borrower or the undersigned, but the Security shall take effect forthwith upon the issuance of this Security Agreement by the undersigned.

3.2 Supplemental Instrument

Except as expressly supplemented hereby, the Security Agreement shall remain in full force and effect. The Security Agreement, as supplemented by this Supplement, shall constitute a single agreement.

3.3 Governing Law

This Supplement shall be governed by, and construed and interpreted in accordance with, the laws in force in the Province of Ontario, including the federal laws of Canada applicable therein, but excluding choice of law rules. The undersigned irrevocably attorns to and submits to the non-exclusive jurisdiction of the courts of the Province of Ontario located at Toronto with respect to any matter arising hereunder or related hereto. Such choice of law shall, however, be without prejudice to or limitation of any other rights available to the Lender under the laws of any other jurisdiction where Collateral may be located.

3.4 Invalidity

If any provision of this Supplement is found to be invalid or unenforceable, by a final judgment of a court of competent jurisdiction, to the fullest extent permitted by applicable law, (a) in such jurisdiction that provision shall be deemed to be severed herefrom and the remaining provisions of this Supplement shall not be affected thereby but shall remain valid and enforceable and (b) such invalidity or unenforceability shall

not affect the validity or enforceability of such provision in any other jurisdiction. The undersigned shall, at the request of the Lender, negotiate in good faith with the Lender to replace any invalid or unenforceable provision contained in this Supplement with a valid and enforceable provision that has the commercial effect as close as possible to that of the invalid or unenforceable provisions, to the extent permitted by applicable law.

### 3.5 Notices

Any notice, demand, consent, approval or other communication to be made or given under or in connection with this Supplement shall be given care of the address, facsimile number or email address, as applicable, of the Initial Grantors specified in Section 14.8 of the Credit Agreement, and shall take effect in the manner provided for therein.

### 3.6 Costs and Expenses

Each Grantor shall within five (5) days of demand pay to the Lender the amount of all reasonable out-of-pocket fees, costs and expenses incurred and disbursements made by the Lender or any Receiver (including the reasonable fees and out-of-pocket expenses of the Lender's Counsel and those of accountants, experts, consultants and other representatives retained by the Lender or any Receiver) in connection with each of (i) the preparation, negotiation, settlement, execution, delivery, entry into effect and administration of each Loan Document and/or the satisfaction of any conditions or obligations specified in Article 9 of the Credit Agreement, (ii) post-closing costs, (iii) each change to each Loan Document and (iv) the interpretation, defence, establishment, preservation, protection or enforcement of rights of the Lender under each Secured Document therein.

**IN WITNESS WHEREOF**, the undersigned has duly executed this Supplement to the Security Agreement as of the day and year first above written.

Address: **[Name of Grantor]**

Attention:  
Email:  
Telecopier:

By: \_\_\_\_\_  
Name:  
Title:

This is **Exhibit “D”**, referred to in the

Affidavit of Sonia de Lorenzi,  
sworn before me

this 10th day of February, 2020.



---

A Commissioner for taking Affidavits, etc.

Roxana Gabriela Manea, a Commissioner, etc.,  
Province of Ontario, for  
Thornton Groat Finnigan LLP,  
Barristers and Solicitors.  
Expires June 5, 2021.

PROVINCE OF ONTARIO  
MINISTRY OF GOVERNMENT SERVICES  
PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM  
ENQUIRY RESPONSE  
CERTIFICATE

REPORT : PSSR060  
PAGE : 1  
( 8850 )

RUN NUMBER : 013  
RUN DATE : 2020/01/13  
ID : 20200113100530.57

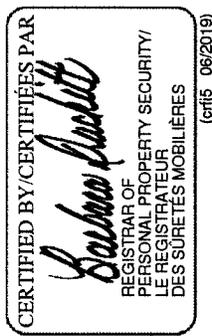
THIS IS TO CERTIFY THAT A SEARCH HAS BEEN MADE IN THE RECORDS OF THE CENTRAL OFFICE OF THE PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM IN RESPECT OF THE FOLLOWING:

TYPE OF SEARCH : BUSINESS DEBTOR  
SEARCH CONDUCTED ON : EVERGREEN CONSUMER BRANDS INC.  
FILE CURRENCY : 12JAN 2020

ENQUIRY NUMBER 20200113100530.57 CONTAINS 25 PAGE(S), 9 FAMILY(IES).

THE SEARCH RESULTS MAY INDICATE THAT THERE ARE SOME REGISTRATIONS WHICH SET OUT A BUSINESS DEBTOR NAME WHICH IS SIMILAR TO THE NAME IN WHICH YOUR ENQUIRY WAS MADE. IF YOU DETERMINE THAT THERE ARE OTHER SIMILAR BUSINESS DEBTOR NAMES, YOU MAY REQUEST THAT ADDITIONAL ENQUIRIES BE MADE AGAINST THOSE NAMES.

THORNTON GROUT FINNIGAN LLP - ROXANA MANEA  
3200-100 WELLINGTON STREET WEST  
TORONTO ON M5K 1K7



CONTINUED . . .



TYPE OF SEARCH : BUSINESS DEBTOR  
 SEARCH CONDUCTED ON : EVERGREEN CONSUMER BRANDS INC.  
 FILE CURRENCY : 12JAN 2020

FORM 1C FINANCING STATEMENT / CLAIM FOR LIEN

00 FILE NUMBER 759126789

01 CAUTION FILING NO. OF PAGES TOTAL MOTOR VEHICLE SCHEDULE REGISTRATION NUMBER REGISTERED UNDER REGISTRATION PERIOD  
 001 1 20200107 1613 1901 5432 P PPSA 01

02 DEBTOR DATE OF BIRTH FIRST GIVEN NAME INITIAL SURNAME  
 03 NAME BUSINESS NAME EVERGREEN CONSUMER BRANDS  
 04 ADDRESS 100 DELTA PARK BLVD BRAMPTON ONTARIO CORPORATION NO. L6T 5E7

05 DEBTOR DATE OF BIRTH FIRST GIVEN NAME INITIAL SURNAME  
 06 NAME BUSINESS NAME  
 07 ADDRESS ONTARIO CORPORATION NO.

08 SECURED PARTY / LIEN CLAIMANT CANPACO INC.  
 09 ADDRESS 7901 HUNTINGTON ROAD WOODBRIDGE ON L4H 0S9

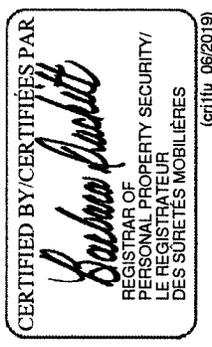
10 COLLATERAL CLASSIFICATION CONSUMER MOTOR VEHICLE AMOUNT DATE OF MATURITY OR MATURITY DATE  
 GOODS INVENTORY EQUIPMENT ACCOUNTS OTHER INCLUDED 3500 NO FIXED

11 YEAR MAKE MODEL V.I.N.

12 MOTOR VEHICLE  
 13 GENERAL 1. EAGLE T100 CARTON SEALER MODEL # T100, S/N FC117303  
 14 COLLATERAL  
 15 DESCRIPTION

16 REGISTERING AGENT ADDRESS  
 17

\*\*\* FOR FURTHER INFORMATION, CONTACT THE SECURED PARTY. \*\*\*  
 CONTINUED... 3



PROVINCE OF ONTARIO  
MINISTRY OF GOVERNMENT SERVICES  
PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM  
ENQUIRY RESPONSE  
CERTIFICATE

RUN NUMBER : 013  
RUN DATE : 2020/01/13  
ID : 20200113100530.57

TYPE OF SEARCH : BUSINESS DEBTOR  
SEARCH CONDUCTED ON : EVERGREEN CONSUMER BRANDS INC.  
FILE CURRENCY : 12JAN 2020

FORM 1C FINANCING STATEMENT / CLAIM FOR LIEN

00 FILE NUMBER 759126951  
01 CAUTION FILING NO. OF PAGES 001 1  
TOTAL MOTOR VEHICLE REGISTRATION REGISTERED REGISTRATION  
PAGES SCHEDULE NUMBER UNDER PERIOD  
20200107 1617 1901 5434 P PPSA 01

02 DEBTOR DATE OF BIRTH FIRST GIVEN NAME INITIAL SURNAME ONTARIO CORPORATION NO.  
03 NAME BUSINESS NAME EVERGREEN CONSUMER BRANDS BRAMPTON ON L6T 5E7  
04 ADDRESS 100 DELTA PARK BLVD

05 DEBTOR DATE OF BIRTH FIRST GIVEN NAME INITIAL SURNAME ONTARIO CORPORATION NO.  
06 NAME BUSINESS NAME CANPACO INC. ON L6T 5E7  
07 ADDRESS 7901 HUNTINGTON ROAD

08 SECURED PARTY / LIEEN CLAIMANT CANPACO INC.  
09 ADDRESS 7901 HUNTINGTON ROAD WOODBRIDGE ON L6T 5E7

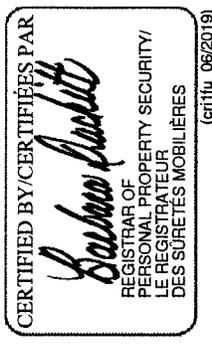
10 COLLATERAL CLASSIFICATION CONSUMER MOTOR VEHICLE AMOUNT DATE OF NO FIXED  
GOODS INVENTORY EQUIPMENT ACCOUNTS OTHER INCLUDED MATURITY OR Maturity DATE  
X 4500

11 MOTOR YEAR MAKE MODEL V.I.N.  
12 VEHICLE

13 GENERAL ARPAR STRETCH WRAPPER MODEL # PRO-4002-H, S/N 11940  
14 COLLATERAL DESCRIPTION  
15

16 REGISTERING ADDRESS  
17 AGENT

\*\*\* FOR FURTHER INFORMATION, CONTACT THE SECURED PARTY. \*\*\*  
CONTINUED . . .



PROVINCE OF ONTARIO  
MINISTRY OF GOVERNMENT SERVICES  
PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM  
ENQUIRY RESPONSE  
CERTIFICATE

RUN NUMBER : 013  
RUN DATE : 2020/01/13  
ID : 20200113100530.57

TYPE OF SEARCH : BUSINESS DEBTOR  
SEARCH CONDUCTED ON : EVERGREEN CONSUMER BRANDS INC.  
FILE CURRENCY : 12JAN 2020

FORM 1C FINANCING STATEMENT / CLAIM FOR LIEN

00 FILE NUMBER 759127005  
01 CAUTION PAGE NO. OF PAGES TOTAL MOTOR VEHICLE REGISTRATION NUMBER REGISTERED UNDER PERIOD REGISTRATION PERIOD  
001 1 20200107 1622 1901 5436 P PPSA 01

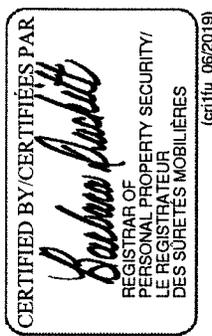
02 DEBTOR DATE OF BIRTH FIRST GIVEN NAME INITIAL SURNAME  
03 NAME BUSINESS NAME EVERGREEN CONSUMER BRANDS  
04 ADDRESS 100 DELTA PARK BLVD BRAMPTON ONTARIO CORPORATION NO. ON L6T 5E7

05 DEBTOR DATE OF BIRTH FIRST GIVEN NAME INITIAL SURNAME  
06 NAME BUSINESS NAME  
07 ADDRESS CANPACO INC. ONTARIO CORPORATION NO.  
08 SECURED PARTY / 7901 HUNTINGTON ROAD WOODBRIDGE ON L4H 0S9  
09 LIEN CLAIMANT

10 COLLATERAL CLASSIFICATION CONSUMER MOTOR VEHICLE AMOUNT DATE OF MATURITY OR MATURITY DATE NO. FIXED  
GOODS INVENTORY EQUIPMENT ACCOUNTS OTHER INCLUDED 4500  
X

11 YEAR MAKE MODEL V.I.N.  
12 MOTOR VEHICLE  
13 GENERAL ARPARC STRETCG WRAPPER MODEL # PAT-4002-H, S/N 12944  
14 COLLATERAL DESCRIPTION  
15 REGISTERING AGENT CANPACO INC. 7901 HUNTINGTON ROAD WOODBRIDGE ON L4H 0S9

16 \*\*\* FOR FURTHER INFORMATION, CONTACT THE SECURED PARTY. \*\*\*  
17 CONTINUED... 5



PROVINCE OF ONTARIO  
MINISTRY OF GOVERNMENT SERVICES  
PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM  
ENQUIRY RESPONSE  
CERTIFICATE

RUN NUMBER : 013  
RUN DATE : 2020/01/13  
ID : 20200113100530.57

TYPE OF SEARCH : BUSINESS DEBTOR  
SEARCH CONDUCTED ON : EVERGREEN CONSUMER BRANDS INC.  
FILE CURRENCY : 12JAN 2020

FORM 1C FINANCING STATEMENT / CLAIM FOR LIEN

00 FILE NUMBER 755406648  
01 CAUTION PAGE TOTAL MOTOR VEHICLE REGISTRATION REGISTERED REGISTRATION  
FILING NO. OF PAGES SCHEDULE NUMBER UNDER PERIOD  
001 1 20190912 1558 2836 0293 P PPSA 02

02 DEBTOR DATE OF BIRTH FIRST GIVEN NAME INITIAL SURNAME  
03 NAME BUSINESS NAME EVERGREEN CONSUMER BRANDS LTD BRAMPTON ONTARIO CORPORATION NO.  
04 ADDRESS 100 DELTA PARK BLVD BRAMPTON ON L6T 5E7

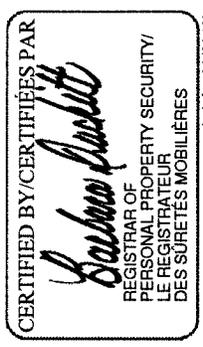
05 DEBTOR DATE OF BIRTH FIRST GIVEN NAME INITIAL SURNAME  
06 NAME BUSINESS NAME ONTARIO CORPORATION NO.  
07 ADDRESS ONTARIO CORPORATION NO.

08 SECURED PARTY / YALE INDUSTRIAL TRUCKS INC.  
09 LIEN CLAIMANT ADDRESS 340 HANLAN ROAD WOODBRIDGE ON L4L 3P6

10 COLLATERAL CLASSIFICATION CONSUMER MOTOR VEHICLE AMOUNT DATE OF NO FIXED  
GOODS INVENTORY EQUIPMENT ACCOUNTS OTHER INCLUDED MATURITY OR MATURITY DATE  
MODEL GLC030VXXNUSE082/187 V.I.N. CB09V06533K

11 MOTOR YEAR MAKE 2012 YALE  
12 VEHICLE  
13 GENERAL  
14 COLLATERAL  
15 DESCRIPTION  
16 REGISTERING  
17 AGENT

\*\*\* FOR FURTHER INFORMATION, CONTACT THE SECURED PARTY. \*\*\*  
CONTINUED... 6



RUN NUMBER : 013  
RUN DATE : 2020/01/13  
ID : 20200113100530.57

PROVINCE OF ONTARIO  
MINISTRY OF GOVERNMENT SERVICES  
PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM  
ENQUIRY RESPONSE  
CERTIFICATE

REPORT : PSSR060  
PAGE : 6  
( 8855)

TYPE OF SEARCH : BUSINESS DEBTOR  
SEARCH CONDUCTED ON : EVERGREEN CONSUMER BRANDS INC.  
FILE CURRENCY : 12JAN 2020

FORM 1C FINANCING STATEMENT / CLAIM FOR LIEN \*\* THIS REGISTRATION HAS BEEN DISCHARGED \*\*

00 FILE NUMBER 751525857  
01 CAUTION FILING NO. OF PAGES TOTAL MOTOR VEHICLE REGISTRATION NUMBER REGISTERED UNDER REGISTRATION PERIOD  
001 1 20190524 0903 1901 7314 P PPSA 01

02 DEBTOR DATE OF BIRTH FIRST GIVEN NAME INITIAL SURNAME ONTARIO CORPORATION NO.  
03 NAME BUSINESS NAME EVERGREEN CONSUMER BRAND 100 DELTA PARK BLVD, UNIT# 1 BRAMPTON ON L6T 5E7

04 ADDRESS 100 DELTA PARK BLVD, UNIT# 1 BRAMPTON  
05 DEBTOR DATE OF BIRTH FIRST GIVEN NAME INITIAL SURNAME ONTARIO CORPORATION NO.  
06 NAME BUSINESS NAME  
07 ADDRESS CANPACO INC 7901 HUNTINGTON ROAD WOODBRIDGE ON L4H 0S9

08 SECURED PARTY / LIEN CLAIMANT  
09 ADDRESS 7901 HUNTINGTON ROAD WOODBRIDGE ON L4H 0S9

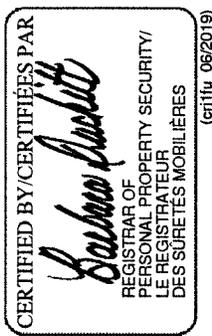
10 COLLATERAL CLASSIFICATION CONSUMER MOTOR VEHICLE AMOUNT DATE OF MATURITY OR NO FIXED Maturity Date  
GOODS INVENTORY EQUIPMENT ACCOUNTS OTHER INCLUDED 3500

11 MOTOR YEAR MAKE MODEL V.I.N.  
12 VEHICLE

13 GENERAL EAGLE T100 CARTON SEALER SN# FC1175009  
14 COLLATERAL DESCRIPTION

15 REGISTERING AGENT ADDRESS  
16 REGISTERING AGENT ADDRESS  
17

\*\*\* FOR FURTHER INFORMATION, CONTACT THE SECURED PARTY. \*\*\*  
CONTINUED . . . . . 7



PROVINCE OF ONTARIO  
MINISTRY OF GOVERNMENT SERVICES  
PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM  
ENQUIRY RESPONSE  
CERTIFICATE

RUN NUMBER : 013  
RUN DATE : 2020/01/13  
ID : 20200113100530.57

TYPE OF SEARCH : BUSINESS DEBTOR  
SEARCH CONDUCTED ON : EVERGREEN CONSUMER BRANDS INC.  
FILE CURRENCY : 12JAN 2020

FORM 2C FINANCING CHANGE STATEMENT / CHANGE STATEMENT

CAUTION PAGE TOTAL MOTOR VEHICLE REGISTRATION REGISTERED  
FILING NO. OF PAGES SCHEDULE NUMBER UNDER  
001 1 20191230 1102 1793 5154

RECORD FILE NUMBER 751525857 RENEWAL CORRECT PERIOD  
PAGE AMENDED NO SPECIFIC PAGE AMENDED CHANGE REQUIRED YEARS  
C DISCHARGE INITIAL SURNAME

REFERENCE FIRST GIVEN NAME EVERGREEN CONSUMER BRAND  
DEBTOR/ BUSINESS NAME TRANSFEROR

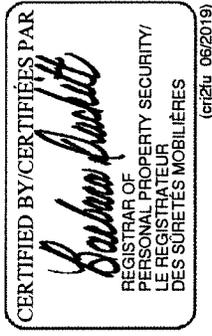
OTHER CHANGE  
REASON/  
DESCRIPTION  
DATE OF BIRTH FIRST GIVEN NAME INITIAL SURNAME  
BUSINESS NAME BUSINESS NAME  
ADDRESS

ONTARIO CORPORATION NO.

ASSIGNOR SECURED PARTY/ LIEN CLAIMANT/ ASSIGNEE  
ADDRESS  
MOTOR VEHICLE DATE OF NO FIXED  
GOODS INVENTORY EQUIPMENT ACCOUNTS OTHER INCLUDED AMOUNT MATURITY OR MATURITY DATE  
YEAR MAKE MODEL V.I.N.

MOTOR VEHICLE CANPACO INC WOODBRIDGE ON L4H0S9  
GENERAL 7901 HUNTINGTON ROAD  
COLLATERAL REGISTERING AGENT OR  
DESCRIPTION SECURED PARTY/ ADDRESS  
LIEN CLAIMANT

\*\*\* FOR FURTHER INFORMATION, CONTACT THE SECURED PARTY. \*\*\*  
CONTINUED...



PROVINCE OF ONTARIO  
MINISTRY OF GOVERNMENT SERVICES  
PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM  
ENQUIRY RESPONSE  
CERTIFICATE

RUN NUMBER : 013  
RUN DATE : 2020/01/13  
ID : 20200113100530.57

TYPE OF SEARCH : BUSINESS DEBTOR  
SEARCH CONDUCTED ON : EVERGREEN CONSUMER BRANDS INC.  
FILE CURRENCY : 12JAN 2020

FORM 1C FINANCING STATEMENT / CLAIM FOR LIEN

00 FILE NUMBER  
746188335

01 CAUTION FILING NO. OF PAGES TOTAL MOTOR VEHICLE SCHEDULE REGISTRATION NUMBER REGISTERED UNDER PERIOD  
01 006 20181126 1035 8077 2544 P PPSA 10

02 DEBTOR DATE OF BIRTH FIRST GIVEN NAME INITIAL SURNAME ONTARIO CORPORATION NO.  
03 NAME BUSINESS NAME EVERGREEN CONSUMER BRANDS INC. BRAMPTON ON L6T 5E7  
04 ADDRESS UNIT 1 - 100 DELTA PARK BLVD.

05 DEBTOR DATE OF BIRTH FIRST GIVEN NAME INITIAL SURNAME ONTARIO CORPORATION NO.  
06 NAME BUSINESS NAME ONTARIO CORPORATION NO.  
07 ADDRESS

08 SECURED PARTY / ROYAL BANK OF CANADA  
09 LIEN CLAIMANT ADDRESS 300-5575 NORTH SERVICE RD BURLINGTON ON L7L 6M1

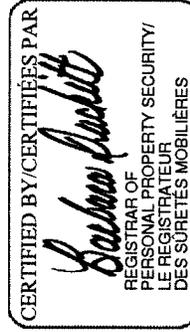
10 COLLATERAL CLASSIFICATION  
CONSUMER MOTOR VEHICLE AMOUNT DATE OF NO FIXED  
GOODS INVENTORY EQUIPMENT ACCOUNTS OTHER INCLUDED MATURITY OR MATURITY DATE  
X X X X X

11 YEAR MAKE MODEL V.I.N.  
12 MOTOR VEHICLE

13 GENERAL AS PER MASTER LEASE AGREEMENT DATED DECEMBER 3, 2008 BETWEEN  
14 COLLATERAL THE SECURED PARTY AND EVERGREEN CONSUMER BRANDS, ULC (A PREDECESSOR  
15 DESCRIPTION OF THE DEBTOR) AS SUCH AGREEMENT MAY BE AMENDED, RESTATED OR

16 REGISTERING REGISTRY = RECOVERY INC.  
17 AGENT ADDRESS 1551 THE QUEENSWAY TORONTO ON M8Z 1T5

\*\*\* FOR FURTHER INFORMATION, CONTACT THE SECURED PARTY. \*\*\*  
CONTINUED... 9



PROVINCE OF ONTARIO  
MINISTRY OF GOVERNMENT SERVICES  
PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM  
ENQUIRY RESPONSE  
CERTIFICATE

RUN NUMBER : 013  
RUN DATE : 2020/01/13  
ID : 20200113100530.57

TYPE OF SEARCH : BUSINESS DEBTOR  
SEARCH CONDUCTED ON : EVERGREEN CONSUMER BRANDS INC.  
FILE CURRENCY : 12JAN 2020

FORM 1C FINANCING STATEMENT / CLAIM FOR LIEN

00 FILE NUMBER 746188335  
01 CAUTION PAGE TOTAL MOTOR VEHICLE REGISTRATION REGISTERED REGISTRATION  
FILING NO. OF PAGES SCHEDULE NUMBER UNDER PERIOD  
02 02 006 20181126 1035 8077 2544

02 DEBTOR DATE OF BIRTH FIRST GIVEN NAME INITIAL SURNAME ONTARIO CORPORATION NO.  
03 NAME BUSINESS NAME ADDRESS  
04 ADDRESS

05 DEBTOR DATE OF BIRTH FIRST GIVEN NAME INITIAL SURNAME ONTARIO CORPORATION NO.  
06 NAME BUSINESS NAME ADDRESS  
07 ADDRESS

08 SECURED PARTY / LIEN CLAIMANT ADDRESS  
09 ADDRESS

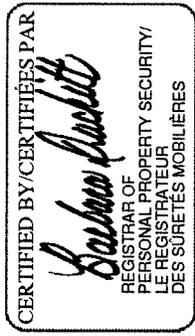
10 COLLATERAL CLASSIFICATION CONSUMER MOTOR VEHICLE AMOUNT DATE OF NO FIXED  
GOODS INVENTORY EQUIPMENT ACCOUNTS OTHER INCLUDED MATURITY OR MATURITY DATE

11 YEAR MAKE MODEL V.I.N.  
12 MOTOR VEHICLE

13 GENERAL REPLACED.) TOGETHER WITH ALL INVENTORY AND EQUIPMENT NOW OR HEREAFTER  
14 COLLATERAL ACQUIRED BY THE DEBTOR AND FINANCED BY THE SECURED PARTY TOGETHER  
15 DESCRIPTION WITH ALL ATTACHMENTS, ACCESSORIES, ACCESSIONS, REPLACEMENTS,

16 REGISTERING AGENT ADDRESS  
17 ADDRESS

\*\*\* FOR FURTHER INFORMATION, CONTACT THE SECURED PARTY. \*\*\*  
CONTINUED... 10



PROVINCE OF ONTARIO  
MINISTRY OF GOVERNMENT SERVICES  
PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM  
ENQUIRY RESPONSE  
CERTIFICATE

RUN NUMBER : 013  
RUN DATE : 2020/01/13  
ID : 20200113100530.57

TYPE OF SEARCH : BUSINESS DEBTOR  
SEARCH CONDUCTED ON : EVERGREEN CONSUMER BRANDS INC.  
FILE CURRENCY : 12JAN 2020

FORM 1C FINANCING STATEMENT / CLAIM FOR LIEN

00 FILE NUMBER 746188335

01 CAUTION FILING PAGE NO. OF PAGES TOTAL MOTOR VEHICLE SCHEDULE REGISTRATION NUMBER REGISTERED UNDER REGISTRATION PERIOD  
03 006 20181126 1035 8077 2544

02 DEBTOR DATE OF BIRTH FIRST GIVEN NAME INITIAL SURNAME ONTARIO CORPORATION NO.  
03 BUSINESS NAME ADDRESS

04 BUSINESS NAME ADDRESS ONTARIO CORPORATION NO.

05 DEBTOR DATE OF BIRTH FIRST GIVEN NAME INITIAL SURNAME ONTARIO CORPORATION NO.  
06 BUSINESS NAME ADDRESS

07 SECURED PARTY / LIEN CLAIMANT ADDRESS ONTARIO CORPORATION NO.

10 COLLATERAL CLASSIFICATION CONSUMER MOTOR VEHICLE AMOUNT DATE OF MATURITY OR NO FIXED Maturity DATE  
GOODS INVENTORY EQUIPMENT ACCOUNTS OTHER INCLUDED

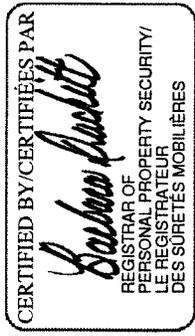
11 MOTOR YEAR MAKE MODEL V.I.N.

12 VEHICLE

13 GENERAL SUBSTITUTIONS, ADDITIONS AND IMPROVEMENTS THERETO, AND ALL PROCEEDS  
14 COLLATERAL IN ANY FORM DERIVED DIRECTLY OR INDIRECTLY FROM ANY DEALING WITH THE  
15 DESCRIPTION COLLATERAL OR PROCEEDS THEREOF, AND WITHOUT LIMITATION, MONEY,

16 REGISTERING ADDRESS  
17 AGENT ADDRESS

\*\*\* FOR FURTHER INFORMATION, CONTACT THE SECURED PARTY. \*\*\*



(c) 1996 06/2019



PROVINCE OF ONTARIO  
 MINISTRY OF GOVERNMENT SERVICES  
 PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM  
 ENQUIRY RESPONSE  
 CERTIFICATE

REPORT : PSSR060  
 PAGE : 11  
 ( 8860)

RUN NUMBER : 013  
 RUN DATE : 2020/01/13  
 ID : 20200113100530.57

TYPE OF SEARCH : BUSINESS DEBTOR  
 SEARCH CONDUCTED ON : EVERGREEN CONSUMER BRANDS INC.  
 FILE CURRENCY : 12JAN 2020

FORM 1C FINANCING STATEMENT / CLAIM FOR LIEN

00 FILE NUMBER 746188335

01 CAUTION FILING PAGE NO. OF TOTAL PAGES MOTOR VEHICLE SCHEDULE REGISTRATION NUMBER REGISTERED UNDER REGISTRATION PERIOD  
 04 006 20181126 1035 8077 2544

02 DEBTOR DATE OF BIRTH FIRST GIVEN NAME INITIAL SURNAME ONTARIO CORPORATION NO.  
 03 NAME BUSINESS NAME ADDRESS

04

05 DEPTOR DATE OF BIRTH FIRST GIVEN NAME INITIAL SURNAME ONTARIO CORPORATION NO.  
 06 NAME BUSINESS NAME ADDRESS

07

08 SECURED PARTY / LIEN CLAIMANT ADDRESS

09

10 COLLATERAL CLASSIFICATION CONSUMER MOTOR VEHICLE AMOUNT DATE OF MATURITY OR NO FIXED Maturity Date  
 GOODS INVENTORY EQUIPMENT ACCOUNTS OTHER INCLUDED MATURITY OR Maturity Date

11 YEAR MAKE MODEL V.I.N.

12

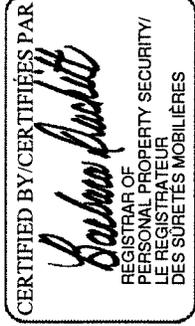
13 GENERAL DESCRIPTION CHEQUES, DEPOSITS IN DEPOSIT-TAKING INSTITUTIONS, GOODS, ACCOUNTS RECEIVABLE, RENTS OR OTHER PAYMENTS ARISING FROM THE LEASE OF THE COLLATERAL, CHATTEL PAPER, INSTRUMENTS, INTANGIBLES, DOCUMENTS OF

14

15

16 REGISTERING AGENT ADDRESS \*\*\* FOR FURTHER INFORMATION, CONTACT THE SECURED PARTY. \*\*\*

17



(en français 06/2019)



TYPE OF SEARCH : BUSINESS DEBTOR  
 SEARCH CONDUCTED ON : EVERGREEN CONSUMER BRANDS INC.  
 FILE CURRENCY : 12JAN 2020

FORM 1C FINANCING STATEMENT / CLAIM FOR LIEN

FILE NUMBER : 746188335  
 CAUTION FILING : 05  
 PAGE NO. OF PAGES : 05  
 TOTAL OF PAGES : 006  
 MOTOR VEHICLE SCHEDULE : 20181126 1035 8077 2544  
 REGISTERED UNDER :  
 REGISTRATION NUMBER :  
 REGISTRATION PERIOD :

DEBTOR NAME :  
 DATE OF BIRTH :  
 BUSINESS NAME :  
 ADDRESS :  
 FIRST GIVEN NAME :  
 INITIAL :  
 SURNAME :  
 ONTARIO CORPORATION NO. :

DEBTOR NAME :  
 DATE OF BIRTH :  
 BUSINESS NAME :  
 ADDRESS :  
 FIRST GIVEN NAME :  
 INITIAL :  
 SURNAME :  
 ONTARIO CORPORATION NO. :

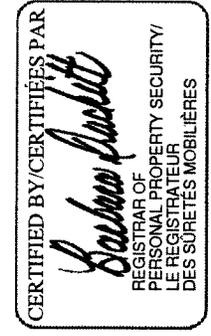
SECURED PARTY / LIEN CLAIMANT :  
 ADDRESS :  
 COLLATERAL CLASSIFICATION :  
 CONSUMER :  
 GOODS :  
 INVENTORY :  
 EQUIPMENT :  
 ACCOUNTS OTHER :  
 INCLUDED :  
 MOTOR VEHICLE :  
 AMOUNT :  
 DATE OF MATURITY OR :  
 NO FIXED MATURITY DATE :

YEAR MAKE :  
 MOTOR VEHICLE :  
 MODEL :  
 V.I.N. :

GENERAL COLLATERAL DESCRIPTION :  
 TITLE, SECURITIES, AND RIGHTS OF INSURANCE PAYMENTS OR ANY OTHER PAYMENTS AS INDEMNITY OR COMPENSATION FOR LOSS OR DAMAGE TO THE COLLATERAL OR PROCEEDS OF THE COLLATERAL.

REGISTERING AGENT :  
 ADDRESS :

\*\*\* FOR FURTHER INFORMATION, CONTACT THE SECURED PARTY. \*\*\*



PROVINCE OF ONTARIO  
MINISTRY OF GOVERNMENT SERVICES  
PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM  
ENQUIRY RESPONSE  
CERTIFICATE

RUN NUMBER : 013  
RUN DATE : 2020/01/13  
ID : 20200113100530.57

TYPE OF SEARCH : BUSINESS DEBTOR  
SEARCH CONDUCTED ON : EVERGREEN CONSUMER BRANDS INC.  
FILE CURRENCY : 12JAN 2020

FORM 1C FINANCING STATEMENT / CLAIM FOR LIEN

00 FILE NUMBER 746188335  
01 CAUTION PAGE NO. OF PAGES 06 006  
MOTOR VEHICLE REGISTRATION NUMBER 20181126 1035 8077 2544  
REGISTRATION PERIOD  
REGISTERED UNDER

02 DEBTOR NAME  
03 BUSINESS NAME  
04 ADDRESS  
DATE OF BIRTH  
FIRST GIVEN NAME  
INITIAL SURNAME  
ONTARIO CORPORATION NO.  
DEBTOR NAME  
05 BUSINESS NAME  
06 ADDRESS  
DATE OF BIRTH  
FIRST GIVEN NAME  
INITIAL SURNAME  
ONTARIO CORPORATION NO.

08 SECURED PARTY / LIEN CLAIMANT  
09 ADDRESS

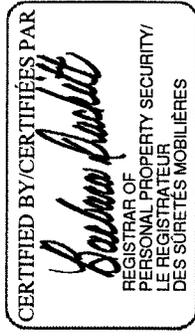
10 COLLATERAL CLASSIFICATION  
CONSUMER  
GOODS INVENTORY EQUIPMENT ACCOUNTS OTHER INCLUDED MOTOR VEHICLE AMOUNT DATE OF MATURITY OR MATURITY DATE NO FIXED

11 YEAR MAKE  
12 MODEL V.I.N.

13 GENERAL COLLATERAL DESCRIPTION

16 REGISTERING AGENT  
17 ADDRESS

\*\*\* FOR FURTHER INFORMATION, CONTACT THE SECURED PARTY. \*\*\*  
CONTINUED... 14





TYPE OF SEARCH : BUSINESS DEBTOR  
 SEARCH CONDUCTED ON : EVERGREEN CONSUMER BRANDS INC.  
 FILE CURRENCY : 12JAN 2020

FORM 1C FINANCING STATEMENT / CLAIM FOR LIEN

00 FILE NUMBER 722629107

01 CAUTION FILING PAGE NO. OF PAGES TOTAL MOTOR VEHICLE SCHEDULE REGISTRATION NUMBER REGISTERED UNDER REGISTRATION PERIOD  
 001 002 20161118 1127 1862 0924 P PPSA 5

02 DEBTOR DATE OF BIRTH FIRST GIVEN NAME INITIAL SURNAME  
 03 NAME BUSINESS NAME 2516150 ONTARIO INC.  
 04 ADDRESS 100 DELTA PARK BLVD. BRAMPTON ONTARIO CORPORATION NO. L6T 5E7

05 DEBTOR DATE OF BIRTH FIRST GIVEN NAME INITIAL SURNAME  
 06 NAME BUSINESS NAME EVERGREEN CONSUMER BRANDS INC.  
 07 ADDRESS 100 DELTA PARK BLVD. BRAMPTON ONTARIO CORPORATION NO. L6T 5E7

08 SECURED PARTY / LIEN CLAIMANT FWCU CAPITAL CORP.  
 09 ADDRESS 6470 - 201 STREET LANGLEY BC V2Y 2X4

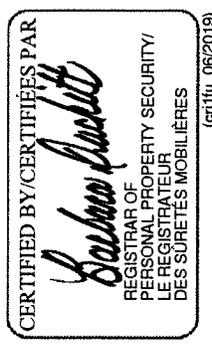
10 COLLATERAL CLASSIFICATION CONSUMER  
 GOODS INVENTORY EQUIPMENT ACCOUNTS OTHER INCLUDED MOTOR VEHICLE AMOUNT DATE OF MATURITY OR MATURITY DATE NO FIXED

11 MOTOR YEAR MAKE MODEL V.I.N.  
 12 VEHICLE

13 GENERAL ALL OF THE PRESENT AND AFTER-ACQUIRED PERSONAL PROPERTY OF EACH OF  
 14 COLLATERAL THE DEBTORS.  
 15 DESCRIPTION

16 REGISTERING AGENT MILLER THOMSON LLP (AG/CA)  
 17 ADDRESS ROBSON COURT, 1000-840 HOWE STREET VANCOUVER BC V6Z 2M1

\*\*\* FOR FURTHER INFORMATION, CONTACT THE SECURED PARTY. \*\*\*  
 CONTINUED... 16



TYPE OF SEARCH : BUSINESS DEBTOR  
 SEARCH CONDUCTED ON : EVERGREEN CONSUMER BRANDS INC.  
 FILE CURRENCY : 12JAN 2020

FORM 1C FINANCING STATEMENT / CLAIM FOR LIEN

00 FILE NUMBER 722629107

01 CAUTION FILING PAGE NO. OF PAGES TOTAL MOTOR VEHICLE REGISTRATION NUMBER REGISTERED UNDER REGISTRATION PERIOD  
 002 002 002 20161118 1127 1862 0924

02 DEBTOR NAME DATE OF BIRTH FIRST GIVEN NAME INITIAL SURNAME  
 03 BUSINESS NAME LAVORIS HOLDINGS INC.  
 04 ADDRESS 100 DELTA PARK BLVD. BRAMPTON ONTARIO CORPORATION NO. L6T 5E7

05 DEBTOR NAME DATE OF BIRTH FIRST GIVEN NAME INITIAL SURNAME  
 06 BUSINESS NAME SILKIENCE HOLDINGS INC.  
 07 ADDRESS 100 DELTA PARK BLVD. BRAMPTON ONTARIO CORPORATION NO. L6T 5E7

08 SECURED PARTY / LIEN CLAIMANT ADDRESS  
 09 ADDRESS

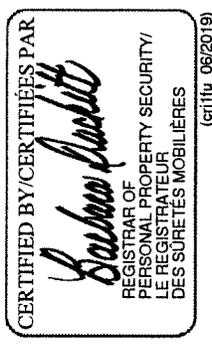
10 COLLATERAL CLASSIFICATION CONSUMER MOTOR VEHICLE AMOUNT DATE OF MATURITY OR NO FIXED MATURITY DATE  
 GOODS INVENTORY EQUIPMENT ACCOUNTS OTHER INCLUDED

11 MOTOR YEAR MAKE MODEL V.I.N.  
 12 VEHICLE

13 GENERAL COLLATERAL DESCRIPTION  
 14 COLLATERAL  
 15 DESCRIPTION

16 REGISTERING AGENT ADDRESS  
 17

\*\*\* FOR FURTHER INFORMATION, CONTACT THE SECURED PARTY. \*\*\*  
 CONTINUED... 17



TYPE OF SEARCH : BUSINESS DEBTOR  
 SEARCH CONDUCTED ON : EVERGREEN CONSUMER BRANDS INC.  
 FILE CURRENCY : 12JAN 2020

FORM 2C FINANCING CHANGE STATEMENT / CHANGE STATEMENT

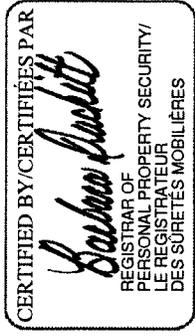
01 CAUTION FILING NO. OF PAGES TOTAL MOTOR VEHICLE REGISTRATION NUMBER REGISTERED UNDER  
 21 RECORD FILE NUMBER 722629107 20180530 1838 1862 4336  
 22 PAGE AMENDED NO SPECIFIC PAGE AMENDED CHANGE REQUIRED RENEWAL CORRECT PERIOD  
 23 REFERENCE X B RENEWAL 4  
 24 DEBTOR/ TRANSFEROR BUSINESS NAME EVERGREEN CONSUMER BRANDS INC. INITIAL SURNAME

25 OTHER CHANGE  
 26 REASON/  
 27 DESCRIPTION  
 28  
 02/ DATE OF BIRTH FIRST GIVEN NAME INITIAL SURNAME  
 05 DEBTOR/  
 03/ TRANSFEREE BUSINESS NAME  
 06 ADDRESS  
 04/07 ONTARIO CORPORATION NO.

29 ASSIGNOR  
 08 SECURED PARTY/LIEN CLAIMANT/ASSIGNEE ADDRESS  
 09 COLLATERAL CLASSIFICATION

10 CONSUMER MOTOR VEHICLE DATE OF NO FIXED Maturity DATE  
 GOODS INVENTORY EQUIPMENT ACCOUNTS OTHER INCLUDED AMOUNT Maturity OR Maturity DATE  
 YEAR MAKE MODEL V.I.N.  
 11 MOTOR VEHICLE  
 12 VEHICLE  
 13 GENERAL  
 14 COLLATERAL  
 15 DESCRIPTION  
 16 REGISTERING AGENT OR FASKEN MARTINEAU DUMOULIN LLP (K.SONG/S.HOGAN/311777.00025)  
 17 SECURED PARTY/ ADDRESS 333 BAY STREET, SUITE 2400 TORONTO ON M5H 2T6  
 LIEN CLAIMANT

\*\*\* FOR FURTHER INFORMATION, CONTACT THE SECURED PARTY. \*\*\*  
 CONTINUED... 18



PROVINCE OF ONTARIO  
MINISTRY OF GOVERNMENT SERVICES  
PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM  
ENQUIRY RESPONSE  
CERTIFICATE

RUN NUMBER : 013  
RUN DATE : 2020/01/13  
ID : 20200113100530.57

TYPE OF SEARCH : BUSINESS DEBTOR  
SEARCH CONDUCTED ON : EVERGREEN CONSUMER BRANDS INC.  
FILE CURRENCY : 12JAN 2020

FORM 2C FINANCING CHANGE STATEMENT / CHANGE STATEMENT

01	CAUTION FILING	PAGE NO. OF	TOTAL PAGES	MOTOR VEHICLE SCHEDULE	REGISTRATION NUMBER	REGISTERED UNDER
21	RECORD REFERENCED	FILE NUMBER	722629107		20180530 1839 1862 4337	
22	REFERENCE	PAGE AMENDED	NO SPECIFIC PAGE AMENDED	CHANGE REQUIRED	RENEWAL YEARS	CORRECT PERIOD
23	DEBTOR/TRANSFEROR		X	A AMENDMENT		
24		FIRST GIVEN NAME	EVERGREEN CONSUMER BRANDS INC.	INITIAL SURNAME		
25	OTHER CHANGE	BUSINESS NAME	EVERGREEN CONSUMER BRANDS INC.	INITIAL SURNAME		
26	REASON/DESCRIPTION		AMENDED TO REFERENCE THE AMALGAMATION OF 2516150 ONTARIO INC., EVERGREEN CONSUMER BRANDS INC., LAVORIS HOLDINGS INC. AND SILKIENCE HOLDINGS INC. TO CONTINUE ON AS EVERGREEN CONSUMER BRANDS INC.			
02/03/04/07	DEBTOR/TRANSFEREE	DATE OF BIRTH	FIRST GIVEN NAME	INITIAL SURNAME		
		BUSINESS NAME	EVERGREEN CONSUMER BRANDS INC.			
		ADDRESS	100 DELTA PARK BLVD.			
						ONTARIO CORPORATION NO. L6T 5E7
						BRAMPTON

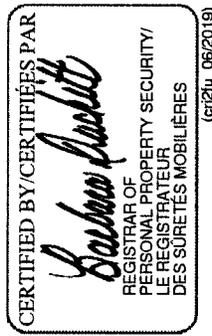
29 ASSIGNOR SECURED PARTY/LIEN CLAIMANT/ASSIGNEE  
08  
09

10	COLLATERAL CLASSIFICATION	CONSUMER	GOODS	INVENTORY	EQUIPMENT	ACCOUNTS	OTHER	MOTOR VEHICLE INCLUDED	DATE OF MATURITY OR MATURITY DATE	NO FIXED
11	MOTOR VEHICLE	YEAR	MAKE	MODEL						
12	GENERAL COLLATERAL									
13	DESCRIPTION									
14	REGISTERING AGENT OR SECURED PARTY/LIEN CLAIMANT	ADDRESS								
15										
16										
17										

FASKEN MARTINEAU DUMOULIN LLP (K.SONG/S.HOGAN/311777.00025)  
333 BAY STREET, SUITE 2400  
TORONTO  
ON M5H 2T6

\*\*\* FOR FURTHER INFORMATION, CONTACT THE SECURED PARTY. \*\*\*

CONTINUED... 19



PROVINCE OF ONTARIO  
MINISTRY OF GOVERNMENT SERVICES  
PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM  
ENQUIRY RESPONSE  
CERTIFICATE

RUN NUMBER : 013  
RUN DATE : 2020/01/13  
ID : 20200113100530.57

TYPE OF SEARCH : BUSINESS DEBTOR  
SEARCH CONDUCTED ON : EVERGREEN CONSUMER BRANDS INC.  
FILE CURRENCY : 12JAN 2020

FORM 1C FINANCING STATEMENT / CLAIM FOR LIEN

00 FILE NUMBER 713262222

01 CAUTION FILING NO. OF PAGES 01 005  
TOTAL PAGES 005  
MOTOR VEHICLE SCHEDULE 20160112 1435 8077 8185 P PPSA 4  
REGISTRATION NUMBER 20160112 1435 8077 8185 P PPSA 4  
REGISTRATION PERIOD 4

02 DEBTOR DATE OF BIRTH FIRST GIVEN NAME INITIAL SURNAME  
03 NAME BUSINESS NAME EVERGREEN CONSUMER BRANDS, ULC  
04 ADDRESS 100 DELTA PARK BLVD BRAMPTON ONTARIO CORPORATION NO. ON L6T5E7

05 DEBTOR DATE OF BIRTH FIRST GIVEN NAME INITIAL SURNAME  
06 NAME BUSINESS NAME  
07 ADDRESS ONTARIO CORPORATION NO. ONTARIO CORPORATION NO. ON L7L 6M1

08 SECURED PARTY / ROYAL BANK OF CANADA  
09 LIEN CLAIMANT 300-5575 NORTH SERVICE RD BURLINGTON ON L7L 6M1

10 COLLATERAL CLASSIFICATION CONSUMER MOTOR VEHICLE AMOUNT DATE OF MATURITY OR NO FIXED MATURITY DATE  
GOODS INVENTORY EQUIPMENT ACCOUNTS OTHER INCLUDED X X X

11 MOTOR YEAR MAKE MODEL V.I.N.  
12 VEHICLE

13 GENERAL NEW FULLY AUTOMATIC LIQUID FILLER S/N 1506499 ESA S837426/  
14 COLLATERAL 1509514 ESA S837553, PACKLEADER FRONT AND BACK LABELER S/N  
15 DESCRIPTION 00143PL62200010409, 5000 LB LPG CUSHION S/MC910V02293N TOGETHER WITH

16 REGISTERING REGISTRY = RECOVERY INC.  
17 ADDRESS 1551 THE QUEENSWAY TORONTO ON M8Z 1T5

\*\*\* FOR FURTHER INFORMATION, CONTACT THE SECURED PARTY. \*\*\*

CONTINUED... 20



(c)11u 06/2019



PROVINCE OF ONTARIO  
MINISTRY OF GOVERNMENT SERVICES  
PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM  
ENQUIRY RESPONSE  
CERTIFICATE

RUN NUMBER : 013  
RUN DATE : 2020/01/13  
ID : 20200113100530.57

TYPE OF SEARCH : BUSINESS DEBTOR  
SEARCH CONDUCTED ON : EVERGREEN CONSUMER BRANDS INC.  
FILE CURRENCY : 12JAN 2020

FORM 1C FINANCING STATEMENT / CLAIM FOR LIEN

00 FILE NUMBER 713262222

01 CAUTION FILING PAGE NO. OF PAGES TOTAL MOTOR VEHICLE REGISTRATION NUMBER REGISTERED UNDER REGISTRATION PERIOD  
02 03 005 20160112 1435 8077 8185

02 DEBTOR DATE OF BIRTH FIRST GIVEN NAME INITIAL SURNAME ONTARIO CORPORATION NO.  
03 NAME BUSINESS NAME ADDRESS

05 DEBTOR DATE OF BIRTH FIRST GIVEN NAME INITIAL SURNAME ONTARIO CORPORATION NO.  
06 NAME BUSINESS NAME ADDRESS

08 SECURED PARTY / LIEN CLAIMANT ROYAL BANK OF CANADA TORONTO ON M5J 1J1  
09 ADDRESS 180 WELLINGTON ST WEST, 5TH FL

10 COLLATERAL CLASSIFICATION CONSUMER MOTOR VEHICLE AMOUNT DATE OF MATURITY OR NO FIXED MATURITY DATE  
GOODS INVENTORY EQUIPMENT ACCOUNTS OTHER INCLUDED

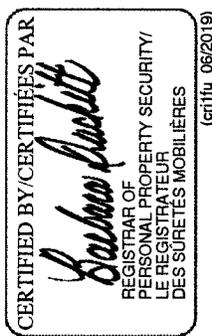
11 MOTOR YEAR MAKE MODEL V.I.N.

12 VEHICLE

13 GENERAL ALL ATTACHMENTS, ACCESSORIES, ACCESSORIES, REPLACEMENTS, AND ALL PROCEEDS  
14 COLLATERAL SUBSTITUTIONS, ADDITIONS AND IMPROVEMENTS THERETO, AND ALL PROCEEDS  
15 DESCRIPTION IN ANY FORM DERIVED DIRECTLY OR INDIRECTLY FROM ANY DEALING WITH THE

16 REGISTERING ADDRESS  
17 AGENT

\*\*\* FOR FURTHER INFORMATION, CONTACT THE SECURED PARTY. \*\*\*  
CONTINUED ... 21



PROVINCE OF ONTARIO  
MINISTRY OF GOVERNMENT SERVICES  
PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM  
ENQUIRY RESPONSE  
CERTIFICATE

RUN NUMBER : 013  
RUN DATE : 2020/01/13  
ID : 20200113100530.57

TYPE OF SEARCH : BUSINESS DEBTOR  
SEARCH CONDUCTED ON : EVERGREEN CONSUMER BRANDS INC.  
FILE CURRENCY : 12JAN 2020

FORM 1C FINANCING STATEMENT / CLAIM FOR LIEN

00 FILE NUMBER : 713262222  
01 CAUTION FILING : 03 OF PAGES : 005  
TOTAL PAGES : 005  
MOTOR VEHICLE SCHEDULE : 20160112 1435 8077 8185  
REGISTRATION NUMBER : 20160112 1435 8077 8185  
REGISTRATION PERIOD :  
REGISTERED UNDER :  
ONTARIO CORPORATION NO. :

02 DEBTOR NAME :  
03 BUSINESS NAME :  
04 DATE OF BIRTH :  
FIRST GIVEN NAME :  
INITIAL :  
SURNAME :  
ADDRESS :  
ONTARIO CORPORATION NO. :

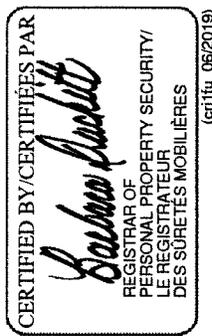
05 DEBTOR NAME :  
06 BUSINESS NAME :  
07 DATE OF BIRTH :  
FIRST GIVEN NAME :  
INITIAL :  
SURNAME :  
ADDRESS :  
ONTARIO CORPORATION NO. :

08 SECURED PARTY / LIEN CLAIMANT :  
09 ADDRESS :  
10 COLLATERAL CLASSIFICATION :  
CONSUMER :  
GOODS INVENTORY EQUIPMENT ACCOUNTS OTHER INCLUDED :  
MOTOR VEHICLE AMOUNT :  
DATE OF MATURITY OR MATURITY DATE :  
NO FIXED :  
V.I.N. :

11 MOTOR YEAR MAKE :  
12 VEHICLE MODEL :  
13 COLLATERAL OR PROCEEDS THEREOF, AND WITHOUT LIMITATION, MONEY,  
14 CHEQUES, DEPOSITS IN DEPOSIT-TAKING INSTITUTIONS, GOODS, ACCOUNTS  
15 RECEIVABLE, RENTS OR OTHER PAYMENTS ARISING FROM THE LEASE OF THE  
16 REGISTERING AGENT :  
17 ADDRESS :  
V.I.N. :

\*\*\* FOR FURTHER INFORMATION, CONTACT THE SECURED PARTY. \*\*\*

CONTINUED . . .



(c)11u 06/2019



PROVINCE OF ONTARIO  
MINISTRY OF GOVERNMENT SERVICES  
PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM  
ENQUIRY RESPONSE  
CERTIFICATE

RUN NUMBER : 013  
RUN DATE : 2020/01/13  
ID : 20200113100530.57

TYPE OF SEARCH : BUSINESS DEBTOR  
SEARCH CONDUCTED ON : EVERGREEN CONSUMER BRANDS INC.  
FILE CURRENCY : 12JAN 2020

FORM 1C FINANCING STATEMENT / CLAIM FOR LIEN

00 FILE NUMBER 713262222  
01 CAUTION FILING PAGE NO. OF PAGES TOTAL MOTOR VEHICLE REGISTRATION NUMBER REGISTERED UNDER REGISTRATION PERIOD  
04 005 20160112 1435 8077 8185

02 DEBTOR DATE OF BIRTH FIRST GIVEN NAME INITIAL SURNAME ONTARIO CORPORATION NO.  
03 NAME BUSINESS NAME ADDRESS  
04 BUSINESS NAME ADDRESS

05 DEBTOR DATE OF BIRTH FIRST GIVEN NAME INITIAL SURNAME ONTARIO CORPORATION NO.  
06 NAME BUSINESS NAME ADDRESS  
07 BUSINESS NAME ADDRESS

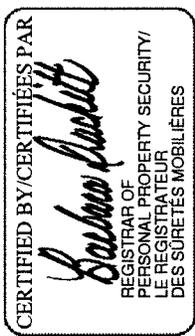
08 SECURED PARTY / LIEN CLAIMANT ADDRESS  
09 ADDRESS

10 COLLATERAL CLASSIFICATION CONSUMER MOTOR VEHICLE AMOUNT DATE OF MATURITY OR NO FIXED Maturity Date  
GOODS INVENTORY EQUIPMENT ACCOUNTS OTHER INCLUDED

11 MOTOR YEAR MAKE MODEL V.I.N.  
12 VEHICLE

13 GENERAL COLLATERAL, CHATTEL PAPER, INSTRUMENTS, INTANGIBLES, DOCUMENTS OF TITLE, SECURITIES, AND RIGHTS OF INSURANCE PAYMENTS OR ANY OTHER PAYMENTS AS INDEMNITY OR COMPENSATION FOR LOSS OR DAMAGE TO THE  
14 COLLATERAL DESCRIPTION  
15

16 REGISTERING AGENT ADDRESS  
17



CONTINUED . . .



PROVINCE OF ONTARIO  
MINISTRY OF GOVERNMENT SERVICES  
PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM  
ENQUIRY RESPONSE  
CERTIFICATE

RUN NUMBER : 013  
RUN DATE : 2020/01/13  
ID : 20200113100530.57

TYPE OF SEARCH : BUSINESS DEBTOR  
SEARCH CONDUCTED ON : EVERGREEN CONSUMER BRANDS INC.  
FILE CURRENCY : 12JAN 2020

FORM 1C FINANCING STATEMENT / CLAIM FOR LIEN

00 FILE NUMBER 713262222

01 CAUTION PAGE TOTAL MOTOR VEHICLE REGISTRATION REGISTERED REGISTRATION  
FILING NO. OF PAGES SCHEDULE NUMBER UNDER PERIOD  
05 005 20160112 1435 8077 8185

02 DEBTOR DATE OF BIRTH FIRST GIVEN NAME INITIAL SURNAME ONTARIO CORPORATION NO.  
03 NAME BUSINESS NAME ADDRESS  
04 ADDRESS

05 DEBTOR DATE OF BIRTH FIRST GIVEN NAME INITIAL SURNAME ONTARIO CORPORATION NO.  
06 NAME BUSINESS NAME ADDRESS  
07 ADDRESS

08 SECURED PARTY / LIEN CLAIMANT ADDRESS

09 COLLATERAL CLASSIFICATION ADDRESS

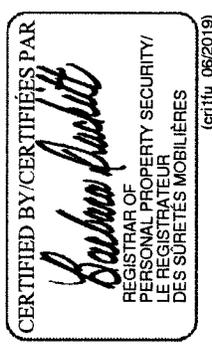
10 CONSUMER INVENTORY EQUIPMENT ACCOUNTS OTHER INCLUDED MOTOR VEHICLE AMOUNT DATE OF MATURITY OR NO FIXED Maturity DATE  
GOODS

11 MOTOR YEAR MAKE MODEL V.I.N.  
12 VEHICLE

13 GENERAL COLLATERAL OR PROCEEDS OF THE COLLATERAL  
14 COLLATERAL  
15 DESCRIPTION

16 REGISTERING AGENT ADDRESS

\*\*\* FOR FURTHER INFORMATION, CONTACT THE SECURED PARTY. \*\*\*



PROVINCE OF ONTARIO  
MINISTRY OF GOVERNMENT SERVICES  
PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM  
ENQUIRY RESPONSE  
CERTIFICATE

RUN NUMBER : 013  
RUN DATE : 2020/01/13  
ID : 20200113100530.57

TYPE OF SEARCH : BUSINESS DEBTOR  
SEARCH CONDUCTED ON : EVERGREEN CONSUMER BRANDS INC.  
FILE CURRENCY : 12JAN 2020

FORM 2C FINANCING CHANGE STATEMENT / CHANGE STATEMENT

CAUTION FILING TOTAL MOTOR VEHICLE REGISTRATION REGISTERED  
NO. OF PAGES SCHEDULE NUMBER UNDER  
01 001 20180604 1436 8077 4227 P PPSA

RECORD FILE NUMBER 713262222 CORRECT PERIOD

PAGE AMENDED NO SPECIFIC PAGE AMENDED CHANGE REQUIRED RENEWAL YEARS  
A AMENDMENT INITIAL SURNAME

REFERENCE BUSINESS NAME EVERGREEN CONSUMER BRANDS, ULC  
DEBTOR/ TRANSFEROR

OTHER CHANGE REASON/ ADD DEBTOR

DESCRIPTION

DEBTOR/ DATE OF BIRTH FIRST GIVEN NAME INITIAL SURNAME  
TRANSFEREE BUSINESS NAME EVERGREEN CONSUMER BRANDS INC.

ADDRESS 100 DELTA PARK BLVD., UNIT 1 BRAMPTON ONTARIO CORPORATION NO. L6T5E7

ASSIGNOR SECURED PARTY/LIEN CLAIMANT/ASSIGNEE

COLLATERAL CLASSIFICATION CONSUMER

GOODS INVENTORY EQUIPMENT ACCOUNTS OTHER INCLUDED MOTOR VEHICLE DATE OF NO FIXED MATURITY OR MATURITY DATE

YEAR MAKE MODEL V.I.N.

MOTOR VEHICLE GENERAL COLLATERAL DESCRIPTION REGISTERING AGENT OR SECURED PARTY/LIEN CLAIMANT

REGISTRY = RECOVERY INC.  
1551 THE QUEENSWAY TORONTO ON M8Z 1T5

\*\*\* FOR FURTHER INFORMATION, CONTACT THE SECURED PARTY. \*\*\*  
CONTINUED... 25



RUN NUMBER : 013  
RUN DATE : 2020/01/13  
ID : 20200113100530.57

PROVINCE OF ONTARIO  
MINISTRY OF GOVERNMENT SERVICES  
PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM  
ENQUIRY RESPONSE  
CERTIFICATE

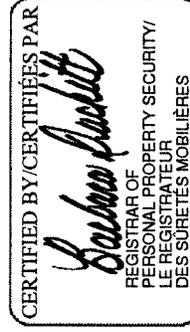
REPORT : PSSR060  
PAGE : 25  
( 8874)

TYPE OF SEARCH : BUSINESS DEBTOR  
SEARCH CONDUCTED ON : EVERGREEN CONSUMER BRANDS INC.  
FILE CURRENCY : 12JAN 2020

INFORMATION RELATING TO THE REGISTRATIONS LISTED BELOW IS ATTACHED HERETO.

FILE NUMBER	REGISTRATION NUMBER	REGISTRATION NUMBER	REGISTRATION NUMBER
759126789	20200107 1613 1901 5432		
759126951	20200107 1617 1901 5434		
759127005	20200107 1622 1901 5436		
755406648	20190912 1558 2836 0293		
751525857	20190524 0903 1901 7314	20191230 1102 1793 5154	
746188335	20181126 1035 8077 2544		
739545165	20180518 1617 1862 3525		
722629107	20161118 1127 1862 0924	20180530 1838 1862 4336	20180530 1839 1862 4337
713262222	20160112 1435 8077 8185	20180604 1436 8077 4227	

13 REGISTRATION(S) ARE REPORTED IN THIS ENQUIRY RESPONSE.



This is **Exhibit “E”**, referred to in the

Affidavit of Sonia de Lorenzi,  
sworn before me

this 10th day of February, 2020.



---

A Commissioner for taking Affidavits, etc.

Roxana Gabriela Menea, a Commissioner, etc.,  
Provincs of Ontario, for  
Thornton Groat Finnigan LLP,  
Barristers and Solicitors.  
Expires June 5, 2021.

## Enquiry Result

File Currency: 09FEB 2020




Show All Pages

**Note: All pages have been returned.**

Type of Search	Business Debtor								
Search Conducted On	EVERGREEN CONSUMER BRANDS INC.								
File Currency	09FEB 2020								
	File Number	Family	of Families	Page	of Pages	Expiry Date	Status		
	722629107	1	9	1	19	18NOV 2025			
<b>FORM 1C FINANCING STATEMENT / CLAIM FOR LIEN</b>									
File Number	Caution Filing	Page of	Total Pages	Motor Vehicle Schedule	Registration Number	Registered Under	Registration Period		
722629107		001	002		20161118 1127 1862 0924	P PPSA	5		
Individual Debtor	Date of Birth	First Given Name			Initial	Surname			
Business Debtor	Business Debtor Name					Ontario Corporation Number			
	2516150 ONTARIO INC.								
	Address				City	Province	Postal Code		
	100 DELTA PARK BLVD.				BRAMPTON	ON	L6T 5E7		
Individual Debtor	Date of Birth	First Given Name			Initial	Surname			
Business Debtor	Business Debtor Name					Ontario Corporation Number			
	EVERGREEN CONSUMER BRANDS INC.								
	Address				City	Province	Postal Code		
	100 DELTA PARK BLVD.				BRAMPTON	ON	L6T 5E7		
Secured Party	Secured Party / Lien Claimant								
	FWCU CAPITAL CORP.								
	Address				City	Province	Postal Code		
	6470 - 201 STREET				LANGLEY	BC	V2Y 2X4		
Collateral Classification	Consumer Goods	Inventory	Equipment	Accounts	Other	Motor Vehicle Included	Amount	Date of Maturity or	No Fixed Maturity Date
		X	X	X	X	X			
Motor Vehicle Description	Year	Make			Model	V.I.N.			
General Collateral Description	General Collateral Description								
	ALL OF THE PRESENT AND AFTER-ACQUIRED PERSONAL PROPERTY OF EACH OF THE DEBTORS.								
Registering Agent	Registering Agent								
	MILLER THOMSON LLP (AG/CA)								

	<b>Address</b>	<b>City</b>	<b>Province</b>	<b>Postal Code</b>
	ROBSON COURT, 1000-840 HOWE STREET	VANCOUVER	BC	V6Z 2M1

CONTINUED

Type of Search	Business Debtor								
Search Conducted On	EVERGREEN CONSUMER BRANDS INC.								
File Currency	09FEB 2020								
	File Number	Family	of Families	Page	of Pages	Expiry Date	Status		
	722629107	1	9	2	19	18NOV 2025			
<b>FORM 1C FINANCING STATEMENT / CLAIM FOR LIEN</b>									
File Number	Caution Filing	Page of	Total Pages	Motor Vehicle Schedule	Registration Number	Registered Under	Registration Period		
722629107		002	002		20161118 1127 1862 0924				
Individual Debtor	Date of Birth	First Given Name		Initial	Surname				
Business Debtor	Business Debtor Name					Ontario Corporation Number			
	LAVORIS HOLDINGS INC.								
	Address			City	Province	Postal Code			
	100 DELTA PARK BLVD.			BRAMPTON	ON	L6T 5E7			
Individual Debtor	Date of Birth	First Given Name		Initial	Surname				
Business Debtor	Business Debtor Name					Ontario Corporation Number			
	SILKIENCE HOLDINGS INC.								
	Address			City	Province	Postal Code			
	100 DELTA PARK BLVD.			BRAMPTON	ON	L6T 5E7			
Secured Party	Secured Party / Lien Claimant								
	Address			City	Province	Postal Code			
Collateral Classification	Consumer Goods	Inventory	Equipment	Accounts	Other	Motor Vehicle Included	Amount	Date of Maturity or	No Fixed Maturity Date
Motor Vehicle Description	Year	Make			Model	V.I.N.			
General Collateral Description	General Collateral Description								
Registering Agent	Registering Agent								
	Address			City	Province	Postal Code			

CONTINUED

Type of Search	Business Debtor								
Search Conducted On	EVERGREEN CONSUMER BRANDS INC.								
File Currency	09FEB 2020								
	File Number	Family	of Families	Page	of Pages				
	722629107	1	9	3	19				
<b>FORM 2C FINANCING CHANGE STATEMENT / CHANGE STATEMENT</b>									
	Cautious Filing	Page of	Total Pages	Motor Vehicle Schedule Attached	Registration Number	Registered Under			
		001	001		20180530 1838 1862 4336				
Record Referenced	File Number	Page Amended	No Specific Page Amended	Change Required	Renewal Years	Correct Period			
	722629107		X	B RENEWAL	4				
Reference Debtor/ Transferor	First Given Name	Initial	Surname						
	Business Debtor Name EVERGREEN CONSUMER BRANDS INC.								
Other Change	Other Change								
Reason / Description	Reason / Description								
Debtor/ Transferee	Date of Birth	First Given Name	Initial	Surname					
	Business Debtor Name								
							Ontario Corporation Number		
	Address			City	Province	Postal Code			
Assignor Name	Assignor Name								
Secured Party	Secured party, lien claimant, assignee								
	Address			City	Province	Postal Code			
Collateral Classification	Consumer Goods	Inventory	Equipment	Accounts	Other	Motor Vehicle Included	Amount	Date of Maturity or	No Fixed Maturity Date
Motor Vehicle Description	Year	Make	Model		V.I.N.				
General Collateral Description	General Collateral Description								
Registering Agent	Registering Agent or Secured Party/ Lien Claimant								
	FASKEN MARTINEAU DUMOULIN LLP (K.SONG/S.HOGAN/311777.00025)								
	Address			City	Province	Postal			

				<b>Code</b>
	333 BAY STREET, SUITE 2400	TORONTO	ON	M5H 2T6

CONTINUED

Type of Search	Business Debtor									
Search Conducted On	EVERGREEN CONSUMER BRANDS INC.									
File Currency	09FEB 2020									
	File Number	Family	of Families	Page						of Pages
	722629107	1	9	4						19
<b>FORM 2C FINANCING CHANGE STATEMENT / CHANGE STATEMENT</b>										
	Cautious Filing	Page of	Total Pages	Motor Vehicle Schedule Attached	Registration Number			Registered Under		
		001	001		20180530 1839 1862 4337					
Record Referenced	File Number	Page Amended	No Specific Page Amended	Change Required	Renewal Years	Correct Period				
	722629107		X	A AMNDMNT						
Reference Debtor/ Transferor	First Given Name			Initial	Surname					
	Business Debtor Name									
	EVERGREEN CONSUMER BRANDS INC.									
Other Change	Other Change									
Reason / Description	Reason / Description									
	AMENDED TO REFERENCE THE AMALGAMATION OF 2516150 ONTARIO INC., EVERGREEN CONSUMER BRANDS INC., LAVORIS HOLDINGS INC. AND SILKIENCE HOLDINGS INC. TO CONTINUE ON AS EVERGREEN CONSUMER BRANDS INC.									
Debtor/ Transferee	Date of Birth	First Given Name			Initial	Surname				
	Business Debtor Name							Ontario Corporation Number		
	EVERGREEN CONSUMER BRANDS INC.									
	Address				City		Province	Postal Code		
	100 DELTA PARK BLVD.				BRAMPTON		ON	L6T 5E7		
Assignor Name	Assignor Name									
Secured Party	Secured party, lien claimant, assignee									
	Address				City		Province	Postal Code		
Collateral Classification	Consumer Goods	Inventory	Equipment	Accounts	Other	Motor Vehicle Included	Amount	Date of Maturity or	No Fixed Maturity Date	
Motor Vehicle Description	Year	Make			Model			V.I.N.		
General Collateral Description	General Collateral Description									
Registering Agent	Registering Agent or Secured Party/ Lien Claimant									
	FASKEN MARTINEAU DUMOULIN LLP (K.SONG/S.HOGAN/311777.00025)									
	Address				City		Province	Postal		

				<b>Code</b>
	333 BAY STREET, SUITE 2400	TORONTO	ON	M5H 2T6

END OF FAMILY

<b>Type of Search</b>	Business Debtor								
<b>Search Conducted On</b>	EVERGREEN CONSUMER BRANDS INC.								
<b>File Currency</b>	09FEB 2020								
	<b>File Number</b>	<b>Family</b>	<b>of Families</b>	<b>Page</b>	<b>of Pages</b>	<b>Expiry Date</b>	<b>Status</b>		
	739545165	2	9	5	19	18MAY 2022			
<b>FORM 1C FINANCING STATEMENT / CLAIM FOR LIEN</b>									
<b>File Number</b>	<b>Caution Filing</b>	<b>Page of</b>	<b>Total Pages</b>	<b>Motor Vehicle Schedule</b>	<b>Registration Number</b>	<b>Registered Under</b>	<b>Registration Period</b>		
739545165		001	001		20180518 1617 1862 3525	P PPSA	4		
<b>Individual Debtor</b>	<b>Date of Birth</b>	<b>First Given Name</b>			<b>Initial</b>	<b>Surname</b>			
<b>Business Debtor</b>	<b>Business Debtor Name</b>					<b>Ontario Corporation Number</b>			
	EVERGREEN CONSUMER BRANDS INC.								
	<b>Address</b>				<b>City</b>	<b>Province</b>	<b>Postal Code</b>		
	100 DELTA PARK BLVD.				BRAMPTON	ON	L6T 5E7		
<b>Individual Debtor</b>	<b>Date of Birth</b>	<b>First Given Name</b>			<b>Initial</b>	<b>Surname</b>			
<b>Business Debtor</b>	<b>Business Debtor Name</b>					<b>Ontario Corporation Number</b>			
	<b>Address</b>				<b>City</b>	<b>Province</b>	<b>Postal Code</b>		
<b>Secured Party</b>	<b>Secured Party / Lien Claimant</b>								
	NATIONAL BANK OF CANADA								
	<b>Address</b>				<b>City</b>	<b>Province</b>	<b>Postal Code</b>		
	130 KING STREET WEST, 8TH FLOOR				TORONTO	ON	M5X 1J9		
<b>Collateral Classification</b>	<b>Consumer Goods</b>	<b>Inventory</b>	<b>Equipment</b>	<b>Accounts</b>	<b>Other</b>	<b>Motor Vehicle Included</b>	<b>Amount</b>	<b>Date of Maturity or</b>	<b>No Fixed Maturity Date</b>
		X	X	X	X	X			
<b>Motor Vehicle Description</b>	<b>Year</b>	<b>Make</b>			<b>Model</b>	<b>V.I.N.</b>			
<b>General Collateral Description</b>	<b>General Collateral Description</b>								
<b>Registering Agent</b>	<b>Registering Agent</b>								
	FASKEN MARTINEAU DUMOULIN LLP (LC/JJH)								
	<b>Address</b>				<b>City</b>	<b>Province</b>	<b>Postal Code</b>		
	333 BAY STREET, SUITE 2400				TORONTO	ON	M5H 2T6		

END OF FAMILY

<b>Type of Search</b>	Business Debtor								
<b>Search Conducted On</b>	EVERGREEN CONSUMER BRANDS INC.								
<b>File Currency</b>	09FEB 2020								
	<b>File Number</b>	<b>Family</b>	<b>of Families</b>	<b>Page</b>	<b>of Pages</b>	<b>Expiry Date</b>	<b>Status</b>		
	746188335	3	9	6	19	26NOV 2028			
<b>FORM 1C FINANCING STATEMENT / CLAIM FOR LIEN</b>									
<b>File Number</b>	<b>Caution Filing</b>	<b>Page of</b>	<b>Total Pages</b>	<b>Motor Vehicle Schedule</b>	<b>Registration Number</b>	<b>Registered Under</b>	<b>Registration Period</b>		
746188335		01	006		20181126 1035 8077 2544	P PPSA	10		
<b>Individual Debtor</b>	<b>Date of Birth</b>	<b>First Given Name</b>			<b>Initial</b>	<b>Surname</b>			
<b>Business Debtor</b>	<b>Business Debtor Name</b>					<b>Ontario Corporation Number</b>			
	EVERGREEN CONSUMER BRANDS INC.								
	<b>Address</b>				<b>City</b>	<b>Province</b>	<b>Postal Code</b>		
	UNIT 1 - 100 DELTA PARK BLVD.				BRAMPTON	ON	L6T 5E7		
<b>Individual Debtor</b>	<b>Date of Birth</b>	<b>First Given Name</b>			<b>Initial</b>	<b>Surname</b>			
<b>Business Debtor</b>	<b>Business Debtor Name</b>					<b>Ontario Corporation Number</b>			
	<b>Address</b>				<b>City</b>	<b>Province</b>	<b>Postal Code</b>		
<b>Secured Party</b>	<b>Secured Party / Lien Claimant</b>								
	ROYAL BANK OF CANADA								
	<b>Address</b>				<b>City</b>	<b>Province</b>	<b>Postal Code</b>		
	300-5575 NORTH SERVICE RD				BURLINGTON	ON	L7L 6M1		
<b>Collateral Classification</b>	<b>Consumer Goods</b>	<b>Inventory</b>	<b>Equipment</b>	<b>Accounts</b>	<b>Other</b>	<b>Motor Vehicle Included</b>	<b>Amount</b>	<b>Date of Maturity or</b>	<b>No Fixed Maturity Date</b>
		X	X	X	X				X
<b>Motor Vehicle Description</b>	<b>Year</b>	<b>Make</b>			<b>Model</b>	<b>V.I.N.</b>			
<b>General Collateral Description</b>	<b>General Collateral Description</b>								
	AS PER MASTER LEASE AGREEMENT DATED DECEMBER 3, 2008 BETWEEN THE SECURED PARTY AND EVERGREEN CONSUMER BRANDS, ULC (A PREDECESSOR OF THE DEBTOR) AS SUCH AGREEMENT MAY BE AMENDED, RESTATED OR								
<b>Registering Agent</b>	<b>Registering Agent</b>								
	REGISTRY = RECOVERY INC.								
	<b>Address</b>				<b>City</b>	<b>Province</b>	<b>Postal Code</b>		
	1551 THE QUEENSWAY				TORONTO	ON	M8Z 1T5		

CONTINUED

Type of Search	Business Debtor								
Search Conducted On	EVERGREEN CONSUMER BRANDS INC.								
File Currency	09FEB 2020								
	File Number	Family	of Families	Page	of Pages	Expiry Date	Status		
	746188335	3	9	7	19	26NOV 2028			
<b>FORM 1C FINANCING STATEMENT / CLAIM FOR LIEN</b>									
File Number	Caution Filing	Page of	Total Pages	Motor Vehicle Schedule	Registration Number	Registered Under	Registration Period		
746188335		02	006		20181126 1035 8077 2544				
Individual Debtor	Date of Birth	First Given Name			Initial	Surname			
Business Debtor	Business Debtor Name					Ontario Corporation Number			
	Address			City	Province	Postal Code			
Individual Debtor	Date of Birth	First Given Name			Initial	Surname			
Business Debtor	Business Debtor Name					Ontario Corporation Number			
	Address			City	Province	Postal Code			
Secured Party	Secured Party / Lien Claimant								
	Address			City	Province	Postal Code			
Collateral Classification	Consumer Goods	Inventory	Equipment	Accounts	Other	Motor Vehicle Included	Amount	Date of Maturity or	No Fixed Maturity Date
Motor Vehicle Description	Year	Make			Model	V.I.N.			
General Collateral Description	General Collateral Description								
	REPLACED.)TOGETHER WITH ALL INVENTORY AND EQUIPMENT NOW OR HEREAFTER								
	ACQUIRED BY THE DEBTOR AND FINANCED BY THE SECURED PARTY TOGETHER								
	WITH ALL ATTACHMENTS, ACCESSORIES, ACCESSIONS, REPLACEMENTS,								
Registering Agent	Registering Agent								
	Address			City	Province	Postal Code			

CONTINUED

Type of Search	Business Debtor								
Search Conducted On	EVERGREEN CONSUMER BRANDS INC.								
File Currency	09FEB 2020								
	File Number	Family	of Families	Page	of Pages	Expiry Date	Status		
	746188335	3	9	8	19	26NOV 2028			
<b>FORM 1C FINANCING STATEMENT / CLAIM FOR LIEN</b>									
File Number	Caution Filing	Page of	Total Pages	Motor Vehicle Schedule	Registration Number	Registered Under	Registration Period		
746188335		03	006		20181126 1035 8077 2544				
Individual Debtor	Date of Birth	First Given Name			Initial	Surname			
Business Debtor	Business Debtor Name					Ontario Corporation Number			
	Address				City	Province	Postal Code		
Individual Debtor	Date of Birth	First Given Name			Initial	Surname			
Business Debtor	Business Debtor Name					Ontario Corporation Number			
	Address				City	Province	Postal Code		
Secured Party	Secured Party / Lien Claimant								
	Address				City	Province	Postal Code		
Collateral Classification	Consumer Goods	Inventory	Equipment	Accounts	Other	Motor Vehicle Included	Amount	Date of Maturity or	No Fixed Maturity Date
Motor Vehicle Description	Year	Make			Model	V.I.N.			
General Collateral Description	General Collateral Description								
	SUBSTITUTIONS, ADDITIONS AND IMPROVEMENTS THERETO, AND ALL PROCEEDS IN ANY FORM DERIVED DIRECTLY OR INDIRECTLY FROM ANY DEALING WITH THE COLLATERAL OR PROCEEDS THEREOF, AND WITHOUT LIMITATION, MONEY,								
Registering Agent	Registering Agent								
	Address				City	Province	Postal Code		

CONTINUED

Type of Search	Business Debtor								
Search Conducted On	EVERGREEN CONSUMER BRANDS INC.								
File Currency	09FEB 2020								
	File Number	Family	of Families	Page	of Pages	Expiry Date	Status		
	746188335	3	9	9	19	26NOV 2028			
<b>FORM 1C FINANCING STATEMENT / CLAIM FOR LIEN</b>									
File Number	Caution Filing	Page of	Total Pages	Motor Vehicle Schedule	Registration Number	Registered Under	Registration Period		
746188335		04	006		20181126 1035 8077 2544				
Individual Debtor	Date of Birth	First Given Name			Initial	Surname			
Business Debtor	Business Debtor Name					Ontario Corporation Number			
	Address			City	Province	Postal Code			
Individual Debtor	Date of Birth	First Given Name			Initial	Surname			
Business Debtor	Business Debtor Name					Ontario Corporation Number			
	Address			City	Province	Postal Code			
Secured Party	Secured Party / Lien Claimant								
	Address			City	Province	Postal Code			
Collateral Classification	Consumer Goods	Inventory	Equipment	Accounts	Other	Motor Vehicle Included	Amount	Date of Maturity or	No Fixed Maturity Date
Motor Vehicle Description	Year	Make			Model	V.I.N.			
General Collateral Description	General Collateral Description								
	CHEQUES, DEPOSITS IN DEPOSIT-TAKING INSTITUTIONS, GOODS, ACCOUNTS RECEIVABLE, RENTS OR OTHER PAYMENTS ARISING FROM THE LEASE OF THE COLLATERAL, CHATTEL PAPER, INSTRUMENTS, INTANGIBLES, DOCUMENTS OF								
Registering Agent	Registering Agent								
	Address			City	Province	Postal Code			

CONTINUED

<b>Type of Search</b>	Business Debtor								
<b>Search Conducted On</b>	EVERGREEN CONSUMER BRANDS INC.								
<b>File Currency</b>	09FEB 2020								
	<b>File Number</b>	<b>Family</b>	<b>of Families</b>	<b>Page</b>	<b>of Pages</b>	<b>Expiry Date</b>	<b>Status</b>		
	746188335	3	9	10	19	26NOV 2028			
<b>FORM 1C FINANCING STATEMENT / CLAIM FOR LIEN</b>									
<b>File Number</b>	<b>Caution Filing</b>	<b>Page of</b>	<b>Total Pages</b>	<b>Motor Vehicle Schedule</b>	<b>Registration Number</b>	<b>Registered Under</b>	<b>Registration Period</b>		
746188335		05	006		20181126 1035 8077 2544				
<b>Individual Debtor</b>	<b>Date of Birth</b>	<b>First Given Name</b>			<b>Initial</b>	<b>Surname</b>			
<b>Business Debtor</b>	<b>Business Debtor Name</b>					<b>Ontario Corporation Number</b>			
	<b>Address</b>				<b>City</b>	<b>Province</b>	<b>Postal Code</b>		
<b>Individual Debtor</b>	<b>Date of Birth</b>	<b>First Given Name</b>			<b>Initial</b>	<b>Surname</b>			
<b>Business Debtor</b>	<b>Business Debtor Name</b>					<b>Ontario Corporation Number</b>			
	<b>Address</b>				<b>City</b>	<b>Province</b>	<b>Postal Code</b>		
<b>Secured Party</b>	<b>Secured Party / Lien Claimant</b>								
	<b>Address</b>				<b>City</b>	<b>Province</b>	<b>Postal Code</b>		
<b>Collateral Classification</b>	<b>Consumer Goods</b>	<b>Inventory</b>	<b>Equipment</b>	<b>Accounts</b>	<b>Other</b>	<b>Motor Vehicle Included</b>	<b>Amount</b>	<b>Date of Maturity or</b>	<b>No Fixed Maturity Date</b>
<b>Motor Vehicle Description</b>	<b>Year</b>	<b>Make</b>			<b>Model</b>	<b>V.I.N.</b>			
<b>General Collateral Description</b>	<b>General Collateral Description</b>								
	TITLE, SECURITIES, AND RIGHTS OF INSURANCE PAYMENTS OR ANY OTHER								
	PAYMENTS AS INDEMNITY OR COMPENSATION FOR LOSS OR DAMAGE TO THE								
	COLLATERAL OR PROCEEDS OF THE COLLATERAL.								
<b>Registering Agent</b>	<b>Registering Agent</b>								
	<b>Address</b>				<b>City</b>	<b>Province</b>	<b>Postal Code</b>		

CONTINUED

Type of Search	Business Debtor								
Search Conducted On	EVERGREEN CONSUMER BRANDS INC.								
File Currency	09FEB 2020								
	File Number	Family	of Families	Page	of Pages	Expiry Date	Status		
	746188335	3	9	11	19	26NOV 2028			
<b>FORM 1C FINANCING STATEMENT / CLAIM FOR LIEN</b>									
File Number	Caution Filing	Page of	Total Pages	Motor Vehicle Schedule	Registration Number	Registered Under	Registration Period		
746188335		06	006		20181126 1035 8077 2544				
Individual Debtor	Date of Birth	First Given Name			Initial	Surname			
Business Debtor	Business Debtor Name					Ontario Corporation Number			
	Address			City	Province	Postal Code			
Individual Debtor	Date of Birth	First Given Name			Initial	Surname			
Business Debtor	Business Debtor Name					Ontario Corporation Number			
	Address			City	Province	Postal Code			
Secured Party	Secured Party / Lien Claimant								
	Address			City	Province	Postal Code			
Collateral Classification	Consumer Goods	Inventory	Equipment	Accounts	Other	Motor Vehicle Included	Amount	Date of Maturity or	No Fixed Maturity Date
Motor Vehicle Description	Year	Make			Model	V.I.N.			
General Collateral Description	General Collateral Description								
Registering Agent	Registering Agent								
	Address			City	Province	Postal Code			

END OF FAMILY

<b>Type of Search</b>	Business Debtor								
<b>Search Conducted On</b>	EVERGREEN CONSUMER BRANDS INC.								
<b>File Currency</b>	09FEB 2020								
	<b>File Number</b>	<b>Family</b>	<b>of Families</b>	<b>Page</b>	<b>of Pages</b>	<b>Expiry Date</b>	<b>Status</b>		
	751525857	4	9	12	19	30DEC 2019	D DISCHARGED		
<b>FORM 1C FINANCING STATEMENT / CLAIM FOR LIEN</b>									
<b>File Number</b>	<b>Caution Filing</b>	<b>Page of</b>	<b>Total Pages</b>	<b>Motor Vehicle Schedule</b>	<b>Registration Number</b>	<b>Registered Under</b>	<b>Registration Period</b>		
751525857		001	1		20190524 0903 1901 7314	P PPSA	01		
<b>Individual Debtor</b>	<b>Date of Birth</b>	<b>First Given Name</b>		<b>Initial</b>	<b>Surname</b>				
<b>Business Debtor</b>	<b>Business Debtor Name</b>					<b>Ontario Corporation Number</b>			
	EVERGREEN CONSUMERBRAND								
	<b>Address</b>			<b>City</b>	<b>Province</b>	<b>Postal Code</b>			
	100 DELTA PARK BLVD, UNIT# 1			BRAMPTON	ON	L6T 5E7			
<b>Individual Debtor</b>	<b>Date of Birth</b>	<b>First Given Name</b>		<b>Initial</b>	<b>Surname</b>				
<b>Business Debtor</b>	<b>Business Debtor Name</b>					<b>Ontario Corporation Number</b>			
	<b>Address</b>			<b>City</b>	<b>Province</b>	<b>Postal Code</b>			
<b>Secured Party</b>	<b>Secured Party / Lien Claimant</b>								
	CANPACO INC								
	<b>Address</b>			<b>City</b>	<b>Province</b>	<b>Postal Code</b>			
	7901 HUNTINGTON ROAD			WOODBIDGE	ON	L4H 0S9			
<b>Collateral Classification</b>	<b>Consumer Goods</b>	<b>Inventory</b>	<b>Equipment</b>	<b>Accounts</b>	<b>Other</b>	<b>Motor Vehicle Included</b>	<b>Amount</b>	<b>Date of Maturity or</b>	<b>No Fixed Maturity Date</b>
			X				3500		
<b>Motor Vehicle Description</b>	<b>Year</b>	<b>Make</b>		<b>Model</b>		<b>V.I.N.</b>			
<b>General Collateral Description</b>	<b>General Collateral Description</b>								
	EAGLE T100 CARTON SEALER SN# FC1175009								
<b>Registering Agent</b>	<b>Registering Agent</b>								
	<b>Address</b>			<b>City</b>	<b>Province</b>	<b>Postal Code</b>			

CONTINUED

Type of Search	Business Debtor										
Search Conducted On	EVERGREEN CONSUMER BRANDS INC.										
File Currency	09FEB 2020										
	File Number	Family	of Families	Page						of Pages	
	751525857	4	9	13						19	
<b>FORM 2C FINANCING CHANGE STATEMENT / CHANGE STATEMENT</b>											
	Cautious Filing	Page of	Total Pages	Motor Vehicle Schedule Attached	Registration Number			Registered Under			
		001	1		20191230 1102 1793 5154						
Record Referenced	File Number	Page Amended	No Specific Page Amended	Change Required	Renewal Years	Correct Period					
	751525857			C DISCHRG							
Reference Debtor/ Transferor	First Given Name			Initial	Surname						
	Business Debtor Name										
	EVERGREEN CONSUMERBRAND										
Other Change	Other Change										
Reason / Description	Reason / Description										
Debtor/ Transferee	Date of Birth	First Given Name			Initial	Surname					
	Business Debtor Name							Ontario Corporation Number			
	Address				City		Province	Postal Code			
Assignor Name	Assignor Name										
Secured Party	Secured party, lien claimant, assignee										
	Address				City		Province	Postal Code			
Collateral Classification	Consumer Goods	Inventory	Equipment	Accounts	Other	Motor Vehicle Included	Amount	Date of Maturity or	No Fixed Maturity Date		
Motor Vehicle Description	Year	Make			Model		V.I.N.				
General Collateral Description	General Collateral Description										
Registering Agent	Registering Agent or Secured Party/ Lien Claimant										
	CANPACO INC										
	Address				City			Province	Postal		

				<b>Code</b>
	7901 HUNTINGTON ROAD	WOODBIDGE	ON	L4H0S9

END OF FAMILY

Type of Search	Business Debtor								
Search Conducted On	EVERGREEN CONSUMER BRANDS INC.								
File Currency	09FEB 2020								
	File Number	Family	of Families	Page	of Pages	Expiry Date	Status		
	755406648	5	9	14	19	12SEP 2021			
<b>FORM 1C FINANCING STATEMENT / CLAIM FOR LIEN</b>									
File Number	Caution Filing	Page of	Total Pages	Motor Vehicle Schedule	Registration Number	Registered Under	Registration Period		
755406648		001	1		20190912 1558 2836 0293	P PPSA	02		
Individual Debtor	Date of Birth	First Given Name			Initial	Surname			
Business Debtor	Business Debtor Name					Ontario Corporation Number			
	EVERGREEN CONSUMER BRANDS LTD								
	Address			City	Province	Postal Code			
	100 DELTA PARK BLVD			BRAMPTON	ON	L6T 5E7			
Individual Debtor	Date of Birth	First Given Name			Initial	Surname			
Business Debtor	Business Debtor Name					Ontario Corporation Number			
	Address			City	Province	Postal Code			
Secured Party	Secured Party / Lien Claimant								
	YALE INDUSTRIAL TRUCKS INC.								
	Address			City	Province	Postal Code			
	340 HANLAN ROAD			WOODBIDGE	ON	L4L 3P6			
Collateral Classification	Consumer Goods	Inventory	Equipment	Accounts	Other	Motor Vehicle Included	Amount	Date of Maturity or	No Fixed Maturity Date
			X						
Motor Vehicle Description	Year	Make			Model	V.I.N.			
	2012	YALE			GLC030VXNUSE082/187	C809V06533K			
General Collateral Description	General Collateral Description								
Registering Agent	Registering Agent								
	Address			City	Province	Postal Code			

END OF FAMILY

<b>Type of Search</b>	Business Debtor								
<b>Search Conducted On</b>	EVERGREEN CONSUMER BRANDS INC.								
<b>File Currency</b>	09FEB 2020								
	<b>File Number</b>	<b>Family</b>	<b>of Families</b>	<b>Page</b>	<b>of Pages</b>	<b>Expiry Date</b>	<b>Status</b>		
	759126789	6	9	15	19	07JAN 2021			
<b>FORM 1C FINANCING STATEMENT / CLAIM FOR LIEN</b>									
<b>File Number</b>	<b>Caution Filing</b>	<b>Page of</b>	<b>Total Pages</b>	<b>Motor Vehicle Schedule</b>	<b>Registration Number</b>	<b>Registered Under</b>	<b>Registration Period</b>		
759126789		001	1		20200107 1613 1901 5432	P PPSA	01		
<b>Individual Debtor</b>	<b>Date of Birth</b>	<b>First Given Name</b>			<b>Initial</b>	<b>Surname</b>			
<b>Business Debtor</b>	<b>Business Debtor Name</b>					<b>Ontario Corporation Number</b>			
	EVERGREEN CONSUMER BRANDS								
	<b>Address</b>				<b>City</b>	<b>Province</b>	<b>Postal Code</b>		
	100 DELTA PARK BLVD				BRAMPTON	ON	L6T 5E7		
<b>Individual Debtor</b>	<b>Date of Birth</b>	<b>First Given Name</b>			<b>Initial</b>	<b>Surname</b>			
<b>Business Debtor</b>	<b>Business Debtor Name</b>					<b>Ontario Corporation Number</b>			
	<b>Address</b>				<b>City</b>	<b>Province</b>	<b>Postal Code</b>		
<b>Secured Party</b>	<b>Secured Party / Lien Claimant</b>								
	CANPACO INC.								
	<b>Address</b>				<b>City</b>	<b>Province</b>	<b>Postal Code</b>		
	7901 HUNTINGTON ROAD				WOODBIDGE	ON	L4H 0S9		
<b>Collateral Classification</b>	<b>Consumer Goods</b>	<b>Inventory</b>	<b>Equipment</b>	<b>Accounts</b>	<b>Other</b>	<b>Motor Vehicle Included</b>	<b>Amount</b>	<b>Date of Maturity or</b>	<b>No Fixed Maturity Date</b>
			X				3500		
<b>Motor Vehicle Description</b>	<b>Year</b>	<b>Make</b>			<b>Model</b>		<b>V.I.N.</b>		
<b>General Collateral Description</b>	<b>General Collateral Description</b>								
	1. EAGLE T100 CARTON SEALER MODEL # T100, S/N FC117303								
<b>Registering Agent</b>	<b>Registering Agent</b>								
	<b>Address</b>				<b>City</b>	<b>Province</b>	<b>Postal Code</b>		

END OF FAMILY

<b>Type of Search</b>	Business Debtor								
<b>Search Conducted On</b>	EVERGREEN CONSUMER BRANDS INC.								
<b>File Currency</b>	09FEB 2020								
	<b>File Number</b>	<b>Family</b>	<b>of Families</b>	<b>Page</b>	<b>of Pages</b>	<b>Expiry Date</b>	<b>Status</b>		
	759126951	7	9	16	19	07JAN 2021			
<b>FORM 1C FINANCING STATEMENT / CLAIM FOR LIEN</b>									
<b>File Number</b>	<b>Caution Filing</b>	<b>Page of</b>	<b>Total Pages</b>	<b>Motor Vehicle Schedule</b>	<b>Registration Number</b>	<b>Registered Under</b>	<b>Registration Period</b>		
759126951		001	1		20200107 1617 1901 5434	P PPSA	01		
<b>Individual Debtor</b>	<b>Date of Birth</b>	<b>First Given Name</b>			<b>Initial</b>	<b>Surname</b>			
<b>Business Debtor</b>	<b>Business Debtor Name</b>					<b>Ontario Corporation Number</b>			
	EVERGREEN CONSUMER BRANDS								
	<b>Address</b>				<b>City</b>	<b>Province</b>	<b>Postal Code</b>		
	100 DELTA PARK BLVD				BRAMPTON	ON	L6T 5E7		
<b>Individual Debtor</b>	<b>Date of Birth</b>	<b>First Given Name</b>			<b>Initial</b>	<b>Surname</b>			
<b>Business Debtor</b>	<b>Business Debtor Name</b>					<b>Ontario Corporation Number</b>			
	<b>Address</b>				<b>City</b>	<b>Province</b>	<b>Postal Code</b>		
<b>Secured Party</b>	<b>Secured Party / Lien Claimant</b>								
	CANPACO INC.								
	<b>Address</b>				<b>City</b>	<b>Province</b>	<b>Postal Code</b>		
	7901 HUNTINGTON ROAD				WOODBIDGE	ON	L6T 5E7		
<b>Collateral Classification</b>	<b>Consumer Goods</b>	<b>Inventory</b>	<b>Equipment</b>	<b>Accounts</b>	<b>Other</b>	<b>Motor Vehicle Included</b>	<b>Amount</b>	<b>Date of Maturity or</b>	<b>No Fixed Maturity Date</b>
			X				4500		
<b>Motor Vehicle Description</b>	<b>Year</b>	<b>Make</b>			<b>Model</b>		<b>V.I.N.</b>		
<b>General Collateral Description</b>	<b>General Collateral Description</b>								
	ARPAC STRETCH WRAPPER MODEL # PRO-4002-H, S/N 11940								
<b>Registering Agent</b>	<b>Registering Agent</b>								
	<b>Address</b>				<b>City</b>	<b>Province</b>	<b>Postal Code</b>		

END OF FAMILY

<b>Type of Search</b>	Business Debtor								
<b>Search Conducted On</b>	EVERGREEN CONSUMER BRANDS INC.								
<b>File Currency</b>	09FEB 2020								
	<b>File Number</b>	<b>Family</b>	<b>of Families</b>	<b>Page</b>	<b>of Pages</b>	<b>Expiry Date</b>	<b>Status</b>		
	759127005	8	9	17	19	07JAN 2021			
<b>FORM 1C FINANCING STATEMENT / CLAIM FOR LIEN</b>									
<b>File Number</b>	<b>Caution Filing</b>	<b>Page of</b>	<b>Total Pages</b>	<b>Motor Vehicle Schedule</b>	<b>Registration Number</b>	<b>Registered Under</b>	<b>Registration Period</b>		
759127005		001	1		20200107 1622 1901 5436	P PPSA	01		
<b>Individual Debtor</b>	<b>Date of Birth</b>	<b>First Given Name</b>			<b>Initial</b>	<b>Surname</b>			
<b>Business Debtor</b>	<b>Business Debtor Name</b>					<b>Ontario Corporation Number</b>			
	EVERGREEN CONSUMER BRANDS								
	<b>Address</b>				<b>City</b>	<b>Province</b>	<b>Postal Code</b>		
	100 DELTA PARK BLVD				BRAMPTON	ON	L6T 5E7		
<b>Individual Debtor</b>	<b>Date of Birth</b>	<b>First Given Name</b>			<b>Initial</b>	<b>Surname</b>			
<b>Business Debtor</b>	<b>Business Debtor Name</b>					<b>Ontario Corporation Number</b>			
	<b>Address</b>				<b>City</b>	<b>Province</b>	<b>Postal Code</b>		
<b>Secured Party</b>	<b>Secured Party / Lien Claimant</b>								
	CANPACO INC.								
	<b>Address</b>				<b>City</b>	<b>Province</b>	<b>Postal Code</b>		
	7901 HUNTINGTON ROAD				WOODBIDGE	ON	L4H 0S9		
<b>Collateral Classification</b>	<b>Consumer Goods</b>	<b>Inventory</b>	<b>Equipment</b>	<b>Accounts</b>	<b>Other</b>	<b>Motor Vehicle Included</b>	<b>Amount</b>	<b>Date of Maturity or</b>	<b>No Fixed Maturity Date</b>
			X				4500		
<b>Motor Vehicle Description</b>	<b>Year</b>	<b>Make</b>			<b>Model</b>		<b>V.I.N.</b>		
<b>General Collateral Description</b>	<b>General Collateral Description</b>								
	ARPAC STRETCG WRAPPER MODEL # PAT-4002-H, S/N 12944								
<b>Registering Agent</b>	<b>Registering Agent</b>								
	CANPACO INC								
	<b>Address</b>				<b>City</b>	<b>Province</b>	<b>Postal Code</b>		
	7901 HUNTINGTON ROAD				WOODBIDGE	ON	L4H 0S9		

END OF FAMILY

<b>Type of Search</b>	Business Debtor								
<b>Search Conducted On</b>	EVERGREEN CONSUMER BRANDS INC.								
<b>File Currency</b>	09FEB 2020								
	<b>File Number</b>	<b>Family</b>	<b>of Families</b>	<b>Page</b>	<b>of Pages</b>	<b>Expiry Date</b>	<b>Status</b>		
	759787011	9	9	18	19	03FEB 2025			
<b>FORM 1C FINANCING STATEMENT / CLAIM FOR LIEN</b>									
<b>File Number</b>	<b>Caution Filing</b>	<b>Page of</b>	<b>Total Pages</b>	<b>Motor Vehicle Schedule</b>	<b>Registration Number</b>	<b>Registered Under</b>	<b>Registration Period</b>		
759787011		001	2		20200203 1051 1590 6066	P PPSA	5		
<b>Individual Debtor</b>	<b>Date of Birth</b>	<b>First Given Name</b>			<b>Initial</b>	<b>Surname</b>			
<b>Business Debtor</b>	<b>Business Debtor Name</b>					<b>Ontario Corporation Number</b>			
	EVERGREEN CONSUMER BRANDS INC.								
	<b>Address</b>				<b>City</b>	<b>Province</b>	<b>Postal Code</b>		
	100 DELTA PARK BLVD.				BRAMPTON	ON	L6T 5E7		
<b>Individual Debtor</b>	<b>Date of Birth</b>	<b>First Given Name</b>			<b>Initial</b>	<b>Surname</b>			
<b>Business Debtor</b>	<b>Business Debtor Name</b>					<b>Ontario Corporation Number</b>			
	<b>Address</b>				<b>City</b>	<b>Province</b>	<b>Postal Code</b>		
<b>Secured Party</b>	<b>Secured Party / Lien Claimant</b>								
	BRUCE MICHAEL FRIEDMAN								
	<b>Address</b>				<b>City</b>	<b>Province</b>	<b>Postal Code</b>		
	2401 KANAN ROAD				AGOURA	CA	91301		
<b>Collateral Classification</b>	<b>Consumer Goods</b>	<b>Inventory</b>	<b>Equipment</b>	<b>Accounts</b>	<b>Other</b>	<b>Motor Vehicle Included</b>	<b>Amount</b>	<b>Date of Maturity or</b>	<b>No Fixed Maturity Date</b>
		X	X	X	X	X			
<b>Motor Vehicle Description</b>	<b>Year</b>	<b>Make</b>			<b>Model</b>	<b>V.I.N.</b>			
<b>General Collateral Description</b>	<b>General Collateral Description</b>								
<b>Registering Agent</b>	<b>Registering Agent</b>								
	CHAITONS LLP (DB/62708)								
	<b>Address</b>				<b>City</b>	<b>Province</b>	<b>Postal Code</b>		
	5000 YONGE STREET, 10TH FLOOR				TORONTO	ON	M2N 7E9		

CONTINUED

Type of Search	Business Debtor								
Search Conducted On	EVERGREEN CONSUMER BRANDS INC.								
File Currency	09FEB 2020								
	File Number	Family	of Families	Page	of Pages	Expiry Date	Status		
	759787011	9	9	19	19	03FEB 2025			
<b>FORM 1C FINANCING STATEMENT / CLAIM FOR LIEN</b>									
File Number	Caution Filing	Page of	Total Pages	Motor Vehicle Schedule	Registration Number	Registered Under	Registration Period		
759787011		002	2		20200203 1051 1590 6066				
Individual Debtor	Date of Birth	First Given Name			Initial	Surname			
Business Debtor	Business Debtor Name					Ontario Corporation Number			
	Address			City	Province	Postal Code			
Individual Debtor	Date of Birth	First Given Name			Initial	Surname			
Business Debtor	Business Debtor Name					Ontario Corporation Number			
	Address			City	Province	Postal Code			
Secured Party	Secured Party / Lien Claimant								
	STEVEN MARK IMMEL								
	Address			City	Province	Postal Code			
	3113 KIRKWALL STREET			FITCHBURG	WI	53711			
Collateral Classification	Consumer Goods	Inventory	Equipment	Accounts	Other	Motor Vehicle Included	Amount	Date of Maturity or	No Fixed Maturity Date
Motor Vehicle Description	Year	Make			Model	V.I.N.			
General Collateral Description	General Collateral Description								
Registering Agent	Registering Agent								
	Address			City	Province	Postal Code			

LAST PAGE

**Note: All pages have been returned.**

[BACK TO TOP](#)



Show All Pages

This service is tested daily with McAfee SECURE™ to ensure the security of the transaction and information.

At ServiceOntario, we respect your right to privacy and value the trust you place in us. [Read more about ServiceOntario's Privacy Statement](#)

[ServiceOntario Contact Centre](#)

[Privacy](#) 

[Accessibility](#) 

[Contact us](#) 

[FAQ](#) 

[Terms of Use](#) 

© [Queen's Printer for Ontario 2015](#) 

This is **Exhibit “F”**, referred to in the

Affidavit of Sonia de Lorenzi,  
sworn before me

this 10th day of February, 2020.



---

A Commissioner for taking Affidavits, etc.

Roxana Gabriela Menea, a Commissioner, etc.,  
Province of Ontario, for  
Thornton Grout Finnigan LLP,  
Barristers and Solicitors.  
Expires June 5, 2021.

## SUBORDINATION AND STANDSTILL AGREEMENT

THIS AGREEMENT dated for September 9, 2019.

### AMONG:

**NATIONAL BANK OF CANADA**, a Canadian chartered bank, having an office at 130 King Street West, 8<sup>th</sup> Floor, Toronto, Ontario, M5X 1J9;

(the "**Bank**")

### AND:

**FWCU CAPITAL CORP.**, a subsidiary of **FIRST WEST CREDIT UNION**, a credit union, having an office at 6470 201 Street, Langley, BC V2Y 2X4;

("FWCU")

### AND:

**EVERGREEN CONSUMER BRANDS INC.**, a corporation under the *Business Corporations Act* of Ontario, having an office at 100 Delta Park Blvd., Brampton ON L6T 5E7;

(the "**Borrower**").

### WHEREAS:

- A. The Borrower has established certain credit facilities (the "**Bank Credit Facilities**") with the Bank under the terms set forth in the Bank Credit Agreement, and the Borrower has granted or may in the future grant certain security to the Bank in connection therewith;
- B. The Borrower has also established certain loan facilities (the "**FWCU Credit Facilities**") with FWCU under the terms set forth in the FWCU Loan Agreement and the Borrower has granted or may in the future grant certain security to FWCU in connection therewith; and
- C. The parties hereto have agreed to enter into this Agreement in order to set out the respective priorities of the Bank Security and the FWCU Security.

**IN CONSIDERATION** of the mutual agreements contained in this Agreement, the parties agree as follows:

### 1. DEFINITIONS

In this Agreement, the terms defined in Schedule "A" shall have the meaning attributed to them therein.

## **2. CONSENTS**

### **2.1 Bank**

The Bank consents to and waives any breach by the Borrower of or default under the Bank Agreements resulting from the entry into by the Borrower of the FWCU Agreements or the creation and issuance of the FWCU Security and to the incurring of the indebtedness secured thereby.

### **2.2 FWCU**

FWCU consents to and waives any breach by the Borrower of or default under the FWCU Agreements resulting from the entry into by the Borrower of the Bank Agreements or the creation and issuance of the Bank Security and to the incurring of the indebtedness secured thereby.

## **3. SUBORDINATION**

### **3.1 Within the Bank Cap**

FWCU hereby agrees that the FWCU Security, together with all right, title and interest thereunder and the Liens created thereby, on the Bank Collateral is hereby postponed and subordinated to the Bank Security, in all respects to the extent of the Bank Capped Obligations.

### **3.2 Beyond the Bank Cap**

The Bank hereby agrees that the Bank Security, together with all right, title and interest thereunder and the Liens created thereby, on the Bank Collateral securing Excess Bank Obligations, is hereby postponed and subordinated to the FWCU Security, in all respects to the extent of the FWCU Capped Obligations.

### **3.3 Beyond the FWCU Cap**

FWCU agrees that the FWCU Security, together with all right, title and interest thereunder and the Liens created thereby, on the Bank Collateral securing Excess FWCU Obligations is hereby postponed and subordinated to the Bank Security in all respects to the extent of the Bank Obligations.

### **3.4 Applicability of the Subordination**

The subordinations and postponements contained in this Agreement shall apply in all events and circumstances regardless of:

- (a) the date of execution, attachment, registration, or perfection of Bank Security or FWCU Security;
- (b) the date of any advance or advances made to the Borrower by the Bank or FWCU;
- (c) the date of default by the Borrower under any of the Bank Agreements and the FWCU Agreements or the dates of crystallization of any floating charges under the Bank Security or FWCU Security; or

- (d) any priority granted by any principle of law or any statute, including the *Bank Act* (Canada), or any personal property security or like statute.

### **3.5 Access to Collateral**

The Bank and FWCU shall not impede each other and their respective agents access at all reasonable times to any Assets of the Borrower upon which such other party has a Lien to view the same and access to make copies of or extracts from any books of account and all records, ledgers, reports, documents and other writings of the Borrower relating to such Assets, and shall not impede such other party at all reasonable times to remove any Assets of the Borrower upon which its Lien has priority under this Agreement from the premises of the Borrower without interference, provided that such other party shall promptly repair any damage caused to the premises by the removal of any such property or assets.

### **3.6 Key Man Insurance**

Notwithstanding anything herein to the contrary, the parties agree that the Bank Security is hereby postponed and subordinated to the FWCU Security with respect to the FWCU Key Man Insurance.

### **3.7 Subsidiaries**

Each of FWCU and the Bank agrees with the other that it will not request, receive or accept the benefit of any guarantee, indemnity, other assurance or Lien over any Assets of any subsidiary of the Borrower, unless FWCU or the Bank, as the case may be, ensures that this Agreement is amended in such manner as may be required to extend the priorities set forth in this Agreement to such subsidiary and its Assets.

## **4. COVENANTS OF THE BORROWER**

### **4.1 Compliance with this Agreement**

The Borrower hereby confirms to and agrees with the Bank and FWCU that, so long as the Borrower remains obligated or indebted to the Bank and FWCU, the Borrower shall hold its Assets for the Bank and FWCU in accordance with their respective interests and priorities under this Agreement.

### **4.2 Release of Information**

Without limiting the generality of Section 4.1, the Borrower hereby specifically consents to the giving of information and notices by the Bank and FWCU to each other as contemplated in this Agreement.

## **5. STANDSTILL AND PERMITTED PAYMENTS**

### **5.1 Payments to FWCU**

Except as expressly provided otherwise in this Agreement, the Bank agrees with FWCU that the Borrower may make payments of principal and interest on account of the FWCU Credit Facilities in accordance with the terms and conditions of the FWCU Loan Agreement and FWCU may receive and retain such payments, except that if the Bank provides written notice to each of FWCU and the Borrower confirming that:

- (a) the Borrower is in breach of its payment obligations under the Bank Agreements;
- (b) the making of such payment would cause a breach or Event of Default under the Bank Credit Agreement or the Bank Security;
- (c) the Bank is making or has made a demand under the Bank Agreements; or
- (d) there has been an Event of Default under the Bank Credit Agreement or the Bank Security,

then the Borrower will not make, and FWCU will not accept, any payment to FWCU as contemplated in this Section 5.1 unless and until the Bank, in its absolute discretion, notifies FWCU and the Borrower in writing that the Borrower may resume such payments. Any payment received by FWCU in contravention of this Section 5.1 shall be received in trust for the Bank and shall be paid over to the Bank forthwith upon receipt for application and payment in accordance with Section 5.5.

The parties agree that any costs or non-cash payment received by FWCU and subsequently paid over to the Bank pursuant to this Agreement will be deemed to never have been received by FWCU or applied on account of the FWCU Credit Facilities, unless so applied pursuant to Section 5.5.

## **5.2 Payments to the Bank**

FWCU agrees with the Bank that the Borrower may make payments of principal and interest and any other amounts owing to the Bank pursuant to the Bank Agreements and the Bank may receive and retain such payments, except to the extent expressly provided otherwise in this Agreement.

## **5.3 Standstill**

Notwithstanding the occurrence of any Event of Default under any FWCU Agreement or any other matter or thing, FWCU will not take any Enforcement Action until the earlier of:

- (a) it has given the Bank 120 days' prior written notice while an Event of Default under the FWCU Agreements is continuing; provided that, (y) if such Event of Default is cured or waived by FWCU, any such notice thereof given by FWCU to the Bank shall be deemed never to have been given for the purposes of this Section 5.3 and (z) FWCU shall not enforce the FWCU Security while the Bank is enforcing the Bank Security, until the Bank Capped Obligations are paid in full or following payment in full of the FWCU Capped Obligations, until the Excess Bank Obligations are paid in full; provided that the Bank is diligently enforcing the Bank Security in a commercially reasonable manner;
- (b) it has the prior written consent of the Bank;
- (c) the Borrower is petitioned or assigned into bankruptcy by a party other than FWCU;
- (d) there is a stay of proceedings against the Borrower under the *Bankruptcy and Insolvency Act* (Canada), the *Companies' Creditors Arrangement Act* or other similar legislation for the benefit of insolvent debtors; or

- (e) the Bank has commenced, in a commercially reasonable manner, and discontinued realization proceedings against the Borrower or the Bank Collateral, unless the reason for discontinuing such proceedings is that the Event of Default giving rise thereto is cured or waived by the Bank, in which case, such proceedings shall be deemed never to have been commenced for the purposes of this Section 5.3.

#### 5.4 Exception

Notwithstanding the provisions of Section 5.3, FWCU will be entitled to take any of the following actions under the FWCU Security:

- (a) upon the occurrence and during the continuance of a default under the FWCU Security, accelerate the time for payment of any of the monies then owing to it in accordance with the terms of the FWCU Loan Agreement and make a demand therefor;
- (b) entering the premises of the Borrower to inspect the Bank Collateral and to review, audit and copy all information of the Borrower relating to the Bank Collateral pursuant to the FWCU Security, provided that it does not interfere with the operation of the business of the Borrower or any actions being carried out by the Bank or any Receiver appointed by or on the application of the Bank at such premises or remove or destroy any such information;
- (c) filing a proof of claim in respect of the Borrower, if a petition in bankruptcy is filed by or against the Borrower; and
- (d) participating in any proposal or similar proceeding under the *Companies Creditors Arrangement Act (Canada)* or the *Bankruptcy and Insolvency Act (Canada)* in respect of the Borrower) in a manner not adverse to the Bank;

provided that any amount received or recovered by FWCU pursuant to any of the foregoing actions shall be paid over to the Bank for application and payment in accordance with Section 5.5.

#### 5.5 Application Of Proceeds

Except for any Proceeds received pursuant to Section 3.6 (which will be entirely for the benefit of FWCU), regardless of whether an Insolvency Proceeding has been commenced, Bank Collateral or Proceeds therefrom received by the Bank or FWCU in connection with an Enforcement Action or in connection with any Insolvency Proceeding involving the Borrower will be applied:

- (a) first, to the payment of costs and expenses of the Bank in connection with any Insolvency Proceeding or Enforcement Action until the Bank Capped Obligations have been paid in full,
- (b) second, to the payment in full or cash collateralization of all Bank Capped Obligations,

- (c) third, to the payment of costs and expenses of FWCU in connection with any Insolvency Proceeding or Enforcement Action until the FWCU Capped Obligations have been paid in full,
- (d) fourth, to the payment in full of the FWCU Capped Obligations,
- (e) fifth, to the payment in full of any Excess Bank Obligations,
- (f) sixth, to the payment in full of any Excess FWCU Obligations and
- (g) seventh, to the Borrower or as otherwise required by applicable law,

in each case as specified in the Bank Agreements or FWCU Agreements.

### **5.6 Liquidation, Dissolution, Bankruptcy.**

In the event any Insolvency Proceeding in relation to the Borrower is commenced:

- (a) all distributions in respect of such Insolvency Proceeding to which FWCU is entitled shall be paid forthwith upon receipt to the Bank and applied to make the payments in the order set forth in Section 5.5.
- (b) FWCU agrees to execute, verify, deliver and file any proofs of claim in respect of any FWCU Obligations requested by the Bank, acting reasonably, in connection with any such Insolvency Proceeding and hereby irrevocably authorizes, empowers and appoints the Bank its agent and attorney-in-fact to file such proofs of claim upon the failure of FWCU promptly to do so prior to 3 Business Days before the expiration of the time to file any such proof of claim (although the Bank shall be under no obligation to file any proof of claim on behalf of FWCU), provided however that the Bank shall not be permitted to vote such claim and all voting rights with respect thereto shall be retained by FWCU. FWCU agrees not to vote its claims or interests in any Insolvency Proceeding in a manner that would be inconsistent with the terms of this Agreement and the relative rights and priorities set out herein;
- (c) FWCU agrees that it will not participate in any Insolvency Proceeding in relation to the Borrower in any manner that might interfere with the prompt payment in full of all Bank Capped Obligations. In that regard, and without limitation, FWCU will not, without the prior written consent of the Bank, (i) vote against or otherwise oppose any proposal, plan of compromise or arrangement or transaction which contemplates or will result in the prompt payment in full of the Bank Capped Obligations, unless a viable alternative thereto has been presented for approval to the creditors of the Borrower or the court, as applicable, in such Insolvency Proceeding which will result (with the same or greater certainty) in cash proceeds being received by the Bank in excess of the cash proceeds that would be paid under the proposal, plan of compromise or arrangement or transaction within the same timeframe or sooner or (ii) vote in favour of or otherwise support any proposal, plan of compromise or arrangement or transaction which does not contemplate or will not result in the prompt payment in full of the Bank Capped Obligations;

- (d) the provisions of this Agreement shall continue to govern the relative rights and priorities of the Bank and FWCU even if all or part of the Bank Obligations or Bank Security or the FWCU Obligations or FWCU Security, as the case may be, is subordinated, set aside, avoided, invalidated or disallowed in connection with any such Insolvency Proceeding, proceeding under any Fraudulent Conveyances Law or otherwise and this Agreement shall be reinstated if at any time any payment of any of the Bank Obligations or FWCU Obligations is rescinded or must otherwise be returned by the Bank or FWCU, as applicable.

#### **5.7 Release on Realization by the Bank.**

If the Bank exercises its power of sale over any Bank Collateral or releases the Bank Security over any Bank Collateral in connection with an Enforcement Action, then any FWCU Security on such Bank Collateral, shall be, except as otherwise provided below, automatically and simultaneously released, and FWCU will promptly execute and deliver to the Bank such discharge statements, releases and other documents as the Bank reasonably requests to effectively confirm such release; provided that in each case, the Bank has commenced an Enforcement Action, and exercised its power of sale in connection therewith, in a commercially reasonable manner; and further provided that such release will not occur without the consent of FWCU if the net proceeds of the disposition of such Bank Collateral will not be applied to repay Bank Obligations and/or FWCU Obligations in the order provided for in Section 5.5.

#### **5.8 Disgorge Payments.**

If any payment is made on account of any FWCU Obligations that is not permitted to be paid to or accepted or received by FWCU under this Agreement, such payment shall not be commingled with any of the assets of FWCU and shall be held in trust by FWCU for the benefit of the Bank and shall be promptly paid over to the Bank for application in accordance with Section 5.5.

#### **5.9 Agreement Not to Contest.**

FWCU agrees that it will not at any time, including in connection with any Insolvency Proceeding in relation to the Borrower, contest the validity, perfection, priority or enforceability of the Bank Obligations, the Bank Agreements or the Bank Security over any Bank Collateral. The Bank agrees that it will not at any time, including in connection with any Insolvency Proceeding in relation to the Borrower, contest the validity, perfection, priority or enforceability of the FWCU Obligations, the FWCU Agreements or the FWCU Security over any Bank Collateral to the extent it is created or incurred in accordance with the provisions of this Agreement.

#### **5.10 Marshaling.**

To the extent permitted by applicable law, FWCU hereby waives any rights it may have under applicable law to assert the doctrine of marshaling or to otherwise require the Bank to marshal any Bank Collateral for the benefit of FWCU

## **6. GENERAL**

### **6.1 Information**

From time to time and upon reasonable request, the Bank and FWCU will advise each other of the particulars of the indebtedness and liability of the Borrower to each, and all security held by each therefor.

### **6.2 Further Assurance**

Each of the Bank, FWCU and the Borrower shall from time to time do, perform, execute and deliver all acts, deeds and documents as the Bank or FWCU may reasonably request and as may be necessary to give full force and effect to the intent of this Agreement; provided, however, that no consent of the Borrower shall be necessary to any amendment of the terms hereof by the Bank and FWCU unless the interests of the Borrower are directly affected thereby. FWCU appoints the Bank, or its solicitors, as FWCU's agent to make any registrations or filings as may be necessary or desirable with respect to this Agreement, including the registration of any financing change statement at the Personal Property Registry for the Province of Ontario.

### **6.3 Financing Statement**

The Borrower waives any right it may have to require the Bank or FWCU to deliver to it a copy of any financing statement, financing change statement or verification statement resulting from a registration of the particulars of this Agreement at the Personal Property Registry for the Province of Ontario.

### **6.4 Notice of Demand**

Prior to making any demand on the Borrower for repayment of any funds owed, the Bank or FWCU, as the case may be, shall endeavour to provide each other 72 hours prior notice of such demand, provided, however, that if such party making the demand determines in good faith that any delay in demanding payment would be prejudicial to it, then such notice need only be given at the time that demand for payment is made. Neither the Bank nor FWCU shall be liable for any accidental omission to provide notice as required pursuant to this Section 6.4.

### **6.5 Notice**

Any notice required or permitted to be given pursuant to this Agreement shall be in writing and shall be addressed and delivered to the parties as follows:

- (a) in the case of the Bank, addressed as follows:

National Bank of Canada  
139 King Street West, 8<sup>th</sup> Floor  
Toronto, Ontario M5X 1J9

Attention: Phil Damecour, Senior Director

Fax No: 416-864-7819

- (b) in the case of FWCU, addressed as follows:

**FWCU CAPITAL CORP.**  
6470 201 Street  
Langley, BC V2Y 2X4

Attention: \_\_\_\_\_

Fax No: 604-501-4261

- (c) in the case of the Borrower, addressed as follows:

**EVERGREEN CONSUMER BRANDS INC.**

100 Delta Park Blvd., Unit 1  
Brampton, ON L6T 5E7

Attention: Mr. Friedman and Mr. Immel

Email: bfriedman.ecb@gmail.com and/or steveimmelcfc@gmail.com

Fax No: 905.458.8650

Tel: 905.458.7002

Notices may be transmitted by fax or delivered personally, or if to the Borrower, by email, and in each case shall be deemed to be received on the day it is so transmitted or delivered, if that day is a business day, or otherwise on the next business day following the transmission or delivery.

## 6.6 Extended Meanings

To the extent the context so admits, in this Agreement the following words and expressions shall be given the following corresponding extended meanings:

an **"agreement"** – any agreement, oral or written, any simple contract, deed or specialty, and includes any bond, bill of exchange, indenture, instrument or undertaking.

**"include"** – include without limitation and such term shall not be construed to limit any word or statement which it follows to the specific items or matters immediately following it or similar terms or matters.

**"obligations"** – indebtedness, obligations, promises, covenants, responsibilities, duties and liabilities (actual or contingent, direct or indirect, matured or unmatured, now existing or arising hereafter), whether arising by agreement or statute, at law, in equity or otherwise.

**"paid in full"** and **"repaid in full"** in relation to any payment obligation owing to any person (the "creditor") – permanent, indefeasible and irrevocable payment in cash (or other freely available funds transfer as may be expressly provided for in the applicable document creating or evidencing such payment obligation) to the applicable creditor in full of such payment obligation in accordance with the express provisions of the applicable document creating or evidencing such payment obligation, without regard to any compromise, reduction or disallowance of all or any item or part thereof by virtue of the application of any Insolvency Law, Fraudulent Conveyances Law or assignment, preference or other similar such laws, any law affecting creditors' rights generally or general principles of equity, and, if applicable, the cancellation or expiry of any commitment of the creditor to lend or otherwise extend credit.

a **“person”** – an individual, including an individual in his or her capacity as trustee, executor, administrator or other representative, a sole proprietorship, a partnership, an unincorporated association, an unincorporated syndicate, an unincorporated organization, a trust, including a business trust, a body corporate organized under the laws of any jurisdiction, a government or agency of a government or any other artificial legal or commercial entity.

a **“proceeding”** – any proceeding, legal action, lawsuit, arbitration, mediation, alternative dispute resolution proceeding or other proceeding.

a **“receiver”** – a privately appointed or court appointed receiver or receiver and manager, interim receiver, liquidator, trustee-in-bankruptcy, administrator, administrative receiver and any other like or similar official.

**“rights”** – rights, titles, benefits, interests, powers, authorities, discretions, privileges, immunities and remedies (actual or contingent, direct or indirect, matured or unmatured, now existing or arising hereafter), whether arising by agreement or statute, at law, in equity or otherwise.

## **6.7 Grammatical Variations**

In this Agreement, unless the context otherwise requires, (i) words and expressions (including words and expressions (capitalized or not) defined or given extended meanings) in the singular include the plural and vice versa (the necessary changes being made to fit the context), (ii) words in one gender include all genders and (iii) grammatical variations of words and expressions (capitalized or not) which are defined, given extended meanings or incorporated by reference in this Agreement shall be construed in like manner.

## **6.8 Counterparts**

This Agreement may be executed in several counterparts, each of which when so executed shall be deemed to be an original, and such counterparts together shall constitute one and the same instrument and shall be effective as of the reference date specified on page one of this Agreement.

## **6.9 Enurement**

This Agreement shall be binding upon the parties hereto and their respective successors and permitted assigns and shall enure to the benefit of each of the Bank and FWCU and their respective successors and permitted assigns. Neither the Borrower nor any trustee in bankruptcy, any other representative, any creditor nor the estate of the Borrower shall be entitled to any rights or benefits hereunder. This Agreement shall be governed by the laws of the Province of Ontario, including the federal laws of Canada applicable therein, but excluding choice of law rules.

## **6.10 Termination**

This Agreement shall terminate upon the earlier of:

- (a) the payment and satisfaction in full of all monies owed by the Borrower to the Bank and the discharge of the Bank Security and any registrations described in Schedule “B” hereto; and
- (b) the written agreement of the Bank and FWCU to that effect.

### **6.11 Assignment**

Neither the Bank nor FWCU shall sell, transfer, assign or otherwise deal with any of their interests in the Bank Security or the FWCU Security, as the case may be, without first obtaining from the proposed transferee, assignee or chargee an agreement whereby the proposed transferee, assignee or chargee agrees to be bound by the provisions hereof.

### **6.12 Extension**

The Bank may grant time, renewals, extensions, releases and discharges to, accept compositions from and otherwise deal with the Borrower as the Bank may see fit, the whole without notice to FWCU and without prejudice to or in any way limiting or affecting the agreements on the part of FWCU set forth in this Agreement.

### **6.13 PPSA Registration Particulars**

FWCU authorizes the Bank or its agents to complete Schedule "B" and Schedule "C" hereto with all appropriate PPSA registration particulars.

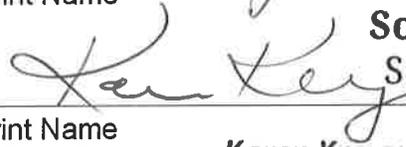
*[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK;  
SIGNATURE PAGE(S) TO FOLLOW]*

IN WITNESS WHEREOF the parties have executed this Agreement as of the day and year first above written.

NATIONAL BANK OF CANADA  
by its authorized signatory(ies).

  
\_\_\_\_\_  
Print Name

**Sonia de Lorenzi**  
Senior Manager

  
\_\_\_\_\_  
Print Name

**Karen Koury**  
Senior Manager

**FWCU CAPITAL CORP.**  
by its authorized signatory(ies).



---

Name:

Title:

**Sarah Lloyd**  
Director, Operations  
FWCU Capital Corp.

**EVERGREEN CONSUMER BRANDS  
INC.**

by its authorized signatory(ies).



---

Name: *BRUCE FRIEDMAN*  
Title: *Co. President*

## SCHEDULE "A"

Unless otherwise defined in this Agreement, all terms with initial capital letters shall have the meaning ascribed to uncapitalized forms of them in the PPSA.

The following terms shall have the following meanings:

- (a) **"Agreement"** means this subordination and standstill agreement, as the same may be amended, extended, renewed, restated, superseded or replaced and in effect from time to time;
- (b) **"Assets"** means any undertaking, business, property (real, personal or mixed, tangible or intangible) or other asset;
- (c) **"Bank Agreement"** means any agreement now or hereafter in effect between the Borrower and the Bank, including the Bank Credit Agreement and each agreement evidencing or creating the Bank Security;
- (d) **"Bank Capped Interest Obligations"** means all obligations of the Borrower under the Bank Agreements to pay interest, acceptance fees, standby instrument fees, commitment and standby fees at rates up to but not exceeding the sum of (i) the variable rates provided for under the Bank Credit Agreement plus the applicable margins and the margins for fees provided for therein (disregarding any amendment to the Bank Credit Agreement made after the date hereof that increases any such margins) plus (ii) up to 3% per annum;
- (e) **"Bank Capped Obligations"** means the portion of the Bank Obligations not in excess of the sum of (i) the Bank Capped Principal Obligations plus (ii) the Bank Capped Interest Obligations plus (iii) the Bank Protective Advances;
- (f) **"Bank Capped Principal Obligations"** means the portion, if any, of the Bank Obligations not in excess of the sum of (i) the Bank Term Principal Obligations plus (ii) lesser of (A) \$16,900,000 and (B) the Other Bank Principal Obligations;
- (g) **"Bank Collateral"** means all of the Assets of the Borrower both present and future, of whatsoever kind and wheresoever situate, and all proceeds and renewals thereof and therefrom, accretions thereto and substitutions therefor;
- (h) **"Bank Credit Agreement"** means the credit agreement between the Bank and the Borrower dated June 1, 2018, as may be amended, extended, renewed, restated, superseded or replaced and in effect from time to time;
- (i) **"Bank Obligations"** means all obligations of the Borrower under the Bank Agreements, including principal, accrued interest, fees, costs, and other charges incurred under the Bank Agreements, whether incurred before or after commencement of an Insolvency Proceeding, and whether or not allowable in an Insolvency Proceeding;
- (j) **"Bank Protective Advances"** means any advances made by the Bank under the Bank Agreements (i) while a "Default" or an "Event of Default" is continuing under and as defined in the Bank Credit Agreement and (ii) the Bank is of the reasonable opinion that such advance is necessary to protect the interests of the Bank when the Borrower is suffering a material liquidity shortfall;

(k) **"Bank Security"** means each and every document, instrument or security agreement now or at any time in the future issued or granted to or held by the Bank in connection with the Bank Agreements which creates or purports to create a Lien upon or in all or any part of the Bank Collateral, including the Lien issued or granted pursuant thereto, to or held by the Bank;

(l) **"Bank Term Principal Obligations"** at any time means the obligations of the Borrower to pay the principal amount owing to the Bank under the Term Facility (as defined in the Bank Credit Agreement) in the initial principal amount of \$15,000,000 less the aggregate amount of all repayments of such principal amount made before that time;

(m) **"Enforcement Action"** means (i) to demand payment by the Borrower of any Bank Obligations or FWCU Obligations, (ii) to sue for payment of, or to initiate or participate with any other person in any proceeding against the Borrower to (A) enforce payment of or to collect any Bank Obligations or FWCU Obligations or (B) commence enforcement of any of the rights under any Bank Security or FWCU Security or applicable law with respect to any Bank Obligations or FWCU Obligations, (iv) to initiate or participate with any other person in any Insolvency Proceeding against the Borrower, (v) to accelerate the scheduled maturity date of any Bank Obligations or FWCU Obligations by reason of default by the Borrower or (vi) to take any action under the provisions of any provincial or federal law, or under any agreement, to enforce, foreclose upon, take possession of or sell any Bank Collateral;

(n) **"Event of Default"** means a breach of a covenant or other term or condition of the Bank Credit Agreement or FWCU Loan Agreement, as the context requires;

(o) **"Excess Bank Obligations"** means the portion, if any, of the Bank Obligations in excess of the Bank Capped Obligations

(p) **"Excess FWCU Obligations"** means the portion, if any, of the FWCU Obligations in excess of the FWCU Capped Obligations;

(q) **"Fraudulent Conveyances Law"** means the *Assignment and Preferences Act* (Ontario), the *Fraudulent Conveyances Act* (Ontario), sections 95 to 101 inclusive of the *Bankruptcy and Insolvency Act* (Canada) or any other like, equivalent or analogous legislation of any jurisdiction, domestic or foreign, as the context requires;

(r) **"FWCU Agreement"** means any agreement now or hereafter in effect between the Borrower and FWCU and including the FWCU Loan Agreement, and each agreement evidencing or creating the FWCU Security;

(s) **"FWCU Capped Obligations"** means the portion of the FWCU Obligations not in excess of the sum of (i) the FWCU Capped Principal Obligations plus (ii) the FWCU Capped Interest Obligations plus (iii) the FWCU Protective Advances;

(t) **"FWCU Capped Interest Obligations"** means all obligations of the Borrower under the FWCU Agreements to pay interest at rates up to but not exceeding 15.00% per annum;

(u) **"FWCU Capped Principal Obligations"** at any time means the obligations of the Borrower to pay the principal amount owing to FWCU under the FWCU Loan Agreement in the initial principal amount of \$11,800,000 less the aggregate amount of all repayments of such principal amount made before that time;

(v) **"FWCU Key Man Insurance"** means the USD\$2,250,000.00 life insurance policy (Policy No. 180411916) over the life of Bruce Michael Friedman and the USD\$2,250,000.00 life insurance policy (Policy No. T400030155) over the life of Steven Mark Immel assigned or to be assigned to FWCU as security for the FWCU Credit Facilities and any proceeds thereof;

(w) **"FWCU Loan Agreement"** means collectively the loan agreements between FWCU and the Borrower dated June 1, 2018 and August 30, 2019, as each agreement may be amended, extended, renewed, restated, superseded or replaced and in effect from time to time in accordance with the provisions of this Agreement;

(x) **"FWCU Obligations"** means all obligations of the Borrower under the FWCU Agreements, including principal, accrued interest, fees, costs, and other charges incurred under the FWCU Agreements, whether incurred before or after commencement of an Insolvency Proceeding, and whether or not allowable in an Insolvency Proceeding;

(y) **"FWCU Protective Advances"** means any advances made by FWCU under the FWCU Agreements (i) while a "Default" or an "Event of Default" is continuing under and as defined in the FWCU Loan Agreement and (ii) FWCU is of the reasonable opinion that such advance is necessary to protect the interests of FWCU when the Borrower is suffering a material liquidity shortfall;

(z) **"FWCU Security"** means each and every document, instrument or security agreement now or at any time in the future issued or granted to or held by FWCU which creates or purports to create a Lien upon or in all or any part of the Bank Collateral, including the Lien issued or granted pursuant thereto to or held by FWCU;

(aa) **"Insolvency Law"** means the *Bankruptcy and Insolvency Act (Canada)*, the *Companies' Creditors Arrangement Act (Canada)*, the *Winding-Up and Restructuring Act (Canada)* or any other like, equivalent or analogous legislation of any jurisdiction, domestic or foreign and any plan of arrangement law provision of any corporations statute under which a corporation may propose a compromise or an arrangement with respect to its creditors or any class or the claims of any class of creditors of the corporation;

(bb) **"Insolvency Proceeding"** in relation to any person means any proceeding contemplated by any application, petition, assignment, filing of notice or other means, whether voluntary or involuntary, under any Insolvency Law seeking any moratorium, reorganization, adjustment, composition, proposal, compromise, arrangement, administration or other like or similar relief in respect of any or all of the obligations of that person, seeking the winding up, liquidation or dissolution of that person or all or any part of its property, seeking any judgment or Order declaring, finding or adjudging that person Insolvent or bankrupt, seeking the appointment (provisional, interim or permanent) of any receiver or resulting, by operation of law, in the bankruptcy of that person;

(cc) **"Lien"** has the meaning provided in the Bank Credit Agreement;

(dd) **"Other Bank Principal Obligations"** at any time means the obligations of the Borrower to pay any amount to the Bank under the Bank Agreements, other than (w) the Bank Term Principal Obligations, (x) Bank Protective Advances, (y) interest and (z) fees;

(ee) **"PPSA"** means the *Personal Property Security Act (Ontario)*;

(ff) **"Proceeds"** has the same meaning as defined in the PPSA; and

(gg) **“Receiver”** means any receiver for the Borrower, Bank Collateral or any of the assets of the Borrower appointed by the Bank pursuant to the Bank Security or by a court on application by the Bank or by FWCU pursuant to the FWCU Security or by a court on application by FWCU.

Except where the context may otherwise require, all references to the Bank Security, the FWCU Security and the Bank Collateral include where applicable in each case each or any of them separately or any part or parts thereof separately.

**SCHEDULE "B"**

**(BANK SECURITY)**

Any and all security agreements from time to time which are the subject of or derive their priority from the financing statements registered in the Ontario Personal Property Registry as follows:

<b>Name of Debtor(s)</b>	<b>Registration Date</b>	<b>Base Registration Numbers</b>
Evergreen Consumer Brands Inc.	May 18, 2018	739545165 / 20180518 1617 1862 3525

**SCHEDULE "C"**

**(FWCU SECURITY)**

Any and all security agreements from time to time which are the subject of or derive their priority from the financing statements registered in the Ontario Personal Property Registry as follows:

<b>Name of Debtor(s)</b>	<b>Registration Date</b>	<b>Base Registration Number</b>
2516150 Ontario Inc. Evergreen Consumer Brands Inc. Lavoris Holdings Inc. Silkience Holdings Inc.	November 18, 2016	722629107/ 20161118 1127 1862 0924

This is **Exhibit “G”**, referred to in the  
Affidavit of Sonia de Lorenzi,  
sworn before me  
this 10th day of February, 2020.



Roxana Gabriela Menea, a Commissioner, etc.,  
Province of Ontario, for  
Thornton Groat Finnigan LLP,  
Barristers and Solicitors.  
Expires June 5, 2021.

---

A Commissioner for taking Affidavits, etc.

**LIMITED RECOURSE GUARANTEE AND SECURITIES PLEDGE AGREEMENT**

**THIS AGREEMENT** is made as of the 1<sup>st</sup> day of June, 2018

**BETWEEN:**

**BRUCE FRIEDMAN, as trustees of  
LYNNE AND BRUCE FRIEDMAN FAMILY TRUST**

**and**

**IMMEL HOLDINGS, LLC**

**and**

**SAM ARONOW, as trustee of THE ARONOW FAMILY TRUST DATED MAY 27, 2010**

**each as a Pledgor**

**- and -**

**NATIONAL BANK OF CANADA  
as Lender**

**BACKGROUND:**

Pursuant to a credit agreement of even date herewith (as amended, supplemented, modified, amended and /or restated from time to time, the “**Credit Agreement**”) between Evergreen Consumer Brands Inc., as borrower (the “**Borrower**”) and National Bank of Canada, as lender (the “**Lender**”), among other things, the Lender has agreed to extend certain Credit Facilities to the Borrower for the purposes outlined therein.

The Pledgors own the entire Capital Stock of the Borrower and it is a condition to the extension of credit by the Lender pursuant to the Credit Agreement that, *inter alia*, each Pledgor enter into this Agreement.

**NOW THEREFORE**, in consideration of the mutual obligations contained herein and for other consideration, the receipt and sufficiency of which are acknowledged, the parties agree as follows:

## **ARTICLE 1 INTERPRETATION**

### **1.1 Definitions**

Unless the context otherwise requires, capitalized words and expressions defined or given extended meanings in the Credit Agreement are used in this Agreement with the same respective defined or extended meanings given to them in the Credit Agreement. Each word and expression (capitalized or not) defined or given an extended meaning in Schedule 1 is used in this Agreement with the defined or extended meaning assigned to it in Schedule 1. Words and expressions defined in the PPSA and/or the *Securities Transfer Act* (Ontario) are used without initial capital letters in this Agreement (including in Schedule 1) with the respective defined meanings assigned to them in either or both such Acts, unless the context otherwise requires.

### **1.2 Agreements**

Each reference in this Agreement to any agreement or document (including this Agreement and any other term defined in the Background to this Agreement or Schedule 1 that is an agreement or document) shall be construed to include such agreement or document (including any attached schedules, appendices and exhibits) and each change made to it at or before the time in question.

### **1.3 Statutes**

Each reference in this Agreement to any code, statute, regulation, official interpretation, directive or other legislative enactment of any Canadian or foreign jurisdiction (including any political subdivision of any thereof) at any time shall be construed so as to include such code, statute, regulation, official interpretation, directive or enactment and each change thereto made at or before the time in question.

### **1.4 Headings**

The Article and Section headings in this Agreement are included solely for convenience, are not intended to be full or accurate descriptions of the text to which they refer and shall not be considered part of this Agreement.

### **1.5 Grammatical Variations**

In this Agreement, unless the context otherwise requires, (a) words and expressions (including words and expressions (capitalized or not) defined or given extended meanings) in the singular include the plural and *vice versa* (the necessary changes being made to fit the context), (b) words in one gender include all genders and (c) grammatical variations of words and expressions (capitalized or not) defined, given extended meanings or incorporated by reference herein shall be construed in like manner.

## **ARTICLE 2 GUARANTEE**

### **2.1 Guarantee**

Subject to Section 9.3, each Pledgor unconditionally and irrevocably guarantees to the Lender payment and performance in full by the Borrower of the Secured Obligations of the Borrower as they become due from time to time in accordance with the express provisions of the Secured Documents (collectively, the “**Guaranteed Obligations**”).

### **2.2 Indemnity**

Subject to Section 9.3, each Pledgor shall unconditionally and irrevocably pay to the Lender all such amounts as shall be required from time to time to ensure that the Lender is fully indemnified against and saved fully harmless from and against all claims and losses and expenses which the Lender may at any time suffer or incur by reason of or otherwise in connection with (a) the creation of the Guaranteed Obligations, the unenforceability or invalidity of the Guaranteed Obligations or any failure by the Borrower to duly and punctually pay in full the Guaranteed Obligations, (b) any loss of any right of the Lender against the Borrower in respect of the Guaranteed Obligations or any Pledgor’s Obligations for any reason whatsoever, including by operation of Insolvency Laws, Fraudulent Conveyances Laws, any laws affecting creditors’ rights generally or general principles of equity and (c) any act or omission of the Lender in connection with the enforcement of any of the rights of the Lender against the Borrower in respect of the Guaranteed Obligations or any Pledgor’s Obligations. Each Pledgor’s indemnity under this Section 2.2 constitutes a separate and independent obligation of each Pledgor from the guarantee set out in Section 2.1 and may be enforced, without duplication of recovery, by the Lender in lieu of or in addition to such guarantee.

### **2.3 Reinstatement**

If any payment made by the Borrower or any other person which is applied to the Guaranteed Obligations is at any time annulled, avoided, set aside, rescinded, invalidated, declared to be fraudulent or preferential or otherwise required to be refunded or repaid, then, to the extent of such payment, the liability of each Pledgor hereunder shall be and remain in full force and effect, as fully as if such payment had never been made. If, prior to any of the foregoing, this Guarantee shall have been cancelled or surrendered, this Guarantee shall survive such cancellation or surrender, and such prior cancellation or surrender shall not diminish, impair, change or otherwise affect each Pledgor’s Obligations in respect of the Guaranteed Obligations relating to amount of such payment.

### **2.4 Nature of Limited Recourse Guarantee**

This Guarantee is an unconditional, irrevocable and continuing guarantee and indemnity in respect of all of the Guaranteed Obligations, but the liability of each Pledgor under such Guarantee is limited as provided in Section 9.3.

## **2.5 Performance of Borrower's Guaranteed Obligations**

If the Borrower fails to pay or perform any Guaranteed Obligations when due in accordance with the applicable terms and conditions expressed in any applicable Secured Document (whether or not the Borrower is legally obliged to do so), each Pledgor shall, subject to Section 9.3, pay or perform such Guaranteed Obligations immediately upon written notice from the Lender, without any requirement that the Lender has demanded that the Borrower pay or perform any of the Guaranteed Obligations. Without duplication of interest payable under any Secured Document, each Pledgor shall, subject to Section 9.3, pay interest on each amount demanded by the Lender under this Agreement at the Default Rate, compounded and payable monthly, both before and after judgment and default, commencing from the date of such demand until the Pledgor's Obligations and such interest are paid in full.

## **2.6 Pledgor's Obligations Unconditional**

This Guarantee is effective irrespective of whether or not the Guaranteed Obligations are genuine, valid or enforceable. No circumstance, act or omission, even if known by any Pledgor or the Lender, which might otherwise limit, lessen or release such Pledgor's Obligations or discharge this Guarantee (except for payment in full of the Guaranteed Obligations or realization in full of such Pledgor's Collateral) shall release or discharge, or wholly or partly exonerate such Pledgor from, any Pledgor's Obligations or prejudice the rights of the Lender under this Agreement. The Lender may at any time vary, compromise, exchange, renew, discharge, release or abandon any of the Pledgor's Obligations or any other right it may have without thereby lessening, limiting or releasing any other of the other Pledgor's Obligations. Each Pledgor hereby waives to the extent permitted by Applicable Law all defences to any suit, action or proceeding brought to enforce this Agreement, other than the defence that the Guaranteed Obligations have been paid in full, the Collateral has been fully realized upon, or the Lender has explicitly released such Pledgor.

## **2.7 Guarantee Unaffected by Judgment or Bankruptcy**

Without limiting Section 2.6, none of the Pledgor's Obligations shall be limited, lessened or released, nor shall this Agreement be discharged, by the recovery of any judgment against the Borrower, any Pledgor or any other person, by any voluntary or involuntary liquidation, dissolution, winding-up, merger, amalgamation or other similar or comparable proceeding in respect of the Borrower, any Pledgor or any other person, by any sale or other disposition of all or substantially all of the assets of the Borrower, any Pledgor or any other person, or by any judicial or extra-judicial Insolvency Proceeding or other similar or comparable proceedings affecting the Borrower, any Pledgor or any other person. If the Borrower becomes subject to any proceedings described in the preceding sentence, the Guaranteed Obligations shall, unless the Lender notifies each Pledgor to the contrary, be treated as having been accelerated and become immediately due and payable, and in such instance each Pledgor shall, subject to Section 9.3, be obligated to pay the amount of the Guaranteed Obligations to the Lender forthwith on demand of the Lender even if the Borrower is not obliged to so pay the Guaranteed Obligations.

## **2.8 Independence of Guarantee**

Each Pledgor's Obligations are in addition to and independent of any other guarantee or security. Each Pledgor's Obligations shall not be lessened or limited, nor shall this Agreement be discharged, by (a) any direction of application of payment by the Borrower, any Pledgor or any other person or (b) any payment received on account of the Guaranteed Obligations that the Lender repays or is obliged to repay pursuant to any Applicable Law or for any other reason.

## **ARTICLE 3 GRANT OF SECURITY**

### **3.1 Security**

As general and continuing collateral security, without impairment or novation, for the due payment and performance of the Pledgor's Obligations, each Pledgor hereby charges, mortgages, hypothecates, pledges and assigns and grants a security interest in its Collateral and Records, as and by way of fixed and specific security, to and in favour of the Lender.

### **3.2 Delivery of Initial Collateral**

Each Pledgor shall Transfer its Initial Collateral to the Lender, contemporaneously with the execution and delivery hereof, and, for each item of Initial Collateral comprised of (a) a certificated security, a Stock Transfer Power of Attorney and Authorizing Resolution and (b) Intercorporate Indebtedness, an Intercorporate Note and an Allonge.

### **3.3 Delivery of Future Collateral**

Each Pledgor shall Transfer each item of Future Collateral to the Lender as soon as such Pledgor acquires rights in that item of Future Collateral, together with, for each item of Future Collateral comprised of (a) a certificated security, a Stock Transfer Power of Attorney and Authorizing Resolution and (b) Intercorporate Indebtedness, an Intercorporate Note and an Allonge.

### **3.4 Attachment**

Each Pledgor agrees that value has been given, that each Pledgor and the Lender have not agreed to postpone the time for attachment of the Security and that the Security is intended to attach, as to all of the Collateral in which each Pledgor now has rights, when such Pledgor executes this Agreement and, as to all Collateral in which each Pledgor only has rights after the execution of this Agreement, when such Pledgor first has such rights. For certainty, each Pledgor confirms and agrees that the Security is intended to attach to all present and future Collateral of such Pledgor and each successor of such Pledgor.

### **3.5 Intercorporate Indebtedness**

Each Pledgor will ensure that any of its Collateral comprised of Intercorporate Indebtedness is at all times represented by an Intercorporate Note, and that such Intercorporate Note is promptly upon issuance Transferred to the Lender.

### **3.6 Uncertificated Securities**

In the event that any Collateral of any Pledgor that is a security is not represented by a certificate, such Pledgor will ensure that at all times either (a) such Pledgor is the registered holder of such uncertificated security and a Control Agreement is entered into among such Pledgor, the issuer of such security and the Lender or (b) the Lender is the registered holder of that security.

### **3.7 Perfection by Registration**

Each Pledgor shall promptly notify the Lender if and each time it (a) changes the location of its chief executive office, principal place of business or principal place of residence to a different jurisdiction, as applicable, and of full particulars of such new location, (b) changes its jurisdiction of incorporation or formation, as applicable, by continuance or otherwise, (c) changes its name or adopts a new or different English or French form of name and of such new or different name or (d) changes the location where it maintains its Records and of full particulars of such new location.

### **3.8 Habendum**

The Lender agrees to hold the Collateral to be dealt with in the manner provided for in this Agreement.

### **3.9 Duty of Care**

The Lender shall not have any duty of care to any Pledgor with respect to its Collateral in physical form which is delivered to the Lender to be held by it pursuant to this Agreement, other than to use the same care in the physical custody and physical preservation of such Collateral as it would with its own physical property of like nature. The Lender shall have no obligation to (a) take any action with respect to calls, conversions, exchanges, maturities, tenders or other matters relative to the Collateral or (b) take any necessary actions required to preserve rights against any persons with respect to Collateral.

## **ARTICLE 4 DISTRIBUTIONS AND COLLATERAL RIGHTS**

### **4.1 Distributions when no Default**

Unless a Default has occurred and is continuing, each Pledgor shall be permitted to receive and retain all cash Distributions permitted to be paid under the terms and conditions of the Credit Agreement by each Issuer of Collateral. However, any Distribution from any Issuer of Collateral, other than cash, received by a Pledgor shall be promptly Transferred to the Lender

pursuant to Section 3.3. Any cash Distribution received by a Pledgor which a Pledgor is entitled to receive and retain in compliance with this Section 4.1, and any Proceeds thereof, shall be automatically released from the Security and cease to constitute "Collateral" hereunder.

#### **4.2 Distributions if Default Exists**

For so long as any Default has occurred and is continuing, no Pledgor shall be entitled to receive any Distribution and if any Pledgor receives any Distribution upon or following the occurrence of, and during the continuance of any Default, or if any Distribution is paid to any Pledgor which is not permitted to be paid under the terms and conditions of the Credit Agreement, such Pledgor agrees to hold such Distributions received in trust for the Lender, to segregate those Distributions from such Pledgor's other funds or property and to Transfer them forthwith upon receipt to the Lender.

#### **4.3 Election of a Pledgor Regarding Collateral Rights**

Unless a Default has occurred and is continuing, each Pledgor may exercise any Collateral Right for any purpose which is not inconsistent with the provisions or intent of the Security or any Loan Document and which does not impair the realizable value or restrict the transferability of any Collateral or adversely affect the rights of the Lender.

### **ARTICLE 5 REPRESENTATIONS AND WARRANTIES**

#### **5.1 Basic Representations**

Each Pledgor (to the extent applicable to it) represents and warrants to the Lender as follows:

- (a) *Existence.* It is a corporation duly incorporated and validly existing under the laws of its jurisdiction of incorporation, or in the case of a Trust, duly formed and validly existing as a trust under its Declaration of Trust.
- (b) *Power and Capacity.* It has the corporate power and capacity to carry on business, to own properties and assets and to execute, deliver and perform its obligations under this Agreement, or in the case of a Trust, (i) its Trustee has the corporate power and capacity to act as trustee of such Trust, to carry on the Trust's business, to own the properties and assets of the Trust and to execute, deliver and perform the obligations of the Trust under this Agreement and (ii) it has the power under its Declaration of Trust to execute, deliver and perform its obligations under this Agreement.
- (c) *Authorization.* All necessary corporate, trust and other action to authorize the execution and delivery of, and the performance of its obligations under, this Agreement have been taken.
- (d) *Execution and Delivery.* This Agreement has been duly executed and delivered by such Pledgor.

- (e) *Enforceability.* This Agreement constitutes a legal, valid and binding obligation of such Pledgor, enforceable against it in accordance with its terms, subject to:
  - (i) bankruptcy, insolvency, reorganization, receivership, moratorium, arrangement, winding-up and other laws of general application affecting the enforcement of creditors' rights generally, and
  - (ii) general equitable principles including the principle that the granting of equitable remedies, such as injunctive relief and specific performance, is at the court's discretion.
- (f) *No Breach.* The execution, delivery and performance of its obligations under this Agreement do not and will not breach or result in a default under:
  - (i) its articles, by-laws, Declaration of Trust or other constating documents,
  - (ii) any law, statute, rule or regulation to which it is subject,
  - (iii) any judgment, order or decree of any court, agency, tribunal, arbitrator or other authority to which it is subject, or
  - (iv) any material agreement to which it is a party or by which it is bound.
- (g) *No Regulatory Approvals Required.* It is not required to obtain any action, approval, authorization, consent or order of, or make any filing, registration, qualification or recording with, any governmental authority or any other person in connection with the execution or delivery of, or the performance of its obligations under, this Agreement.
- (h) The full legal name of each Pledgor at the date hereof is:
  - (i) Lynne and Bruce Friedman Family Trust;
  - (ii) Immel Holdings, LLC; and
  - (iii) The Aronow Family Trust Dated May 27, 2010

## **5.2 Collateral Representations**

Each Pledgor represents and warrants to the Lender as follows:

- (a) *Power.* It has the power and capacity to own, Transfer, dispose and grant a Lien in the Collateral as contemplated hereby.
- (b) *Due Issuance.* The Initial Securities constitute duly authorized and issued common shares in the Capital Stock of the Borrower, fully paid and non-assessable.

- (c) *Control.* Upon the Transfer of Collateral comprised of shares to the Lender in the manner contemplated by Section 3.2 or 3.3, as applicable, the Lender will have control over and a valid and perfected security interest in such Collateral.
- (d) *No Liens.* Except for Liens in favour of, or permitted in writing by, the Lender (“**Permitted Liens**”), each Pledgor is the sole legal and beneficial owner of the Collateral with good and marketable rights to the Collateral, free and clear of any Liens. No security agreement, financing statement or other document with respect to any or all of the Collateral is on file or on record in any public office, except for filings in respect of Permitted Liens.
- (e) *Location, etc.* No Pledgor has adopted a French form of its legal name or a combined English/French or French/English form of name, the state of its formation or the jurisdiction whose laws govern its Declaration of Trust is set out below:
  - (i) Lynne and Bruce Friedman Family Trust: the State of California;
  - (ii) Immel Holdings, LLC: the State of Wisconsin; and
  - (iii) The Aronow Family Trust Dated May 27, 2010: the State of California.

The Records are either located at its address for Notices prescribed by Section 10.8 or at a location which has been notified to the Lender pursuant to Section 3.7.

### **5.3 Additional Collateral**

The Transfer to the Lender or its nominee of a Distribution or other collateral substituted for, additional to or otherwise constituting part of the Collateral of any Pledgor (“**Additional Collateral**”) shall also constitute a representation and warranty by such Pledgor that the above representations and warranties (to the extent applicable to such type of Collateral) set forth in Section 5.2 are true, accurate and complete as at the date of said Transfer in respect of that Additional Collateral as if such Additional Collateral were the Initial Collateral.

### **5.4 Repetition of Representations and Warranties**

The representations and warranties made pursuant to this Article 5 shall be deemed to be repeated each time the representations and warranties of the Borrower are made or deemed to be repeated under or pursuant to the Credit Agreement.

### **5.5 Survival of Representations and Warranties**

All agreements, representations, warranties and covenants made by each Pledgor in this Agreement are material, will be considered to have been relied on by the Lender and will survive the execution and delivery of this Agreement or any investigation made at any time by or on behalf of the Lender and any satisfaction of the Pledgor’s Obligations until the Pledgor’s Obligations are paid in full.

## **ARTICLE 6 DEALING WITH COLLATERAL**

### **6.1 Restrictions on Dealing with Collateral**

No Pledgor shall, without the prior consent in writing of the Lender, dispose of Collateral or create, assume or suffer to exist any Lien upon Collateral, other than Permitted Liens. Any purported disposal of or grant of any Lien on Collateral by a Pledgor that is not in compliance with this Section 6.1 shall be void as against the Lender.

### **6.2 Transfer Agent Direction**

Each Pledgor shall, if requested to do so by the Lender, sign, execute and deliver to the Lender an irrevocable direction addressed to any Issuer of Collateral in such form as the Lender may require with respect to payment or delivery of Distributions, share certificates, other documents and other communications in respect of the Collateral.

## **ARTICLE 7 EFFECT OF EVENT OF DEFAULT AND REMEDIES**

### **7.1 Effect of Event of Default**

Upon the occurrence of an Event of Default, the Security shall become enforceable and the Lender shall have the rights set out in this Article 7.

### **7.2 Right to Appoint a Receiver**

The Lender may appoint by instrument in writing one or more receivers or receivers and managers of any Collateral of any Pledgor. Any such Receiver shall have the rights set out in this Article 7. In exercising such rights, any Receiver shall act as and for all purposes shall be deemed to be the agent of such Pledgor and the Lender shall not be responsible for any act or default of any Receiver. The Lender may remove any Receiver and appoint another from time to time. No Receiver appointed by the Lender need be appointed by, nor need its appointment be ratified by, or its actions in any way supervised by, a court. If two or more Receivers are appointed to act concurrently, they shall, unless otherwise expressly provided in the instrument appointing them, so act severally and not jointly and severally.

### **7.3 Rights of a Receiver**

Any Receiver appointed by the Lender shall have the following rights:

- (a) *Power of Possession.* Any Receiver may at any time enter upon any premises owned, leased or otherwise occupied or controlled by a Pledgor or where any Collateral is located to take possession of, or remove any Collateral, and may use whatever means the Receiver considers advisable to do so.

(b) *Power of Sale.*

- (i) Any Receiver may dispose of any Collateral on any stock exchange where Collateral is listed, in any over-the-counter market, by public auction, private tender or private contract with or without notice, advertising or any other formality, all of which are hereby waived by each Pledgor to the extent permitted by applicable law. Any Receiver may, at its discretion, establish the terms of such disposal, including terms and conditions as to credit, upset, reserve bid or price. All payments made pursuant to such disposals shall be credited against the Pledgor's Obligations only as they are actually received. Any Receiver may buy in, rescind or vary any contract for the disposal of any Collateral and may dispose of any Collateral again without being answerable for any loss occasioned thereby. Any such disposal may take place whether or not the Receiver has taken possession of the Collateral. The exercise by the Receiver of any power of sale does not preclude the Receiver from further exercise of its power of sale in accordance with this clause.
- (ii) Any Receiver is hereby authorized to comply with any limitation or restriction in connection with any disposal of any Collateral pursuant to Subsection 7.3(b)(i) as it may be advised by legal counsel is necessary in order to avoid any violation of applicable law (including compliance with such procedures as may restrict the number of prospective bidders and purchasers, require that such prospective bidders and purchasers have certain qualifications, and restrict such prospective bidders and purchasers to persons who will represent and agree that they are purchasing for their own account for investment and not with a view to the distribution or resale of such Collateral), or in order to obtain any required approval of the sale or of the purchaser by any governmental body or official, and each Pledgor agrees that such compliance shall not result in such sale being considered or deemed not to have been made in a commercially reasonable manner, nor shall any Receiver be liable nor accountable to each Pledgor for any discount allowed by reason of the fact that such Collateral is disposed of in compliance with any such limitation or restriction.
- (iii) Any Receiver may, in its discretion, approach a restricted number of potential purchasers to effect any disposal of any Collateral pursuant to Subsection 7.3(b)(i) and each Pledgor acknowledges that a disposal under such circumstances may yield a lower price for Collateral than would otherwise be obtainable if the same were registered and disposed of in the open market. Each Pledgor agrees that:
  - (A) in the event any Receiver shall so dispose Collateral at such a private disposal, the Receiver shall have the right to rely upon the advice and opinion of any person who regularly deals in or

evaluates securities of the type constituting the Collateral as to the best price obtainable in a commercially reasonable manner; and

- (B) such reliance shall be conclusive evidence that the Receiver handled such matter in a commercially reasonable manner.
- (c) *Pay Liens.* Any Receiver may pay any liability secured by any actual or threatened Lien against any Collateral. A Receiver may borrow money for the maintenance, preservation or protection of any Collateral and may grant Liens in any Collateral in priority to the Security as security for the money so borrowed.
- (d) *Dealing with Collateral.* Any Receiver may seize, collect, realize, dispose of, enforce, release to third parties or otherwise deal with any Collateral in such manner, upon such terms and conditions and at such time as it deems advisable without notice to any Pledgor (except as otherwise required by applicable law), and may charge on its own behalf and pay to others its costs and expenses (including legal, Receiver's and accounting fees and expenses on a full indemnity basis) incurred in connection with such actions.
- (e) *Powers re Collateral.* Any Receiver may have, enjoy and exercise all of the rights of and enjoyed by a Pledgor with respect to its Collateral or incidental, ancillary, attaching or deriving from the ownership by a Pledgor of its Collateral, including the right to commence or continue litigation to preserve or protect Collateral and the right to grant or agree to Liens over or pertaining to the whole or any part of the Collateral.
- (f) *Retain Services.* Any Receiver may retain the services of such lawyers, accountants, appraisers, investment advisors and other consultants as the Receiver may deem necessary or desirable in connection with anything done or to be done by the Receiver or with any of the rights of the Receiver set out herein and pay their commissions, fees and disbursements (which payment shall constitute part of the Receiver's disbursements secured by the Liens created hereby and, subject to Section 9.3, shall be reimbursed by the Pledgor to the Receiver on demand by such Receiver).

#### **7.4 Right to have Court Appoint a Receiver**

The Lender may, at any time, apply to a court of competent jurisdiction for the appointment of a Receiver, or other official, who may have powers the same as, greater or lesser than, or otherwise different from, those capable of being granted to a Receiver appointed by the Lender pursuant to this Agreement.

#### **7.5 Lender may Exercise Rights of a Receiver**

In lieu of, or in addition to, exercising its rights under Sections 7.3 and 7.4, the Lender has, and may exercise, any of the rights which are capable of being granted to a Receiver appointed by the Lender pursuant to this Agreement.

## **7.6 General Rights of the Lender on Default**

The Lender shall be entitled, but not bound, to exercise all Collateral Rights and any rights (a) which are available to a secured party at law, including under the PPSA, (b) which are set out in any Loan Document or any other agreement relating to the Pledgor's Obligations or Guaranteed Obligations, or (c) which an owner of Collateral may have at any time, including, to the extent applicable, the right to attend and to vote at all meetings of holders of Collateral.

## **7.7 Retention of Collateral**

The Lender may elect to retain any Collateral in satisfaction of the Pledgor's Obligations.

## **7.8 Application of Payments Against Pledgor's Obligations**

Any payments received in respect of the Pledgor's Obligations from time to time, and any monies realized on any Collateral shall, notwithstanding any appropriation by any Pledgor, be appropriated by the Lender against such Pledgor's Obligations as any Secured Document shall require or permit, and the Lender shall have the right to change any appropriation at any time. If monies are received or appropriated by the Lender in respect of Pledgor's Obligations not yet due, they shall be credited to a cash collateral account opened by the Lender for such purpose in its own records of account, as the Lender may in its discretion decide, and appropriated to the Pledgor's Obligations when due.

## **7.9 Validity of Sale**

No person dealing with the Lender or any Receiver or with any representative of the Lender or any Receiver shall be concerned to inquire whether the Security has become enforceable, whether any right of the Lender or any Receiver has become exercisable, whether any Pledgor's Obligations remain outstanding or otherwise as to the propriety or regularity of any dealing by the Lender or any Receiver with any Collateral or to see to the application of any money paid to the Lender or any Receiver, and in the absence of fraud on the part of such person such dealings shall be deemed, as regards such person, to be within the rights hereby conferred and to be valid and effective accordingly.

## **7.10 Deficiency**

If the proceeds of the realization of any Collateral of any Pledgor are insufficient to satisfy all Pledgor's Obligations, such Pledgor shall not be held liable for such deficiency.

# **ARTICLE 8 EXERCISE OF RIGHTS**

## **8.1 Rights Cumulative**

All of the Lender's rights arising under, by reason of, or otherwise in respect of this Agreement are, subject to Section 9.3, cumulative, may be exercised separately or in combination and shall be in addition to and not in substitution for any other right which the

Lender may have pursuant to this Agreement or any other Secured Document or any other agreement, or at law or in equity, by statute or otherwise; provided that, the Lender shall not be bound to exercise any such rights. The Security does not replace or otherwise affect any existing or future security held by the Lender. Neither the commencement of any proceeding, nor the refraining from so doing, nor any dealing with the Collateral or any other security for any Pledgor's Obligations shall release or affect the Security.

## **8.2 Waivers**

The Lender may waive any default or breach of the provisions of this Agreement, and may grant renewals, extensions of time and other indulgences, take and give up Collateral, accept compositions, grant releases and discharges, perfect or fail to perfect any security and otherwise deal with or fail to deal with any Pledgor and with Issuers, guarantors, sureties and others and with the Collateral or other collateral as the Lender may see fit, all without prejudice to the Pledgor's Obligations, the Security, the Collateral or the rights of the Lender hereunder. The Lender shall not be obliged to exhaust its recourse against any Pledgor or any other security which it may hold before realizing on or otherwise dealing with Collateral. None of the Lender's rights hereunder with respect to Collateral shall be impaired, affected, released or discharged in any way by any circumstance, act, omission, matter or thing which, but for this provision, might operate to so affect such or any other rights of the Lender hereunder.

## **8.3 Limitation of the Lender's Liability**

Neither the Lender nor any Receiver shall be liable or accountable for any failure by the Lender or any Receiver to preserve the value of any Collateral, to seize, collect, realize upon, dispose of, exercise, enforce or preserve rights under or otherwise deal with any Collateral or exercise, enforce or preserve rights against any Issuer or other person in respect of any Collateral, nor shall any of them be bound to institute proceedings to enforce any rights of the Lender, any Pledgor or any other person in respect of Collateral. Neither the Lender nor any Receiver shall be liable or responsible for any claim or loss and expense whatever which may accrue in consequence of any such failure, except to the extent determined by a final judgment to have directly resulted from such party's own gross negligence or wilful misconduct. The Lender and any Receiver shall not, in any circumstance, have any obligation to any Pledgor for special, indirect, punitive or consequential damages suffered by any Pledgor arising from any action or omission of either of them.

## **8.4 No Marshalling**

Each Pledgor hereby waives any rights it may have under applicable law to assert the doctrine of marshalling or to otherwise require the Lender to marshal any Collateral or any other collateral of such Pledgor or any other person for the benefit of such Pledgor.

## **8.5 Currency Conversions**

If the Lender receives or recovers under this Agreement payment of any Pledgor's Obligation in a currency (the "**Recovered Amount**") which is different than the currency in which the Pledgor's Obligation is due or owing (the "**Contract Currency**"), the Lender may convert the Recovered Amount to the Contract Currency at the rate of exchange which the

Lender is able, acting in a reasonable manner and in good faith, to purchase the Contract Currency and apply the converted amount in accordance with the provisions of Section 7.8.

## **ARTICLE 9 DISCHARGE**

### **9.1 Discharge**

Upon payment in full to the Lender of the full amount of all Pledgor's Obligations and performance by each Pledgor of all its other Pledgor's Obligations, the Lender will, within a reasonable time following its receipt of a written request from such Pledgor and at the sole cost and expense of the Borrower, Transfer any remaining Collateral to such Pledgor and execute and deliver to such Pledgor such documents (without recourse to or any representation or warranty of any kind by the Lender) as shall be requisite to discharge the Security and any registrations thereof and Transfer any remaining Collateral to such Pledgor.

### **9.2 Avoidance of Payments**

Any settlement, discharge or release between the Lender and a Pledgor shall be conditional upon no security or payment granted or made to the Lender by such Pledgor or any other person being avoided or reduced by virtue of any Insolvency Law, Fraudulent Conveyance Law or similar laws for the time being in force and, in the event of such security or payment being so avoided or reduced, the Lender shall be entitled to recover the value or amount of such security or payment from a Pledgor and from the Security subsequently as if such settlement, discharge or release had not occurred.

### **9.3 Limited Recourse**

Notwithstanding anything else contained in this Agreement, the recourse against each Pledgor to recover payment of any amount payable by such Pledgor under Article 2 and Sections 7.3(f), 10.2 and 10.3 shall be limited to such Pledgor's Collateral and all income, capital and proceeds derived from such Pledgor's Collateral and the Lender shall have no other recourse against such Pledgor to recover any deficiency following complete realization upon such Pledgor's Collateral.

## **ARTICLE 10 GENERAL PROVISIONS**

### **10.1 Power of Attorney**

Each Pledgor hereby appoints the Lender to be the attorney of such Pledgor with full power of substitution to do on such Pledgor's behalf anything that a Pledgor can lawfully do by an attorney, including to do, make and execute and deliver all such documents, entitlement orders, acts, matters or things, with the right to use the name of such Pledgor, whenever and wherever it deems necessary or expedient, to carry out a Pledgor's Obligations or correct any errors in or complete any missing information in this Agreement or any document delivered to the Lender pursuant to this Agreement or to ensure that any Collateral is in the control or possession of the Lender subject to the perfected security interest contemplated hereby. Such

Stock Transfer Power of Attorney, being granted by way of security and coupled with an interest, is irrevocable and shall survive any legal incapacity of a Pledgor until its Pledgor's Obligations are paid in full.

## **10.2 Reimbursement**

Each Pledgor shall, subject to Section 9.3, forthwith reimburse each of the Lender and any Receiver on demand and on a full indemnity basis for all payments, borrowings, fees, costs and expenses (including legal fees, costs and expenses on a solicitor and client basis) incurred by each of the Lender and any Receiver in connection with the exercise of any of the rights granted to it hereunder or the creation, perfection, protection or enforcement of the Security in the Collateral.

## **10.3 General Indemnity**

Subject to Section 9.3, each Pledgor will indemnify the Lender, any Receiver and any of their respective representatives, (each, an "**Indemnified Party**") in respect of, and save each Indemnified Party fully harmless from and against, all claims and losses and expenses which an Indemnified Party may suffer or incur in connection with the exercise by the Lender or any Receiver of any of its rights hereunder, save that (y) a Pledgor shall not be obliged to so indemnify any Indemnified Party to the extent such claims and losses and expenses are determined by a final judgment to have directly resulted from the wilful misconduct or gross negligence of the Indemnified Party. The Lender shall be constituted as the trustee of each Indemnified Party, other than itself, and shall hold and enforce each such other Indemnified Party's rights under this Section 10.3 for their respective benefits.

## **10.4 No Merger**

This Agreement shall not operate by way of a merger of the Pledgor's Obligations or of any guarantee or other document by which the Pledgor's Obligations now or at any time hereafter may be represented or evidenced. Neither the taking of any judgment nor the exercise of any power of seizure or disposition shall extinguish the liability of any Pledgor to pay and perform the Pledgor's Obligations nor shall the acceptance of any payment or alternate security constitute or create any novation. No obligation, representation or warranty of a Pledgor herein shall merge in any judgment.

## **10.5 Set-Off, Combination of Accounts and Crossclaims**

The Pledgor's Obligations shall be paid by each Pledgor without regard to any equities between such Pledgor and the Lender or any right of set-off, combination of accounts or cross-claim. Any indebtedness owing by the Lender to a Pledgor, direct or indirect, extended or renewed, actual or contingent, mutual or not, may be set off or applied against, or combined with, the Pledgor's Obligations of such Pledgor at any time either before or after maturity, without demand upon or notice to anyone and the terms of such indebtedness shall be changed hereby to the extent necessary to permit such set-off, application and combination.

## **10.6 Change**

No agreement purporting to change (other than an agreement purporting to waive performance or compliance with) any provision of this Agreement shall be binding upon the Pledgors or the Lender unless that agreement is in writing and signed by each Pledgor and the Lender. No waiver of performance or compliance with any provision hereof shall be binding upon any party hereto unless such waiver is in writing signed by the parties sought to be bound thereby.

## **10.7 Further Assurances**

Each Pledgor agrees to take such actions and execute and deliver such documents as may be reasonably requested by the Lender from time to time in order to give effect to the terms, conditions, provisions, purpose and intent of this Agreement.

## **10.8 Notices**

Any notice, demand, consent, approval or other communication (a “**Notice**”) to be made or given under or in connection with this Agreement shall be in writing and may be made or given, and shall take effect in the manner provided for, in Section 14.8 of the Credit Agreement.

## **10.9 Time of the Essence**

Time is and shall remain of the essence of this Agreement and each of its provisions.

## **10.10 Entire Agreement**

There are no representations, warranties, covenants, agreements or acknowledgments whether direct or collateral, express or implied, that form part of or affect this Agreement or any Collateral, other than as expressed in the Secured Documents.

## **10.11 Receipt of Copy**

Each Pledgor acknowledges receipt of a copy of this Agreement and copies of the verification statements pertaining to the financing statements filed under any personal property security statutes of any jurisdiction selected by the Lender in respect of this Agreement. To the extent permitted by applicable law, each Pledgor irrevocably waives the right to receive a copy of each financing statement or financing change statement (or any verification statement pertaining thereto) filed under any personal property security statutes by the Lender in respect of this Agreement and releases any and all claims or causes of action it may have against the Lender for failure to provide any such copy.

#### **10.12 Information**

At any time the Lender may provide to any person that claims an interest in Collateral copies of this Agreement or information about it or about the Collateral or the Pledgor's Obligations.

#### **10.13 Successors and Assigns**

This Agreement and the rights and obligations of the Lender hereunder may be assigned and transferred by the Lender to any assignee or transferee in accordance with Article 14.11 of the Credit Agreement. No Pledgor may assign this Agreement or any right or obligation hereunder. This Agreement shall enure to the benefit of the Lender and any other Indemnified Party and their respective successors and assigns and shall bind each Pledgor and its legal representatives (including receivers) and successors and permitted assigns. Each reference in this Agreement to any person (including each Pledgor and any Indemnified Party) shall (to the extent the context so admits) be construed so as to include the successors of that person and the assigns of that person (in the case of the Borrower, each Pledgor and the Lender, only as permitted by the Loan Documents).

#### **10.14 References to any Trust**

Where any reference is made in this Agreement, or in any other agreement, document or instrument executed pursuant hereto or contemplated hereby, to an act to be performed or not to be performed by, any omission of, an appointment to be made by, an obligation of, property, asset or right of, a discharge or release to be provided by, any suit, action or other proceeding to be taken by or against, or an agreement, representation or warranty (other than relating to the constitution, formation or existence of any Trust) by or in respect of any Trust, such reference shall be construed and applied for all purposes as if it referred to an agreement, document or instrument executed by, an act to be performed or not to be performed by, an omission of, an appointment to be made by, an obligation, property, assets or rights of, a discharge or release to be provided by, any suit, action or other litigation to be taken by or against, or an agreement, representation or warranty (other than relating to the constitution, formation or existence of any Trust) by or in respect of, the Trustee of such Trust solely in his capacity as the trustee of the Collateral of such Trust (and not in his personal or other capacity).

#### **10.15 Invalidity**

If any provision of this Agreement is found to be invalid or unenforceable, by a final judgment, to the fullest extent permitted by applicable law, (a) in such jurisdiction that provision shall be deemed to be severed herefrom and the remaining provisions of this Agreement shall not be affected thereby but shall remain valid and enforceable and (b) such invalidity or unenforceability shall not affect the validity or enforceability of such provision in any other jurisdiction. Each Pledgor shall, at the request of the Lender, negotiate in good faith with the Lender to replace any invalid or unenforceable provision contained in this Agreement with a valid and enforceable provision that has the commercial effect as close as possible to that of the invalid or unenforceable provisions, to the extent permitted by applicable law.

**10.16 Governing Law**

This Agreement shall be governed by, and construed and interpreted in accordance with, the laws of the Province of Ontario, including the federal laws of Canada applicable therein, but excluding choice of law rules. Each party hereto irrevocably attorns to and submits to the non-exclusive jurisdiction of the courts of the Province of Ontario with respect to any matter arising hereunder or related hereto. Such choice of law shall, however, be without prejudice to or limitation of any other rights available to the Lender under the laws of any other jurisdiction where Collateral may be located.

**10.17 Execution**

This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original and all of which taken together shall be deemed to constitute one and the same instrument, and it shall not be necessary in making proof of this Agreement to produce or account for more than one such counterpart. Execution by any Pledgor of this Agreement shall be binding upon such Pledgor whether or not any other Pledgor executes this Agreement. Transmission of a copy of an executed signature page of this Agreement (including any change to this Agreement) by one party to this Agreement to the other by facsimile transmission or e-mail in pdf format in accordance with Section 10.8 shall be as effective as delivery of an original manually executed counterpart hereof.

*[Remainder of page intentionally left blank.]*

**TO WITNESS** this Agreement, the parties hereto have caused this Agreement to be duly executed as of the date set out at the commencement of this Agreement.

**PLEDGORS**

**LYNNE AND BRUCE FRIEDMAN  
FAMILY TRUST, by an authorized Trustee**

**BRUCE FRIEDMAN**

By:   
Name: **BRUCE FRIEDMAN**  
Title: Trustee

**IMMEL HOLDINGS, LLC**

By: SM

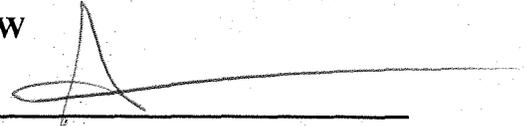
Name: Steve Immel

Title: CO-CEO

**THE ARONOW FAMILY TRUST dated  
May 27, 2010, by an authorized Trustee**

**SAM ARONOW**

By: \_\_\_\_\_

A handwritten signature in black ink, appearing to be 'SAM ARONOW', is written over a horizontal line. The signature is stylized with a large, sweeping 'S' and 'A'.

**Name: SAM ARONOW  
Title: Trustee**

**LENDER**

**NATIONAL BANK OF CANADA**

By: 

Name: Phil Damecour

Title: Senior Director

By: 

Name: Paul Keast

Title: Associate Vice President

## SCHEDULE 1 DEFINITIONS

### 1. Defined Terms

Unless the context otherwise requires, in this Agreement:

“**Additional Collateral**” is used as defined in Section 5.3.

“**Agreement**” means this Agreement and all schedules attached hereto.

“**Allonge**” in relation to any Issuer of Intercorporate Indebtedness means an originally executed copy of an allonge signed by a Pledgor in relation to an Intercorporate Note in the form of Schedule 4 changed in such manner as the Lender may require, undated and signed in blank by such Pledgor.

“**Aronow Trustee**” means the trustees of The Aronow Family Trust Dated May 27, 2010, being Sam Aronow and Elizabeth J. Aronow as at the date hereof.

“**Authorizing Resolution**” in relation to any Issuer of Capital Stock means a true copy of a resolution of the directors, unanimous shareholder agreement or approval of the partners or trustees of that Issuer (as the Lender shall require) substantially in the form of Schedule 2, changed in such manner as Lender may require.

“**Borrower**” is as defined in the Background to this Agreement.

“**Business Day**” means a day which is not a Saturday, Sunday or statutory holiday on which banks and trust companies are generally open for business in Toronto, Ontario.

“**Capital Stock**” means common shares, preferred shares, partnership interests or trust units or other equivalent equity interests (howsoever designated) in a body corporate, partnership, trust or other artificial body.

“**Collateral**” means (i) the Initial Collateral, (ii) any other Capital Stock or Intercorporate Indebtedness issued by an Issuer in which a Pledgor now or hereafter has rights, (iii) any other personal property which the Lender agrees to hold as collateral hereunder in substitution for or in addition to the Collateral described elsewhere in this definition, (iv) all Collateral Rights, (v) all Distributions, whether held in a collateral account or otherwise, (vi) all Proceeds of any property described in this definition and (vii) all rights of a Pledgor in and to any of the property described to in this definition, and (as the context so admits) any item or part of any of the foregoing.

“**Collateral Right**” means any right that a holder of Collateral may exercise now or in the future in relation to such Collateral, whether pursuant to the articles or

other constitutional documents of an Issuer, any shareholder, partnership or voting trust agreement or any other agreement affecting rights in any Capital Stock of any Issuer, or otherwise, including the right to receive all Distributions declared or payable on or in respect of Collateral and the income or Proceeds of Collateral, the right to vote Collateral, any right to acquire more Collateral of any Issuer, any right to convert or exchange Collateral for any other securities or other property and any dissent and appraisal rights associated with Collateral.

**“Control Agreement”** means an agreement to which the Lender and an Issuer of Collateral are party pursuant to which such Issuer agrees to comply with instructions from the Lender with respect to any dealings with such Collateral without the further consent of such Pledgor.

**“Declaration of Trust”** means (i) the trust agreement dated July 15, 1999 entered into by the Friedman Trustee, or (ii) the trust certificate and trust document dated May 27, 2010 entered into by the Aronow Trustee, as the context requires.

**“Distribution”** means (i) any and all Capital Stock hereafter issued by any Issuer to any holder of Collateral, (ii) any payment or distribution made, or amount or property received, in respect of Collateral, whether in cash, in kind or in Capital Stock, notes, debentures, instruments, securities or any other form of property, including any property received in exchange therefor, (iii) any money, funds, cash equivalents or other property arising from the renewal or reinvestment of Collateral and (iv) Proceeds of any item or part of any Collateral.

**“Friedman Trustee”** means the trustees of the Lynne and Bruce Friedman Family Trust, being Bruce Friedman and Lynne Friedman as at the date hereof.

**“Future Collateral”** means Collateral in which a Pledgor only has rights after the time this Agreement is executed and delivered by a Pledgor.

**“Indemnified Party”** is used with the defined meaning assigned in Section 10.3.

**“Initial Collateral”** means (i) the Initial Share Collateral and (ii) the Initial Intercorporate Indebtedness.

**“Initial Intercorporate Indebtedness”** of each Pledgor means the promissory note of the Borrower issued to such Pledgor, particulars of which are set out opposite such Pledgor’s name below:

<b>Name of Pledgor</b>	<b>Principal Amount of Note (CAD)</b>	<b>Date of Note</b>
Bruce Friedman, as trustee of the Lynne and Bruce Friedman Family Trust	Nil	Nil
Immel Holdings, LLC	Nil	Nil
Sam Aronow, as trustee of The Aronow Family Trust Dated May 27, 2010	Nil	Nil

“**Initial Share Collateral**” of each Pledgor means the shares (and the particulars of such shares) in the Capital Stock of the Borrower set out opposite such Pledgor’s name below:

<b>Name of Pledgor</b>	<b>Certificate # and # of Common Shares</b>	<b>Certificate # and # of Preferred Shares</b>	<b>Date of Certificate</b>
Bruce Friedman, as trustee of Lynne and Bruce Friedman Family Trust	CLAC-1 representing 41.335 Class A Common Shares	N/A	November 30, 2016
Immel Holdings, LLC	CLAC-2 representing 41.335 Class A Common Shares	N/A	November 30, 2016
Sam Aronow, as trustee of The Aronow Family Trust Dated May 27, 2010	CLAC-3 representing 17.33 Common Shares	N/A	November 30, 2016

“**Intercorporate Indebtedness**” means indebtedness now or hereafter owing by the Borrower to a Pledgor.

“**Intercorporate Note**” means a promissory note evidencing Intercorporate Indebtedness signed by the Borrower and issued to a creditor.

“**Issuers**” means (i) the Borrower and (ii) any other person hereafter issuing Collateral.

“**Lender**” means National Bank of Canada, a Canadian Chartered Bank.

“**Permitted Liens**” is used with the defined meaning assigned in Section 5.2(d).

**“Pledgor”** means the Lynne and Bruce Friedman Family Trust, The Aronow Family Trust Dated May 27, 2010 and Immel Holdings, LLC, and each other shareholder of the Borrower.

**“Pledgor’s Obligations”** relative to a Pledgor means the obligations of that Pledgor to the Lender arising under, by reason of, or otherwise in respect of this Agreement and (as the context so admits) each and any item or part thereof.

**“Proceeds”** means proceeds derived from any dealing with Collateral or proceeds of proceeds in which a Pledgor now or hereafter has rights, and (as the context so admits) any item or part thereof.

**“PPSA”** means the *Personal Property Security Act* (Ontario) and the regulations issued thereunder, and the similar legislation under each other Province across Canada.

**“Receiver”** means any receiver or receiver and manager for Collateral appointed by the Lender pursuant to this Agreement or by a court on application by the Lender.

**“Records”** means all books, correspondence, credit files, records, invoices, tapes, cards, computer files and documents in which transactions and other information related to Collateral are recorded.

**“Security”** means any and all Liens granted by each Pledgor to the Lender in this Agreement.

**“Stock Transfer Power of Attorney”** in relation to any Issuer of Capital Stock means an originally executed copy of a power of attorney issued in relation to each Pledgor’s Capital Stock in such Issuer substantially in the form of Schedule 3, changed in such manner as the Lender may require, undated and signed in blank by such Pledgor.

**“Transfer”** means, with respect to the following items comprised in Collateral and in accordance with the instructions of the intended recipient:

- (i) in the case of cash or any bill of exchange, payment or delivery by wire or funds transfer or deposit into one or more bank accounts specified by the recipient or physical delivery to the recipient accompanied by an Allonge;
- (ii) in the case of certificated securities, delivery in appropriate physical form to the recipient accompanied by Stock Transfer Power of Attorney; and
- (iii) in the case of uncertificated securities, the giving of an entitlement order to the Issuer, together with a copy thereof to the recipient, sufficient if complied with to result in the relevant securities being

registered in the name of the recipient or the entry into of a Control Agreement in relation thereto with the Issuer thereof.

“**Trustees**” means collectively the Friedman Trustee and the Aronow Trustee and “**Trustee**” means an applicable one of them, as the context requires.

“**Trusts**” means collectively, the Lynne and Bruce Friedman Family Trust and The Aronow Family Trust Dated May 27, 2010, and “**Trust**” means an applicable one of them, as the context requires.

**SCHEDULE 2**  
**AUTHORIZING RESOLUTION**

1. The transfer by <@> (the “**Pledgor**”) of <@> <describe Capital Stock> in the <describe Issuer>, plus whatever additional <describe Capital Stock> in <describe Issuer> may hereafter be issued or transferred to the Pledgor, (collectively, the “**Capital Stock**”) to National Bank of Canada (the “**Lender**”) or its nominee from time to time as security is approved.
2. The transfer of the Capital Stock by the Lender to one or more transferees consequent upon realization of the Lender’s security over the Capital Stock are approved.
3. The proper officers of the Corporation are authorized and directed to issue new certificates representing the Capital Stock to the Lender or to the Lender’s nominees or transferees on the written request of the Lender or its duly authorized representative, agent or attorney (including any receiver appointed by the Lender) without further consent, approval or other action being required by the Pledgor or any of the directors of the Corporation.
4. This resolution shall be irrevocable.

**SCHEDULE 3  
STOCK TRANSFER POWER OF ATTORNEY**

**FOR VALUE RECEIVED** the undersigned, \_\_\_\_\_  
of \_\_\_\_\_ has sold and transferred to  
\_\_\_\_\_ the following securities:

Certificate No.	Issuer	Number of Shares or Units	Class
-----------------	--------	------------------------------	-------

**AND** the undersigned constitutes and appoints \_\_\_\_\_ of  
\_\_\_\_\_ the true and lawful attorney of the undersigned,  
irrevocably, forever and in the name of the undersigned to transfer these securities, to make and  
execute all necessary acts of assignment and transfer of these securities and to substitute one or  
more persons with like full power. The undersigned ratifies and confirms all that this attorney or  
substitutes shall lawfully do by virtue of this document.

**DATED** at \_\_\_\_\_ this \_\_\_\_\_ day of  
\_\_\_\_\_, 20\_\_\_\_.

	)	
	)	
	)	
	)	
_____ Witness	)	_____ (Signature of Transferor)
	)	

*Note: The name of the transferor must correspond exactly with the name as registered on the securities.*

**SCHEDULE 4  
ALLONGE**

**THIS ALLONGE** is attached to, and forms a part of, that certain promissory note dated as of \_\_\_\_\_, \_\_\_\_ (as it may be amended, restated, or modified from time to time, the "**Note**"), in the original principal amount of \_\_\_\_\_ issued by <@> to Evergreen Consumer Brands Inc. (the "**Payee**").

For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Payee hereby assigns and endorses over to \_\_\_\_\_, all of Payee's right, title and interest in and to the Note.

**DATED** at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

	)	
	)	
	)	
	)	
_____ Witness	)	_____ (Signature of Transferor)
	)	

This is **Exhibit “H”**, referred to in the

Affidavit of Sonia de Lorenzi,  
sworn before me

this 10th day of February, 2020.



Roxana Gabriela Manea, a Commissioner, etc.,  
Province of Ontario, for  
Thornton Grout Finnigan LLP,  
Barristers and Solicitors.  
Expires June 5, 2021.

A Commissioner for taking Affidavits, etc.

April 11, 2019

*Via Email*

Evergreen Consumer Brands Inc.  
100 Delta Park Blvd., Unit 1  
Brampton, ON L6T 5E7

**Attention: Steve Immel and Bruce Friedman**

Dear Sirs:

**Re: Indebtedness of Evergreen Consumer Brands Inc. (the “Borrower”) to National Bank of Canada (the “Lender”)**

We refer to the following:

- (i) credit agreement dated June 1, 2018 between the Borrower and the Lender (the “**Credit Agreement**”); and
- (ii) subordination and standstill agreement dated as of June 1, 2018 (the “**Subordination Agreement**”) between the Lender, the Borrower and FWCU Capital Corp., a subsidiary of First West Credit Union (“**FWCU**”).

Unless otherwise specified, capitalized terms used herein have the meanings ascribed thereto in the Credit Agreement.

As set out in our letter to you dated April 4, 2019, we have discussed and reserved our respective rights regarding the manner in which the Revolver Borrowing Base should be calculated for the purpose of determining availability under the Revolver Facility. It is the Lender’s position that the Revolver Borrowing Base should be calculated in accordance with the Credit Agreement (the “**Credit Agreement Calculation**”). It is the Borrower’s position that, in accordance with its past practice, the calculation of the Revolver Borrowing Base should include accounts receivable domiciled outside Canada and the United States as well as raw materials inventory (the “**Borrower’s Calculation**”).

In our April 4, 2019 letter, we advised that the Credit Amount of all Advances under the Revolver Facility exceeded the Revolver Borrowing Base calculated as at January 31, 2019 in accordance with the Credit Agreement Calculation by \$1,204,616 and confirmed that the Lender would not permit the Credit Amount of all Advances under the Revolver Facility to exceed \$9,301,101, being the amount then outstanding thereunder (the “**Current Borrowing Limit**”).

The Borrower has requested that the Lender amend the Credit Agreement to utilize the Borrower’s Calculation to calculate the Revolver Borrowing Base. We advised you that, in order to consider

that request, the Lender must first receive the final report of the Lender's consultant, Deloitte Restructuring Inc. (the "**Consultant**") in connection with its review of the financial position of the Borrower and the Lender's security position (the "**Engagement**"). In order to complete its report, the Consultant requires, among other things, a 13 week cash flow forecast for the Borrower in form satisfactory to the Consultant.

The Lender received the Borrower's 13 week cash flow forecast (the "**Forecast**") on April 6, 2019 and the Consultant's review of the Forecast is ongoing. The Forecast projects that the Credit Amount of all Advances under the Revolver Facility will exceed the Current Borrowing Limit this week and will exceed the Revolver Commitment of \$10,000,000 during the weeks ending April 19, April 26 and May 3, 2019.

The Forecast states that the Revolver Borrowing Base is \$9,833,486. This amount has been calculated utilizing the Borrower's Calculation based on the Borrower's most recent financial reporting to the Lender as at February 28, 2019. As discussed today, the Consultant has identified a number of errors in the foregoing calculation, which errors have been acknowledged and agreed to by the Borrower. After correcting these errors, the Consultant has determined (and the Borrower agrees) that the correct calculation of the Revolver Borrowing Base utilizing the Borrower's Calculation is actually \$8,965,290 as at February 28, 2019, which represents a deterioration of \$868,196 from the amount of the Revolver Borrowing Base reflected in the Forecast.

The Credit Amount of all Advances under the Revolver Facility is \$9,250,000 as at April 11, 2019, with the result that advances to the Borrower under the Revolver Facility exceed the maximum credit permitted thereunder utilizing the Borrower's Calculation by \$284,710 (the "**Margin Shortfall**"). The amount of the Margin Shortfall would be even higher if the Revolver Borrowing Base was calculated utilizing the Credit Agreement Calculation.

The existence of the Margin Shortfall constitutes an Event of Default. In accordance with section 2.4.1 of the Credit Agreement, the Borrower is obligated to immediately repay the amount of the Margin Shortfall and no further Advances are available under the Revolver Facility until the Margin Shortfall has been permanently repaid.

The Borrower has requested that, notwithstanding the existence of the Margin Shortfall, the Lender increase the Current Borrowing Limit to an amount in excess of \$9.8 million to assist the Borrower in meeting its working capital needs. The Borrower has advised that the Margin Shortfall will be eliminated over the following three to four weeks.

At this point, the Lender is not prepared to increase the Current Borrowing Limit and reserves its right to refuse any further Advances under the Revolver Facility and to require the Borrower to immediately repay the amount of the Margin Shortfall. It is the Borrower's responsibility to obtain any liquidity it may require in excess of the Revolver Borrowing Base to meet its working capital needs.

We have asked you to identify any critical payments which must be made by the Borrower this week to ensure the Borrower can continue operations. We have also asked you to revise the Forecast to reflect the corrected calculation of the Revolver Borrowing Base at \$8,965,290, the Borrower's increased sales and your plan to meet the Borrower's need for working capital in

excess of the Revolver Borrowing Base. We have received your list of critical payments and understand that the balance of this information will be provided to us tomorrow. At that point, we will be in a position to consider your request for funding in excess of the amount of the Revolver Borrowing Base.

You have indicated that the Borrower intends to address its need for working capital in excess of the Revolver Borrowing Base by obtaining extended payment terms from certain of its vendors. As discussed, in the event that the required payment terms are not obtained, the Lender requires the Borrower to have in place a strategy to meet its working capital needs, such as obtaining an equity injection from the Borrower's shareholders or another party. Any such equity injection must be on terms satisfactory to the Lender.

We confirm that the Lender has not waived the Event of Default which has occurred as a result of the existence of the Margin Shortfall (nor the Events of Default referenced in our February 27, 2019 letter). It remains the Lender's position that it is entitled to enforce the rights and remedies available to the Lender pursuant to section 13.2 of the Credit Agreement as well as pursuant to the Subordination Agreement.

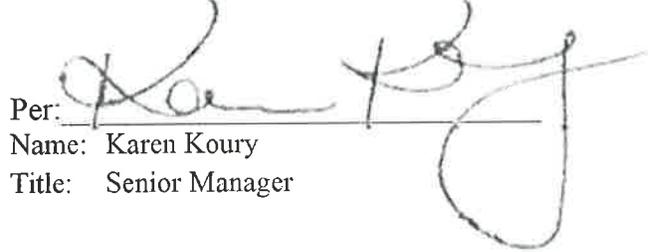
No delay by the Lender in enforcing any of its rights and remedies against the Borrower constitutes a waiver of or acquiescence to the Events of Default or a waiver of any of the Lender's rights and remedies. The Lender reserves all of its rights and remedies in connection with the Events of Default including, without limitation, the right to demand payment of the Credit Facilities, terminate the Credit Facilities and take steps to enforce the Security at any time, including prior to completion of the Engagement.

Yours truly,

**NATIONAL BANK OF CANADA**

Per:   
Name: Sonia de Lorenzi  
Title: Senior Manager

**NATIONAL BANK OF CANADA**

Per:   
Name: Karen Koury  
Title: Senior Manager

cc: *FWCU Capital Corp., a subsidiary of First West Credit Union*

This is **Exhibit "I"**, referred to in the

Affidavit of Sonia de Lorenzi,  
sworn before me

this 10th day of February, 2020.



---

A Commissioner for taking Affidavits, etc.

Roxana Gabriela Manea, a Commissioner, etc.,  
Province of Ontario, for  
Thomson Grout Finnigan LLP,  
Barristers and Solicitors.  
Expires June 5, 2021.

## Personal & Confidential

June 20, 2019

*Via Electronic Mail and Courier*

Evergreen Consumer Brands Inc.  
100 Delta Park Blvd., Unit 1  
Brampton, ON L6T 5E7

**Attention: Steve Immel and Bruce Friedman**

**Re: Indebtedness of Evergreen Consumer Brands Inc. (the “Borrower”) to National Bank of Canada (the “Lender”)**

We refer to the forbearance agreement between the Lender, the Borrower and the Shareholders dated May 27, 2019 (the “**Forbearance Agreement**”). Unless otherwise specified, capitalized terms used herein have the meanings ascribed thereto in the Forbearance Agreement.

The Borrower is in default of its obligations under the Forbearance Agreement as a result of the following (collectively, the “**Defaults**”):

- (a) As confirmed in paragraph 26 of the Forbearance Agreement, the total Credit Amount of all Advances under the Revolver Facility is limited to the lesser of the Revolver Commitment of \$10,000,000 and the Revolver Borrowing Base (as amended by the terms of the Forbearance Agreement) in effect from time to time. On June 13, 2019, Richter delivered to the Lender an updated Forecast and a Revolver Borrowing Base Report that calculated the Revolver Borrowing Base as \$8,919,421 as at June 7, 2019. Pursuant to subparagraph 39(a) of the Forbearance Agreement, this updated Forecast and the Revolver Borrowing Base Report should have been delivered to the Lender by June 11, 2019. The Credit Amount of all Advances under the Revolver Facility as at June 14, 2019 was approximately \$9,259,421, which exceeded the Revolver Borrowing Base by approximately \$340,000 (the “**Overdraft**”). On June 17, 2019, the Borrower delivered to the Lender a revised Revolver Borrowing Base Report as at June 7, 2019 which further reduced the Revolver Borrowing Base to \$8,877,987 and resulted in a corresponding increase to the Overdraft. As detailed in our email to you dated June 18, 2019, the Lender refused to make further Advances under the Revolver Facility until the Overdraft was eliminated, which occurred on June 19, 2019, following deposits to the Borrower’s accounts with the Lender and the delivery to the Lender of a Revolver Borrowing Base Report as at June 14, 2019 which calculated the Revolver Borrowing Base as \$9,295,475.
- (b) Pursuant to paragraph 43 of the Forbearance Agreement, on or before June 7, 2019, the Borrower was required to deliver to the Lender (i) an annual budget for the Borrower for the period ending November 30, 2019 (the “**Annual Budget**”). As

part of the Annual Budget, the Borrower was required to address the manner in which the Borrower shall fund its working capital needs in the event that the Borrower does not receive \$3,000,000 pursuant to the FWCU Share Purchase Commitment by the deadline set out in the Forbearance Agreement or at all (the “**Contingency Plan**”); (ii) a plan to return to compliance with the financial covenants contained in section 12.3 of the Credit Agreement; and (iii) a five year forecast for the Borrower. The foregoing reporting was not delivered to the Lender until June 18, 2019 and the Annual Budget delivered to the Lender does not include the Contingency Plan;

- (c) Pursuant to paragraph 46 of the Forbearance Agreement, the Borrower is required to deliver to the Lender its draft 2018 audited annual financial statements on or before June 28, 2019 and its final audited annual financial statements on or before July 11, 2019. The Borrower has advised the Lender that it anticipates that the draft 2018 audited annual financial statements will not be available until mid-July 2019, with the result that the final audited annual financial statements will not be available until after the foregoing deadline;
- (d) Pursuant to paragraph 35 of the Forbearance Agreement, the Borrower is required to deliver to the Lender on or before June 28, 2019, a commitment from FWCU (the “**FWCU Share Purchase Commitment**”) to make an equity investment in the Borrower of at least \$3,000,000 by no later than July 19, 2019. The Borrower has advised the Lender that FWCU has extended the deadline for delivery of the FWCU Share Purchase Commitment until mid to late July, 2019 and the deadline for its equity investment until late August 2019; and
- (e) Pursuant to subparagraph 39(b) of the Forbearance Agreement, no update to the Forecast shall project that Advances under the Revolver Facility shall exceed the lesser of the Revolver Borrowing Base in effect from time to time and the Revolver Commitment of \$10,000,000. Each of the 13 week cash flow forecasts delivered to the Lender on June 14, 2019 (the “**June 14 Forecast**”) and on June 18, 2019 (the “**June 18 Forecast**”) projects that, until the Borrower receives \$3,000,000 pursuant to the FWCU Share Purchase Commitment the week ending August 23, 2019, the Credit Amount of all Advances under the Revolver Facility will consistently exceed the amount of the Revolver Borrowing Base (the “**Projected Borrowing Base Shortfall**”) as well as the Revolver Commitment of \$10,000,000. The June 18 Forecast projects that, during the week ending August 16, 2019, the amount outstanding under the Revolver Facility will reach a high of \$10,844,744 and the Projected Borrowing Base Shortfall will reach a high of \$927,856.

The Defaults have not been waived by the Lender. In particular, given that each of the June 14 Forecast and the June 18 Forecast contravenes the terms of the Forbearance Agreement, the Lender does not accept the June 14 Forecast or the June 18 Forecast as the Forecast for the purpose of subparagraph 39(b) of the Forbearance Agreement.

Each of the Defaults constitutes a Forbearance Terminating Event. In accordance with paragraph 57 of the Forbearance Agreement, we confirm that the Lender reserves its right to immediately

terminate the Credit Facilities and enforce, without further notice or delay, all of its rights and remedies against the Borrower and/or the Shareholders.

The Borrower has requested that, until the proceeds of the FWCU Share Purchase Commitment are received by the Borrower, the Lender permit the Credit Amount of all Advances under the Revolver Facility to exceed both the Revolver Borrowing Base and the Revolver Commitment, in each case in the amounts set out in the June 18 Forecast. As discussed with you yesterday evening, the Lender is not prepared to fund any of the Borrower's working capital requirements in excess of the maximum credit available under the Revolver Facility pending receipt of the proceeds of the FWCU Share Purchase Commitment. It is up to the Borrower to obtain any financing required to fund its working capital needs in excess of the credit available under the Revolver Facility.

Given the Lender's position, the Borrower has requested that, until no later than June 28, 2019, the Lender temporarily increase the maximum credit available to the Borrower under the Revolver Facility to permit the Borrower to fund those critical payments necessary to maintain its business operations ("**Critical Payments**") while it considers how to address its funding requirements over the coming weeks. We confirm that, further to the Borrower's request, the Lender will, on a day to day basis in its sole and absolute discretion, permit the Credit Amount of all Advances under the Revolver Facility to exceed the amount of the Revolver Borrowing Base (the "**Permitted Overdraft**") to permit the Borrower to fund Critical Payments on the following basis:

- (a) During the period ending June 27, 2019, the Permitted Overdraft will not exceed \$585,908. On June 28, 2019, the Permitted Overdraft will be terminated and reduced to zero. Accordingly, until June 28, 2019, the Credit Amount of all Advances under the Revolver Facility may not exceed the lesser of (i) \$9,880,385; and (ii) the amount of the Revolver Borrowing Base plus the Permitted Overdraft. On June 28, 2019, the Borrower shall reduce the Credit Amount of all Advances under the Revolver Facility to the lesser of the Revolver Commitment of \$10,000,000 and the amount of the Revolver Borrowing Base then in effect;
- (b) Effective immediately, the Applicable Margin shall be increased to 3%, with the result that the principal amount outstanding under the Revolver Facility shall bear interest at the Canadian Prime Rate plus 3% per annum and the principal amount outstanding under the Term Facility shall bear interest at the US Base Rate plus 3% per annum.
- (c) on or before June 24, 2019, each of Steve Immel and Bruce Friedman shall (i) execute and deliver to the Lender an updated personal net worth statement on the Lender's standard form; and (ii) execute and deliver to the Lender a guarantee of all of the Borrower's indebtedness to the Lender limited to the principal amount of \$1,000,000 plus interest and costs. The foregoing guarantees shall not be released, discharged or otherwise reduced following permanent repayment and termination of the Permitted Overdraft but shall remain in force and effect until all of the Borrower's indebtedness to the Lender has been permanently and indefeasibly repaid;

- (d) the Borrower shall take steps on an urgent basis to retain a chief restructuring officer (a “CRO”) to, among other things, assist the Borrower in developing a strategy to meet its immediate working capital needs as well as a restructuring plan that will allow the Borrower to continue business operations in the ordinary course. The scope of the CRO’s mandate must be acceptable to the Lender in its discretion. On or before June 21, 2019, the Borrower shall identify to the Lender one or more candidates for the CRO position acceptable to the Borrower and the proposed terms of engagement of the CRO. The engagement of the CRO shall commence no later than June 24, 2019;
- (e) until further notice, subparagraph 39(a) of the Forbearance Agreement shall be amended to provide that by 12 o’clock noon on the Tuesday of every week (or, if the Monday of that week is not a Business Day, by 12 o’clock noon on the Wednesday of that week) for the one week period ending the immediately preceding Friday, the Borrower shall deliver to the Lender and the Consultant a Revolver Borrowing Base Report for the applicable period;
- (f) until further notice, subparagraph 39(b) of the Forbearance Agreement shall be amended to provide that by 12 o’clock noon on the Tuesday of every week (or, if the Monday of that week is not a Business Day, by 12 o’clock noon on the Wednesday of that week), the Borrower shall deliver to the Lender and the Consultant an update of the Forecast for the following 13 week period or such other period of time as the Lender may require;
- (g) until further notice, the Borrower will deliver to the Lender and the Consultant by 9 a.m. each day a summary of all disbursements to be made by the Borrower on that Business Day and all deposits to its accounts with the Lender on the prior Business Day; and
- (h) the Lender reserves its right at any time, without the requirement for prior notice to the Borrower or any other party, to apply any funds deposited to the Borrower’s accounts with the Lender in partial or permanent reduction of the Permitted Overdraft.

The foregoing accommodation is a temporary measure to permit the Borrower to fund the Critical Payments until June 28, 2019 while it determines how it will fund its working capital needs going forward. The foregoing accommodation does not constitute an extension, modification or waiver of any aspect or obligation under the Forbearance Agreement, the Credit Agreement or any other agreement or give rise to any obligation on the part of the Lender to extend, modify or waive any terms or conditions of the Forbearance Agreement, the Credit Agreement or any other agreement. Notwithstanding the foregoing accommodation, there is no agreement on the part of the Lender to forbear from enforcing any of its rights and remedies in connection with the Defaults, any prior defaults committed by the Borrower under the Forbearance Agreement or the Credit Agreement or otherwise. The Lender reserves its right at any time, in its sole and absolute discretion and without the requirement for prior notice to the Borrower or any other party, to terminate the foregoing accommodation and exercise all of its rights and remedies against the Borrower and the

Shareholders including, without limitation, terminating the Credit Facilities and taking steps to enforce the Security.

Finally, we wish to again address the Lender's rights and remedies arising from the Defaults under the subordination and standstill agreement dated as of June 1, 2018 (the "**Subordination Agreement**") between the Lender, the Borrower and FWCU Capital Corp., a subsidiary of First West Credit Union ("**FWCU**"). Pursuant to section 5.1 of the Subordination Agreement, if the Lender provides written notice to each of FWCU and the Borrower confirming that an Event of Default has occurred under the Credit Agreement (the "**Standstill Notice**"), then the Borrower will not make, and FWCU will not accept, any payment of principal and interest on account of the FWCU Credit Facilities (as defined in the Subordination Agreement) unless and until the Lender, in its absolute discretion, notifies FWCU and the Borrower in writing that the Borrower may resume such payments. We confirm that this letter constitutes the Standstill Notice. However, we also confirm that, until further notice, the Borrower may continue to make payment to FWCU of principal and interest on account of the FWCU Credit Facilities, provided that the Lender reserves its right in its sole discretion to require the Borrower to cease making payments of principal and interest on account of the FWCU Credit Facilities at any time.

Please confirm your agreement to be bound by the terms of this letter by executing and returning to the undersigned a copy of this letter by 4:00 p.m. EST on Friday, June 21, 2019, after which the terms hereof shall no longer be open for acceptance.

Yours truly,

**NATIONAL BANK OF CANADA**

Per: \_\_\_\_\_

  
**Sonia de Lorenzi**  
Senior Manager

cc: *FWCU Capital Corp., a subsidiary of First West Credit Union*

The undersigned agree to be bound by the terms and conditions contained in this letter agreement.

**DATED** at \_\_\_\_\_, \_\_\_\_\_ this \_\_\_\_\_ day of June, 2019.

**EVERGREEN CONSUMER BRANDS INC.**

Per: \_\_\_\_\_  
Name:  
Title:  
(I have the authority to bind the Corporation)

**DATED** at \_\_\_\_\_, \_\_\_\_\_ this \_\_\_\_\_ day of June, 2019.

**The Guarantors:**

**LYNNE AND BRUCE FRIEDMAN FAMILY TRUST, by an authorized Trustee Bruce Friedman**

Per: \_\_\_\_\_  
Name: **Bruce Friedman**  
Title: **Trustee**

**IMMEL HOLDINGS, LLC**

Per: \_\_\_\_\_  
Name: **Steve Immel**  
Title: **Co-CEO**

**THE ARONOW FAMILY TRUST dated May 27, 2010, by an authorized Trustee**

Per: \_\_\_\_\_

Name: **Sam Aronow**  
Title: Trustee

Per: \_\_\_\_\_  
Witness as to the signature of Bruce Friedman

Per: \_\_\_\_\_  
**BRUCE FRIEDMAN**

Per: \_\_\_\_\_  
Witness as to the signature of Steve Immel

Per: \_\_\_\_\_  
**STEVE IMMEL**

This is **Exhibit “J”**, referred to in the  
Affidavit of Sonia de Lorenzi,  
sworn before me

this 10th day of February, 2020.



A Commissioner for taking Affidavits, etc.

Roxana Gabriela Manea, a Commissioner, etc.,  
Province of Ontario, for  
Thornton Groat Finnigan LLP,  
Barristers and Solicitors.  
Expires June 5, 2021.

**Personal & Confidential**

August 30, 2019

*Via Electronic Mail and Courier*

Evergreen Consumer Brands Inc.  
100 Delta Park Blvd., Unit 1  
Brampton, ON L6T 5E7

**Attention: Steve Immel and Bruce Friedman**

**Re: Indebtedness of Evergreen Consumer Brands Inc. (the “Borrower”) to National Bank of Canada (the “Lender”)**

**WHEREAS:**

1. Pursuant to a credit agreement dated June 1, 2018 between the Borrower and the Lender (the “**Credit Agreement**”), as amended by the forbearance agreement between the Lender and the Borrower dated May 27, 2019, which was in turn amended by an amending agreement dated June 21, 2019 (as amended, the “**First Forbearance Agreement**”), the Lender has made available to the Borrower the following credit facilities (collectively, the “**Credit Facilities**”). Unless otherwise specified, capitalized terms in this Agreement are as defined in the Credit Agreement:
  - (a) **Revolver Facility:** The total Credit Amount of all Advances under the Revolver Facility is limited to the lesser of the Revolver Commitment of \$10,000,000 and the Revolver Borrowing Base in effect from time to time. As at August 29, 2019, the principal amount outstanding under the Revolver Facility is CAD\$6,806,126.17 and USD\$0, together with interest and costs (including, without limitation, legal and Consultant (as defined below) fees and disbursements) to the date of payment;
  - (b) **Term Facility:** The total Credit Amount of all Advances under the Term Facility is limited to the Term Commitment of USD\$11,538,461.50. The Term Facility has been fully advanced and no further credit is available thereunder. As at August 29, 2019, the principal amount outstanding under the Term Facility is USD\$10,673,076.89, together with interest and costs (including, without limitation, legal and Consultant fees and disbursements) to the date of payment; and
  - (c) **MasterCard Facility:** The balance outstanding under the MasterCard Facility may not exceed the MasterCard Limit of \$250,000. As at August 11, 2019, the principal amount outstanding under the MasterCard Facility is \$143,051.99, together with interest and costs (including, without limitation, legal and Consultant fees and disbursements) to the date of payment.
2. As security for all of the Borrower’s present and future indebtedness and obligations to the Lender pursuant to the Credit Facilities, together with all other obligations of the Borrower

to the Lender, the Borrower has granted to the Lender security upon all of the Borrower's real and personal property, assets and undertaking (collectively, the "**Security**").

3. The Lynne and Bruce Friedman Family Trust, Immel Holdings, LLC, and the Aronow Family Trust dated May 27, 2010 (collectively, the "**Shareholders**") have guaranteed the indebtedness and obligations of the Borrower to the Lender pursuant to a Limited Recourse Guarantee and Pledge Agreement dated June 1, 2018 (the "**Guarantee**").
4. Pursuant to the subordination and standstill agreement dated June 1, 2018 (the "**Subordination Agreement**") between the Lender, the Borrower and FWCU Capital Corp., a subsidiary of First West Credit Union ("**FWCU**"), FWCU has postponed and subordinated the security held by FWCU upon the Borrower's real and personal property, assets and undertaking (the "**FWCU Security**") in favour of the Security and has postponed and subordinated repayment of the Borrower's indebtedness to FWCU in favour of prior repayment of all amounts outstanding under the Credit Facilities.
5. By letter dated February 25, 2019 (the "**Engagement Letter**"), the Lender, with the consent of the Borrower, retained Deloitte Restructuring Inc. as the Lender's consultant (the "**Consultant**") to review, among other things, the financial position of the Borrower and the Lender's security position (the "**Engagement**").
6. The Borrower committed certain defaults under the First Forbearance Agreement (collectively, the "**Forbearance Defaults**"), with the result that the Lender is entitled, without further notice or delay, to exercise all of its rights and remedies against the Borrower and the Shareholders including, without limitation, terminating the Credit Facilities and taking steps to enforce the Security. Certain of the Forbearance Defaults are set out in the letters from the Lender to the Borrower dated May 31, 2019, June 21, 2019 and June 28, 2019.
7. By letter dated April 4, 2019, the Lender advised that the Borrower's calculation of the Revolver Borrowing Base as at January 31, 2019 was not carried out in accordance with the terms of the Credit Agreement as a result of, among other things, the inclusion of (i) accounts receivable domiciled outside Canada and the United States; and (ii) raw materials inventory.
8. On August 30, 2019, the Borrower delivered to the Lender an updated 13 week cash flow forecast (the "**Forecast**") and a weekly cash flow forecast for the period ending March 31, 2020 (the "**Extended Forecast**"). Both the Forecast and the Extended Forecast (together the "**Forecasts**") project that the Credit Amount of all Advances under the Revolver Facility will not exceed the lesser of the projected Revolver Borrowing Base in effect from time to time and the Revolver Commitment of \$10,000,000.
9. The Lender has not waived the Forbearance Defaults or any of the other Events of Default which have occurred under the Credit Agreement (collectively, the "**Existing Events of Default**"). Notwithstanding the occurrence of the Existing Events of Default, the Borrower has requested that the Lender continue to forbear from enforcing its rights and remedies

against the Borrower to provide the Borrower with the opportunity to obtain alternate financing sufficient to permanently repay and cancel the Credit Facilities.

10. Subject to the terms of this Agreement, the Lender will forbear from enforcing its rights and remedies against the Borrower and the Shareholders with respect to all such Existing Events of Default, provided that the Lender reserves its right at any time to exercise all of its rights and remedies under the Subordination Agreement in connection with such Existing Events of Default including, without limitation, the right to suspend payments by the Borrower to FWCU in accordance with section 5.1 of the Subordination Agreement.
11. In consideration of the Lender's forbearance as described herein, for the other accommodations described herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby irrevocably acknowledged by the Borrower and the Shareholders, the Borrower and the Shareholders hereby agree with the Lender as follows.

#### **ACKNOWLEDGEMENT**

12. The Borrower and the Shareholders acknowledge that each of the foregoing recitals is true and correct.
13. The Borrower and the Shareholders acknowledge that, unless otherwise specified, all monetary amounts are expressed in Canadian dollars.
14. The Borrower and the Shareholders acknowledge that:
  - (a) the Borrower is indebted to the Lender under the Credit Facilities in the amounts specified in paragraph 1 of this Agreement as at the date specified therein, together with interest and costs (including, without limitation, legal and Consultant fees and disbursements) to the date of payment and that the Borrower has no defences, counterclaims or rights of set-off or reduction in respect of the Borrower's indebtedness to the Lender as specified in paragraph 1 of this Agreement;
  - (b) the Borrower is in default of its obligations to the Lender under the terms of the First Forbearance Agreement and the Credit Agreement; and
  - (c) given the occurrence of the Existing Events of Default, the Lender may exercise all of its rights and remedies against the Borrower at any time in the sole discretion of the Lender including, without limitation, terminating the Credit Facilities, demanding payment of the Credit Facilities and taking steps to enforce the Security.
15. Commencing on the next business day following satisfaction of the Conditions Precedent (as defined below) and continuing until the earlier to occur of the Forbearance Deadline and the termination by the Lender of its accommodations in accordance with the terms of this Agreement (the "**Tolling Termination Date**"), the Lender, the Borrower and the Shareholders agree to toll and suspend the running of the applicable statutes of limitation, laches or other doctrines related to the passage of time in relation to the Credit Agreement, the Credit Facilities, the Guarantee and the Security and any entitlements arising therefrom

or any other related matters and any contractual time limitation on the commencement of proceedings, any claims or defenses based on the application of any statute of limitations, contractual limitations, or any time-related doctrine including waiver, estoppel or laches is hereby suspended (the “**Tolling Agreement**”). Each of the parties confirms that the Tolling Agreement is intended to be an agreement to suspend or extend the basic limitation period provided by section 4 of the Ontario *Limitations Act*, 2002 as well as the ultimate limitations period provided by section 15 of the Ontario *Limitations Act*, 2002 in accordance with the provisions of section 22 of the Ontario *Limitations Act*, 2002 and is intended to be a “business agreement” in accordance with section 22 of the Ontario *Limitations Act*, 2002.

16. The time provided for under any statutes of limitations, laches, or any other doctrines related to the passage of time in relation to the Credit Agreement, the Credit Facilities, the Security, the Guarantee or any entitlement arising therefrom and any other related matters, will recommence running as of the Tolling Termination Date, and for greater certainty the time during which the limitation period is suspended pursuant to the Tolling Agreement shall not be included in the computation of any limitation period.
17. The Borrower and the Shareholders acknowledge and agree that all Security now held by the Lender for the indebtedness and obligations of the Borrower to the Lender is valid, binding and enforceable in accordance with its terms, and that the Borrower has no defences, counterclaims or rights of set-off or reduction to any claims which might be brought by the Lender thereunder.
18. The Shareholders acknowledge and agree that the Guarantee is valid, binding and enforceable in accordance with its terms and that the Shareholders have no defences, counterclaims or rights of set-off or reduction to any claims which might be brought by the Lender thereunder.
19. The Borrower and the Shareholders hereby consent to the terms of the Lender’s forbearance and other accommodations as set out herein.
20. The Borrower and the Shareholders hereby agree that upon the execution of this Agreement, they shall each absolutely and irrevocably release the Lender, its officers, directors and employees, the Lender’s lawyers Thornton Grout Finnigan LLP, the Consultant and any other agents or representatives of the Lender (collectively, the “**Releasees**”) of and from any and all claims which they each may have in respect of the Releasees up to and including the date hereof including, without limitation, any actions taken by the Lender in dealing with the Borrower, the Shareholders, the Credit Agreement, the Credit Facilities, the Security, the Guarantee or with the administration of the Borrower’s accounts with the Lender.
21. In consideration of the Lender’s forbearance and the other accommodations described herein, the Borrower agrees to pay to the Lender a forbearance fee (the “**Forbearance Fee**”) in the amount of \$50,000 which shall be earned upon execution of this Agreement and payable as follows: \$5,000 on September 16, 2019 and \$15,000 on October 15, November 15 and December 16, 2019. In addition, the Borrower shall pay to the Lender

the remaining balance of the forbearance fee under the First Forbearance Agreement in the amount of \$10,000 on September 16, 2019. The Borrower authorizes the Lender to debit the foregoing payments from the Borrower's current account with the Lender.

## CONDITIONS PRECEDENT

22. The forbearance and other accommodations granted by the Lender hereunder are subject to approval of the Lender's credit committee and the Lender receiving the following in form satisfactory to the Lender on or before 5:00 p.m. on August 30, 2019 or such other date as provided for below:
- (a) a duly authorized, executed and delivered original of this Agreement executed by the Borrower;
  - (b) on or before 5:00 p.m. on September 6, 2019, a duly authorized, executed and delivered original of this Agreement executed by the Shareholders;
  - (c) on or before September 6, 2019, the Lender shall have received the commitment letter or other documentation setting out the terms upon which FWCU shall advance \$1,800,000 to the Borrower (the "**New FWCU Loan**") and The Lynne and Bruce Friedman Family Trust and Immel Holdings, LLC (together, the "**Funding Shareholders**") shall loan \$1,200,000 to the Borrower (the "**New Shareholder Loan**") and together with the New FWCU Loan, the "**New Subordinated Loans**"). The terms of the New Subordinated Loans must be satisfactory to the Lender in its sole discretion;
  - (d) on or before September 6, 2019, the Lender, FWCU and the Borrower shall enter into an agreement amending the Subordination Agreement, in form satisfactory to the Lender in its sole discretion, pursuant to which the FWCU Security and the Borrower's indebtedness to FWCU, including pursuant to the New FWCU Loan, shall be fully postponed and subordinated to the Security and the indebtedness and obligations outstanding from time to time under the Credit Facilities;
  - (e) on or before September 6, 2019, at least \$500,000 shall be advanced to the Borrower pursuant to either of the New Subordinated Loans;
  - (f) FWCU shall consent to the terms of this Agreement;

(collectively, the "**Conditions Precedent**").

The Conditions Precedent are for the sole benefit of the Lender and may be waived only by the Lender in writing. If the Conditions Precedent are not complied with to the satisfaction of the Lender by 5:00 p.m. on August 30, 2019 or such later date as provided for above, and the Lender will not waive satisfaction thereof, then the offer of forbearance and the other accommodations offered by the Lender hereunder shall be terminated.

Upon satisfaction of the Conditions Precedent, unless a Forbearance Terminating Event occurs under this Agreement, the Lender shall take no further steps prior to March 31, 2020

(the “**Forbearance Deadline**”) to enforce the Security held by the Lender from the Borrower.

#### AMENDMENTS TO CREDIT FACILITIES

23. The Borrower and the Shareholders acknowledge and agree that, except as specifically amended herein, all terms and conditions of the Credit Agreement (as amended by the First Forbearance Agreement) shall remain in effect, unamended.
24. In accordance with the Forecast, the New Subordinated Loans shall be fully advanced to the Borrower by no later than September 20, 2019. Prior to any advance of funds to the Borrower by the Funding Shareholders, and in any event by no later than September 20, 2019, all security granted by the Borrower to the Funding Shareholders and amounts outstanding under the New Shareholder Loan shall be fully postponed and subordinated to the Security and the indebtedness and obligations outstanding from time to time under the Credit Facilities pursuant to a subordination agreement satisfactory to the Lender in its sole discretion.
25. In accordance with the terms of the Credit Agreement, the total Credit Amount of all Advances under the Revolver Facility shall be limited to the lesser of the Revolver Commitment of \$10,000,000 and the Revolver Borrowing Base in effect from time to time.
26. Effective immediately, the MasterCard Limit shall be reduced from \$250,000 to \$150,000.
27. Effective immediately, the Borrower directs the Lender to stop all payments or transfers from the Borrower’s New York Account (as defined in the First Forbearance Agreement) other than payments to the Lender and transfers to the Borrower’s Canadian account with the Lender.
28. Notwithstanding that section 8.4.3 of the Credit Agreement requires the Borrower to apply the proceeds of the New Subordinated Loans towards Advances outstanding under the Credit Facilities, the Lender will permit the Borrower to utilize such proceeds as working capital.
29. The Borrower shall not amend the terms of the New Subordinated Loans as approved by the Lender without the prior consent of the Lender. Prior to the occurrence of a Forbearance Terminating Event, the Borrower may make the regularly scheduled payments of interest under the New Shareholder Loan contemplated by the Forecast. Other than such permitted payments of interest, and without limiting the Lender’s right to issue a Standstill Notice to FWCU under the Subordination Agreement at any time, the Borrower shall not make any payments of principal, interest or fees on account of the New Subordinated Loans prior to the permanent repayment and cancellation of the Credit Facilities.
30. In order to accommodate satisfaction of the Conditions Precedent, the Lender shall defer 100% of the principal payment due September 1, 2019 until September 6, 2019. Subject to satisfaction of the Conditions Precedent and provided that a Forbearance Terminating Event has not occurred, the Lender will defer payment of the next three regularly scheduled principal payments under the Term Facility (the “**Deferred Principal Payments**”) as

follows: (i) 100% of the principal payment due September 6, 2019; and (ii) 50% of the principal payments due December 1, 2019 and March 1, 2020. The Deferred Principal Payments shall be immediately due and payable upon the earlier to occur of a Forbearance Terminating Event and the Forbearance Deadline.

31. Effective immediately, the definition of Eligible Inventory Amount shall be deleted and replaced with the following: “at any time means the amount of the Borrower’s consolidated finished goods and raw materials inventory determined from its most recent balance sheet; provided that the value of any finished goods or raw materials inventory held or controlled by a third party who has not provided to the Lender a bailee/landlord waiver or similar subordination agreement shall be calculated after deduction of any amount owing by the Borrower to that third party, with the result that finished goods or raw materials inventory valued at less than the amount owed to the third party shall not be eligible for inclusion in the Eligible Inventory Amount. In addition, the Eligible Inventory Amount shall not include any finished goods or raw materials inventory that is not subject to the Security or is subject to a Lien in favour of any other person, other than the Lender, ranking *pari passu* with or in priority to the Security (other than Statutory Prior Claims and rights of unpaid suppliers to repossession under Section 81.1 of the *Bankruptcy & Insolvency Act* (Canada) or the Quebec Civil Code so long as, in both cases, the amount payable in relation thereto is not overdue or delinquent)”.
32. Effective immediately and until further notice, each calculation of the amount of Statutory Prior Claims shall be increased by \$150,000 to account for the Borrower’s potential liability for unpaid source deductions/withholding taxes related to management compensation. The Lender will consider an adjustment of this amount upon receipt of any filing submitted to CRA by the Borrower in connection with the amount of source deductions/withholding taxes payable by the Borrower in connection with such management compensation, upon receipt of a notice of assessment from CRA or upon evidence of payment by the Borrower of the amount assessed by CRA as due and owing. The Borrower shall diligently consult with the Consultant and Richter to ensure that the Borrower properly calculates and pays source deductions/withholding taxes related to future management compensation.
33. On or before November 15, 2019, an independent third party satisfactory to the Lender shall conduct a count and valuation of the Borrower’s inventory as at October 31, 2019 and provide a report thereon to the Borrower with a copy to the Lender. The Revolver Borrowing Base calculation, the Forecasts and the Borrower’s other financial reporting shall be promptly updated to reflect the results of the inventory count and valuation.
34. The Borrower retained Blair Davidson as the Borrower’s Chief Information Officer (the “**CIO**”) to assist the Borrower in developing a strategy to meet its immediate working capital needs as well as a restructuring plan that will allow the Borrower to continue business operations in the ordinary course. The CIO prepared and presented to the Borrower an operational improvement plan dated July 31, 2019 (the “**CIO Improvement Plan**”). The Borrower shall continue to implement the CIO Improvement Plan during the term of this Agreement. The manner and timing of implementation of the CIO Improvement Plan must be acceptable to the CIO in its sole discretion. Without limiting

the foregoing, the amendments to management compensation contained in the CIO Improvement Plan shall be implemented immediately.

35. The Borrower is in arrears of payment of the fees and disbursements of the Consultant, the Lender's legal counsel, the CIO and Richter. The Borrower shall pay such arrears in accordance with the schedule set out in the Extended Forecast.
36. The Borrower shall obtain replacement financing sufficient to permanently and indefeasibly repay and cancel the Credit Facilities ("**Replacement Financing**") on or before the Forbearance Deadline. The Borrower shall promptly provide to the Lender copies of all term sheets, expressions of interest or similar documentation in connection with such Replacement Financing. On or before February 21, 2019, the Borrower shall deliver to the Lender a term sheet or similar expression of interest from a third party lender to provide Replacement Financing to the Borrower on or before the Forbearance Deadline. On or before March 15, 2020, the Borrower shall deliver to the Lender a commitment letter or similar binding agreement from a third party lender to provide Replacement Financing to the Borrower on or before the Forbearance Deadline. The terms of such Replacement Financing must be satisfactory to the Lender in its sole discretion. The Borrower shall permanently and indefeasibly repay and cancel the Credit Facilities on or before the Forbearance Deadline.
37. The Borrower and the Shareholders acknowledge and agree that on each banking day the Lender will not process payments from, or honour any cheques or other instruments drawn on, the Borrower's accounts with the Lender if there are insufficient funds on deposit in such accounts, or credit available under the Revolver Facility, to process such payments or to honour all such cheques or other instruments presented to the Lender for payment on that banking day. If, however, an overdraft arises under the Borrower's accounts (an "**Overdraft**"), then the amount of such Overdraft shall bear interest at the Lender's standard Overdraft interest rate, being 21% per annum and service charges, being \$5.00 per transaction, issued by or on behalf of the Borrower which causes or increases the Overdraft. For greater certainty and subject to the operation of the New York Account as described in the First Forbearance Agreement, the Lender will not honour any cheques drawn on the Borrower's accounts or permit any payments to be made from the Borrower's accounts if an Overdraft exists under any of the Borrower's accounts. The Lender shall have the right to apply all deposits to the Borrower's accounts with the Lender in permanent reduction of any unauthorized Overdraft even if a Forbearance Terminating event has not yet occurred in accordance with this Agreement as a result of any such Overdraft.

## REPORTING REQUIREMENTS

38. The Borrower shall strictly adhere to all reporting requirements as set out in the Credit Agreement, except as amended herein.
39. The Borrower shall deliver to the Lender and the Consultant:
  - (a) by 2 p.m. on the Tuesday of every week (or, if the Monday of that week is not a Business Day, by 2 p.m. on the Wednesday of that week) for the one week period

ending the immediately preceding Friday, a Revolver Borrowing Base Report for the applicable period. Each Revolver Borrowing Base Report will be reviewed by the Consultant to ensure that it complies with the terms of the Credit Agreement, as amended by this Agreement. The Lender reserves its right to make any corrections or adjustments to the Borrower's calculation of the Revolver Borrowing Base contained in each Revolver Borrowing Base Report necessary to comply with the terms of the Credit Agreement as amended by this Agreement;

- (b) by 2 p.m. on the Tuesday of every week (or, if the Monday of that week is not a Business Day, by 2 p.m. on the Wednesday of that week) for the one week period ending the immediately preceding Friday, an update of the Forecast for the following 13 week period or such other period of time as the Lender may require. The updated Forecast shall be reviewed by the Consultant and any issues with such update shall be addressed by the Consultant with the Borrower. No update to the Forecast shall project that Advances under the Revolver Facility shall exceed the lesser of the Revolver Borrowing Base in effect from time to time and the Revolver Commitment of \$10,000,000. Each update to the Forecast which complies with the Credit Agreement and the terms of this Agreement shall become the "Forecast" for the purpose of this Agreement. As part of the update to be delivered to the Lender, the Borrower shall provide a report comparing actual cash flows to amounts budgeted in the Forecast;
  - (c) by 2 p.m. on the Tuesday of every week (or, if the Monday of that week is not a Business Day, by 2 p.m. on the Wednesday of that week) for the one week period ending the immediately preceding Friday, a statement of all amounts owing by the Borrower to any party in possession or control of any of the Borrower's raw material or finished goods inventory; and
  - (d) the Borrower shall immediately advise the Lender if it determines at any time that the credit available to the Borrower under the Revolver Facility will not be sufficient to fund the disbursements as described in the Forecast. In such case, the Borrower shall identify and confirm to the Lender the source and terms of any funds which will be obtained by the Borrower from a party other than the Lender and utilized to satisfy the Borrower's disbursements. The amount and terms of any such funding to be obtained by the Borrower from a party other than the Lender must be satisfactory to the Lender in its sole discretion.
40. On the 27<sup>th</sup> day of each month (or, if that day is not a Business Day, on the next Business Day) for the one month period ending on the last day of the immediately preceding month, the Borrower shall deliver to the Lender and the Consultant:
- (a) a report comparing sales, total direct operating costs, operating income and closing cash of the Borrower for the preceding month or such other period as the Lender may require to amounts budgeted in the Forecast and providing an explanation of any "Material Variance". A "Material Variance" shall be:

- (i) a twenty percent (20%) or greater negative variance from the Forecast in the Borrower's sales, total direct operating costs or operating income for any given month;
  - (b) statement of all royalties and any other amounts owing under each license agreement to which the Borrower is a party, including the Trademark License Agreement dated July 24, 2017 between the Borrower and Perio, Inc. and the Double Bubble and Concord Brands License Agreement dated July 21, 2010 between Evergreen Consumer Brands, ULC and Concord Brands, ULC; and
  - (c) monthly interim financial statements (which shall include balance sheet and income statement compared against previous year and the Forecast, by month and YTD), together with management commentary on any Material Variances from the Forecast.
- 41. The Borrower shall include with the foregoing monthly reporting a monthly inventory aging report once the Borrower's accounting system has been configured to produce such report.
- 42. Commencing September 6, 2019 and every two weeks thereafter, the Borrower shall provide to the Lender (i) a report on the status of the steps taken by the Borrower to implement the CIO Improvement Plan; and (ii) the status of its efforts to obtain Replacement Financing.
- 43. On or before September 6, 2019, the Borrower shall deliver to the Lender its final accountant prepared annual financial statements for the fiscal year ended November 30, 2018. All year-end adjustments to the value of the Borrower's assets contained in these financial statements shall be reflected in all reporting provided to the Lender following delivery of such financial statements to the Lender.
- 44. On or before September 13, 2019, the Borrower shall deliver to CRA, with a copy to the Lender, (i) all applicable filings disclosing the source deductions/withholding taxes owing by the Borrower with respect to management compensation for 2016, 2017 and 2018; and (ii) the Borrower's annual tax return for 2018.
- 45. The Borrower shall deliver to the Lender its draft 2019 audited annual financial statements on or before January 31, 2020 and its final audited annual financial statements on or before February 28, 2020.
- 46. The Borrower and the Shareholders agree to provide the Lender or its agents with any information regarding the Credit Facilities, the financial position of the Borrower or the Shareholders or the security position of the Lender which the Lender may request from time to time.
- 47. None of the Borrower's assets may be sold other than in the ordinary course of business without the specific consent of the Lender, which may be withheld in the Lender's sole discretion. The Borrower shall apply any proceeds received by the Borrower from a sale of the Borrower's assets in permanent reduction of the Credit Facilities as determined by

the Lender. The Borrower also agrees that it shall not, without the prior written consent of the Lender, compromise the amount of any accounts receivable payable to the Borrower or otherwise compromise or reduce any amount owing to the Borrower by a third party, outside of the ordinary course of business.

#### **FINANCIAL ADVISOR, CIO AND CFO**

48. The engagement of the Consultant shall continue until terminated by the Lender. The Borrower shall continue to provide to the Consultant full cooperation and unrestricted access to its business premises and financial records and shall provide to the Consultant or to the Lender such information regarding the financial position of the Borrower, the security position of the Lender or any other matter or thing relevant in the Lender's sole discretion to the Credit Facilities or this Agreement as the Lender may require from time to time.
49. The Borrower has advised the Lender that it intends to retain a new Chief Financial Officer ("CFO"). The Borrower agrees that the candidate for this position must be acceptable to the Lender in its sole discretion.
50. The Borrower has advised the Lender that the CIO will remain engaged by the Borrower until the Forbearance Deadline, but that certain of the CIO's duties will be transitioned to the CFO once retained by the Borrower. The reduced scope of the CIO's duties during such transition period must be acceptable to the Lender. Notwithstanding the foregoing, the Borrower shall not terminate or amend the terms of the engagement of the CIO without the Lender's prior written consent unless the CIO has confirmed that the CIO Improvement Plan has been fully implemented by the Borrower.

#### **RELATED PARTY PAYMENTS AND INTERCOMPANY SET OFFS**

51. Subject to the terms of this Agreement, and unless specifically provided for in the Forecast, the Borrower may not pay to the Shareholders or any party related to or affiliated with the Borrower or the Shareholders any amount whether by way of licence payment, royalty, salary, dividend, repayment of loans or otherwise without the Lender's prior written approval, which may be withheld by the Lender in its sole and unfettered sole discretion. The Borrower and the Shareholders acknowledge and agree that, subject to the permitted payments of interest with respect to the New Shareholder Loan, any existing director or Shareholder loans shall not be repaid by the Borrower and the Borrower shall not grant any loan to any officer or director of the Borrower or to any other related party as defined above. For greater certainty, the total annual compensation payable by the Borrower to or to the benefit of Steve Immel and Bruce Friedman as contemplated by the Forecast, plus the interest paid by the Borrower on account of the New Shareholder Loan, shall not exceed CAD\$520,000 without the Lender's prior written consent. Bruce Friedman has advised the Lender that, notwithstanding the foregoing, he may request that the Lender consider an increase to his compensation effective December 1, 2019. Although the Lender is prepared to consider any such request, Mr. Friedman acknowledges and agrees that there is no obligation on the part of the Lender to agree to any increase to his compensation and that the Lender may refuse to permit any such increase in its sole discretion.

## ADDITIONAL COVENANTS

52. The Borrower shall pay when due, or otherwise provide confirmation satisfactory to the Lender that payment arrangements satisfactory to the Lender have been entered into by the Borrower, to pay all claims which rank prior to the indebtedness and Security held by the Lender from the Borrower (the "**Prior Claims**") which shall include, without limitation, all amounts owing or required to be paid, where a failure to pay any such amount could give rise to a claim pursuant to any law, statute, regulation or otherwise, which ranks or is capable of ranking in priority to the Lender's security or otherwise in priority to any claim by the Lender for the repayment of any amounts owing to it, including without limitation all amounts owing to any federal, provincial, municipal or other government entity or Crown corporation, all statutory, actual or deemed trusts, all withholdings and source deductions, all accrued and unpaid payroll, including vacation pay, rent for the Borrower's leased premises, and all amounts owing to any person having a lien, encumbrance, trust or charge ranking in priority to the Lender's security.
53. The Borrower agrees that, unless otherwise agreed by the Lender in its sole discretion, the Borrower shall not repurchase any of the shares of the Borrower currently held by its shareholders or repay any shareholder loans during the term of this Agreement.
54. The Borrower represents, warrants, covenants and agrees that all business in the nature of or related to the business transacted by the Borrower prior to the date hereof shall continue to be transacted in the name of and for the account of the Borrower. In particular, no such business or transaction shall be performed in the name of or recorded or applied for the benefit of any person, firm or corporation other than the Borrower.
55. The Borrower confirms to and in favour of the Lender that all assets secured by the Security are in existence, in the possession and control of the Borrower and have not been transferred, sold, encumbered or impaired in any manner which would deteriorate from or adversely affect the value of same.
56. The Borrower agrees to comply with all applicable environmental laws and regulations and to advise the Lender promptly of any action requests or violation notices received concerning any of the Borrower's property and to hold the Lender harmless for any costs or expenses which the Lender incurs for any environment related liability existing now or in the future with respect to any of the Borrower's property. The Borrower certifies that no environmental laws or regulations have been violated with respect to any of the Borrower's property and, to the best of its knowledge, no proceedings have commenced or have been threatened to be instituted with respect to a breach of any environmental laws or regulations.
57. The Borrower shall indemnify the Lender for any damage which the Lender may suffer or any responsibility which it may incur as a result of non-compliance by the Borrower with any applicable environmental laws and regulations affecting the Borrower's assets or its business.

58. Upon the permanent repayment of all amounts outstanding under the Credit Facilities, the Borrower authorizes and directs the Lender to terminate the banking arrangements or services provided by the Lender to the Borrower including, without limitation, by closing the Borrower's current accounts (the "**Accounts**") with the Lender. The date upon which the Accounts are closed shall be referred to as the "**Account Closing Date**".
59. The Borrower acknowledges and agrees that its indebtedness and obligations to the Lender include the Borrower's contingent liability to the Lender in respect of any chargebacks which may arise as a result of cheques or other instruments deposited to the Accounts prior to the Account Closing Date being dishonoured, discredited, reversed or returned (collectively, the "**Chargeback Liability**"). The Borrower acknowledges and agrees that the Chargeback Liability is secured by the Security. The amount of the Chargeback Liability as determined by the Lender shall be added to and form part of the Borrower's obligations to the Lender and shall be paid to the Lender concurrently with the permanent repayment and cancellation of the Credit Facilities as a condition of the Lender discharging the Security, subject to reimbursement to the Borrower by the Lender in the event that some or all of such Chargeback Liability is extinguished or otherwise satisfied.
60. None of the Lender's existing rights and remedies, nor the Existing Events of Default, are waived by this Agreement but are specifically reserved and preserved. However, subject to the provisions of this Agreement, the Lender agrees not to take any further steps in enforcement of its rights and remedies against the Borrower prior to the Forbearance Deadline unless and until one of the following events has occurred (a "**Forbearance Terminating Event**"):
- (a) any default or breach by the Borrower or any of the Shareholders occurs under this Agreement or any further default or breach by the Borrower or any of the Shareholders of any obligation or covenant occurs under the Credit Agreement, the Credit Facilities, the Security or any other agreement between the Borrower and the Lender, including any subsequent or further breach of any of the obligations or covenants which have resulted in any of the Existing Events of Default. For greater certainty, the continuation of any of the Existing Events of Default shall not constitute a Forbearance Terminating Event unless the Borrower is required to remedy or otherwise take a specific step or action with respect to any Existing Event of Default pursuant to this Agreement and the Borrower fails to do so;
  - (b) if any update to the Forecast (including, without limitation, the Borrower's calculation of the Revolver Borrowing Base) is not satisfactory to the Lender in its sole discretion;
  - (c) if, on any given banking day, an Overdraft arises in any of the Borrower's Accounts and the Borrower fails to permanently repay the amount of such Overdraft by 1 p.m. on that banking day. The Lender shall have no obligation to notify the Borrower of the existence of an Overdraft;
  - (d) if the CIO determines that the Borrower has failed to diligently implement or has otherwise failed to properly implement the CIO Improvement Plan;

- (e) if any creditor of the Borrower terminates or modifies any payment plan or arrangement with that creditor and the Lender determines that such termination or modification will result in a Material Variance;
- (f) if the Borrower fails to make any payment when due to the Lender including, without limitation, if the Borrower fails to pay to the Lender when due any interest, fees or any Consultant or legal fees and disbursements incurred by the Lender, subject to the notice requirement in paragraph 71;
- (g) any other creditor of the Borrower or the Shareholders exercises or purports to exercise any rights against any of the property, assets or undertaking of the Borrower or the Shareholders or if the Borrower, any of the Shareholders or any creditor brings any proceeding or takes any other action under the *Bankruptcy and Insolvency Act* (Canada), the *Companies' Creditors Arrangement Act* (Canada), the *Business Corporations Act* (Ontario) (“**OBCA**”), the *Business Corporations Act* (Canada), the *Winding-Up Act* (Canada) or any similar legislation (collectively, “**Insolvency Legislation**”);
- (h) if the Borrower or any of the Shareholders brings any proceeding or takes any other action under any Insolvency Legislation or otherwise takes any step to wind up or dissolve the Borrower without the prior written consent of the Lender;
- (i) any representation or warranty made by the Borrower or the Shareholders in connection with the execution and delivery of this Agreement or in any of the Security shall prove to have been incorrect in any material respect at the time such representation or warranty was made;
- (j) any default or failure by the Borrower to make any payment of wages or other monetary remuneration payable by the Borrower to its employees or independent contractors under the terms of any contract of employment or services contract, oral or written, express or implied (the “**Payroll**”) or the failure by the Borrower to pay to the relevant governmental authority when due any of the Prior Claims exigible in respect of a Payroll;
- (k) the sale, lease, transfer, relocation, abandonment or any other disposition of the assets of the Borrower out of the ordinary course of business, which are subject to the Lender’s security without the express prior written consent of the Lender;
- (l) if any licence held by the Borrower and required to carry on its business is suspended, terminated or the terms thereof are otherwise modified in a manner not acceptable to the Lender in its sole discretion;
- (m) any default or failure by the Borrower to pay any of the Prior Claims when due;
- (n) if any of the representations or financial reporting information provided by the Borrower to the Lender proves to be false, misleading, inaccurate or incorrect in any material respect at the time such representation or financial reporting information was made or delivered;

- (o) there has been, in the opinion of the Lender, a material adverse change in the affairs of the Borrower or with respect to the security position of the Lender after the date hereof or if any action which the Borrower or the Shareholders may take only with the prior consent of the Lender is taken by the Borrower or the Shareholders without such consent being previously obtained from the Lender; and
- (p) if the Borrower fails to provide the weekly Revolver Borrowing Base Report to the Lender within 2 hours of the deadline set out in this Agreement. The Lender shall have no obligation to notify the Borrower if a Revolver Borrowing Base Report has not been received by the Lender by the deadline set out in this Agreement;
- (q) other than the weekly Revolver Borrowing Base Report, if the Borrower fails to provide the Lender the reporting or other information specified herein or in the Credit Agreement or as required from time to time within 24 hours of the deadline for delivery of such reporting or other information to the Lender set out in this Agreement. The Lender shall have no obligation to notify the Borrower if any reporting or any of the other information referred to above has not been received by the Lender by the deadline set out in this Agreement.

61. Upon the earlier of:

- (a) the Forbearance Deadline, or
- (b) the occurrence of a Forbearance Terminating Event,

the Lender may immediately terminate the Credit Facilities and enforce, without further notice or delay, all of its rights and remedies against the Borrower and/or the Shareholders including, without limitation, demanding payment of the Credit Facilities and taking steps to enforce the Security.

62. The Borrower and the Shareholders hereby irrevocably agree upon request by the Lender, to duly execute or deliver or cause to be executed or delivered to the Lender such further instruments, agreements or similar documents or do or cause to be done such further acts as may be necessary or desirable in the opinion of the Lender, acting reasonably, to carry out the provisions and purposes of this Agreement.
63. The Lender's forbearance from enforcing its rights and remedies against the Borrower and the Shareholders and the other accommodations described herein may be terminated upon the occurrence of a Forbearance Terminating Event without requiring any further forbearance or delay on the part of the Lender.
64. All terms and conditions of the Credit Agreement and the Security shall continue in full force and effect save and except as amended by this Agreement. To the extent that any provision thereof is inconsistent with this Agreement, this Agreement shall prevail.
65. The Borrower covenants to and in favour of the Lender and agrees that, except as permitted herein, it will not grant any further security on any of its property, assets or undertaking

without the written consent of the Lender, which may be withheld by the Lender in its sole and unfettered sole discretion.

66. The Borrower acknowledges and agrees that there shall be no change of ownership or control of the Borrower, without the Lender's prior written consent, which consent may be withheld in the Lender's sole and unfettered sole discretion.
67. Except as provided for herein, the Borrower shall not loan funds, make equity investments or provide financial assistance to a third party by way of a guarantee, suretyship, or otherwise until such time as the Borrower's indebtedness to the Lender has been permanently repaid.
68. The Borrower shall not amalgamate with another corporation, purchase or redeem their shares or otherwise reduce their capital until such time as the Borrower's indebtedness to the Lender has been permanently repaid or without the Lender's prior written consent.
69. Time shall be of the essence of this Agreement and this Agreement shall be governed by the laws of the Province of Ontario and the laws of Canada applicable therein.
70. This Agreement may be executed in counterparts, which counterparts taken together shall evidence an agreement as of the date first set out above.
71. The Borrower hereby acknowledges and agrees that the Lender may apply any amounts outstanding to the credit of the Borrower and any account or accounts with the Borrower as a set-off or in combination of the Borrower's indebtedness to the Lender. The application of any such funds shall be as the Lender may determine.
72. The Borrower agrees to pay all actual present and future legal and Consultant fees and disbursements, on a full indemnity basis, incurred by the Lender in respect of or in any way related to the Borrower, the Credit Agreement, the Guarantee, the Credit Facilities, the Security or the Shareholders including, without limitation, the Lender's legal fees in connection with the preparation and enforcement of this Agreement. The Borrower authorizes and directs the Lender to debit the amount of all such legal and Consultant fees and disbursements from any of the Borrower's accounts with the Lender at any time after the expiry of 30 days from the date the Lender notifies the Borrower of the amount of such legal and Consultant fees and disbursements.
73. Each of the Borrower and the Shareholders represents and warrants in favour of the Lender that it has retained and consulted independent legal counsel and received the benefit of independent legal advice in connection with its rights and obligations under this Agreement.

**[SIGNATURE PAGE FOLLOWS]**

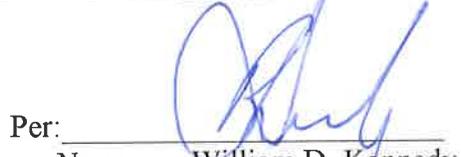
IN WITNESS WHEREOF the parties have executed this Agreement.

DATED at TORONTO, ONTARIO this 30 day of August, 2019.

**NATIONAL BANK OF CANADA**

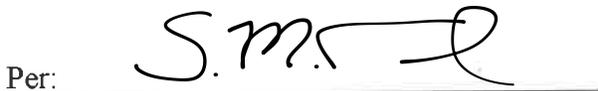
**NATIONAL BANK OF CANADA**

Per:   
Name: **Sonia de Lorenzi**  
Title: **Senior Manager**

Per:   
Name: **William D. Kennedy**  
Title: **Vice President**

DATED at \_\_\_\_\_, \_\_\_\_\_ this \_\_\_\_\_ day of August, 2019.

**EVERGREEN CONSUMER BRANDS  
INC.**

Per:   
Name: **Steve Immel**  
Title: **Co-CEO**  
(I have the authority to bind the Corporation)

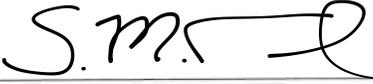
DATED at \_\_\_\_\_, \_\_\_\_\_ this 30 day of August, 2019.

**The Shareholders:**

**LYNNE AND BRUCE FRIEDMAN FAMILY  
TRUST, by an authorized Trustee Bruce  
Friedman**

Per: \_\_\_\_\_  
Name: **Bruce Friedman**  
Title: **Trustee**

**IMMEL HOLDINGS, LLC**

Per:   
Name: **Steve Immel**  
Title: **Co-CEO**

**THE ARONOW FAMILY TRUST dated May  
27, 2010, by an authorized Trustee**

Per: \_\_\_\_\_  
Name: **Sam Aronow**  
Title: **Trustee**

IN WITNESS WHEREOF the parties have executed this Agreement.

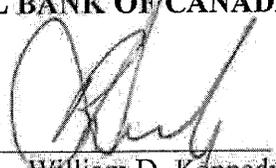
DATED at TORONTO, ONTARIO this 30 day of August, 2019.

NATIONAL BANK OF CANADA

NATIONAL BANK OF CANADA

Per: 

Name: Sonia de Lorenzi  
Title: Senior Manager

Per: 

Name: William D. Kennedy  
Title: Vice President

DATED at \_\_\_\_\_ this \_\_\_\_\_ day of August, 2019.

EVERGREEN CONSUMER BRANDS  
INC.

Per: 

Name: \_\_\_\_\_  
Title: Bruce Friedman, Co CEO, Director  
(I have the authority to bind the Corporation)

08/30/2019

DATED at \_\_\_\_\_ this \_\_\_\_\_ day of August, 2019.

The Shareholders:

LYNNE AND BRUCE FRIEDMAN FAMILY  
TRUST, by an authorized Trustee Bruce  
Friedman

Per: 

Name: Bruce Friedman  
Title: Trustee

This is **Exhibit “K”**, referred to in the  
Affidavit of Sonia de Lorenzi,  
sworn before me  
this 10th day of February, 2020.



A Commissioner for taking Affidavits,

Roxana Gabriela Menea, a Commissioner, etc.,  
Provinces of Ontario, for  
The Honourable Court of Justice,  
Barristers and Solicitors.  
Expires June 5, 2021.

**Private & Confidential**

December 10, 2019

*Via Courier and E-mail ([bfriedman.ecb@gmail.com](mailto:bfriedman.ecb@gmail.com); [steveimmelcfcf@gmail.com](mailto:steveimmelcfcf@gmail.com))*

Evergreen Consumer Brands Inc.  
100 Delta Park Blvd., Unit 1  
Brampton , ON L6T 5E7

**Attention: Steve Immel and Bruce Friedman**

Dear Sirs:

**Re: Indebtedness of Evergreen Consumer Brands Inc. (the “Borrower”) to National Bank of Canada (the “Lender”)**

We refer to the credit agreement dated June 1, 2018 between the Borrower and the Lender, as amended from time to time (as amended, the “**Credit Agreement**”), most recently by the forbearance agreement between the Lender and the Borrower dated August 30, 2019, as amended by letter agreement dated November 18, 2019 (as amended, the “**Forbearance Agreement**”). Capitalized terms not otherwise defined in this letter have the meanings ascribed to them in the Forbearance Agreement.

The Borrower has defaulted in its obligations to the Lender under the Forbearance Agreement by reason of the following:

1. the failure by the Borrower to obtain a valuation of its inventory as at October 31, 2019, and deliver to the Lender a report on such valuation, by November 15, 2019. Although this default was not waived by the Lender, the Lender has extended the foregoing date to December 16, 2019 pursuant to the November 18, 2019 letter to the Borrower;
2. the failure by the Borrower to obtain, on or before November 22, 2019, confirmation from Richter, with a copy to the Lender, that Richter has received all documentation necessary to carry out its valuation of the Borrower’s inventory;
3. the delay in payment of the Deferred Principal Payment due November 29, 2019 until December 2, 2019;
4. the delay in payment of certain of the Lender’s legal fees and disbursements due November 29, 2019 until December 2, 2019; and
5. the Overdraft which arose under the Borrower’s accounts with the Lender on or about December 4, 2019 (collectively, the “**Further Forbearance Defaults**”).

Notwithstanding the existence of the Overdraft, the Borrower requested that the Lender fund the Borrower's payroll due December 4, 2019 in the amount of \$104,975.93. As a one-time accommodation to the Borrower, the Lender processed such payment from the Borrower's account with the Lender, further increasing the amount of the Overdraft. In addition, following certain adjustments to the Borrower's December 4, 2019 calculation of the Revolver Borrowing Base, the Lender implemented the adjusted Revolver Borrowing Base on December 6, 2019, which further increased the Overdraft. Although the Overdraft which arose under the Borrower's accounts was eliminated on December 9, 2019 through deposits to those accounts, each of the foregoing events constitutes a Forbearance Terminating Event and are referred to together as the "**Additional Overdraft Defaults**".

Finally, we note that a further default has occurred under paragraph 39 of the Forbearance Agreement given that the most recent update to the Forecast projects that Advances under the Revolver Facility shall exceed the lesser of the Revolver Borrowing Base in effect from time to time and the Revolver Commitment of \$10,000,000 and the Borrower has not identified to the Lender the source and terms of any funds which will be obtained by the Borrower from a party other than the Lender to satisfy the Borrower's disbursements (the "**Forecast Default**").

Each of the Further Forbearance Defaults, the Additional Overdraft Defaults and the Forecast Defaults constitutes a Forbearance Terminating Event and has not been waived by the Lender. Pursuant to paragraph 61 of the Forbearance Agreement, the occurrence of each of the Further Forbearance Defaults, the Additional Overdraft Defaults and the Forecast Default entitles the Lender, without further notice or delay, to exercise all of its rights and remedies against the Borrower and the Shareholders including, without limitation, terminating the Credit Facilities and taking steps to enforce the Security.

Accordingly, we confirm that, pursuant to section 6.4 of the Subordination Agreement, the Lender will today give notice to FWCU that the Lender intends to demand payment of the Borrower's indebtedness to the Lender under the Credit Facilities (the "**Demand**") and deliver to the Borrower a Notice of Intention to Enforce Security pursuant to section 244 of the *Bankruptcy and Insolvency Act* (Canada) (the "**BIA Notice**").

Notwithstanding the 72 hour notice period referenced under section 6.4 of the Subordination Agreement, the Lender reserves its right to issue the Demand and BIA Notice prior to the expiry of such 72 hour notice period and to exercise at any time all of its other rights and remedies in accordance with the Forbearance Agreement including without limitation, terminating the Credit Facilities.

Yours truly,

**NATIONAL BANK OF CANADA**

Per: \_\_\_\_\_

  
**Sonia de Lorenzi**  
Senior Manager

cc. *FWCU Capital Corp., a subsidiary of First West Credit Union*

This is **Exhibit “L”**, referred to in the

Affidavit of Sonia de Lorenzi,  
sworn before me

this 10th day of February, 2020.



A Commissioner for taking Affidavits.

Roxana Gabriela Manea, a Commissioner, etc.,  
Province of Ontario, for  
Thornton Grout Finnigan LLP,  
Barristers and Solicitors.  
Exp. June 5, 2021.



Thornton Grout Finnigan LLP  
RESTRUCTURING + LITIGATION

Alexander Soutter  
T: 416-304-0595  
asoutter@tgf.ca  
File No. 200-547

December 13, 2019

**PRIVATE AND CONFIDENTIAL**

**VIA COURIER & E-MAIL ([bfriedman.ecb@gmail.com](mailto:bfriedman.ecb@gmail.com); [steveimmelcfc@gmail.com](mailto:steveimmelcfc@gmail.com))**

Evergreen Consumer Brands Inc.  
100 Delta Park Blvd., Unit 1  
Brampton, ON L6T 5E7

Attention: Steve Immel and Bruce Friedman

Dear Sirs:

**Re: Indebtedness of Evergreen Consumer Brands Inc. (the “Borrower”) to National Bank of Canada (the “Lender”)**

We are the lawyers for the Lender.

We refer to the credit agreement dated June 1, 2018 between the Borrower and the Lender, as amended from time to time (as amended, the “**Credit Agreement**”), most recently by the forbearance agreement between the Lender and the Borrower dated August 30, 2019, as amended by letter agreement dated November 18, 2019 (as amended, the “**Forbearance Agreement**”). Capitalized terms not otherwise defined in this letter have the meanings ascribed to them in the Forbearance Agreement.

We also refer to the credit facilities (collectively, the “**Credit Facilities**”) made available by the Lender to the Borrower pursuant to the Credit Agreement and to your indebtedness to the Lender in the amount of CAD\$5,103,252.92 and USD\$10,209,949.44 with respect to such Credit Facilities as at December 13, 2019 (the “**Indebtedness**”) as set out in Schedule “A”.

By letter to the Borrower dated December 10, 2019, the Lender confirmed that certain Forbearance Terminating Events have occurred under the Forbearance Agreement with the result that the Lender is entitled to exercise all of its rights and remedies against the Borrower and the Shareholders including, without limitation, terminating the Credit Facilities and taking steps to enforce the Security

On behalf of the Lender, we hereby demands payment from the Borrower of the said sum of CAD\$5,103,252.92 and USD\$10,209,949.44 in respect of the Indebtedness, together with interest thereon and all costs, including legal and consultant fees and disbursements, incurred by the Lender to the date of payment. Interest accrues on the Indebtedness at the rates of interest set out

in Schedule "A". As at today's date, interest is accruing with respect to the Indebtedness at the rate of CAD\$939.06 and USD\$2,298.31 per day.

We also confirm that the Lender reserves its right to terminate the Credit Facilities at any time, without further notice to the Borrower, whereupon no further credit will be available thereunder.

We also enclose herewith a Notice of Intention to Enforce Security delivered to you in accordance with the *Bankruptcy and Insolvency Act* (Canada). If you consent to the Lender enforcing its rights and remedies without further delay, please date and execute the copy of the Consent attached to the enclosed Notice of Intention to Enforce Security and return same to the undersigned by email or facsimile forthwith.

In the event that you fail to pay the sum indicated, the Lender shall pursue its remedies against you.

Yours truly,

**Thornton Grout Finnigan LLP**



Alexander Soutter  
AIS

Encl.

cc: FWCU Capital Corp., a subsidiary of First West Credit Union



Thornton Grout Finnigan LLP  
RESTRUCTURING + LITIGATION

Toronto-Dominion Centre  
100 Wellington Street West  
Suite 3200, P.O. Box 329  
Toronto, ON Canada M5K 1K7  
T 416.304.1616 F 416.304.1313

## SCHEDULE "A"

### Indebtedness of Evergreen Consumer Brands Inc. to National Bank of Canada as at December 13, 2019

Facility	Principal Balance	Accrued Interest and Fees	Overdraft Interest <sup>1</sup>	Total	Per Diem on Principal
Revolver Facility	CAD\$4,931,762.82	CAD\$18,180.77	CAD\$612.73	CAD\$4,950,556.32	CAD\$939.06 <sup>2</sup>
Term Facility	USD\$10,168,269.18	USD\$41,662.93	USD\$17.33	USD\$10,209,49.44	USD\$2,298.31 <sup>3</sup>
MasterCard Facility	CAD\$152,696.60			CAD\$152,696.60	
<b>Total Outstanding</b>	<b>CAD\$5,084,459.42</b> <b>USD\$10,168,269.18</b>			<b>CAD\$5,103,252.92</b> <b>USD\$10,209,949.44</b>	

#### E. & O. E.

<sup>1</sup> Overdraft interest accrues at 21% per annum.

<sup>2</sup> Interest on the principal balance accrues at the Bank's Canadian Prime Rate plus 3% per annum. As at December 13, 2019, the Bank's Canadian Prime Rate is 3.95% per annum.

<sup>3</sup> Interest on the principal balance accrues at the US Base Rate plus 3% per annum. As at December 13, 2019, the US Base Rate is 5.25% per annum.

**NOTICE OF INTENTION TO ENFORCE SECURITY  
PURSUANT TO SECTION 244 OF THE  
BANKRUPTCY AND INSOLVENCY ACT (CANADA)**

**To: Evergreen Consumer Brands Inc. (the “Company”)**

Take notice that:

1. National Bank of Canada, a secured creditor, intends to enforce its security on all of the present and after-acquired assets, property and undertaking of the Company.
2. The security that is to be enforced is in the form of:
  - (a) Security Agreement dated June 1, 2018;
  - (b) Security Agreement dated June 1, 2018;
  - (c) Collateral Access Agreement dated June 13, 2018, between Harzuz Holdings Limited and the Company;
  - (d) Collateral Access Agreement dated June 27, 2018, between BJW Enterprises Corp., CLT Logistics Inc. and the Company;
  - (e) Three Party Agreement dated August 3, 2018, between National Bank of Canada, Dundal Canada (GP) Inc., and the Company;
  - (f) Landlord’s Waiver dated October 1, 2018, between Fercap Holdings Inc., CIBC Mortgages Inc., Canadian Imperial Bank of Commerce and the Company;
  - (g) a letter agreement dated June 22, 2018, between Essa Logistics, LLC and the Company;
  - (h) Collateral Access Agreement dated September 12, 2019, between Brands International Corp. and the Company;
  - (i) Landlord Consent and Waiver dated September 1, 2019, between Hybrid Logistics Inc. and the Company; and
  - (j) Collateral Access Agreement dated September 12, 2019, between Impact Plastic Container and the Company.
3. As of December 13, 2019, the total amount of the indebtedness secured by the security is CAD\$5,103,252.92 and USD\$10,209,949.44 (the “**Indebtedness**”), plus interest accruing thereafter and all costs incurred by or charged to the Bank including, without limitation, legal and consultant fees and disbursements. Interest accrues on the Indebtedness at a rate that varies with the Bank’s Prime Rate and the Bank’s US Base Rate. As at today’s date, interest is accruing with respect to the Indebtedness at the rate of CAD\$939.06 and USD\$2,298.31 per day.

4. The secured creditor will not have the right to enforce the security until the expiry of the 10-day period after this notice is sent, unless the Company consents to an earlier enforcement.

Dated at Toronto this 13<sup>th</sup> day of December, 2019.

Yours truly,

**Thornton Grout Finnigan LLP**



Alexander Soutter  
AIS

*cc. FWCU Capital Corp., a subsidiary of First West Credit Union*

**CONSENT**

**TO:** NATIONAL BANK OF CANADA (the "Bank")

**FROM:** EVERGREEN CONSUMER BRANDS INC. (the "Company")

The Company acknowledges receipt of a Notice of Intention to Enforce Security delivered by the Bank.

For consideration received, the receipt and sufficiency of which are hereby irrevocably acknowledged, the Company hereby consents to the immediate enforcement by the Bank of the security held it from the Company, and for the same consideration waives completely all rights to any delay by or any further notice from the Bank with respect to the enforcement of the Bank's security and the exercise of the other remedies of the Bank against the Company.

DATED at \_\_\_\_\_ this \_\_\_\_\_ day of December, 2019.

**EVERGREEN CONSUMER BRANDS INC.**

Per: \_\_\_\_\_ c/s

Name:

Title:

I have the authority to bind the Corporation.

This is **Exhibit “M”**, referred to in the

Affidavit of Sonia de Lorenzi,  
sworn before me

this 10th day of February, 2020.



A Commissioner for taking Affidavits, etc.

Roxana Gabriela Manea, a Commissioner, etc.,  
Province of Ontario, for  
Thernton Grout Finnigan LLP,  
Barristers and Solicitors.  
Expires June 5, 2021.

**Personal & Confidential**

December 16, 2019

*Via Electronic Mail and Courier*

Evergreen Consumer Brands Inc.  
100 Delta Park Blvd., Unit 1  
Brampton, ON L6T 5E7

**Attention: Steve Immel and Bruce Friedman**

**Re: Indebtedness of Evergreen Consumer Brands Inc. (the “Borrower”) to National Bank of Canada (the “Lender”)**

**WHEREAS:**

1. Pursuant to a credit agreement dated June 1, 2018 between the Borrower and the Lender, as amended from time to time (as amended, the “**Credit Agreement**”), most recently by the forbearance agreement between the Lender and the Borrower dated August 30, 2019, as amended by letter agreement dated November 18, 2019 (as amended, the “**Forbearance Agreement**”), the Lender has made available to the Borrower the following credit facilities (collectively, the “**Credit Facilities**”). Unless otherwise specified, capitalized terms in this Agreement are as defined in the Forbearance Agreement:
  - (a) Revolver Facility: The total Credit Amount of all Advances under the Revolver Facility is limited to the lesser of the Revolver Commitment of \$10,000,000 and the Revolver Borrowing Base in effect from time to time. As at December 13, 2019, the principal amount outstanding under the Revolver Facility is CAD\$4,931,762.82, together with interest and costs (including, without limitation, legal and Consultant fees and disbursements) to the date of payment;
  - (b) Term Facility: The total Credit Amount of all Advances under the Term Facility is limited to the Term Commitment of USD\$11,538,461.50. The Term Facility has been fully advanced and no further credit is available thereunder. As at December 13, 2019, the principal amount outstanding under the Term Facility is USD\$10,168,269.18, together with interest and costs (including, without limitation, legal and Consultant fees and disbursements) to the date of payment; and
  - (c) MasterCard Facility: The balance outstanding under the MasterCard Facility may not exceed the MasterCard Limit of \$150,000. As at December 13, 2019, the principal amount outstanding under the MasterCard Facility is \$152,696.60, together with interest and costs (including, without limitation, legal and Consultant fees and disbursements) to the date of payment.

2. In addition to the Borrower's indebtedness under the Credit Facilities, the Borrower is indebted to the Lender pursuant to certain Derivatives consisting of an interest rate swap and a forward foreign exchange contract. As at December 9, 2019, the Derivative Exposure payable by the Borrower to the Lender under the foregoing Derivatives is USD\$237,000 and USD\$35,000 respectively. The Derivative Exposure payable by the Borrower to the Lender from time to time is secured by the Security.
3. The Borrower has defaulted in its obligations to the Lender under the Forbearance Agreement by reason of the following: (i) the failure by the Borrower to obtain a valuation of its inventory as at October 31, 2019, and deliver to the Lender a report on such valuation, by November 15, 2019. Although this default was not waived by the Lender, the Lender has extended the foregoing date to December 16, 2019 pursuant to the November 18, 2019 letter to the Borrower; (ii) the failure by the Borrower to obtain, on or before November 22, 2019, confirmation from Richter, with a copy to the Lender, that it has received all documentation necessary to carry out its valuation of the Borrower's inventory; (iii) the delay in payment of the Deferred Principal Payment due November 29, 2019 until December 2, 2019; (iv) the delay in payment of certain of the Lender's legal fees and disbursements due November 29, 2019 until December 2, 2019; (v) the Overdraft which arose under the Borrower's accounts with the Lender on or about December 4, 2019 (collectively, the "**Further Forbearance Defaults**"). Each of the Further Forbearance Defaults constitutes a Forbearance Terminating Event and has not been waived by the Lender. The occurrence of each of the Further Forbearance Defaults entitles the Lender, without further notice or delay, to exercise all of its rights and remedies against the Borrower and the Shareholders including, without limitation, terminating the Credit Facilities and taking steps to enforce the Security.
4. Notwithstanding the existence of the Overdraft, the Borrower requested that the Lender fund the Borrower's payroll due December 4, 2019 in the amount of \$104,975.93. As a one time accommodation to the Borrower, the Lender processed such payment from the Borrower's account with the Lender, further increasing the amount of the Overdraft.
5. Since that date, the amount of the Overdraft has fluctuated as a result of deposits to the Borrower's accounts with the Lender (which have reduced and at times temporarily eliminated the Overdraft) and reductions to the amount of the Revolver Borrowing Base, which have created an Overdraft or increased the amount of the existing Overdraft. The additional Overdrafts which have arisen since December 4, 2019 constitute Forbearance Terminating Events and are referred to collectively as the "**Additional Overdraft Defaults**".
6. The Borrower has engaged Alvarez and Marsal Canada ULC ("**A&M**") to assist it in obtaining Replacement Financing. Pursuant to the Forbearance Agreement, the Borrower has agreed to obtain Replacement Financing sufficient to permanently and indefeasibly repay and cancel the Credit Facilities on or before the Forbearance Deadline of March 31, 2020. However, the updated Forecast delivered to the Lender on December 12, 2019 projects that, effective immediately, the Borrower requires and will periodically continue to require Advances under the Revolver Facility in excess of the projected Revolver

Borrowing Base in effect from time to time in order to maintain its business operations (the "**Forecast Default**"). The Forecast Default is also a Forbearance Terminating Event.

7. The Lender has not waived the Existing Events of Default (as defined in the Forbearance Agreement), the Forecast Default, the Additional Overdraft Defaults or the Further Forbearance Defaults (collectively, the "**Existing Terminating Events**"). Notwithstanding the occurrence of the Existing Terminating Events, the Borrower has requested that the Lender (i) continue to forbear from enforcing its rights and remedies against the Borrower; and (ii) provide limited funding under the Revolver Facility in excess of the Revolver Borrowing Base to fund those critical payment obligations necessary to maintain its business operations while the Borrower seeks alternate financing or pursues a sale of its assets and business operations, in each case for proceeds sufficient to permanently repay and cancel the Credit Facilities.
8. Subject to the terms of this Agreement, the Lender will forbear from enforcing its rights and remedies against the Borrower and the Shareholders with respect to all such Existing Terminating Events, provided that the Lender reserves its right at any time to exercise all of its rights and remedies under the Subordination Agreement in connection with such Existing Terminating Events including, without limitation, the right to suspend payments by the Borrower to FWCU in accordance with section 5.1 of the Subordination Agreement.
9. In consideration of the Lender's continued forbearance as described herein, for the other accommodations described herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby irrevocably acknowledged by the Borrower and the Shareholders, the Borrower and the Shareholders hereby agree with the Lender as follows.

#### **ACKNOWLEDGEMENT**

10. The Borrower and the Shareholders acknowledge that each of the foregoing recitals is true and correct.
11. The Borrower and the Shareholders acknowledge that, unless otherwise specified, all monetary amounts are expressed in Canadian dollars.
12. The Borrower and each of the Shareholders restates and reaffirms each of its representations, warranties, acknowledgments and covenants contained in the Forbearance Agreement, as amended by the terms of this Agreement.
13. The Borrower and the Shareholders acknowledge that:
  - (a) the Borrower is indebted to the Lender under the Credit Facilities and the Derivatives in the amounts specified in paragraphs 1 and 2 of this Agreement as at the dates specified therein, together with interest and costs (including, without limitation, legal and Consultant fees and disbursements) to the date of payment and that the Borrower has no defences, counterclaims or rights of set-off or

reduction in respect of the Borrower's indebtedness to the Lender as specified in paragraphs 1 and 2 of this Agreement;

- (b) the Borrower is in default of its obligations to the Lender under the terms of the Forbearance Agreement and the Credit Agreement; and
  - (c) given the occurrence of the Existing Terminating Events, the Lender may exercise all of its rights and remedies against the Borrower at any time in the sole discretion of the Lender including, without limitation, terminating the Credit Facilities, demanding payment of the Credit Facilities and taking steps to enforce the Security.
14. The Borrower and the Shareholders acknowledge and agree that all Security now held by the Lender for the indebtedness and obligations of the Borrower to the Lender is valid, binding and enforceable in accordance with its terms, and that the Borrower has no defences, counterclaims or rights of set-off or reduction to any claims which might be brought by the Lender thereunder.
15. The Shareholders acknowledge and agree that the Guarantee is valid, binding and enforceable in accordance with its terms and that the Shareholders have no defences, counterclaims or rights of set-off or reduction to any claims which might be brought by the Lender thereunder.
16. The Borrower and the Shareholders hereby consent to the terms of the Lender's forbearance and other accommodations as set out herein.
17. The Borrower and the Shareholders hereby agree that upon the execution of this Agreement, they shall each absolutely and irrevocably release the Lender, its officers, directors and employees, the Lender's lawyers Thornton Grout Finnigan LLP, the Consultant and any other agents or representatives of the Lender (collectively, the "**Releasees**") of and from any and all claims which they each may have in respect of the Releasees up to and including the date hereof including, without limitation, any actions taken by the Lender in dealing with the Borrower, the Shareholders, the Credit Agreement, the Forbearance Agreement, the Credit Facilities, the Derivatives, the Security, the Guarantee or with the administration of the Borrower's accounts with the Lender.

#### CONDITIONS PRECEDENT

18. The amendments to the Forbearance Agreement contained herein and other accommodations granted by the Lender hereunder are subject to approval of the Lender's credit committee and the Lender receiving the following in form satisfactory to the Lender on or before 5:00 p.m. on December 17, 2019 or such other date as provided for below:
- (a) a duly authorized, executed and delivered original of each of this Agreement and the consent to the BIA Notice (as defined below), in each case executed by the Borrower;

- (b) on or before 5:00 p.m. on December 18, 2019, a duly authorized, executed and delivered original of this Agreement executed by the Shareholders;
  - (c) on or before 5:00 p.m. on December 18, 2019, a duly authorized, executed and delivered original of an engagement letter (the "**Sales Agent Engagement Letter**"), pursuant to which the Borrower has retained a third party (the "**Sales Agent**") to conduct the SISP (as defined below). The identity of the Sales Agent and the terms of the Sales Agent Engagement Letter must be satisfactory to the Lender in its sole discretion;
  - (d) written confirmation from FWCU that it consents to the terms of this Agreement;
- (collectively, the "**Conditions Precedent**").

The Conditions Precedent are for the sole benefit of the Lender and may be waived only by the Lender in writing. If the Conditions Precedent are not complied with to the satisfaction of the Lender by 5:00 p.m. on December 17, 2019 or such later date as provided for above, and the Lender will not waive satisfaction thereof, then the offer of forbearance and the other accommodations offered by the Lender hereunder shall be terminated.

Upon satisfaction of the Conditions Precedent, this Agreement and the amendments to the Forbearance Agreement and the Credit Agreement contained herein shall become effective.

#### **AMENDMENTS TO CREDIT FACILITIES**

- 19. The Borrower and the Shareholders acknowledge and agree that, except as specifically amended herein, all terms and conditions of the Forbearance Agreement shall remain in effect, unamended.
- 20. By letter to the Borrower dated December 13, 2019, the Lender demanded payment of all amounts outstanding under the Credit Facilities (the "**Borrower Demand**") and together therewith delivered to the Borrower a Notice of Intention to Enforce Security (the "**Borrower BIA Notice**") pursuant to section 244 of the *Bankruptcy and Insolvency Act* (Canada) (the "**BIA**"). By letters to each of the Shareholders dated December 16, 2019, the Lender demanded payment pursuant to the Guarantee of all amounts outstanding under the Credit Facilities (collectively, the "**Shareholder Demands**") and together with the Borrower Demand, the "**Demands**") and together therewith delivered to each Shareholder a Notice of Intention to Enforce Security (collectively, the "**Shareholder BIA Notices**") and together with the Borrower BIA Notice, the "**BIA Notices**") pursuant to section 244 of the BIA. The Borrower and the Shareholders acknowledge and agree that (i) the Demands and BIA Notices shall remain in force and effect and shall not be amended or withdrawn pursuant to this Agreement; (ii) if the Lender terminates its forbearance hereunder upon the occurrence of a Forbearance Terminating Event, the Borrower has been provided with sufficient time and opportunity to obtain alternate financing sufficient to permanently repay the Credit Facilities and agrees that it is not entitled to any additional time to obtain such alternate financing; (iii) if the Lender

terminates its forbearance hereunder upon the occurrence of a Forbearance Terminating Event, the Shareholders have been provided with sufficient time and opportunity to satisfy the Shareholder Demands and agree that they are not entitled to any additional time to do so; (iv) upon satisfaction of the Conditions Precedent, the relevant notice period under the Borrower BIA Notice shall be waived by the Borrower such that, upon the occurrence of a Forbearance Terminating Event, the Lender shall be entitled to immediately enforce the Security without further notice or delay; (v) the relevant notice period under each Shareholder BIA Notice shall expire ten days after delivery of the Shareholder BIA Notice to the applicable Shareholder; and (vi) in the event a Forbearance Terminating Event occurs, the Lender shall not be required to issue a fresh demand for payment or a further Notice of Intention to Enforce Security pursuant to the provisions of the BIA prior to enforcing any of the Security or the pledge of the shares of the Borrower under the Guarantee.

21. The Revolver Commitment is reduced from \$10,000,000 to \$6,000,000. Unless and until a Forbearance Terminating event occurs, the Credit Amount of all Advances under the Revolver Facility shall be limited to the lesser of the Revolver Commitment of \$6,000,000 and the Revolver Borrowing Base in effect from time to time plus the amount of the "Permitted Borrowing Base Shortfall" in effect from time to time as set out in Schedule "A" hereto. In any given week, the amount of the "**Permitted Borrowing Base Shortfall**" is the amount by which Advances under the Revolver Facility are projected to exceed the amount of the "Approved Revolver Borrowing Base" during that week as disclosed in the "Approved Forecast", provided that at no time shall the amount of the Permitted Borrowing Base Shortfall exceed the lesser of \$1,100,000 and the amount for that week set out in Schedule A hereto. The "**Approved Revolver Borrowing Base**" is the weekly calculation of the Revolver Borrowing Base delivered to the Lender in accordance with paragraph 39 of the Forbearance Agreement, as amended to reflect any adjustments required by the Lender in its sole discretion. The "**Approved Forecast**" is the weekly update to the Forecast delivered to the Lender in accordance with paragraph 39 of the Forbearance Agreement, as amended to reflect any adjustments required by the Lender in its sole discretion. The weekly update to the Forecast delivered to the Lender on December 16, 2019 is an Approved Forecast for the purpose of this Agreement.
22. Until further notice, the Borrower shall deliver to the Lender and the Consultant by 9 a.m. each Business Day a list of all disbursements to be made by the Borrower on that Business Day together with confirmation from the CIO that he has approved each such disbursement as a critical payment necessary to maintain the Borrower's business operations.
23. Other than the Permitted Shareholder Payments (as defined below), the Borrower may not pay to the Shareholders or any party related to or affiliated with the Borrower or the Shareholders any amount whether by way of licence payment, royalty, salary, dividend, repayment of loans or otherwise without the Lender's prior written approval, which may be withheld by the Lender in its sole and unfettered discretion. The Borrower and the Shareholders acknowledge and agree that no payments other than the Permitted Shareholder Payments shall be permitted by the Borrower on account of principal, interest or any other amount with respect to the New Shareholder Loan or any other

existing director or Shareholder loans. The Borrower shall not grant any loan to any officer or director of the Borrower or to any other related party as defined above. For greater certainty, unless and until the Credit Facilities are permanently and indefeasibly repaid, the Borrower shall not make any payment on account of the compensation to or to the benefit of Steve Immel and Bruce Friedman as previously permitted by the Forbearance Agreement other than the Permitted Shareholder Payments. The "**Permitted Shareholder Payments**" are monthly payments to each of Bruce Friedman and Steve Immel in the amount of \$10,834.

24. The date of the Forbearance Deadline shall be changed from March 31, 2020 to February 21, 2020.
25. Notwithstanding the Existing Terminating Events, the unpaid amount of the Deferred Principal Payments shall only become immediately due and payable upon the earlier to occur of a further Forbearance Terminating Event and the Forbearance Deadline.
26. On or before December 16, 2019, Richter shall deliver to the Lender its report on valuation of the Borrower's inventory as at October 31, 2019. The Revolver Borrowing Base calculation, the Forecasts and the Borrower's other financial reporting shall be updated by 2 p.m. on December 18, 2019 to reflect the results of such valuation and the inventory count previously conducted by the Borrower.
27. In addition to seeking Replacement Financing, the Borrower shall conduct a sale and investment solicitation process (the "**SISP**") satisfactory to the Lender in its sole discretion pursuant to which the Borrower shall offer to sell its assets and business operations (the "**Business**") or obtain equity or debt financing sufficient to permanently and indefeasibly repay and cancel the Credit Facilities on or before the Forbearance Deadline. The SISP shall include the following terms: (i) in conjunction with the Sales Agent, the SISP shall be managed and implemented on behalf of the Borrower by the CIO. Neither management of the Borrower nor the Shareholders shall have any discussions, meetings or other communication with any prospective investor or purchaser of the Business other than in the presence of the CIO; (ii) By December 19, 2019, the Sales Agent shall prepare a list (the "**Contact List**") of persons it will contact who may have an interest in submitting a bid for or investing in the Business. Prior to December 19, 2019, the Sales Agent shall request that each of the Lender, the Consultant, FWCU and the Borrower identify those parties that the Sales Agent should include on the Contact List. The Sales Agent shall include on the Contact List all parties identified by the Lender, the Consultant, FWCU or the Borrower both before and after December 19, 2019; (ii) on December 19, 2019 (or if a person is subsequently added to the Contact List, immediately thereafter), a non-confidential teaser letter (the "**Teaser**") describing the opportunity to acquire the Business, together with a template non-disclosure agreement, shall be sent to each person on the Contact List. The Teaser shall be satisfactory to the Lender in its sole discretion. A Forbearance Terminating event shall occur if the Borrower or the Sales Agent refuses to deliver the Teaser to a potential purchaser or investor identified by the Lender or the Consultant; (iii) a confidential information memorandum (the "**CIM**") describing the opportunity to acquire the Business shall be prepared and an electronic data room of due diligence information regarding the

Borrower and the Business (the “**Data Room**”) shall be operational by January 2, 2020. The CIM and the due diligence information in the Data Room shall be satisfactory to the Lender in its sole discretion; (iv) the CIM and access to the Data Room shall be made available to prospective purchasers who execute the NDA; (v) the Borrower shall prepare a template agreement of purchase and sale (the “**Template APA**”), which shall be satisfactory to the Lender in its sole discretion, and post same to the Data Room by January 14, 2020; (vi) the deadline for submission of offers shall be January 31, 2020. Prospective purchasers shall be advised to submit an offer to purchase the Business based on the Template APA, accompanied by a mark-up thereof disclosing all amendments thereto; (vii) the CIO, in consultation with the Lender, shall identify the offer(s) to purchase some or all of the Borrower’s Business which shall be accepted by the Borrower (the “**Superior Offer**”); (viii) if so requested by the Lender, the Borrower shall accept the Superior Offer, or provide a counter-offer to the prospective purchaser thereunder on terms acceptable to the Lender in its sole discretion, by February 3, 2020. If the Borrower receives a further counter-offer from the prospective purchaser under the Superior Offer, the Borrower shall accept such counter-offer if so requested by the Lender; (vii) the Borrower shall enter into a binding agreement of purchase and sale (the “**APA**”) with the prospective purchaser under the Superior Offer by February 7, 2020, provided that the terms of the APA must be satisfactory to the Lender in its sole discretion; (ix) closing of the transaction under the APA shall occur by the Forbearance Deadline.

28. As set out in the Forbearance Agreement, none of the Borrower’s assets may be sold other than in the ordinary course of business without the specific consent of the Lender, which may be withheld in the Lender’s sole discretion. In addition, the Borrower and the Shareholders agree that the purchase price under the Superior Offer may not necessarily be the highest purchase price under the offers received pursuant to the SISP. The Borrower shall diligently take such steps and provide such assistance as required by the CIO and/or the Lender to implement the SISP including, without limitation, negotiating the terms of the APA, executing the APA and closing the transaction under the APA. If the purchaser under the Superior Offer requires the conveyance of the Borrower’s assets or Business pursuant to a vesting order or otherwise pursuant to a court supervised receivership proceeding, proposal proceeding under the BIA, a proceeding under the *Companies’ Creditors Arrangement Act* (Canada) or any similar legislation (collectively, “**Insolvency Legislation**”), the Borrower agrees that, at the request of the Lender, it shall take all steps necessary to obtain such required relief and shall consent to any steps taken by the Lender to obtain such relief including, without limitation, consenting to the appointment by the court of a receiver or receiver/manager of the Borrower.

29. The Borrower shall convene a bi-weekly call with the CIO, the Sales Agent, the Lender and the Consultant to provide an update on the status of the SISP or more frequently if required by the Lender. The Borrower shall also provide, and shall authorize and direct the Sales Agent and the CIO to provide, to the Lender and the Consultant complete and unfettered disclosure regarding all aspects of the SISP, as well as all information and reports requested by each such party regarding the SISP. Without limiting the foregoing, the Borrower shall provide, and shall authorize and direct the Sales Agent and the CIO to

provide, to the Lender and the Consultant copies of all expressions of interest, letters of intent, offers to purchase and any similar documentation in connection with the SISP immediately upon receipt by the Borrower, the Sales Agent or the CIO, as applicable.

30. The Borrower shall continue its efforts to obtain Replacement Financing in tandem with its obligations under the SISP, subject to the following amendments to the milestone dates in the Forbearance Agreement. On or before December 16, 2019, the Borrower shall deliver to the Lender copies of all term sheets or similar expressions of interest from third party lenders to provide Replacement Financing to the Borrower on or before the Forbearance Deadline, together with a summary and evaluation of the terms thereof by A&M. On or before January 31, 2020, the Borrower shall deliver to the Lender a commitment letter or similar binding agreement from a third party lender to provide Replacement Financing to the Borrower on or before the Forbearance Deadline. The terms of such Replacement Financing must be satisfactory to the Lender in its sole discretion. The Borrower agrees that the SISP shall continue in accordance with its terms unless and until the Borrower has utilized Replacement Financing to permanently and indefeasibly repay and cancel the Credit Facilities, which must occur on or before the Forbearance Deadline.
31. The Borrower and the Shareholders agree to provide the Lender or its agents with any information regarding the Credit Facilities, the financial position of the Borrower or the Shareholders, the security position of the Lender, the SISP or Replacement Financing which the Lender may request from time to time.

#### **CIO AND LENDER'S FINANCIAL ADVISOR**

32. The engagement of the Consultant shall continue until terminated by the Lender. The Borrower shall continue to provide to the Consultant full cooperation and unrestricted access to its business premises and financial records and shall provide to the Consultant or to the Lender such information regarding the financial position of the Borrower, the security position of the Lender or any other matter or thing relevant in the Lender's sole discretion to the Credit Facilities or this Agreement as the Lender may require from time to time.
33. Although the Forbearance Agreement provides that the Borrower shall not terminate or amend the terms of the engagement of the CIO without the Lender's prior written consent unless the CIO has confirmed that the CIO Improvement Plan has been fully implemented by the Borrower, the Borrower agrees that it shall not terminate the CIO or amend the terms of the engagement of the CIO without the Lender's prior written consent prior to permanent and indefeasible repayment of the Credit Facilities.
34. The Borrower confirms to and in favour of the Lender that all assets secured by the Security are in existence, in the possession and control of the Borrower and have not been transferred, sold, encumbered or impaired in any manner which would deteriorate from or adversely affect the value of same.

35. In addition to the Forbearance Terminating Events described in the Forbearance Agreement, the occurrence of any of the following events shall constitute a Forbearance Terminating Event:

- (a) any default or breach by the Borrower or any of the Shareholders occurs under this Agreement or any further default or breach by the Borrower or any of the Shareholders of any obligation or covenant occurs under the Credit Agreement, the Credit Facilities, the Security or any other agreement between the Borrower and the Lender, including any subsequent or further breach of any of the obligations or covenants which have resulted in any of the Existing Terminating Events. For greater certainty, the continuation of any of the Existing Terminating Events shall not constitute a Forbearance Terminating Event unless the Borrower is required to remedy or otherwise take a specific step or action with respect to any Existing Terminating Event pursuant to the Forbearance Agreement or this Agreement and the Borrower fails to do so;
- (b) if the CIO or the Lender determines that the Borrower has failed to diligently implement the SISF or the Borrower fails to take any step or action requested by the Lender in connection with the SISF including, without limitation, if the Borrower fails or refuses to accept the Superior Offer, execute the APA on terms acceptable to the Lender in its sole discretion or to take all steps necessary to close the transaction under the APA;
- (c) any representation or warranty made by the Borrower or the Shareholders in connection with the execution and delivery of this Agreement or in any of the Security shall prove to have been incorrect in any material respect at the time such representation or warranty was made.

36. Upon the earlier of:

- (a) the Forbearance Deadline, or
- (b) the occurrence of a Forbearance Terminating Event,

the Lender may immediately terminate the Credit Facilities and immediately enforce, without further notice or delay, all of its rights and remedies against the Borrower and the Shareholders including, without limitation, enforcing the Security held by the Lender from the Borrower and the Shareholders. The Borrower specifically acknowledges and agrees that in the event the Lender terminates its forbearance hereunder, the Borrower hereby irrevocably consents to the appointment of a receiver, receiver and manager or agent of the Lender's choosing of the assets, property and undertaking of the Borrower. The Borrower hereby agrees to fully co-operate with such receiver, receiver and manager or agent in the realization of the Security. Also upon the occurrence of a Forbearance Terminating Event or the Forbearance Deadline, the Borrower consents and specifically authorizes the Lender, or its authorized representative, solely in connection with enforcement of the Security or any application to the court by the Lender for the appointment of a receiver or receiver/manager of the Borrower or relief pursuant to any

Insolvency Legislation, to contact any customer, creditor, employee, licensing authority or any other person in respect of the Borrower and the Shareholders, the Borrower's or the Shareholders' indebtedness to the Lender, or any other matter or thing related to the business operations of the Borrower or the Shareholders or any other matter deemed relevant by the Lender for the purpose of recovering the Borrower's or the Shareholders' indebtedness to the Lender. For the purpose of the foregoing provision, the Borrower specifically waives any and all duty of confidentiality, subject to applicable laws, which either the Lender or its agent or agents now have or may in the future have with respect to the Credit Facilities, the Borrower's indebtedness to the Lender, the business operations of the Borrower or any other information, whether confidential or otherwise, in the possession of the Lender relating to the business or operations of the Borrower or the Shareholders or the Borrower's or the Shareholders' indebtedness to the Lender.

37. The Borrower and the Shareholders hereby irrevocably agree upon request by the Lender, to duly execute or deliver or cause to be executed or delivered to the Lender such further instruments, agreements or similar documents or do or cause to be done such further acts as may be necessary or desirable in the opinion of the Lender, acting reasonably, to carry out the provisions and purposes of this Agreement.
38. The Lender's forbearance from enforcing its rights and remedies against the Borrower and the Shareholders and the other accommodations described herein may be terminated upon the occurrence of a Forbearance Terminating Event without requiring any further forbearance or delay on the part of the Lender.
39. All terms and conditions of the Forbearance Agreement, the Credit Agreement and the Security shall continue in full force and effect save and except as amended by this Agreement. To the extent that any provision thereof is inconsistent with this Agreement, this Agreement shall prevail.
40. Time shall be of the essence of this Agreement and this Agreement shall be governed by the laws of the Province of Ontario and the laws of Canada applicable therein.
41. This Agreement may be executed in counterparts, which counterparts taken together shall evidence an agreement as of the date first set out above.
42. The Borrower agrees to pay all actual present and future legal and Consultant fees and disbursements, on a full indemnity basis, incurred by the Lender in respect of or in any way related to the Borrower, the Credit Agreement, the Guarantee, the Credit Facilities, the Security or the Shareholders including, without limitation, the Lender's legal fees in connection with the preparation and enforcement of this Agreement. The Borrower authorizes and directs the Lender to debit the amount of all such legal and Consultant fees and disbursements from any of the Borrower's accounts with the Lender at any time after the expiry of 30 days from the date the Lender notifies the Borrower of the amount of such legal and Consultant fees and disbursements.
43. Each of the Borrower and the Shareholders represents and warrants in favour of the Lender that it has retained and consulted independent legal counsel and received the

benefit of independent legal advice in connection with its rights and obligations under this Agreement.

**[SIGNATURE PAGE FOLLOWS]**

IN WITNESS WHEREOF the parties have executed this Agreement.

DATED at \_\_\_\_\_, \_\_\_\_\_ this \_\_\_\_\_ day of December, 2019.

NATIONAL BANK OF CANADA

NATIONAL BANK OF CANADA

Per: \_\_\_\_\_

Name: Sonia de Lorenzi  
Title: Senior Manager

Per: \_\_\_\_\_

Name: Caroline Podsiadlo  
Title: **Caroline Podsiadlo**  
**Senior Manager**

DATED at \_\_\_\_\_, \_\_\_\_\_ this \_\_\_\_\_ day of December, 2019.

EVERGREEN CONSUMER BRANDS  
INC.

Per: \_\_\_\_\_

Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
(I have the authority to bind the Corporation)

DATED at \_\_\_\_\_, \_\_\_\_\_ this \_\_\_\_\_ day of December, 2019.

The Shareholders:

LYNNE AND BRUCE FRIEDMAN FAMILY  
TRUST, by an authorized Trustee Bruce  
Friedman

Per: \_\_\_\_\_

Name: **Bruce Friedman**  
Title: **Trustee**

IN WITNESS WHEREOF the parties have executed this Agreement.

DATED at \_\_\_\_\_, \_\_\_\_\_ this \_\_\_\_\_ day of December, 2019.

NATIONAL BANK OF CANADA

NATIONAL BANK OF CANADA

Per: \_\_\_\_\_  
Name: Sonia de Lorenzi  
Title: Senior Manager

Per: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

DATED at Brampton, Ontario this 17 day of December, 2019.

EVERGREEN CONSUMER BRANDS  
INC.

Per: [Signature]  
Name: Bruce Friedman  
Title: CEO

(I have the authority to bind the Corporation)

DATED at Brampton, Ontario this 17 day of December, 2019.

The Shareholders:

LYNNE AND BRUCE FRIEDMAN FAMILY  
TRUST, by an authorized Trustee Bruce  
Friedman

Per: [Signature]  
Name: Bruce Friedman  
Title: Trustee

**IMMEL HOLDINGS, LLC**

Per: \_\_\_\_\_  
Name: **Steve Immel**  
Title: **Co-CEO**

**THE ARONOW FAMILY TRUST dated May  
27, 2010, by an authorized Trustee**

  
Per: \_\_\_\_\_  
Name: **Sam Aronow**  
Title: **Trustee**

**IMMEL HOLDINGS, LLC**

Per: \_\_\_\_\_  
Name: **Steve Immel**  
Title: **Co-CEO**

**THE ARONOW FAMILY TRUST dated May  
27, 2010, by an authorized Trustee**

Per: \_\_\_\_\_  
Name: **Sam Aronow**  
Title: **Trustee**

after the expiry of 30 days from the date the Lender notifies the Borrower of the amount of such legal and Consultant fees and disbursements.

43. Each of the Borrower and the Shareholders represents and warrants in favour of the Lender that it has retained and consulted independent legal counsel and received the benefit of independent legal advice in connection with its rights and obligations under this Agreement.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF the parties have executed this Agreement.

DATED at \_\_\_\_\_, \_\_\_\_\_ this day of December, 2019.

**NATIONAL BANK OF CANADA NATIONAL BANK OF CANADA**

Per: \_\_\_\_\_ Per: \_\_\_\_\_  
Name: Sonia de Lorenzi Name:  
Title: Senior Manager Title:

DATED at \_\_\_\_\_, \_\_\_\_\_ this day of December, 2019.

**EVERGREEN CONSUMER BRANDS INC.**

Per: \_\_\_\_\_  
Name:  
Title:  
(I have the authority to bind the Corporation)

DATED at \_\_\_\_\_, \_\_\_\_\_ this day of December, 2019.

**The Shareholders:**

**LYNNE AND BRUCE FRIEDMAN FAMILY  
TRUST, by an authorized Trustee Bruce Friedman**

Per:  
Name: **Bruce Friedman**  
Title: Trustee

**IMMEL HOLDINGS, LLC**

Per:   
Name: **Steve Immel**  
Title: Co-CEO

**THE ARONOW FAMILY TRUST** dated May 27,  
2010, by an authorized Trustee

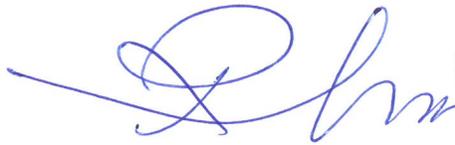
Per:  
Name: **Sam Aronow**  
Title: Trustee

**SCHEDULE "A"**

**PERMITTED BORROWING BASE SHORTFALL SCHEDULE**

<b>WEEK ENDING</b>	<b>AMOUNT OF PERMITTED BORROWING BASE SHORTFALL</b>
December 13, 2019	\$70,000
December 20, 2019	\$860,000
December 27, 2019	\$760,000
January 3, 2020	\$1,080,000
January 10, 2020	\$1,080,000
January 17, 2020	\$1,070,000
January 24, 2020	\$850,000
January 31, 2020	\$1,070,000
February 7, 2020	\$990,000
February 14, 2020	\$890,000
February 21, 2020	\$890,000

This is **Exhibit “N”**, referred to in the  
Affidavit of Sonia de Lorenzi,  
sworn before me  
this 10th day of February, 2020.



Roxana Gabriela Manea, a Commissioner, etc.,  
Province of Ontario, for  
Thornton Grout Finnigan LLP,  
Barristers and Solicitors.  
Expires June 5, 2021.

---

A Commissioner for taking Affidavits, etc.



**Personal & Confidential**

February 6 , 2020

*Via Electronic Mail and Courier*

Evergreen Consumer Brands Inc.  
100 Delta Park Blvd., Unit 1  
Brampton, ON L6T 5E7

**Attention: Steve Immel and Bruce Friedman**

**Re: Indebtedness of Evergreen Consumer Brands Inc. (the “Borrower”) to National Bank of Canada (the “Lender”)**

We refer to the forbearance agreement between the Lender, the Borrower and the Shareholders dated August 30, 2019 as amended from time to time, most recently by the amending agreement dated December 16, 2019 (as amended, the “**Forbearance Agreement**”). Unless otherwise specified, capitalized terms used herein have the meanings ascribed thereto in the Forbearance Agreement.

The Borrower is in default of its obligations under the Forbearance Agreement as a result of the following (collectively, the “**Defaults**”):

- (a) As confirmed in paragraph 26 of the Forbearance Agreement, the total Credit Amount of all Advances under the Revolver Facility is limited to the lesser of the Revolver Commitment of \$6,000,000 and the Revolver Borrowing Base (as amended by the terms of the Forbearance Agreement) in effect from time to time. The Borrower’s Revolver Borrowing Base has deteriorated. On or about January 22, 2020, that deterioration resulted in an overdraft arising under the Borrower’s account with the Bank of approximately \$386,000.
- (b) On January 28, 2020, the Borrower delivered a calculation of its Revolver Borrowing Base as at January 24, 2020 that confirmed that the overdraft persisted, and was approximately \$277,000.
- (c) On January 10, 2020, the Lender was advised that three of the Borrower’s customers, including its two largest customers, had notified the Borrower that they had cancelled outstanding orders with the Borrower. These customers represent over 60% of the Borrower’s sales. The Lender is advised that the Borrower is unable to fill these customers’ backlog of orders without additional working capital. These events constitute a material adverse change in the circumstances of the Borrower.

The Defaults have not been waived by the Lender. Each of the Defaults constitutes a Forbearance Terminating Event. In accordance with paragraph 57 of the Forbearance Agreement, we confirm that the Lender reserves its right to immediately terminate the Credit Facilities and enforce, without further notice or delay, all of its rights and remedies against the Borrower and/or the Shareholders.

There is no agreement on the part of the Lender to forbear from enforcing any of its rights and remedies in connection with the Defaults, any prior defaults committed by the Borrower under the Forbearance Agreement or the Credit Agreement or otherwise. The Lender reserves its right at any time, in its sole and absolute discretion and without the requirement for prior notice to the Borrower or any other party, to terminate the foregoing accommodation and exercise all of its rights and remedies against the Borrower and the Shareholders including, without limitation, terminating the Credit Facilities and taking steps to enforce the Security.

Yours truly,

**NATIONAL BANK OF CANADA**

Per: \_\_\_\_\_

  
**Sonia de Lorenzi**  
Senior Manager

cc: *FWCU Capital Corp., a subsidiary of First West Credit Union*

This is **Exhibit “O”**, referred to in the

Affidavit of Sonia de Lorenzi,  
sworn before me

this 10th day of February, 2020.



Roxana Gabriela Manca, a Commissioner, etc.,  
Province of Ontario, for  
Thomson Groot Finnigan LLP,  
Barristers and Solicitors.  
Expires June 5, 2021.

---

A Commissioner for taking Affidavits, etc.

Court File No.:

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)**

**IN THE MATTER OF section 243(1) of the *Bankruptcy and Insolvency Act*, RSC 1985,  
c B-3, as amended and section 101 of the *Courts of Justice Act*, RSO 1990, c C43,  
as amended**

**B E T W E E N:**

**NATIONAL BANK OF CANADA**

Applicant

**- and -**

**EVERGREEN CONSUMER BRANDS INC.**

Respondent

**CONSENT**

DELOITTE RESTRUCTURING INC. hereby consents to act as Court-appointed Receiver  
in this proceeding should such an Order be granted by the Court.

Dated at \_\_\_\_\_, Ontario, this \_\_\_\_ day of \_\_\_\_\_, 2020.

**DELOITTE RESTRUCTURING INC.**

Per: \_\_\_\_\_  
Name:  
Title:

IN THE MATTER OF section 243(1) of the *Bankruptcy and Insolvency Act*, RSC 1985, c B-3, as amended, and section 101 of the *Courts of Justice Act*, RSO 1990, c C46, as amended

NATIONAL BANK OF CANADA

- and -

EVERGREEN CONSUMER BRANDS INC.

Applicant

Respondent

Court File No.:

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)**

Proceedings commenced at Toronto, Ontario

**CONSENT**

**Thornton Grout Finnigan LLP**  
TD West Tower, Toronto-Dominion Centre  
100 Wellington Street West, Suite 3200  
Toronto, ON M5K 1K7  
Fax: (416) 304-1313

**Grant Moffat** (LSO# 32380L)  
Email: [gmoffat@tgf.ca](mailto:gmoffat@tgf.ca)  
Tel: (416) 304-0599

**Alexander Soutter** (LSO# 72403T)  
Email: [asoutter@tgf.ca](mailto:asoutter@tgf.ca)  
Tel: (416) 304-0595

Lawyers for the Applicant, National Bank of Canada

IN THE MATTER OF section 243(1) of the *Bankruptcy and Insolvency Act*, RSC 1985, c B-3, as amended, and section 101 of the *Courts of Justice Act*, RSO 1990, c C46, as amended

NATIONAL BANK OF CANADA

- and -

EVERGREEN CONSUMER BRANDS INC.

Applicant

Respondent

Court File No.:

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)**

Proceedings commenced at Toronto, Ontario

**AFFIDAVIT OF SONIA DE LORENZI  
(Sworn February 10, 2020)**

**Thornton Grout Finnigan LLP**

TD West Tower, Toronto-Dominion Centre  
100 Wellington Street West, Suite 3200  
Toronto, ON M5K 1K7  
Fax: (416) 304-1313

**Grant Moffat** (LSO# 32380L)

Email: [gmoffat@tgf.ca](mailto:gmoffat@tgf.ca)

Tel: (416) 304-0599

**Alexander Soutter** (LSO# 72403T)

Email: [asoutter@tgf.ca](mailto:asoutter@tgf.ca)

Tel: (416) 304-0595

Lawyers for the Applicant, National Bank of Canada

# TAB 3

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)**

THE HONOURABLE ) THURSDAY, THE 13<sup>TH</sup>  
 )  
JUSTICE ) DAY OF FEBRUARY, 2020  
 )

**IN THE MATTER OF section 243(1) of the *Bankruptcy and Insolvency Act*, RSC 1985, c B-3, as amended and section 101 of the *Courts of Justice Act*, RSO 1990, c C43, as amended**

**B E T W E E N:**

**NATIONAL BANK OF CANADA**

Applicant

- and -

**EVERGREEN CONSUMER BRANDS INC.**

Respondent

**ORDER  
(appointing Receiver)**

**THIS APPLICATION** made by National Bank of Canada for an Order pursuant to section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the “**BIA**”) and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended (the “**CJA**”) appointing Deloitte Restructuring Inc. (“**Deloitte**”) as receiver and manager (in such capacities, the “**Receiver**”) without security, of all of the assets, undertakings and properties of Evergreen Consumer Brands Inc. (the “**Debtor**”) acquired for, or used in relation to a business carried on by the Debtor, was heard this day at 330 University Avenue, Toronto, Ontario.

**ON READING** the affidavit of Sonia de Lorenzi sworn February 10, 2020 and the Exhibits thereto and on hearing the submissions of counsel for the Applicant and such other parties written on the counsel slip, no other parties appearing, and the affidavit of service of ►, filed, and on reading the consent of Deloitte to act as the Receiver,

### **SERVICE**

1. **THIS COURT ORDERS** that the time for service of the Notice of Application and the Application is hereby abridged and validated so that this Application is properly returnable today and hereby dispenses with further service thereof.

### **APPOINTMENT**

2. **THIS COURT ORDERS** that pursuant to section 243(1) of the BIA and section 101 of the CJA, Deloitte is hereby appointed Receiver, without security, of all of the assets, undertakings and properties of the Debtor, acquired for, or used in relation to a business carried on by the Debtor, including all proceeds thereof (the “**Property**”).

### **RECEIVER’S POWERS**

3. **THIS COURT ORDERS** that the Receiver is hereby empowered and authorized, but not obligated, to act at once in respect of the Property and, without in any way limiting the generality of the foregoing, the Receiver is hereby expressly empowered and authorized to do any of the following where the Receiver considers it necessary or desirable:

- (a) to take possession of and exercise control over the Property and any and all proceeds, receipts and disbursements arising out of or from the Property;
- (b) to receive, preserve, and protect the Property, or any part or parts thereof, including, but not limited to, the changing of locks and security codes, the relocating of the Property to safeguard it, the engaging of independent security

personnel, the taking of physical inventories and the placement of such insurance coverage as may be necessary or desirable;

- (c) to manage, operate, and carry on the business of the Debtor, including the powers to enter into any agreements, incur any obligations in the ordinary course of business, cease to carry on all or any part of the business, or cease to perform any contracts of the Debtor;
- (d) to engage consultants, appraisers, agents, experts, auditors, accountants, managers, counsel and such other persons from time to time and on whatever basis, including on a temporary basis, to assist with the exercise of the Receiver's powers and duties, including without limitation those conferred by this Order;
- (e) to purchase or lease such machinery, equipment, inventories, supplies, premises or other assets to continue the business of the Debtor or any part or parts thereof;
- (f) to receive and collect all monies and accounts now owed or hereafter owing to the Debtor and to exercise all remedies of the Debtor in collecting such monies, including, without limitation, to enforce any security held by the Debtor;
- (g) to settle, extend or compromise any indebtedness owing to the Debtor;
- (h) to execute, assign, issue and endorse documents of whatever nature in respect of any of the Property, whether in the Receiver's name or in the name and on behalf of the Debtor, for any purpose pursuant to this Order;
- (i) to initiate, prosecute and continue the prosecution of any and all proceedings and to defend all proceedings now pending or hereafter instituted with respect to the Debtor, the Property or the Receiver, and to settle or compromise any such

proceedings. The authority hereby conveyed shall extend to such appeals or applications for judicial review in respect of any order or judgment pronounced in any such proceeding;

- (j) to market any or all of the Property, including advertising and soliciting offers in respect of the Property or any part or parts thereof and negotiating such terms and conditions of sale as the Receiver in its discretion may deem appropriate. Without limiting the foregoing, the Receiver is authorized to continue the sale and investment solicitation process (the “**SISP**”) commenced by the Debtor, subject to such amendments to the SISP deemed appropriate by the Receiver. The Receiver is authorized in its discretion to retain or continue the retainer by the Debtor of Alvarez & Marsal Canada Securities ULC (the “**Sales Agent**”) in connection with the SISP on terms substantially similar to the terms agreed to between the Debtor and the Sales Agent;
- (k) to sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business,
  - (i) without the approval of this Court in respect of any transaction not exceeding \$250,000, provided that the aggregate consideration for all such transactions does not exceed \$500,000; and
  - (ii) with the approval of this Court in respect of any transaction in which the purchase price or the aggregate purchase price exceeds the applicable amount set out in the preceding clause;

and in each such case notice under subsection 63(4) of the Ontario *Personal Property Security Act* (“**PPSA**”), shall not be required, and in each case the Ontario *Bulk Sales Act* shall not apply.

- (l) to apply for any vesting order or other orders necessary to convey the Property or any part or parts thereof to a purchaser or purchasers thereof, free and clear of any liens or encumbrances affecting such Property;
- (m) to report to, meet with and discuss with such affected Persons (as defined below) as the Receiver deems appropriate on all matters relating to the Property and the receivership, and to share information, subject to such terms as to confidentiality as the Receiver deems advisable;
- (n) to register a copy of this Order and any other Orders in respect of the Property against title to any of the Property;
- (o) to apply for any permits, licences, approvals or permissions as may be required by any governmental authority and any renewals thereof for and on behalf of and, if thought desirable by the Receiver, in the name of the Debtor;
- (p) to enter into agreements with any trustee in bankruptcy appointed in respect of the Debtor, including, without limiting the generality of the foregoing, the ability to enter into occupation agreements for any property owned or leased by the Debtor;
- (q) to exercise any shareholder, partnership, joint venture or other rights which the Debtor may have; and
- (r) to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations,

and in each case where the Receiver takes any such actions or steps, it shall be exclusively authorized and empowered to do so, to the exclusion of all other Persons (as defined below), including the Debtor, and without interference from any other Person.

#### **DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE RECEIVER**

4. **THIS COURT ORDERS** that (i) the Debtor, (ii) all of its current and former directors, officers, employees, agents, accountants, legal counsel and shareholders, and all other persons acting on its instructions or behalf, and (iii) all other individuals, firms, corporations, governmental bodies or agencies, or other entities having notice of this Order (all of the foregoing, collectively, being “**Persons**” and each being a “**Person**”) shall forthwith advise the Receiver of the existence of any Property in each such Person’s possession or control, shall grant immediate and continued access to the Property to the Receiver, and shall deliver all such Property to the Receiver upon the Receiver's request.

5. **THIS COURT ORDERS** that all Persons shall forthwith advise the Receiver of the existence of any books, documents, securities, contracts, orders, corporate and accounting records, bank account information and any other papers, records and information of any kind related to the business or affairs of the Debtor, and any computer programs, computer tapes, computer disks, or other data storage media containing any such information (the foregoing, collectively, the “**Records**”) in that Person’s possession or control, and shall provide to the Receiver or permit the Receiver to make, retain and take away copies thereof and grant to the Receiver unfettered access to and use of accounting, computer, software and physical facilities relating thereto, provided however that nothing in this paragraph 5 or in paragraph 6 of this Order shall require the delivery of Records, or the granting of access to Records, which may not

be disclosed or provided to the Receiver due to the privilege attaching to solicitor-client communication or due to statutory provisions prohibiting such disclosure.

6. **THIS COURT ORDERS** that if any Records are stored or otherwise contained on a computer or other electronic system of information storage, whether by independent service provider or otherwise, all Persons in possession or control of such Records shall forthwith give unfettered access to the Receiver for the purpose of allowing the Receiver to recover and fully copy all of the information contained therein whether by way of printing the information onto paper or making copies of computer disks or such other manner of retrieving and copying the information as the Receiver in its discretion deems expedient, and shall not alter, erase or destroy any Records without the prior written consent of the Receiver. Further, for the purposes of this paragraph, all Persons shall provide the Receiver with all such assistance in gaining immediate access to the information in the Records as the Receiver may in its discretion require including providing the Receiver with instructions on the use of any computer or other system and providing the Receiver with any and all access codes, account names and account numbers that may be required to gain access to the information.

7. **THIS COURT ORDERS** that the Receiver shall provide each of the relevant landlords with notice of the Receiver's intention to remove any fixtures from any leased premises at least seven (7) days prior to the date of the intended removal. The relevant landlord shall be entitled to have a representative present in the leased premises to observe such removal and, if the landlord disputes the Receiver's entitlement to remove any such fixture under the provisions of the lease, such fixture shall remain on the premises and shall be dealt with as agreed between any applicable secured creditors, such landlord and the Receiver, or by further Order of this Court

upon application by the Receiver on at least two (2) days notice to such landlord and any such secured creditors.

**NO PROCEEDINGS AGAINST THE RECEIVER**

8. **THIS COURT ORDERS** that no proceeding or enforcement process in any court or tribunal (each, a “**Proceeding**”), shall be commenced or continued against the Receiver except with the written consent of the Receiver or with leave of this Court.

**NO PROCEEDINGS AGAINST THE DEBTOR OR THE PROPERTY**

9. **THIS COURT ORDERS** that no Proceeding against or in respect of the Debtor or the Property shall be commenced or continued except with the written consent of the Receiver or with leave of this Court and any and all Proceedings currently under way against or in respect of the Debtor or the Property are hereby stayed and suspended pending further Order of this Court.

**NO EXERCISE OF RIGHTS OR REMEDIES**

10. **THIS COURT ORDERS** that all rights and remedies against the Debtor, the Receiver, or affecting the Property, are hereby stayed and suspended except with the written consent of the Receiver or leave of this Court, provided however that this stay and suspension does not apply in respect of any “eligible financial contract” as defined in the BIA, and further provided that nothing in this paragraph shall (i) empower the Receiver or the Debtor to carry on any business which the Debtor is not lawfully entitled to carry on, (ii) exempt the Receiver or the Debtor from compliance with statutory or regulatory provisions relating to health, safety or the environment, (iii) prevent the filing of any registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien.

**NO INTERFERENCE WITH THE RECEIVER**

11. **THIS COURT ORDERS** that no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by the Debtor, without written consent of the Receiver or leave of this Court.

**CONTINUATION OF SERVICES**

12. **THIS COURT ORDERS** that all Persons having oral or written agreements with the Debtor or statutory or regulatory mandates for the supply of goods and/or services, including without limitation, all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation services, utility or other services to the Debtor are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the Receiver, and that the Receiver shall be entitled to the continued use of the Debtor's current telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the Receiver in accordance with normal payment practices of the Debtor or such other practices as may be agreed upon by the supplier or service provider and the Receiver, or as may be ordered by this Court.

**RECEIVER TO HOLD FUNDS**

13. **THIS COURT ORDERS** that all funds, monies, cheques, instruments, and other forms of payments received or collected by the Receiver from and after the making of this Order from any source whatsoever, including without limitation the sale of all or any of the Property and the collection of any accounts receivable in whole or in part, whether in existence on the date of this

Order or hereafter coming into existence, shall be deposited into one or more new accounts to be opened by the Receiver (the “**Post Receivership Accounts**”) and the monies standing to the credit of such Post Receivership Accounts from time to time, net of any disbursements provided for herein, shall be held by the Receiver to be paid in accordance with the terms of this Order or any further Order of this Court.

#### **EMPLOYEES**

14. **THIS COURT ORDERS** that all employees of the Debtor shall remain the employees of the Debtor until such time as the Receiver, on the Debtor's behalf, may terminate the employment of such employees. The Receiver shall not be liable for any employee-related liabilities, including any successor employer liabilities as provided for in section 14.06(1.2) of the BIA, other than such amounts as the Receiver may specifically agree in writing to pay, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*.

#### **PIPEDA**

15. **THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the *Canada Personal Information Protection and Electronic Documents Act*, the Receiver shall disclose personal information of identifiable individuals to prospective purchasers or bidders for the Property and to their advisors, but only to the extent desirable or required to negotiate and attempt to complete one or more sales of the Property (each, a “**Sale**”). Each prospective purchaser or bidder to whom such personal information is disclosed shall maintain and protect the privacy of such information and limit the use of such information to its evaluation of the Sale, and if it does not complete a Sale, shall return all such information to the Receiver, or in the alternative destroy all such information. The purchaser of any Property shall be entitled to continue to use the personal

information provided to it, and related to the Property purchased, in a manner which is in all material respects identical to the prior use of such information by the Debtor, and shall return all other personal information to the Receiver, or ensure that all other personal information is destroyed.

#### **LIMITATION ON ENVIRONMENTAL LIABILITIES**

16. **THIS COURT ORDERS** that nothing herein contained shall require the Receiver to occupy or to take control, care, charge, possession or management (separately and/or collectively, “**Possession**”) of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the *Ontario Environmental Protection Act*, the *Ontario Water Resources Act*, or the *Ontario Occupational Health and Safety Act* and regulations thereunder (the “**Environmental Legislation**”), provided however that nothing herein shall exempt the Receiver from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Receiver shall not, as a result of this Order or anything done in pursuance of the Receiver’s duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

#### **LIMITATION ON THE RECEIVER’S LIABILITY**

17. **THIS COURT ORDERS** that the Receiver shall incur no liability or obligation as a result of its appointment or the carrying out the provisions of this Order, save and except for any

gross negligence or wilful misconduct on its part, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*. Nothing in this Order shall derogate from the protections afforded the Receiver by section 14.06 of the BIA or by any other applicable legislation.

### **RECEIVER'S ACCOUNTS**

18. **THIS COURT ORDERS** that the Receiver and counsel to the Receiver shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges unless otherwise ordered by the Court on the passing of accounts, and that the Receiver and counsel to the Receiver shall be entitled to and are hereby granted a charge (the “**Receiver’s Charge**”) on the Property, as security for such fees and disbursements, both before and after the making of this Order in respect of these proceedings, and that the Receiver’s Charge shall form a first charge on the Property in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subject to sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

19. **THIS COURT ORDERS** that the Receiver and its legal counsel shall pass their accounts from time to time, and for this purpose the accounts of the Receiver and its legal counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.

20. **THIS COURT ORDERS** that prior to the passing of its accounts, the Receiver shall be at liberty from time to time to apply reasonable amounts, out of the monies in its hands, against its fees and disbursements, including legal fees and disbursements, incurred at the standard rates

and charges of the Receiver or its counsel, and such amounts shall constitute advances against its remuneration and disbursements when and as approved by this Court.

### **FUNDING OF THE RECEIVERSHIP**

21. **THIS COURT ORDERS** that the Receiver be at liberty and it is hereby empowered to borrow by way of a revolving credit or otherwise, such monies from time to time as it may consider necessary or desirable, provided that the outstanding principal amount does not exceed \$1,000,000 (or such greater amount as this Court may by further Order authorize) at any time, at such rate or rates of interest as it deems advisable for such period or periods of time as it may arrange, for the purpose of funding the exercise of the powers and duties conferred upon the Receiver by this Order, including interim expenditures. The whole of the Property shall be and is hereby charged by way of a fixed and specific charge (the “**Receiver’s Borrowings Charge**”) as security for the payment of the monies borrowed, together with interest and charges thereon, in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subordinate in priority to the Receiver’s Charge and the charges as set out in sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

22. **THIS COURT ORDERS** that neither the Receiver’s Borrowings Charge nor any other security granted by the Receiver in connection with its borrowings under this Order shall be enforced without leave of this Court.

23. **THIS COURT ORDERS** that the Receiver is at liberty and authorized to issue certificates substantially in the form annexed as Schedule “A” hereto (the “**Receiver’s Certificates**”) for any amount borrowed by it pursuant to this Order.

24. **THIS COURT ORDERS** that the monies from time to time borrowed by the Receiver pursuant to this Order or any further order of this Court and any and all Receiver's Certificates evidencing the same or any part thereof shall rank on a *pari passu* basis, unless otherwise agreed to by the holders of any prior issued Receiver's Certificates.

#### **SERVICE AND NOTICE**

25. **THIS COURT ORDERS** that the E-Service Protocol of the Commercial List (the "**Protocol**") is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Protocol (which can be found on the Commercial List website at <http://www.ontariocourts.ca/scj/practice/practice-directions/toronto/e-service-protocol/>) shall be valid and effective service. Subject to Rule 17.05 this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the Rules of Civil Procedure. Subject to Rule 3.01(d) of the Rules of Civil Procedure and paragraph 21 of the Protocol, service of documents in accordance with the Protocol will be effective on transmission. This Court further orders that a Case Website shall be established in accordance with the Protocol with the following URL: [www.insolvencies.deloitte.ca/en-ca/EvergreenConsumerBrands](http://www.insolvencies.deloitte.ca/en-ca/EvergreenConsumerBrands).

26. **THIS COURT ORDERS** that the Debtor, the Receiver and their counsel are at liberty to serve or distribute this Order, any other materials and orders as may be reasonably required in these proceedings, including any notices, or other correspondence, by forwarding true copies thereof by electronic message to the Debtor's creditors or other interested parties and their advisors. For greater certainty, any such distribution or service shall be deemed to be in satisfaction of a legal or juridical obligation, and notice requirements within the meaning of clause 3(c) of the *Electronic Commerce Protection Regulations*, Reg. 81000-2-175 (SOR/DORS).

27. **THIS COURT ORDERS** that if the service or distribution of documents in accordance with the Protocol is not practicable, the Receiver is at liberty to serve or distribute this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery, facsimile or email transmission to the Debtor's creditors or other interested parties at their respective addresses as last shown on the records of the Debtor and that any such service or distribution by courier, personal delivery, facsimile or email transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

#### **GENERAL**

28. **THIS COURT ORDERS** that the Receiver may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.

29. **THIS COURT ORDERS** that nothing in this Order shall prevent the Receiver from acting as a trustee in bankruptcy of the Debtor.

30. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada, the United States or the European Union to give effect to this Order and to assist the Receiver and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.

31. **THIS COURT ORDERS** that the Receiver be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and that the Receiver is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

32. **THIS COURT ORDERS** that the Applicant shall have its costs of this application, up to and including entry and service of this Order, provided for by the terms of the Applicant's security or, if not so provided by the Applicant's security, then on a substantial indemnity basis to be paid by the Receiver from the Debtor's estate with such priority and at such time as this Court may determine.

33. **THIS COURT ORDERS** that any interested party may apply to this Court to vary or amend this Order on not less than seven (7) days' notice to the Receiver and the Bank and to any other party likely to be affected by the order sought or upon such other notice, if any, as this Court may order.

---

**SCHEDULE "A"**

**RECEIVER CERTIFICATE**

CERTIFICATE NO. \_\_\_\_\_

AMOUNT \$ \_\_\_\_\_

1. THIS IS TO CERTIFY that Deloitte Restructuring Inc., the receiver (the "**Receiver**") of the assets, undertakings and properties Evergreen Consumer Brands Inc. (the "**Debtor**") acquired for, or used in relation to a business carried on by the Debtor, including all proceeds thereof (collectively, the "**Property**") appointed by Order of the Ontario Superior Court of Justice (Commercial List) (the "**Court**") dated the \_\_\_ day of \_\_\_\_\_, 2020 (the "**Order**") made in an action having Court file number CV-\_\_\_\_\_, has received as such Receiver from the holder of this certificate (the "**Lender**") the principal sum of \$\_\_\_\_\_, being part of the total principal sum of \$\_\_\_\_\_ which the Receiver is authorized to borrow under and pursuant to the Order.
  
2. The principal sum evidenced by this certificate is payable on demand by the Lender with interest thereon calculated and compounded [daily][monthly not in advance on the \_\_\_\_\_ day of each month] after the date hereof at a notional rate per annum equal to the rate of \_\_\_\_\_ per cent above the prime commercial lending rate of Bank of \_\_\_\_\_ from time to time.
  
3. Such principal sum with interest thereon is, by the terms of the Order, together with the principal sums and interest thereon of all other certificates issued by the Receiver pursuant to the Order or to any further order of the Court, a charge upon the whole of the Property, in priority to the security interests of any other person, but subject to the priority of the charges set out in the Order and in the *Bankruptcy and Insolvency Act*, and

the right of the Receiver to indemnify itself out of such Property in respect of its remuneration and expenses.

4. All sums payable in respect of principal and interest under this certificate are payable at the main office of the Lender at Toronto, Ontario.
5. Until all liability in respect of this certificate has been terminated, no certificates creating charges ranking or purporting to rank in priority to this certificate shall be issued by the Receiver to any person other than the holder of this certificate without the prior written consent of the holder of this certificate.
6. The charge securing this certificate shall operate so as to permit the Receiver to deal with the Property as authorized by the Order and as authorized by any further or other order of the Court.
7. The Receiver does not undertake, and it is not under any personal liability, to pay any sum in respect of which it may issue certificates under the terms of the Order.

DATED the \_\_\_\_ day of \_\_\_\_\_, 2020.

DELOITTE RESTRUCTURING INC., solely in its capacity as Receiver of the Property, and not in its personal capacity

Per: \_\_\_\_\_

Name:

Title:

**IN THE MATTER OF Section 101 of the Courts of Justice Act, R.S.O. 1990 c.C.43, as amended, and in the matter of Section 243(1) of the Bankruptcy and Insolvency Act, R.S.C. 1985, c. B-3, as amended**

**NATIONAL BANK OF CANADA**

Applicant

and

**EVERGREEN CONSUMER BRANDS INC.**

Respondent

Court File No.: CV-20-00636080-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)  
Proceedings commenced at Toronto**

**ORDER  
(APPOINTING RECEIVER )**

**Thornton Grout Finnigan LLP**  
100 Wellington Street West  
Suite 3200  
Toronto-Dominion Centre  
Toronto ON M5K 1K7

**Grant B. Moffat (LSUC# 32380L)**  
Tel: 416-304-0599  
Email: [gmoffat@tgf.ca](mailto:gmoffat@tgf.ca)

**Alexander Soutter (LSUC# 72403T)**  
Tel: 416-304-0595  
Fax: 416-304-1313  
Email: [asoutter@tgf.ca](mailto:asoutter@tgf.ca)

Lawyers for the Applicant, National Bank of Canada

# TAB 4

Court File No. \_\_\_\_\_;

ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)

THE HONOURABLE \_\_\_\_\_ ) ~~WEEKDAY~~ THURSDAY, THE #13<sup>TH</sup>  
JUSTICE \_\_\_\_\_ ) DAY OF ~~MONTH~~ FEBRUARY, ~~20YR~~ 2020

**PLAINTIFF<sup>†</sup>**

Plaintiff

IN THE MATTER OF section 243(1) of the *Bankruptcy and Insolvency Act*, RSC 1985,  
c B-3, as amended and section 101 of the *Courts of Justice Act*, RSO 1990, c C43, as amended

B E T W E E N:

NATIONAL BANK OF CANADA

Applicant

- and -

**DEFENDANT**

Defendant

EVERGREEN CONSUMER BRANDS INC.

Respondent

**ORDER**  
(appointing Receiver)

---

<sup>†</sup>The Model Order Subcommittee notes that a receivership proceeding may be commenced by action or by application. This model order is drafted on the basis that the receivership proceeding is commenced by way of an action.

**THIS ~~MOTION~~ APPLICATION** made by ~~the Plaintiff~~<sup>2</sup> National Bank of Canada for an Order pursuant to section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the "BIA") and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended (the "CJA") appointing ~~[RECEIVER'S NAME]~~ Deloitte Restructuring Inc. ("Deloitte") as receiver ~~[and manager]~~ (in such capacities, the "Receiver") without security, of all of the assets, undertakings and properties of ~~[DEBTOR'S NAME]~~ Evergreen Consumer Brands Inc. (the "Debtor") acquired for, or used in relation to a business carried on by the Debtor, was heard this day at 330 University Avenue, Toronto, Ontario.

**ON READING** the affidavit of ~~[NAME]~~ Sonia de Lorenzi sworn ~~[DATE]~~ February 10, 2020 and the Exhibits thereto and on hearing the submissions of counsel for ~~[NAMES]~~ the Applicant and such other parties written on the counsel slip, no ~~one other parties~~ appearing ~~for~~ ~~[NAME]~~ although duly served as appears from, and the affidavit of service of ~~[NAME]~~ sworn ~~[DATE]~~ filed, and on reading the consent of ~~[RECEIVER'S NAME]~~ Deloitte to act as the Receiver,

## **SERVICE**

1. **THIS COURT ORDERS** that the time for service of the Notice of ~~Motion~~ Application and the ~~Motion~~ Application is hereby abridged and validated<sup>3</sup> so that this ~~motion~~ Application is properly returnable today and hereby dispenses with further service thereof.

---

<sup>2</sup> ~~Section 243(1) of the BIA provides that the Court may appoint a receiver "on application by a secured creditor".~~

<sup>3</sup> ~~If service is effected in a manner other than as authorized by the Ontario Rules of Civil Procedure, an order validating irregular service is required pursuant to Rule 16.08 of the Rules of Civil Procedure and may be granted in appropriate circumstances.~~

## APPOINTMENT

2. **THIS COURT ORDERS** that pursuant to section 243(1) of the BIA and section 101 of the CJA, ~~[RECEIVER'S NAME]~~ [Deloitte](#) is hereby appointed Receiver, without security, of all of the assets, undertakings and properties of the Debtor, acquired for, or used in relation to a business carried on by the Debtor, including all proceeds thereof (the "Property").

## RECEIVER'S POWERS

3. **THIS COURT ORDERS** that the Receiver is hereby empowered and authorized, but not obligated, to act at once in respect of the Property and, without in any way limiting the generality of the foregoing, the Receiver is hereby expressly empowered and authorized to do any of the following where the Receiver considers it necessary or desirable:
- (a) to take possession of and exercise control over the Property and any and all proceeds, receipts and disbursements arising out of or from the Property;
  - (b) to receive, preserve, and protect the Property, or any part or parts thereof, including, but not limited to, the changing of locks and security codes, the relocating of [the](#) Property to safeguard it, the engaging of independent security personnel, the taking of physical inventories and the placement of such insurance coverage as may be necessary or desirable;
  - (c) to manage, operate, and carry on the business of the Debtor, including the powers to enter into any agreements, incur any obligations in the ordinary course of business, cease to carry on all or any part of the business, or cease to perform any contracts of the Debtor;

- (d) to engage consultants, appraisers, agents, experts, auditors, accountants, managers, counsel and such other persons from time to time and on whatever basis, including on a temporary basis, to assist with the exercise of the Receiver's powers and duties, including without limitation those conferred by this Order;
- (e) to purchase or lease such machinery, equipment, inventories, supplies, premises or other assets to continue the business of the Debtor or any part or parts thereof;
- (f) to receive and collect all monies and accounts now owed or hereafter owing to the Debtor and to exercise all remedies of the Debtor in collecting such monies, including, without limitation, to enforce any security held by the Debtor;
- (g) to settle, extend or compromise any indebtedness owing to the Debtor;
- (h) to execute, assign, issue and endorse documents of whatever nature in respect of any of the Property, whether in the Receiver's name or in the name and on behalf of the Debtor, for any purpose pursuant to this Order;
- (i) to initiate, prosecute and continue the prosecution of any and all proceedings and to defend all proceedings now pending or hereafter instituted with respect to the Debtor, the Property or the Receiver, and to settle or compromise any such proceedings.<sup>4</sup> The authority hereby conveyed shall extend to such appeals or

---

<sup>4</sup>~~This model order does not include specific authority permitting the Receiver to either file an assignment in bankruptcy on behalf of the Debtor, or to consent to the making of a bankruptcy order against the Debtor. A bankruptcy may have the effect of altering the priorities among creditors, and therefore the specific authority of the Court should be sought if the Receiver wishes to take one of these steps.~~

applications for judicial review in respect of any order or judgment pronounced in any such proceeding;

- (j) to market any or all of the Property, including advertising and soliciting offers in respect of the Property or any part or parts thereof and negotiating such terms and conditions of sale as the Receiver in its discretion may deem appropriate. Without limiting the foregoing, the Receiver is authorized to continue the sale and investment solicitation process (the “SISP”) commenced by the Debtor, subject to such amendments to the SISP deemed appropriate by the Receiver. The Receiver is authorized in its discretion to retain or continue the retainer by the Debtor of Alvarez & Marsal Canada Securities ULC (the “Sales Agent”) in connection with the SISP on terms substantially similar to the terms agreed to between the Debtor and the Sales Agent;
- (k) to sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business,
  - (i) without the approval of this Court in respect of any transaction not exceeding \$250,000, provided that the aggregate consideration for all such transactions does not exceed \$500,000; and
  - (ii) with the approval of this Court in respect of any transaction in which the purchase price or the aggregate purchase price exceeds the applicable amount set out in the preceding clause;and in each such case notice under subsection 63(4) of the Ontario *Personal Property Security Act* (“PPSA”), ~~for section 31 of the Ontario *Mortgages*~~

~~Act, as the case may be,~~<sup>5</sup> shall not be required, and in each case the Ontario *Bulk Sales Act* shall not apply.

- (l) to apply for any vesting order or other orders necessary to convey the Property or any part or parts thereof to a purchaser or purchasers thereof, free and clear of any liens or encumbrances affecting such Property;
- (m) to report to, meet with and discuss with such affected Persons (as defined below) as the Receiver deems appropriate on all matters relating to the Property and the receivership, and to share information, subject to such terms as to confidentiality as the Receiver deems advisable;
- (n) to register a copy of this Order and any other Orders in respect of the Property against title to any of the Property;
- (o) to apply for any permits, licences, approvals or permissions as may be required by any governmental authority and any renewals thereof for and on behalf of and, if thought desirable by the Receiver, in the name of the Debtor;
- (p) to enter into agreements with any trustee in bankruptcy appointed in respect of the Debtor, including, without limiting the generality of the foregoing, the ability to enter into occupation agreements for any property owned or leased by the Debtor;

---

<sup>5</sup>~~If the Receiver will be dealing with assets in other provinces, consider adding references to applicable statutes in other provinces. If this is done, those statutes must be reviewed to ensure that the Receiver is exempt from or can be exempted from such notice periods, and further that the Ontario Court has the jurisdiction to grant such an exemption.~~

- (q) to exercise any shareholder, partnership, joint venture or other rights which the Debtor may have; and
- (r) to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations.

and in each case where the Receiver takes any such actions or steps, it shall be exclusively authorized and empowered to do so, to the exclusion of all other Persons (as defined below), including the Debtor, and without interference from any other Person.

#### **DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE RECEIVER**

4. **THIS COURT ORDERS** that (i) the Debtor, (ii) all of its current and former directors, officers, employees, agents, accountants, legal counsel and shareholders, and all other persons acting on its instructions or behalf, and (iii) all other individuals, firms, corporations, governmental bodies or agencies, or other entities having notice of this Order (all of the foregoing, collectively, being "Persons" and each being a "Person") shall forthwith advise the Receiver of the existence of any Property in each such Person's possession or control, shall grant immediate and continued access to the Property to the Receiver, and shall deliver all such Property to the Receiver upon the Receiver's request.
5. **THIS COURT ORDERS** that all Persons shall forthwith advise the Receiver of the existence of any books, documents, securities, contracts, orders, corporate and accounting records, bank account information and any other papers, records and information of any kind related to the business or affairs of the Debtor, and any computer programs, computer tapes, computer disks, or other data storage media containing any such information (the foregoing, collectively, the "Records") in that Person's possession or control, and shall

provide to the Receiver or permit the Receiver to make, retain and take away copies thereof and grant to the Receiver unfettered access to and use of accounting, computer, software and physical facilities relating thereto, provided however that nothing in this paragraph 5 or in paragraph 6 of this Order shall require the delivery of Records, or the granting of access to Records, which may not be disclosed or provided to the Receiver due to the privilege attaching to solicitor-client communication or due to statutory provisions prohibiting such disclosure.

6. **THIS COURT ORDERS** that if any Records are stored or otherwise contained on a computer or other electronic system of information storage, whether by independent service provider or otherwise, all Persons in possession or control of such Records shall forthwith give unfettered access to the Receiver for the purpose of allowing the Receiver to recover and fully copy all of the information contained therein whether by way of printing the information onto paper or making copies of computer disks or such other manner of retrieving and copying the information as the Receiver in its discretion deems expedient, and shall not alter, erase or destroy any Records without the prior written consent of the Receiver. Further, for the purposes of this paragraph, all Persons shall provide the Receiver with all such assistance in gaining immediate access to the information in the Records as the Receiver may in its discretion require including providing the Receiver with instructions on the use of any computer or other system and providing the Receiver with any and all access codes, account names and account numbers that may be required to gain access to the information.

7. **THIS COURT ORDERS** that the Receiver shall provide each of the relevant landlords with notice of the Receiver's intention to remove any fixtures from any leased premises at least seven (7) days prior to the date of the intended removal. The relevant landlord shall be entitled to have a representative present in the leased premises to observe such removal and, if the landlord disputes the Receiver's entitlement to remove any such fixture under the provisions of the lease, such fixture shall remain on the premises and shall be dealt with as agreed between any applicable secured creditors, such landlord and the Receiver, or by further Order of this Court upon application by the Receiver on at least two (2) days notice to such landlord and any such secured creditors.

#### **NO PROCEEDINGS AGAINST THE RECEIVER**

8. **THIS COURT ORDERS** that no proceeding or enforcement process in any court or tribunal (each, a "Proceeding"), shall be commenced or continued against the Receiver except with the written consent of the Receiver or with leave of this Court.

#### **NO PROCEEDINGS AGAINST THE DEBTOR OR THE PROPERTY**

9. **THIS COURT ORDERS** that no Proceeding against or in respect of the Debtor or the Property shall be commenced or continued except with the written consent of the Receiver or with leave of this Court and any and all Proceedings currently under way against or in respect of the Debtor or the Property are hereby stayed and suspended pending further Order of this Court.

#### **NO EXERCISE OF RIGHTS OR REMEDIES**

10. **THIS COURT ORDERS** that all rights and remedies against the Debtor, the Receiver, or affecting the Property, are hereby stayed and suspended except with the written consent of the Receiver or leave of this Court, provided however that this stay and suspension does

not apply in respect of any "eligible financial contract" as defined in the BIA, and further provided that nothing in this paragraph shall (i) empower the Receiver or the Debtor to carry on any business which the Debtor is not lawfully entitled to carry on, (ii) exempt the Receiver or the Debtor from compliance with statutory or regulatory provisions relating to health, safety or the environment, (iii) prevent the filing of any registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien.

#### **NO INTERFERENCE WITH THE RECEIVER**

11. **THIS COURT ORDERS** that no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by the Debtor, without written consent of the Receiver or leave of this Court.

#### **CONTINUATION OF SERVICES**

12. **THIS COURT ORDERS** that all Persons having oral or written agreements with the Debtor or statutory or regulatory mandates for the supply of goods and/or services, including without limitation, all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation services, utility or other services to the Debtor are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the Receiver, and that the Receiver shall be entitled to the continued use of the Debtor's current telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the Receiver in accordance with normal payment practices of the Debtor or such other practices as may be

agreed upon by the supplier or service provider and the Receiver, or as may be ordered by this Court.

### **RECEIVER TO HOLD FUNDS**

13. **THIS COURT ORDERS** that all funds, monies, cheques, instruments, and other forms of payments received or collected by the Receiver from and after the making of this Order from any source whatsoever, including without limitation the sale of all or any of the Property and the collection of any accounts receivable in whole or in part, whether in existence on the date of this Order or hereafter coming into existence, shall be deposited into one or more new accounts to be opened by the Receiver (the **"Post Receivership Accounts"**) and the monies standing to the credit of such Post Receivership Accounts from time to time, net of any disbursements provided for herein, shall be held by the Receiver to be paid in accordance with the terms of this Order or any further Order of this Court.

### **EMPLOYEES**

14. **THIS COURT ORDERS** that all employees of the Debtor shall remain the employees of the Debtor until such time as the Receiver, on the Debtor's behalf, may terminate the employment of such employees. The Receiver shall not be liable for any employee-related liabilities, including any successor employer liabilities as provided for in section 14.06(1.2) of the BIA, other than such amounts as the Receiver may specifically agree in writing to pay, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*.

## **PIPEDA**

15. **THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the *Canada Personal Information Protection and Electronic Documents Act*, the Receiver shall disclose personal information of identifiable individuals to prospective purchasers or bidders for the Property and to their advisors, but only to the extent desirable or required to negotiate and attempt to complete one or more sales of the Property (each, a "“Sale”"). Each prospective purchaser or bidder to whom such personal information is disclosed shall maintain and protect the privacy of such information and limit the use of such information to its evaluation of the Sale, and if it does not complete a Sale, shall return all such information to the Receiver, or in the alternative destroy all such information. The purchaser of any Property shall be entitled to continue to use the personal information provided to it, and related to the Property purchased, in a manner which is in all material respects identical to the prior use of such information by the Debtor, and shall return all other personal information to the Receiver, or ensure that all other personal information is destroyed.

## **LIMITATION ON ENVIRONMENTAL LIABILITIES**

16. **THIS COURT ORDERS** that nothing herein contained shall require the Receiver to occupy or to take control, care, charge, possession or management (separately and/or collectively, "“Possession”) of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the *Ontario Environmental*

*Protection Act*, the *Ontario Water Resources Act*, or the *Ontario Occupational Health and Safety Act* and regulations thereunder (the "Environmental Legislation"), provided however that nothing herein shall exempt the Receiver from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Receiver shall not, as a result of this Order or anything done in pursuance of the Receiver's duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

#### **LIMITATION ON THE RECEIVER'S LIABILITY**

17. **THIS COURT ORDERS** that the Receiver shall incur no liability or obligation as a result of its appointment or the carrying out the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*. Nothing in this Order shall derogate from the protections afforded the Receiver by section 14.06 of the BIA or by any other applicable legislation.

#### **RECEIVER'S ACCOUNTS**

18. **THIS COURT ORDERS** that the Receiver and counsel to the Receiver shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges unless otherwise ordered by the Court on the passing of accounts, and that the Receiver and counsel to the Receiver shall be entitled to and are hereby granted a charge (the "Receiver's Charge") on the Property, as security for such fees and disbursements, both before and after the making of this Order in respect of these proceedings, and that the Receiver's Charge shall form a first charge on the Property in priority to all security

interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subject to sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.<sup>6</sup>

19. **THIS COURT ORDERS** that the Receiver and its legal counsel shall pass ~~its~~their accounts from time to time, and for this purpose the accounts of the Receiver and its legal counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.
20. **THIS COURT ORDERS** that prior to the passing of its accounts, the Receiver shall be at liberty from time to time to apply reasonable amounts, out of the monies in its hands, against its fees and disbursements, including legal fees and disbursements, incurred at the standard rates and charges of the Receiver or its counsel, and such amounts shall constitute advances against its remuneration and disbursements when and as approved by this Court.

#### **FUNDING OF THE RECEIVERSHIP**

21. **THIS COURT ORDERS** that the Receiver be at liberty and it is hereby empowered to borrow by way of a revolving credit or otherwise, such monies from time to time as it may consider necessary or desirable, provided that the outstanding principal amount does not exceed \$ ~~\_\_\_\_\_~~ 1,000,000 (or such greater amount as this Court may by further Order authorize) at any time, at such rate or rates of interest as it deems advisable for such period or periods of time as it may arrange, for the purpose of funding the exercise of the powers and duties conferred upon the Receiver by this Order, including interim expenditures. The

---

~~<sup>6</sup>Note that subsection 243(6) of the BIA provides that the Court may not make such an order "unless it is satisfied that the secured creditors who would be materially affected by the order were given reasonable notice and an opportunity to make representations".~~

whole of the Property shall be and is hereby charged by way of a fixed and specific charge (the “Receiver’s Borrowings Charge”) as security for the payment of the monies borrowed, together with interest and charges thereon, in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subordinate in priority to the Receiver’s Charge and the charges as set out in sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

22. **THIS COURT ORDERS** that neither the Receiver’s Borrowings Charge nor any other security granted by the Receiver in connection with its borrowings under this Order shall be enforced without leave of this Court.
23. **THIS COURT ORDERS** that the Receiver is at liberty and authorized to issue certificates substantially in the form annexed as Schedule “A” hereto (the “Receiver’s Certificates”) for any amount borrowed by it pursuant to this Order.
24. **THIS COURT ORDERS** that the monies from time to time borrowed by the Receiver pursuant to this Order or any further order of this Court and any and all Receiver’s Certificates evidencing the same or any part thereof shall rank on a *pari passu* basis, unless otherwise agreed to by the holders of any prior issued Receiver’s Certificates.

#### **SERVICE AND NOTICE**

25. **THIS COURT ORDERS** that the E-Service Protocol of the Commercial List (the **“Protocol”**) is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Protocol (which can be found on the Commercial List website at <http://www.ontariocourts.ca/scj/practice/practice-directions/toronto/e-service-protocol/>) shall be valid and effective service. Subject to

Rule 17.05 this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the Rules of Civil Procedure. Subject to Rule 3.01(d) of the Rules of Civil Procedure and paragraph 21 of the Protocol, service of documents in accordance with the Protocol will be effective on transmission. This Court further orders that a Case Website shall be established in accordance with the Protocol with the following URL ~~“@”~~: [www.insolvencies.deloitte.ca/en-ca/EvergreenConsumerBrands](http://www.insolvencies.deloitte.ca/en-ca/EvergreenConsumerBrands).

26. THIS COURT ORDERS that the Debtor, the Receiver and their counsel are at liberty to serve or distribute this Order, any other materials and orders as may be reasonably required in these proceedings, including any notices, or other correspondence, by forwarding true copies thereof by electronic message to the Debtor’s creditors or other interested parties and their advisors. For greater certainty, any such distribution or service shall be deemed to be in satisfaction of a legal or juridical obligation, and notice requirements within the meaning of clause 3(c) of the Electronic Commerce Protection Regulations, Reg. 81000-2-175 (SOR/DORS).

27. ~~26.~~ THIS COURT ORDERS that if the service or distribution of documents in accordance with the Protocol is not practicable, the Receiver is at liberty to serve or distribute this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery ~~or~~, facsimile or email transmission to the Debtor's creditors or other interested parties at their respective addresses as last shown on the records of the Debtor and that any such service or distribution by courier, personal delivery ~~or~~, facsimile or email transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

**GENERAL**

28. ~~27.~~ **THIS COURT ORDERS** that the Receiver may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.

29. ~~28.~~ **THIS COURT ORDERS** that nothing in this Order shall prevent the Receiver from acting as a trustee in bankruptcy of the Debtor.

30. ~~29.~~ **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada ~~or in~~, the United States or the European Union to give effect to this Order and to assist the Receiver and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.

31. ~~30.~~ **THIS COURT ORDERS** that the Receiver be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and that the Receiver is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

32. ~~31.~~ **THIS COURT ORDERS** that the ~~Plaintiff~~Applicant shall have its costs of this ~~motion~~application, up to and including entry and service of this Order, provided for by the terms of the ~~Plaintiff~~Applicant's security or, if not so provided by the ~~Plaintiff~~Applicant's security, then

on a substantial indemnity basis to be paid by the Receiver from the Debtor's estate with such priority and at such time as this Court may determine.

33. ~~32.~~ **THIS COURT ORDERS** that any interested party may apply to this Court to vary or amend this Order on not less than seven (7) days' notice to the Receiver and the Bank and to any other party likely to be affected by the order sought or upon such other notice, if any, as this Court may order.

---

**SCHEDULE "A"**  
**RECEIVER CERTIFICATE**

CERTIFICATE NO. \_\_\_\_\_

AMOUNT \$ \_\_\_\_\_

1. THIS IS TO CERTIFY that ~~[RECEIVER'S NAME]~~Deloitte Restructuring Inc., the receiver (the "Receiver") of the assets, undertakings and properties ~~[DEBTOR'S NAME]~~Evergreen Consumer Brands Inc. (the "Debtor") acquired for, or used in relation to a business carried on by the Debtor, including all proceeds thereof (collectively, the "Property") appointed by Order of the Ontario Superior Court of Justice (Commercial List) (the "Court") dated the \_\_\_ day of \_\_\_\_\_, 20\_\_2020 (the "Order") made in an action having Court file number \_\_CLCV-\_\_\_\_\_, has received as such Receiver from the holder of this certificate (the "Lender") the principal sum of \$ \_\_\_\_\_, being part of the total principal sum of \$ \_\_\_\_\_ which the Receiver is authorized to borrow under and pursuant to the Order.

2. The principal sum evidenced by this certificate is payable on demand by the Lender with interest thereon calculated and compounded [daily][monthly not in advance on the \_\_\_\_\_ day of each month] after the date hereof at a notional rate per annum equal to the rate of \_\_\_\_\_ per cent above the prime commercial lending rate of Bank of \_\_\_\_\_ from time to time.

3. Such principal sum with interest thereon is, by the terms of the Order, together with the principal sums and interest thereon of all other certificates issued by the Receiver pursuant to the Order or to any further order of the Court, a charge upon the whole of the Property, in priority to the security interests of any other person, but subject to the priority of the charges set out in the

Order and in the *Bankruptcy and Insolvency Act*, and the right of the Receiver to indemnify itself out of such Property in respect of its remuneration and expenses.

4. All sums payable in respect of principal and interest under this certificate are payable at the main office of the Lender at Toronto, Ontario.

5. Until all liability in respect of this certificate has been terminated, no certificates creating charges ranking or purporting to rank in priority to this certificate shall be issued by the Receiver to any person other than the holder of this certificate without the prior written consent of the holder of this certificate.

6. The charge securing this certificate shall operate so as to permit the Receiver to deal with the Property as authorized by the Order and as authorized by any further or other order of the Court.

7. The Receiver does not undertake, and it is not under any personal liability, to pay any sum in respect of which it may issue certificates under the terms of the Order.

DATED the \_\_\_\_ day of \_\_\_\_\_, ~~20~~2020.

~~[RECEIVER'S NAME]~~DELOITTE  
RESTRUCTURING INC., solely in its capacity  
as Receiver of the Property, and not in its  
personal capacity

Per: \_\_\_\_\_

Name:

Title:

IN THE MATTER OF Section 101 of the Courts of Justice Act, R.S.O. 1990 c.C.43, as amended, and in the matter of Section 243(1) of the Bankruptcy and Insolvency Act, R.S.C. 1985, c. B-3, as amended

NATIONAL BANK OF CANADA

Applicant and

EVERGREEN CONSUMER BRANDS INC.

Respondent

Court File No.:

ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)  
Proceedings commenced at Toronto

ORDER  
(APPOINTING RECEIVER)

Thornton Grout Finnigan LLP  
100 Wellington Street West  
Suite 3200  
Toronto-Dominion Centre  
Toronto ON M5K 1K7

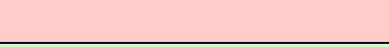
Grant B. Moffat (LSUC# 32380L)  
Tel: 416-304-0599  
Email: gmoffat@tgf.ca

Alexander Soutter (LSUC# 72403T)  
Tel: 416-304-0595  
Fax: 416-304-1313  
Email: asoutter@tgf.ca

Lawyers for the Applicant, National Bank of Canada

Document comparison by Workshare 10.0 on February-10-20 4:35:43 PM

Input:	
Document 1 ID	iManage://TGF-WSS01/Client/2817369/1
Description	#2817369v1<Client> - Model Order
Document 2 ID	iManage://TGF-WSS01/Client/2798544/4
Description	#2798544v4<Client> - Receivership Order (Feb. 10, 2020)
Rendering set	Standard

Legend:	
<a href="#">Insertion</a>	
<del>Deletion</del>	
<del>Moved from</del>	
<a href="#">Moved to</a>	
Style change	
Format change	
<del>Moved deletion</del>	
Inserted cell	
Deleted cell	
Moved cell	
Split/Merged cell	
Padding cell	

Statistics:	
	Count
Insertions	139
Deletions	131
Moved from	0
Moved to	0
Style change	0
Format changed	0
Total changes	270

**IN THE MATTER OF section 243(1) of the *Bankruptcy and Insolvency Act*, RSC 1985, c B-3, as amended, and section 101 of the *Courts of Justice Act*, RSO 1990, c C46, as amended**

**NATIONAL BANK OF CANADA**

- and -

**EVERGREEN CONSUMER BRANDS INC.**

Applicant

Respondent

Court File No.: CV-20-00636080-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)**

Proceedings commenced at Toronto, Ontario

**APPLICATION RECORD  
(Returnable February 13, 2020)**

**Thornton Grout Finnigan LLP**

TD West Tower, Toronto-Dominion Centre  
100 Wellington Street West, Suite 3200  
Toronto, ON M5K 1K7  
Fax: (416) 304-1313

**Grant Moffat (LSO# 32380L)**

Email: [gmoffat@tgf.ca](mailto:gmoffat@tgf.ca)

Tel: (416) 304-0599

**Alexander Soutter (LSO# 72403T)**

Email: [asoutter@tgf.ca](mailto:asoutter@tgf.ca)

Tel: (416) 304-0595

Lawyers for the Applicant, National Bank of Canada