



COURT FILE NUMBER 2101-10083

COURT COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE CALGARY

PLAINTIFF PANTERRA MORTGAGE & FINANCIAL CORPORATION LTD.

DEFENDANTS COCOCO CHOCOLATIERS INC.

DOCUMENT **ORDER – APPROVAL OF SALE PROCESS AND STALKING HORSE**

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT
Dentons Canada LLP
Bankers Court
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Calgary, Alberta T2P 0R8

Attention: David Mann QC / John Regush
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File No.: 562129-3

DATE ON WHICH ORDER WAS PRONOUNCED: August 18, 2021

LOCATION WHERE ORDER WAS PRONOUNCED: Calgary, Alberta

NAME OF JUSTICE WHO MADE THIS ORDER: The Honourable Justice Romaine

UPON the application of Panterra Mortgage & Financial Corporation Ltd. (the “**Lender**”); **AND UPON** having read the Application, the Affidavit of Brian Beck sworn August 11, 2021, which sets out in detail as Exhibit “12” a stalking horse bid (the “**Stalking Horse Bid**”); and the Affidavit of Service of Ronica Cameron sworn August 17, 2021; **AND UPON** reading the pre-filing report of Deloitte Restructuring Inc. (the “**Receiver**”) of Cococo Chocolatiers Inc. (the “**Debtor**”), to be filed; **AND UPON** reading the sale process (“**Sale Process**”) attached to this order as Annex “A”; **AND UPON** hearing counsel for the Lender, and such other parties as made submissions on their own behalf or through counsel;

Service

1. Service of this application and supporting materials is hereby deemed good and sufficient, the time for notice is hereby abridged to the time provided, and no other person is required to have been served with notice of this application.

Defined Terms

2. Capitalized terms not otherwise defined herein shall have the meaning ascribed to them in the Sale Process.

Sale Process

3. The Sale Process is hereby approved.
4. The Receiver is hereby authorized and directed to proceed with the procedure outlined in the Sale Process and do all things as are reasonably necessary to carry out its obligations thereunder and give full effect to the Sale Process.
5. The Receiver may amend the Sale Process in any non-substantive manner if, in the Receiver's discretion, such amendment would be in the best interest of the Debtor and its stakeholders.
6. The Receiver and its respective affiliates, partners, directors, employees, agents and advisors shall have no liability with respect to any and all losses, claims, damages or liabilities of any nature or kind to any person in connection with or as a result of the Sale Process, except to the extent such losses, claims, damages or liabilities result from the gross negligence or wilful misconduct of the Receiver in performing its obligations under the Sale Process.

Approval of the Stalking Horse

7. The Stalking Horse Bid is hereby authorized, ratified and approved, with such minor amendments as the Lender may deem necessary, with the approval of the Receiver.
8. The Lender and the Receiver are hereby authorized and directed to take all such steps, perform, consummate, implement, execute and deliver all such conveyance documents, bills of sale, assignments, conveyances, transfers, deeds, representations, indicia of title, tax elections, documents and instruments of whatsoever nature or kind as may be reasonably necessary or desirable for the completion of the transaction contemplated by the Stalking Horse Bid (the "**Transaction**") and for the conveyance of the Purchased Assets (as defined in the Stalking Horse Bid) to the Stalking Horse Bidder in accordance with the terms of the Stalking Horse Bid, including, without limitation, making such amendments to the Stalking Horse Bid as the Receiver and the Stalking Horse Bidder may approve in writing and which do not materially alter the Stalking Horse Bid. For clarity, the Lender shall be entitled to add additional lease agreements as Excluded Assets, and any additional leases so added shall be reflected in the Receiver's Closing Certificate referred to in paragraph 10 hereof.

Vesting in Favour of the Stalking Horse Bidder

9. In the event that there is no Superior Bid, or in the event that the Receiver is unable to close a transaction with the Winning Bid and Replacement Winning Bidder, then the Stalking Horse Bidder and the Receiver are hereby authorized and directed to close the Stalking Horse Bid in accordance with terms thereof and the within Order.
10. Upon delivery of a Receiver's closing certificate to the Stalking Horse Bidder substantially in the form set out in Annex "B" hereto (the "**Receiver's Closing Certificate**"), all of Cococo's right, title and interest in and to the Purchased Assets, including but not limited to the intellectual property

assets described in Annex "C" hereto, shall vest absolutely in the name of the Stalking Horse Bidder, or its nominee as indicated in the Receiver's Closing Certificate, free and clear of and from any and all caveats, security interests, hypothecs, pledges, mortgages, liens, trusts or deemed trusts, reservations of ownership, royalties, options, rights of pre-emption, privileges, interests, assignments, actions, judgments, executions, levies, taxes, writs of enforcement, charges, or other claims, whether contractual, statutory, financial, monetary or otherwise, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, "**Claims**") including, without limiting the generality of the foregoing:

- (a) any encumbrances or charges created by the Receivership Order;
- (b) any charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Alberta) or any other personal property registry system; and
- (c) any liens or claims of lien under the *Builders' Lien Act* (Alberta),

(all of which are collectively referred to as the "**Encumbrances**", which term shall not include the Permitted Encumbrances attached as Annex "D" hereto, and for greater certainty, this Court orders that all Claims including Encumbrances other than Permitted Encumbrances, affecting or relating to the Purchased Assets are hereby expunged, discharged and terminated as against the Purchased Assets.

11. Upon delivery of the Receiver's Closing Certificate, and upon filing of a certified copy of this Order, together with any applicable registration fees, all governmental authorities including those referred to below in this paragraph (collectively, "**Governmental Authorities**") are hereby authorized, requested and directed to accept delivery of such Receiver's Closing Certificate and certified copy of this Order as though they were originals and to register such transfers, interest authorizations, discharges and discharge statements of conveyance as may be required to convey to the Stalking Horse Bidder, or its nominee as indicated in the Receiver's Closing Certificate, clear title to the Purchased Assets subject only to Permitted Encumbrances.
12. In order to effect the transfers and discharges described above, this Court directs each of the Governmental Authorities to take such steps as are necessary to give effect to the terms of this Order and the Stalking Horse Bid. Presentment of this Order and the Receiver's Closing Certificate shall be the sole and sufficient authority for the Governmental Authorities to make and register transfers of title or interest and cancel and discharge registrations against any of the Purchased Assets of any Claims including Encumbrances but excluding Permitted Encumbrances.
13. No authorization, approval or other action by and no notice to or filing with any governmental authority or regulatory body exercising jurisdiction over the Purchased Assets is required for the due execution, delivery and performance by the Receiver of the Stalking Horse Bid.
14. Except as expressly provided for in the Stalking Horse Bid or by section 5 of the Alberta *Employment Standards Code*, the Stalking Horse Bidder or its nominee, shall not, by completion of the Transaction, have liability of any kind whatsoever in respect of any Claims against the Debtor.

15. Upon completion of the Transaction, the Debtor and all persons who claim by, through or under the Debtor in respect of the Purchased Assets, and all persons or entities having any Claims of any kind whatsoever in respect of the Purchased Assets, save and except for persons entitled to the benefit of the Permitted Encumbrances, shall stand absolutely and forever barred, estopped and foreclosed from and permanently enjoined from pursuing, asserting or claiming any and all right, title, estate, interest, royalty, rental, equity of redemption or other Claim whatsoever in respect of or to the Purchased Assets, and to the extent that any such persons or entities remain in the possession or control of any of the Purchased Assets, or any artifacts, certificates, instruments or other indicia of title representing or evidencing any right, title, estate, or interest in and to the Purchased Assets, they shall forthwith deliver possession thereof to Stalking Horse Bidder or its nominee.
16. The Stalking Horse Bidder or its nominee shall be entitled to enter into and upon, hold and enjoy the Purchased Assets for its own use and benefit without any interference of or by the Debtor, or any person claiming by, through or against the Debtor.
17. Immediately upon closing of the transaction, holders of Permitted Encumbrances shall have no claim whatsoever against the Receiver.
18. The Receiver is directed to file with the Court a copy of the Receiver's Closing Certificate forthwith after delivery thereof to the Stalking Horse Bidder.
19. Notwithstanding:
 - (a) the pendency of these proceedings and any declaration of insolvency made herein;
 - (b) the pendency of any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c.B-3, as amended (the "**BIA**"), in respect of the Debtor, and any bankruptcy order issued pursuant to any such applications;
 - (c) any assignment in bankruptcy made in respect of the Debtor; and
 - (d) the provisions of any federal or provincial statute:

the vesting of the Purchased Assets in the Stalking Horse Bidder or its nominee pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of the Debtor and shall not be void or voidable by creditors of the Debtor, nor shall it constitute nor be deemed to be a transfer at undervalue, settlement, fraudulent preference, assignment, fraudulent conveyance, or other reviewable transaction under the BIA or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.
20. The Receiver, the Stalking Horse Bidder or its nominee, and any other interested party, shall be at liberty to apply for further advice, assistance and direction as may be necessary in order to give full force and effect to the terms of this Order and to assist and aid the parties in closing the Transaction.
21. This Honourable Court hereby requests the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in any of its provinces or territories or in

any foreign jurisdiction, to act in aid of and to be complimentary to this Court in carrying out the terms of this Order, 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 order and to provide such assistance to the Receiver, as an officer of the 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.

Service

22. Service of this Order shall be deemed good and sufficient by:
- (a) Serving the same on:
 - (i) the persons listed on the service list created in these proceedings;
 - (ii) any other person served with notice of the application for this Order;
 - (iii) any other parties attending or represented at the application for this Order;
 - (iv) the Stalking Horse Bidder or it's solicitors; and
 - (b) Posting a copy of this Order on the Receiver's website, established for these proceedings and service on any other person is hereby dispensed with.
23. Service of this Order may be effected by facsimile, electronic mail, personal delivery or courier. Service is deemed to be effected the next business day following transmission or delivery of this Order.



Justice of the Court of Queen's Bench of Alberta

Annex "A"

Sale Process Package

Cococo Chocolatiers Inc.

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ARTICLE 1
INTRODUCTION

- 1.1 **Background.** On August 18, 2021, the Court of Queen's Bench of Alberta (the "**Court**") granted an Order (the "**Receivership Order**") appointing Deloitte Restructuring Inc. ("**Deloitte**") as receiver and manager ("**Receiver**") over the assets, properties, and undertakings of Cococo Chocolatiers Inc. ("**Cococo**").
- 1.2 **Sale Process.** On August 18, 2021, the Court granted the Sale Process Order, *inter alia*, approving the Receiver advancing the Sale Process in accordance with the terms and conditions set forth herein and approving the agreement of purchase and sale between Panterra Mortgage & Financial Corporation Ltd., or its nominee and the Receiver as a stalking horse bid (the "**Stalking Horse Bid**").
- 1.3 **Sale Process Generally.** This Sale Process describes, among other things, the process by which the Sale Process will be conducted, the criteria to become a Qualified Bidder, accessing due diligence information, the requirements to make a Qualified Bid, and the review, acceptance and approval process that then follows.

ARTICLE 2
INTERPRETATION

- 2.1 **Defined Terms.** Capitalized terms used herein shall have the meanings ascribed to such terms in the Stalking Horse Bid, unless otherwise defined in this Sales Process. In this Sales Process, the following capitalized terms are defined as follows:

"**Approval Hearing**" has the meaning ascribed thereto in Article 6.6;

"**Bid Deadline**" means October 4, 2021;

"**Cococo**" has the meaning ascribed thereto in Article 1.1;

"**Confidentiality Agreement**" means a confidentiality agreement in form and substance satisfactory to the Receiver, providing generally that all information is proprietary and confidential for the benefit of the Receiver and Cococo;

"**Court**" has the meaning ascribed thereto in Article 1.1;

"**Deloitte**" has the meaning ascribed thereto in Article 1.1;

"**Deposit**" has the meaning ascribed thereto in Article 5.1(h);

"**Lender**" means Panterra Mortgage & Financial Corporation Ltd.;

"**Notice**" means a summary of the Teaser suitable for publication in print media and online mediums;

"**Offer**" means a credible, reasonably certain and financially viable offer for acquisition of all or any part of the Property;

"Potential Bidder" has the meaning ascribed thereto in Article 3.3

"Property" means the undertakings, property, and assets of Cococo;

"Purchase Price" has the meaning ascribed thereto in Article 5.1(c);

"Qualified Bid" has the meaning ascribed thereto in Article 5.2;

"Qualified Bidder" has the meaning ascribed thereto in Article 5.2;

"Receiver" has the meaning ascribed thereto in Article 1.1 and refers to the Receiver in its capacity as Receiver and not in its personal or corporate capacity;

"Receiver's Counsel" means Torys LLP, attn: Mr. K. Kashuba;

"Receivership Order" has the meaning ascribed thereto in Article 1.1;

"Replacement Winning Bid" has the meaning ascribed thereto in Article 6.8

"Sale" means the acquisition of all or any part of the Property;

"Stalking Horse Bid" has the meaning ascribed thereto in Article 1.2;

"Stalking Horse Bidder" means the Lender;

"Superior Bid" has the meaning ascribed thereto in Article 6.3;

"Superior Bidder" has the meaning ascribed thereto in Article 6.3;

"Teaser" means a notice describing this Sale Process, and containing such other relevant information that the Receiver considers relevant, including a summary description of this purchase/investment opportunity and an invitation for interested parties to submit bids/proposal in accordance with the terms hereof;

"Ultimate Closing Date" means October 29, 2021;

"Winning Bid" has the meaning ascribed thereto in Article 6.3 ;

"Winning Bidder" has the meaning ascribed thereto in Article 6.3; and

"Winning Bid Agreement" has the meaning ascribed thereto in Article 6.5.

ARTICLE 3 **SALE PROCESS**

- 3.1 **Notice and Teaser.** As soon as reasonably practicable after Court approval of this Sale Process, and in any event within 5 Business Days following such approval the Receiver shall cause the Notice to be published in the Globe and Mail, or such other paper of circulation as deemed

appropriate by the Receiver. The Receiver shall also be at liberty to publish the Notice in such other print and media outlets as it deems appropriate.

- 3.2 **Qualifying as a Potential Bidder.** In order to participate in the Sale Process and ultimately be considered for qualification as a Qualified Bidder pursuant to Article 5, below, an interested party must deliver to the Receiver at the address specified in Schedule "A" hereto (by delivery or email), the following material:
- (a) a duly executed Confidentiality Agreement;
 - (b) a letter setting forth the identity of the Potential Bidder, the contact information for such Potential Bidder, full disclosure of the direct and indirect owners of the Potential Bidder and their principals;
 - (c) verification, in form and substance satisfactory to the Receiver, of the financial wherewithal of the Potential Bidder; and
 - (d) a written acknowledgement of receipt of a copy of the Court order approving the Sale Process (including this Sale Process) and agreeing to accept and be bound by all of the provisions of this Sale Process.
- 3.3 **Potential Bidder.** Once an interested party has satisfied all of the requirements described in the previous subsection they will be deemed to be a "**Potential Bidder**", and will be promptly notified of such classification by the Receiver.

ARTICLE 4 DUE DILIGENCE

- 4.1 **Access.** Forthwith upon being designated as a Potential Bidder, the Receiver shall provide the Potential Bidder with access to an electronic data room maintained by the Receiver in this regard. The Receiver shall provide Potential Bidders with further access to such due diligence materials and information relating to the Business and the Property as is reasonably practicable.
- 4.2 **No Representation or Warranties.** The Receiver does not make any representation or warranty as to the information contained in the Teaser or the information to be provided through the due diligence process or otherwise, except to the extent otherwise contemplated under any definitive sale agreement with a Superior Bidder executed and delivered by the Receiver.
- 4.3 **No Additional Information.** The Receiver shall not be required to produce any abstract of title, title deeds or documents, or copies thereof or any evidence as to title, other than what is already in the Receiver's possession.

ARTICLE 5 BIDDING

- 5.1 **Requirement for a Qualified Bid.** An Offer submitted by a Potential Bidder will be considered a "**Qualified Bid**" only if the Offer complies with all of the following:
- (a) all of the conditions in Article 3.2 remain satisfied in all respects;

- (b) it includes a letter stating that the Offer is irrevocable until the earlier of (i) the closing of a transaction with the Superior Bidder (as defined below), and (ii) 20 Business Days following the Bid Deadline; provided, however, that if such Offer is selected as the Superior Bid, it shall remain irrevocable until the closing of the Superior Bid;
- (c) it includes a duly authorized and executed purchase and sale agreement specifying the purchase price, expressed in Canadian dollars (the "**Purchase Price**") in as close a form as practicable to the Stalking Horse Bid attached hereto as marked as Schedule "B" (accompanied by a blackline demonstrating the changes to the form attached hereto), with such ancillary agreements as may be required by the Potential Bidder together with all exhibits and schedules thereto (or term sheets that describe the material terms and provisions of such ancillary agreements) and the proposed forms of order(s) for Court approval thereof;
- (d) it is not conditioned on (i) the outcome of unperformed due diligence by the Potential Bidder and/or (ii) obtaining any financing of any kind and includes an acknowledgement and representation that the Potential Bidder has had an opportunity to conduct any and all required due diligence prior to making its Offer;
- (e) it includes an acknowledgement and representation that the Potential Bidder: (i) has relied solely upon its own independent review, investigation and/or inspection of any documents and/or the assets to be acquired and liabilities to be assumed in making its Offer; (ii) did not rely upon any written or oral statements, representations, promises, warranties or guaranties whatsoever, whether express or implied (by operation of law or otherwise), regarding the assets to be acquired or liabilities to be assumed or the completeness of any information provided in connection therewith, including by the Receiver, or any of its advisors, except as expressly stated in the Offer; (iii) is a sophisticated party capable of making its own assessments in respect of making its Offer; and (iv) has had the benefit of independent legal advice in connection with its Offer;
- (f) the Offer is on an "as is, where is", "without recourse" basis and without surviving representations, warranties, covenants or indemnities of any kind, nature, or description by the Receiver or its agents, except to the extent specifically set forth therein;
- (g) it includes evidence, in form and substance reasonably satisfactory to the Receiver of authorization and approval from the Potential Bidder's board of directors (or comparable governing body) with respect to the Offer;
- (h) it provides for a refundable deposit (the "**Deposit**"), to be made in the form of a wire transfer to a trust account maintained by the Receiver's Counsel in an amount equal to 10% of the proposed gross purchase price, to be held and dealt with in accordance with this Sale Process;
- (i) it provides for closing of the Offer by no later than the Ultimate Closing Date;
- (j) if the Potential Bidder is an entity newly formed for the purpose of the transaction, the Offer shall include an equity or debt commitment letter from the parent entity or sponsor, which is satisfactory to the Receiver;

- (k) it includes evidence, in form and substance reasonably satisfactory to the Receiver, of compliance or anticipated compliance with any and all applicable Canadian and any foreign regulatory approvals (including, if applicable, anti-trust regulatory approval and any approvals with respect to the grant or transfer of any permits or licenses), the anticipated time frame for such compliance and any anticipated impediments for obtaining such approvals;
- (l) it is otherwise compliant with, and not contrary to, the rules set forth in this Sale Process;
- (m) it contains other information reasonably requested by the Receiver; and
- (n) it is received by no later than the Bid Deadline.

5.2 **Qualified Bids.** Any Offer submitted by a Potential Bidder that complies with each and every requirement of Article 5.1 of this Sale Process shall hereinafter be referred to as a "**Qualified Bid**" (and all such bids, the "**Qualified Bids**") and each Potential Bidder who has submitted a Qualified Bid shall hereinafter be referred to as a "**Qualified Bidder**".

5.3 **Deemed Qualified Bids.** Notwithstanding Article 5.1 and 5.2 the Receiver may waive compliance with any one or more of the Qualified Bid requirements specified herein and deem such non-compliant bids to be Qualified Bids.

ARTICLE 6

SELECTION OF THE SUCCESSFUL BID OR SUCCESSFUL BIDS

6.1 **Review of Qualified Bids.** Immediately following the Bid Deadline the Receiver will assess all Qualified Bids received, if any, and will determine whether it is likely that the transactions contemplated by such Qualified Bids are likely to be consummated and whether proceeding with this Sale Process is in the best interests of Cococo and its stakeholders. Such assessments will be made as promptly as practicable after the Bid Deadline.

6.2 **Further Negotiations.** Immediately following the Bid Deadline the Receiver may select Qualified Bids for further negotiation and/or clarification of any terms or conditions of such Qualified Bids, including the amounts offered.

6.3 **Determining Superior Bids and Winning Bid.** Upon completion of any further negotiations or clarifications that may be conducted pursuant to Article 6.2 above, the Receiver will determine whether there are any Qualified Bids superior to the Stalking Horse Bid. In the case where one or more such Qualified Bid is identified, each such Qualified bid shall be deemed to be a "**Superior Bid**", and the Receiver shall notify each party who made such a bid (each a "**Superior Bidder**") that it is a Superior Bidder who has submitted a Superior Bid, and the Receiver shall furthermore notify that Superior Bidder who submitted the highest and best such bid (the "**Winning Bidder**") that that its bid (the "**Winning Bid**") has been so identified.

6.4 **No or Only Inferior Qualified Bids.** In the event that: (a) no Qualified Bid is received; or (b) no Qualified Bid received is superior to the Stalking Horse Bid, this Sale Process shall be deemed to be immediately terminated and the Property shall vest in the Stalking Horse Bidder in accordance with the terms of the Sale Process Order.

- 6.5 **Finalization of Winning Bid.** Forthwith upon identifying a Winning Bid, the Receiver and the Winning Bidder will promptly finalize the definitive agreements in respect of the Winning Bid, conditional upon approval of the Court (the "**Winning Bid Agreement**").
- 6.6 **Court Approval.** The Receiver shall apply to the Court as soon as practicable after completion of the Winning Bid Agreement for: (i) an order approving the Winning Bid and authorizing the Receiver to enter into any and all necessary agreements with respect to the Winning Bidder; and (ii) any order that may be required vesting title to Property in the name of the Winning (the "**Approval Hearing**").
- 6.7 **Closing.** Closing shall occur as soon as practicable after the Winning Bid is approved by the Court.
- 6.8 **Failure to Close Winning Bid Agreement.** In the event that the purchase and sale transaction that arises from the Winning Bid Agreement shall fail to be completed, the Receiver will correspond in writing with the makers of all the Superior Bids, if any, for the purpose of obtaining a replacement Winning Bid for the Purchased Assets. The Superior Bids considered by the Receiver must be on the same terms and conditions and as originally submitted and any maker of a Superior Bid that is interested in acquiring the Purchased Assets shall be required to resubmit its deposit in accordance with Article 5.1(h). The Receiver shall select the bid that the Receiver, acting in its sole and unfettered discretion, having regard to all of the features of the bids, considers to be the most favourable (the "**Replacement Winning Bid**"). Thereafter, the Receiver shall apply to Court as soon as reasonably practicable for: (i) an order approving the Replacement Winning Bid and authorizing the Receiver to enter into any and all necessary agreements with respect to the Replacement Winning Bidder; and (ii) any order that may be required vesting title to Property in the name of the Replacement Winning Bidder (also an "**Approval Hearing**").
- 6.9 **Failure to Close Superior Bids.** In the event that Superior Bids are received and the Receiver is unable to close the Winning Bid and Replacement Winning Bid, this Sale Process shall be deemed to be immediately terminated and the Property shall vest in the Stalking Horse Bidder in accordance with the terms of the Sale Process Order
- 6.10 **Rejection of Unsuccessful Bids.** All Qualified Bids (other than any Winning Bid) and the Stalking Horse Bid, if applicable, shall be deemed rejected on and as of the date of closing of the Winning Bid, Replacement Winning Bid, or Stalking Horse Bid, as the case may be.

ARTICLE 7

GENERAL PROVISIONS

- 7.1 **Deposits.** All Deposits shall be retained by the Receiver's Counsel and invested in an interest-bearing trust account. If there is a Winning Bid or Replacement Winning Bid, the Deposit (plus accrued interest) paid by the Winning Bidder or Replacement Winning Bidder whose bid is approved at the Approval Hearing shall be applied to the purchase price to be paid by the Winning Bidder or Replacement Winning Bidder upon closing of the approved transaction and will be non-refundable. If any Qualified Bidder fails to comply with any provision contained in its Qualified Bid the Deposit and all other payments made in connection with the Purchase Price shall be forfeited as liquidated damages. The Deposits (plus applicable interest) of Qualified Bidders not selected as a Winning Bidder shall be returned to such bidders within ten Business

Days after the date on which Qualified Bids or the Stalking Horse Bid, as applicable, are deemed rejected in accordance with Article 6.10. If there is no Winning Bid, all Deposits shall be returned to the bidders within 10 Business Days of the date upon which the Sale Process is terminated in accordance with these procedures.

- 7.2 **Right to Reject Offers.** The highest or any Offer will not necessarily be accepted. The Receiver does not have any obligation to conclude a sale arising out of this process and reserves the right and unfettered discretion to reject any Offer received.
- 7.3 **Taxes.** All applicable federal and provincial taxes are payable by the Qualified Bidder (unless an exemption certificate is produced), not the Receiver.
- 7.4 **No Assignment.** No Qualified Bid, Winning Bid, or Replacement Winning Bid may be assigned by the bidder to any third party without the prior written consent of the Receiver.
- 7.5 **Time of the Essence.** All stipulations as to time in this Sale Process are strictly of the essence.
- 7.6 **No Commissions.** The Receiver shall not be required to pay any finder's fees, commissions, expenses or other compensation to any agents, consultants, advisors, or other intermediaries in respect of any Stalking Horse Bid, Qualified Bid, Winning Bid, or Replacement Winning Bid unless expressly agreed to separately and in writing and consented to by the Receiver.
- 7.7 **Applicable Law.** The laws of the Province of Alberta shall govern this Sale Process. Each Qualified Bidder and the Stalking Horse Bidder agrees that the Court shall have the exclusive jurisdiction to determine any and all disputes under this Sale Process and any transaction contemplated hereunder hereby attorn to the jurisdiction of the Court.

ARTICLE 8 **ADDITIONAL APPROVALS**

- 8.1 **Additional Approvals.** For greater certainty, the approvals required pursuant to the terms hereof are in addition to, and not in substitution for, any other approvals required by the applicable law in order to implement the Stalking Horse Bid, Winning Bid, or Replacement Winning Bid, as applicable.

ARTICLE 9 **ONGOING SUPERVISION**

- 9.1 **Standing.** At any time during the Sale Process, the Receiver may apply to the Court for advice and directions with respect to the terms and condition of the Sale Process.

Schedule "A"

DELOITTE RESTRUCTURING INC., in its capacity as receiver and manager of the assets, properties,
and undertakings of Cococo Chocolatiers Inc.
700 850 – 2nd Street SW
Calgary, Alberta T2P 0R8
Attention: Robert J Taylor / Ryan Adlington
Email: bobtaylor@deloitte.ca / radlington@deloitte.ca

Schedule "B"

AGREEMENT OF PURCHASE AND SALE
(STALKING HORSE)

THIS AGREEMENT OF PURCHASE AND SALE made this _____ day of August, 2021

BETWEEN:

DELOITTE RESTRUCTURING INC., solely in its capacity as court-appointed Receiver and Manager of Cococo Chocolatiers Inc. and not in its personal or corporate capacity
(the “**Receiver**”)

-and-

PANTERRA MORTGAGE & FINANCIAL CORPORATION LTD., or its nominee, (the
“**Purchaser**”)

WHEREAS pursuant to an order of the Honourable Justice Romaine dated August 18, 2021 (the “**Receivership Order**”), the Receiver was appointed receiver and manager of all of the current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate, including all proceeds thereof of Cococo (defined below);

AND WHEREAS the Court has further granted an Order approving the Sale Process (as defined below) which includes approval of a “stalking horse bid”;

AND WHEREAS the Purchaser desires to act as the “stalking horse bidder” and to purchase, and the Receiver wishes to sell, the right, title and interest of Cococo and the Receiver in the Purchased Assets (defined below), on and subject to the terms of this Agreement (defined below).

NOW THEREFORE THIS AGREEMENT WITNESSES that in consideration of the mutual premises contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties (defined below) agree as follows.

ARTICLE 1
Definitions

1.1 Capitalized terms used herein shall have the meanings ascribed to such terms in the Sales Process, unless otherwise defined in this Agreement. In this Agreement, the following capitalized terms are defined as follows:

“**Agreement**” or “**this Agreement**” means this Agreement of Purchase and Sale.

“**Approval**” in relation to the Court means the making of an appropriate Order of the Court in respect of the particular action or proposed action of the Receiver submitted for approval, on terms satisfactory to the Receiver.

“**Assumed Liabilities**” has the meaning ascribed thereto in Article 4.1.

“**Business**” means the existing fine chocolate confectionery manufacturing and distribution business of Cococo.

"Business Day" means a day other than Saturday, Sunday or a statutory holiday or any other day upon which the Receiver is not open for the transaction of business throughout normal business hours at its office in Calgary, Alberta.

"Choses in Action" mean all causes of action, choses in action, or other rights, including but not limited to rights of recovery, of Cococo related to, arising from, or associated with those matters set out in Schedule "A" hereto and the right to commence, continue, and prosecute all claims, suits, demands, causes of action, rights, and indemnities arising from or related thereto but, for greater certainty, excluding absolutely any associated claims or allegations that have prior to the Closing Date been advanced or alleged, or that might in future be advanced or alleged as against Cococo, and in any case arising out of or in connection with such matters..

"Closing" or **"Closing Date"** has the meaning ascribed in Article 16.

"Cococo" means Cococo Chocolatiers Inc.

"Court" means the Court of Queen's Bench of Alberta.

"Employees" means all individuals employed by Cococo immediately before Closing.

"Environmental Laws" means all applicable federal, provincial, municipal and local laws, statutes, ordinances, by-laws and regulations and all orders, directives and decisions rendered by, and policies, standards, guidelines and similar guidance of, any Governmental Authority, ministry, department or administrative or regulatory agency or court having jurisdiction over the Purchased Assets (which, for further certainty, in each case shall be deemed to have the force of law), including any obligations or requirements arising at law, relating to the protection of the environment, human and other animal health and safety or the release, manufacture, processing, distribution, use, treatment, storage, presence, disposal, packaging, labelling, recycling, transport, handling, containment, clean-up or other remediation or corrective action of or in respect of any Hazardous Substances.

"Excluded Assets" means all assets described in Schedule "B", which shall not form part of the Purchased Assets.

"GST" has the meaning ascribed thereto in Article 15.

"Governmental Authority" means any government, parliament, legislature, or any governmental, quasi-governmental or regulatory authority, agency, commission, department or board, or any political subdivision thereof, or any court or any other law, regulation or rule-making entity, having jurisdiction in the relevant circumstances, or any person acting under the authority of any of the foregoing (including any court or any arbitrator with the authority to bind the Parties at law) or any other authority charged with the administration or enforcement of legal requirements.

"Hazardous Substances" means any contaminant, pollutant, dangerous substance, potentially dangerous substances, noxious substance, toxic substance, hazardous waste, flammable material, explosive material, radioactive material, urea-formaldehyde foam insulation, asbestos, PCBs radiation and any other substance, material, effect, or thing declared or defined to be hazardous, toxic, a contaminant, or pollutant, in or pursuant to any Environmental Laws.

"Intellectual Property" means:

- (a) in any jurisdiction, all trademarks or trade names, designs, domain names, business names, corporate names, or any other similar names to the foregoing related to the Business owned or controlled by Cococo and any rights, claims and interest therein, or any outstanding or pending applications or rights, claims or interest in respect thereof, and including without restriction: the specific trademarks outlined in the attached Schedule "C" and the domain names outlined in the attached Schedule "C"
- (b) all manuals and recipes, techniques and procedures of the Business, owned or used by Cococo, as it is presently is or has ever been conducted, as necessary or convenient for the manufacture, storage and distribution of chocolates and related food products from and in the Premises or elsewhere and all information, documentation and data (hard copy or electronic) relating to same, and whether or not such chocolates and related food products are currently being produced from such Premises or not;
- (c) the design, industrial design, or decoration of any packaging or Premises, owned by Cococo and used by the Business, including any likeness or signature used thereon;
- (d) all brands and branding schemes related to the Business owned or controlled by Cococo, including colour schemes, images, videos, slogans, look and feel, and floor plan design;
- (e) all social media accounts related to the Business owned or controlled by Cococo
- (f) all plans, specifications and models relating to the Business including the set up and operation of retail stores or any aspect thereof;
- (g) all copyrights and moral rights therein, as applicable, of any original works related to the Business owned or operated by Cococo;
- (h) technology, computer telecommunications and electronic equipment, devices and apparatus relating to the operation of the Business and owned or operated by Cococo together with all written and electronic manuals and software relating to such operating systems (including all licenses, proprietary rights and rights of use relating to same) which relate to or are necessary for the operation of the Business and which may, without limitation, contain specifications, designs, market research, customer lists, business plans, receipts and general information for the operation of the Business; and,
- (i) all of the systems located on the Premises (including telephone and computer systems and software and security/monitoring systems).

"Leases" means the leases held by Cococo on eight locations in Alberta and British Columbia as described in Schedule "D" hereto, but excluding any such leases if identified as Excluded Assets, including any Leases that may be identified as Excluded Assets by the Lender subsequent to the execution of this Agreement.

"New Lease" has the meaning ascribed thereto in 7.1.

"Parties" means collectively, the Receiver and the Purchaser; and **"Party"** means either one.

"Permitted Encumbrances" means, collectively, the encumbrances described at Schedule "E" to this Agreement.

"Personal Property" means all of the undertakings, property, and assets of Cococo of whatever nature and wheresoever located, including, but not limited to the Choses in Action, Intellectual Property, Warranties and Guarantees, and the Property Documents, but excluding in each case the Excluded Assets.

"Premises" means the leased head office, manufacturing, storage, and distribution facility located at 2320 2nd Avenue SE in Calgary, Alberta as well as the retail store lease locations throughout Calgary, Alberta, and the two retail store lease locations in Victoria, British Columbia, where Cococo carries on business or has rights to carry on business.

"Priority Debt" means collectively the Receiver's Charge, Receiver's Borrowing Charge, and any debt or charge due and payable in priority to the Secured Debt.

"Property Documents" means all documents relating to the Purchased Assets including, without limitation (but only to the extent in the possession or control of the Receiver) the following:

- (a) true copies of the Leases;
- (b) true copies of any assigned contracts;
- (c) a list of the Personal Property;
- (d) all records and financial statements and other documents and correspondence relating to the operation of the Business, provided that if the Receiver is required to retain originals of any documents, the documents may consist of legible copies thereof;
- (e) all Warranties and Guarantees together with particulars of any claims made thereunder, whether settled or not;
- (f) a list of all employees, salaries, benefits, job descriptions, unpaid holiday pay and unpaid health benefits;
- (g) all documents and information (hard copy or electronic) relating to the Intellectual Property; and
- (h) such other documents respecting the Purchased Assets as the Purchaser may otherwise require.

"Purchase Price" has the meaning ascribed thereto in Article 3.

"Purchased Assets" means collectively, the Personal Property and the Leases, but excludes the Excluded Assets.

"Receiver's Charge" has the meaning ascribed thereto in the Receivership Order.

"Receiver's Borrowings Charge" has the meaning ascribed thereto in the Receivership Order.

"Receivership Order" has the meaning ascribed thereto in the recitals.

"Sale Process" has the meaning ascribed thereto in 6.1.

"Sale Process Order" has the meaning ascribed thereto in 6.1.

"Secured Debt" means the secured debt owed to the Purchaser pursuant to the security granted to it by Cococo and accrued interest, fees and costs accrued up to and including the Closing Date.

"Vesting Order" means an Order to be made by the Court upon terms acceptable to the Parties, acting reasonably, which, *inter alia*, provides that, upon Closing, all of Cococo's right, title and interest in the Purchased Assets shall irrevocably vest in the Purchaser, the Winning Bidder or the Replacement Winning Bidder, as the case may be, free and clear of all registered or unregistered liens, claims and encumbrances.

“**Warranties and Guarantees**” means any and all warranties and guarantees, or other similar rights, in respect of the Purchased Assets, or any part thereof.

ARTICLE 2

Agreement of Purchase and Sale

- 2.1** The Purchaser hereby agrees to purchase from and through the Receiver all of the right, title and interest in and to the Purchased Assets that the Receiver is entitled to sell pursuant to the Receivership Order at the Purchase Price (defined below) set out herein and upon and subject to the terms hereof.

ARTICLE 3

Purchase Price

- 3.1** The Purchaser shall pay to the Receiver, in consideration for the sale, assignment, conveyance and transfer of the Purchased Assets to the Purchaser at Closing, the sum of \$10,000,000.00 plus all applicable taxes (the “**Purchase Price**”), which sum shall be comprised of:
- (a) a certified cheque, bank draft or wire transfer in an amount equal to the Priority Debt, provided, however that in no circumstance shall such amount be greater than \$400,000; and
 - (b) the balance by way of set-off as against the Secured Debt;

on and in accordance with the terms and conditions herein.

ARTICLE 4

Assumption of Liabilities

- 4.1** In determining the Purchase Price, the Parties have taken into account the Purchaser's assumption of responsibility for the payment of all costs for existing or future liabilities related to the Purchased Assets that are not vested off title to the Purchased Assets in accordance with Sale Process Order (collectively, the “**Assumed Liabilities**”) associated with the Purchased Assets, as set forth in this Agreement, and the absolute release of the Receiver of all and any responsibility or liability therefor.
- 4.2** Subject to Closing, the Purchaser hereby agrees to: (i) assume, discharge, perform and fulfil the Assumed Liabilities from and after the Closing Date; and (ii) indemnify and save harmless the Receiver from all claims, damages, and other amounts arising directly or indirectly out of or in connection with the Assumed Liabilities.
- 4.3** In the event any of the Purchased Assets are contracts that are not assignable by the Receiver to the Purchaser in whole or in part without the consent, approval or waiver of any party or parties to them, if any such consents, approvals or waivers therefor have not yet been obtained as of the Closing Date, such contracts shall be deemed to be Excluded Assets.

ARTICLE 5
Acceptance of Agreement

- 5.1 The Purchaser agrees that no agreement for the purchase and sale of the Purchased Assets shall result from this Agreement unless and until this Agreement has been accepted by the Receiver and approved by the Court in accordance with the provisions of Article 6.

ARTICLE 6
Sale Process

- 6.1 Prior to the execution of this Agreement the Court shall have granted an Order (the "**Sales Process Order**") that: (i) recognizes and approves this Agreement, and in particular the Purchase Price, as a baseline or "stalking horse bid"; (ii) provides for a sales process substantially as described in the attached Schedule "F" (the "**Sale Process**"); and (iii) and in the event no Superior Bid is received, the Sales Process Order shall provide for the vesting of the Purchased Assets in the Purchaser in accordance with the terms of the Stalking Horse Bid upon provision of a Receiver's closing certificate.

ARTICLE 7
New Leases

- 7.1 From and after the fifth Business Day prior to the Closing Date, or for as long as this Agreement is in effect, the Receiver shall not enter into any lease, or agree to amend, modify, vary, terminate, surrender or cancel any existing lease (a "**New Lease**"), or any contract or other agreement affecting the Purchased Assets, or agree to amend, modify, vary, terminate, surrender or cancel any existing Contract without the prior written approval of the Purchaser, which approval may be unreasonably withheld. The Receiver shall provide to the Purchaser a copy of the proposal for the New Lease and any other available information that the Purchaser reasonably determines to be necessary in order to decide whether or not to grant its approval, and the Purchaser shall notify the Receiver of its decision in writing within five (5) Business Days of receiving such information, failing which the Receiver may take such steps it deems necessary in relation to such New Lease or contract.

ARTICLE 8
Employment Matters

- 8.1 The Purchaser shall make written offers of employment to all Employees no later than five business days before the Closing Date, which offers shall be conditional upon Closing, effective as of Closing, and on terms and conditions substantially similar in the aggregate to those existing immediately before the Closing Date. Immediately prior to the employment offers being made by the Purchaser, the Receiver will provide notice to the employees of termination of their employment, conditional on Closing and effective immediately before the Closing Date. The Purchaser shall recognize the prior service of all the Employees with Cococo, or its predecessors for all purposes, including statutory notice of termination, common law notice of termination, and the Purchaser's employee benefit plans, as applicable.

ARTICLE 9
Capacity of Receiver

- 9.1** The Receiver, in executing this Agreement, is entering into this Agreement solely in its capacity as the court appointed Receiver and Manager of the assets, undertakings and properties of Cococo, and not in its personal or any other capacity. Any claim against the Receiver shall be limited to and only enforceable against the property and assets then held by or available to it in its said capacity as Receiver and shall not apply to its personal property and assets held by it in any other capacity. The Receiver shall have no personal or corporate liability of any kind, whether in contract or in tort or otherwise. The term "Receiver" as used in this Agreement shall have no inference or reference to the present registered owner of the Purchased Assets.

ARTICLE 10
Obligation to Complete

- 10.1** The obligation of the Receiver to complete this Agreement is subject to the satisfaction of the following terms and conditions on the Closing Date, which conditions are for the sole benefit of the Receiver and which may be waived by the Receiver in its sole discretion:
- (a) the representations and warranties of the Purchaser herein are true and accurate as of the Closing Date;
 - (b) no action or proceeding at law or in equity shall be pending or threatened by any person, firm, government, Governmental Authority, regulatory body or agency to enjoin, restrict or prohibit the purchase and sale of the Purchased Assets;
 - (c) the Purchased Assets shall not have been removed from the control of the Receiver by any means or process;
 - (d) no third party shall take any action to redeem the Purchased Assets;
 - (e) the Court shall have granted the Sale Process Order in accordance with and containing substantially the same terms set out in Article 6 above, and the Sale Process Order shall not have been vacated, stayed, set aside, amended, reversed, annulled or modified;
 - (f) there shall have been no Superior Bid received by the Bid Deadline;
 - (g) the Purchaser shall have fulfilled or complied with all covenants contained in this Agreement; and the Receiver shall have received from the Purchaser the closing deliveries contemplated in Article 19.

ARTICLE 11
Purchaser's Acknowledgements

- 11.1** The Purchaser hereby acknowledges and agrees with and to be subject to the following:
- (a) it is responsible for conducting its own searches and investigations of the current and past uses of the Purchased Assets;

- (b) the Receiver makes no representation or warranty of any kind with respect to the Purchased Assets, including but not limited to that the present use or future intended use by the Purchaser of the Purchased Assets is or will be lawful or permitted;
- (c) it is satisfied with the Purchased Assets and all matters and things connected therewith or in any way related thereto;
- (d) it is purchasing the Purchased Assets on an "as is, where is" and "without recourse" basis including without limitation defaults under the Leases and any assigned contracts, outstanding work orders, deficiency notices, compliance, requests, development fees, imposts, lot levies, sewer charges, zoning and building code violations and any outstanding requirements which have been or may be issued by any Governmental Authority having jurisdiction over the Purchased Assets;
- (e) it relies entirely on its own judgment, inspection and investigation of Purchased Assets and any documentation relating to the Purchased Assets obtained from the Receiver has been prepared or collected solely for the convenience of prospective purchasers and is not warranted to be complete or accurate and is not part of this Agreement;
- (f) notwithstanding anything in this Agreement to the contrary or any other information provided to the Purchaser (including, without limitation, any confidential information memorandum, data room information, or herein, or otherwise, as applicable), the Purchaser acknowledges that although the Receiver has provided such information, it recognizes that there may be unintended omissions or misdescriptions contained therein, including property which may be listed in the Schedules hereto, but which does not exist and/or is missing as of the Closing Date. As such, the Purchaser acknowledges that if such property does not exist and/or is missing, or is otherwise mischaracterized/misdescribed, the Receiver shall not be in breach of this Agreement, nor shall: (i) any condition to Closing be unsatisfied; (ii) the Purchase Price be adjusted; or (iii) the Closing delayed;
- (g) it will provide the Receiver with all requisite information and materials, including proof respecting source or funds, at any time or times within forty-eight (48) hours of request by the Receiver so that the Receiver may determine the credit worthiness of the Purchaser;
- (h) the Receiver shall have no liability or obligation with respect to the value, state or condition of the Purchased Assets, whether or not the matter is within the knowledge or imputed knowledge of the Receiver, its officers, employees, directors, agents, representations and contractors;
- (i) the Property Documents are being provided to the Purchaser merely as a courtesy and without any representations or warranties whatsoever; and
- (j) it will ensure that any environmental and/or structural reports on behalf of the Purchaser shall also be addressed to the Receiver and a copy of each such report shall be delivered to the Receiver promptly after the completion thereof, regardless of whether the transaction contemplated by this Agreement closes.

ARTICLE 12

Title to the Purchased Assets

12.1 Title to the Purchased Assets shall be free from all caveats, security interests, hypothecs, pledges, mortgages, liens, trusts or deemed trusts, reservations of ownership, royalties, options, rights of pre-emption, privileges, interests, assignments, actions, judgements, executions, levies, taxes, writs of enforcement, charges, or other claims, whether contractual, statutory, financial, monetary or otherwise, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise including, without limiting the generality of the foregoing:

- (a) any encumbrances or charges created by the Receivership Order and Sale Process Order;
- (b) any charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Alberta) or any other personal property registry system; and
- (c) any liens or claims of lien under the *Builders' Lien Act* (Alberta); and

save and except for the Permitted Encumbrances.

ARTICLE 13

Authorizations

13.1 The Purchaser shall assume, at its cost, complete responsibility for compliance with all municipal, provincial and federal laws insofar as the same apply to the Purchased Assets and the use thereof by the Purchaser. It shall be the Purchaser's sole responsibility to obtain, and pay the cost of obtaining any consents, permits, licenses or other authorizations necessary or desirable for the transfer to the Purchaser of the Receiver's right, title and interest, if any, in the Purchased Assets. Provided, however, any costs of the Receiver incurred in connection with obtaining the Vesting Order shall not be borne by the Purchaser.

ARTICLE 14

Risk of Loss

14.1 The Purchased Assets shall be and remain until Closing at the risk of the Receiver. The Purchased Assets shall thereafter be at the risk of the Purchaser. Pending completion, the Receiver shall hold all insurance policies, if any, and the proceeds thereof in trust for the Parties as their interest may appear and in the event of damage to the Purchased Assets in excess of \$1,000,000 before Closing which damage gives rise to any insurance proceeds, the Purchaser may either terminate this Agreement and have the Deposit returned without interest or deduction or else take the proceeds of insurance and complete the transaction contemplated herein.

ARTICLE 15

Taxes

15.1 The Purchaser hereby represents and warrants to the Receiver that it is or will become registered for the purposes of Part IX of the *Excise Tax Act* (Canada) in accordance with the requirements of Subdivision (d) of Division V thereof and it will continue to be so registered as of the Closing Date.

The Purchaser covenants to deliver to the Receiver drafts not less than five (5) days before the Closing Date and originals upon Closing of: (i) a true copy of the certificate evidencing its registration for purposes of the goods and services tax ("**GST**"), including the registration number assigned to it; and (ii) a declaration and indemnity of the Purchaser confirming the accuracy, as at Closing, of the representations and warranties set out herein and agreeing to indemnify the Receiver for any amounts for which the Receiver may become liable as a result of any failure by the Purchaser to pay the GST payable in respect of the sale of the Purchased Assets under Part IX of the *Excise Tax Act* (Canada) and that the Purchaser is buying for its own account and not as trustee or agent for any other party. Provided that the Purchaser delivers a true copy of the certificate and the declaration and indemnity as set out above, in a form satisfactory to the Receiver, the Purchaser shall not be required to pay to the Receiver, nor shall the Receiver be required to collect from the Purchaser, the GST in respect of the Purchased Assets. In the event that the Purchaser shall fail to deliver the true copy of the certificate and the declaration and indemnity as set out above, then the Purchaser shall pay to the Receiver, in addition to the Purchase Price, in pursuance of the Purchaser's obligation to pay and the Receiver's obligation to collect GST under the provisions of the *Excise Tax Act* (Canada), an amount equal to five (5%) percent of the Purchase Price, or such other rate due and owing at the time of Closing.

- 15.2** The Purchaser shall be liable for and shall pay, and be solely responsible for, any and all transfer taxes pertaining to the Purchaser's acquisition of the Purchased Assets, and shall indemnify the Receiver for, from, and against any transfer taxes that the Receiver is required to pay or for which the Receiver may become liable as a result of any failure by the Purchaser to self-assess, pay, or remit such transfer taxes.

ARTICLE 16 **Closing**

- (a) Closing shall take place at the offices of the solicitors for the Receiver in Calgary, Alberta, or by such other electronic means as may be agreed by the Parties, at 11:00 a.m. (Calgary time) on the date which is ten (10) days following the Bid Deadline, or such other date as the Parties or their respective solicitors may agree upon in writing (the "**Closing Date**" or "**Closing**"), provided that the Receiver by written notice to the Purchaser or its solicitors may postpone the Closing Date from time to time, but in no event shall the date of Closing be postponed to a date more than sixty (60) days after the original Closing Date. The parties agree that Closing shall take place in accordance with such usual and customary trust conditions agreed to between the solicitors for the Receiver and the solicitors for the Purchaser as are applicable to similar transactions in Calgary, Alberta.
- (b) The Purchaser shall be responsible for all registration fees payable in connection with the transfer of the Purchased Assets to the Purchaser and for registration fees payable in connection with the registration of discharges of any mortgages, liens, charges, encumbrances, restrictions, leases or other claims or interests which the Receiver is required to discharge hereunder

ARTICLE 17 **Adjustments**

- 17.1** The Purchase Price for the Purchased Assets shall be adjusted as of the Closing Date. The adjustments shall include all tax accounts, current rents, including basic rent and current additional

rent, and all other charges, including operating expenses, realty taxes and management fees, prepaid rents, security deposits, realty taxes, local improvement assessments, rates and charges, water and assessment rates, utility deposits (including replacement letters of credit or letters of guarantee therefor), prepaid amounts or current amounts payable under the Leases, operating costs, utilities, fuel, licenses necessary for the operation of the Purchased Assets and all other items normally adjusted between a vendor and purchaser in respect of the sale of assets similar to the Purchased Assets. Any current rent, including base rent and current additional rent and other charges which are due and owing at the date of Closing shall be adjusted and any claim against a tenant in respect of the same shall be conveyed by the Receiver to the Purchaser. For purposes hereof, "current rent" means rent payable during the subject month which is not more than fifteen (15) days in arrears.

ARTICLE 18
Receiver's Closing Deliveries

- 18.1** The Receiver shall execute and deliver or cause to be executed and delivered to the Purchaser on the Closing Date, against payment of the Purchase Price, the following:
- (a) a bill of sale conveying the Purchased Assets to the Purchaser, if any, so that the Purchaser shall have title to such Purchased Assets free and clear of any liens, charges and encumbrances save and except for Permitted Encumbrances;
 - (b) an assignment in respect of the Leases;
 - (c) assignments in respect of the Choses in Action;
 - (d) a notice or notices to be given to parties under any assigned contracts of their assignment to the Purchaser, together with directions relating to payments thereunder;
 - (e) assignments of contracts that are capable of being assigned by the Receiver;
 - (f) an assignment of any Warranties and Guarantees in respect of or related to the Purchased Assets, to the extent that there are any and that they are assignable without consent;
 - (g) a statement of adjustments;
 - (h) a direction for the payment of the balance of the Purchase Price due on Closing;
 - (i) an undertaking by the Receiver to readjust all items on the statement of adjustments within sixty (60) days of the Closing Date;
 - (j) a certificate of the Receiver to the effect that it is not at the Closing Date a nonresident of Canada within the meaning of Section 116 of the *Income Tax Act* (Canada);
 - (k) keys and passwords or any similar security credentials that may be in the possession of the Receiver;
 - (l) all Property Documents, if not already in the possession of the Purchaser; and

- (m) any other documents relative to the completion of this Agreement as may reasonably be required by the Purchaser or its solicitors,

provided that none of such documents shall contain covenants, representations or warranties, which are in addition to or more onerous upon either the Receiver or the Purchaser than those expressly set forth in this Agreement.

ARTICLE 19 **Purchaser's Closing Deliveries**

19.1 The Purchaser shall execute and deliver to the Receiver on the Closing Date the following:

- (a) a certified cheque, bank draft or wire transfer for any remaining portion of the Purchase Price being satisfied in cash and any other monies required to be paid by the Purchaser pursuant to this Agreement, or the adjustments, including all applicable federal and provincial taxes, duties and registration fees unless the applicable exemption certificates in a form acceptable to the Receiver are presented to the Receiver on or before the Closing Date to exempt the Purchaser therefrom;
- (b) an undertaking by the Purchaser to readjust all items on the statement of adjustments within sixty (60) days of the Closing Date;
- (c) a true copy of its GST registration and GST certificate and indemnity as required pursuant to this Agreement;
- (d) any other documents relative to the completion of this Agreement as may reasonably be required by the Receiver or its solicitors,

provided that none of such documents shall contain covenants, representations or warranties, which are in addition to or more onerous upon either the Receiver or the Purchaser than those expressly set forth in this Agreement.

ARTICLE 20 **Purchaser's Representations and Warranties**

20.1 The Purchaser hereby represents and warrants to and in favour of the Receiver that as of the Closing Date:

- (a) the Purchaser is a corporation duly existing and governed by the laws of its incorporating jurisdiction and has the necessary corporate authority, power and capacity, to own the Purchased Assets and to enter into this Agreement and to carry out the transactions contemplated by this Agreement in the manner contemplated by this Agreement;
- (b) the obligations of the Purchaser hereunder and the documents and transactions contemplated herein shall be duly and validly authorized by all requisite corporate proceedings on or before the Closing Date;
- (c) neither the execution of this Agreement nor its performance by the Purchaser will result in a breach of any term or provision or constitute a default under any of the constating

- documents or by-laws of the Purchaser or any other agreement to which the Purchaser is a party;
- (d) the Purchaser:
- (i) is not an insolvent person within the meaning of the *Bankruptcy and Insolvency Act* (Canada) or the *Winding-up and Restructuring Act* (Canada);
 - (ii) has not made an assignment in favour of its creditors or a proposal in bankruptcy to its creditors or any class thereof;
 - (iii) has not had any petition or receiving order presented in respect of it; or
 - (iv) has not initiated proceedings with respect to a compromise or arrangement with its creditors or for its winding-up, liquidation or dissolution;
- (e) this Agreement has been validly executed and delivered by the Purchaser and is a valid and legally binding obligation of the Purchaser, enforceable against the Purchaser in accordance with its terms, subject to the limitations with respect to enforcement imposed by applicable laws in connection with bankruptcy, insolvency, liquidation, reorganization or other similar laws affecting the enforcement of creditors rights generally and subject to the availability of equitable remedies such as specific performance and injunction which are only available in the discretion of the court from which they are sought;
- (f) the Receiver shall not be liable for any brokerage commission, finder's fee or similar payment in connection with the transaction contemplated herein;
- (g) on the Closing Date, the Purchaser will meet all requirements of Governmental Authorities to purchase and accept a transfer of the Purchased Assets;
- (h) the Purchaser is not a non-Canadian within the meaning of the *Investment Canada Act* (Canada); and
- (i) the Purchaser is or will be on the Closing Date a GST registrant under the *Excise Tax Act* (Canada).

ARTICLE 21

Confidentiality

- 21.1** The Purchaser agrees that all information and documents supplied by the Receiver or anyone on its behalf to the Purchaser or anyone on the Purchaser's behalf (including but not limited to information in the schedules hereto) shall, unless and until Closing occurs, be received and kept by the Purchaser and anyone acting on the Purchaser's behalf on a confidential basis and shall not without the Receiver's prior written consent be disclosed to any third party. If for any reason Closing does not occur, all such documents (including without limitation, the Property Documents) shall forthwith be returned intact to the Receiver and no copies or details thereof shall be retained by the Purchaser or anyone acting on its behalf. The Purchaser further agrees that unless and until the terms of this Agreement become public knowledge in connection with an application to the Court for Approval of this Agreement, the Purchaser shall keep such terms confidential and shall not disclose the same to anyone except the Purchaser's prospective syndicate members,

solicitors, agents or lenders acting in connection herewith and then only on the basis that such persons also keep such terms confidential as aforesaid.

ARTICLE 22
Release and Indemnification

22.1 The Purchaser agrees to release and discharge the Receiver together with its officers, employees, agents and representatives from every claim of any kind that the Purchaser may make, suffer, sustain or incur in regard to any Hazardous Substance relating to the Purchased Assets. The Purchaser further agrees that the Purchaser will not, directly or indirectly, attempt to compel the Receiver to clean up or remove or pay for the cleanup or removal of any Hazardous Substance, remediate any condition or matter in, on, under or in the vicinity of the Purchased Assets or seek an abatement in the Purchase Price or damages in connection with any Hazardous Substance.

22.2 If Closing occurs the Purchaser shall:

- (a) be liable to the Receiver, its affiliates and their respective representatives for; and
- (b) as a separate covenant, indemnify and save harmless the Receiver, its affiliates and their representatives from and against,

all losses and liabilities suffered, sustained, paid or incurred by the Receiver, its affiliates, or their respective representatives related to or in connection with the Purchased Assets and the Assumed Liabilities, arising or accruing, prior to, on or after the Closing Date; including: (i) all losses and liabilities attributable to the ownership, operation, use, construction or maintenance of the Purchased Assets following the Closing Date; and (ii) any other losses and liabilities for which the Purchaser has agreed to indemnify the Vendor pursuant to this Agreement.

ARTICLE 23
Non-Registration

23.1 The Purchaser hereby covenants and agrees not to register this Agreement or notice of this Agreement or a caution, certificate of pending litigation, or any other document providing evidence of this Agreement against title to the Purchased Assets. Should the Purchaser be in default of its obligations under this Section, the Receiver may (as agent and attorney of the Purchaser) cause the removal of such notice of this Agreement, caution, certificate of pending litigation or other document providing evidence of this Agreement or any assignment of this Agreement from the title to the Purchased Assets. The Purchaser irrevocably nominates, constitutes and appoints the Receiver as its agent and attorney in fact and in law to cause the removal of such notice of this Agreement, any caution, certificate of pending litigation or any other document or instrument whatsoever from title to the Purchased Assets.

ARTICLE 24
Notices

24.1 Any notice or communications required to be given by the Parties shall be given by courier or facsimile, or if mailed, by registered letter, prepaid to the Parties as follows:

(a) in the case of the Receiver:

Deloitte Restructuring Inc.
700 850-2nd Street SW
Calgary, AB T2P 0R8
Attention: Robert J. Taylor / Ryan Adlington
Email: bobtaylor@deloitte.ca / radlington@deloitte.ca

with a copy to:

Torys LLP
525 – 8th Avenue SW 46th Floor Eighth Avenue Place East
Calgary, Alberta T2P 1G1
Attention: Kyle Kashuba / Jessie Mann
Email: kkashuba@torys.com / jmann@torys.com

(b) in the case of the Purchaser:

Panterra Mortgage & Financial Corporation Ltd.
Attention: Brian Beck
Email: brianbeck@glbh.com

with a copy to:

Dentons Canada LLP
1500 850 2nd Street SW
Calgary, Alberta T2P 0R8
Attention: David Mann, QC / John Regush
Email: david.mann@dentons.com / john.regush@dentons.com

or such other address as may be furnished from time to time by either Party. Any notice, if delivered by courier or email, shall be deemed to have been given or made on the date delivered or the date that a confirmation of receipt of the email was recorded by the sender and if mailed correctly, shall be deemed to have been received on the third Business Day after mailing. In the event of actual or imminent disruption or postal service, any notice shall be delivered, by courier or email.

ARTICLE 25 **Entire Agreement**

25.1 The Agreement shall constitute the entire agreement between the Parties to it pertaining to the subject matter hereof and shall supersede all prior and contemporaneous agreements, understandings, negotiations and discussions, whether oral or written, of the Parties and there shall be no agreements or understandings between the Parties in connection with the subject matter thereof except as specifically set forth herein. No Party has relied on any express or implied representation, written or oral, of any individual or entity as an inducement to enter into this Agreement.

ARTICLE 26
Amendment

- 26.1** No supplement, modification, waiver or termination of this Agreement shall be binding, unless executed in writing by the Parties to be bound thereby, provided that the time provided for doing any matter or thing contemplated herein may be abridged or extended by written agreement, in letter form or otherwise.

ARTICLE 27
Time of Essence

- 27.1** Time shall be of the essence in this Agreement in all respects and any waiver of any time provision shall not be effective unless in writing and signed by both Parties.

ARTICLE 28
Binding Agreement

- 28.1** This Agreement, when duly executed by the Parties, shall constitute a binding agreement of purchase and sale subject to its terms. It is agreed that there is no representation, warranty, collateral agreement or condition affecting this Agreement or the Purchased Assets supported hereby other than as expressed herein in writing.

ARTICLE 29
Successors and Assigns

- 29.1** All of the covenants and agreements contained in this Agreement shall be binding upon the Parties and their respective successors and permitted assigns and shall enure to the benefit of and be enforceable by the Parties and their respective successors and permitted assigns pursuant to the terms and conditions of this Agreement. The Purchaser may assign this Agreement to one or more subsidiary, parent or affiliated entity of the Purchaser upon the provision of prior notice in writing to the Receiver, which shall be provided not less than five (5) Business Days prior to the Closing Date, and provided however, the Purchaser shall not be released from any liability to observe and perform all of the terms and conditions contained herein until Closing. Any other assignment by the Purchaser or any assignment by the Receiver shall require the prior written consent of the other Party, which consent may be arbitrarily withheld.

ARTICLE 30
Governing Law

- 30.1** This Agreement shall be construed and enforced in accordance with the laws of the Province of Alberta and the laws of Canada applicable therein and shall be treated in all respects as an Alberta contract and the parties attorn to the jurisdiction of the Court.

ARTICLE 31
Gender, Interpretive Matters

- 31.1** This Agreement shall be read with all changes of gender or number required by the context. The titles to provisions do not form part of this Agreement and are inserted for reference purposes

only. Preparation and submission of the form of this Agreement or any other material by the Receiver shall not constitute an offer to sell.

ARTICLE 32
Severability

- 32.1** Any provision of this Agreement which is determined to be void, prohibited or unenforceable shall be severable to the extent of such avoidance, prohibition or unenforceability without invalidating or otherwise limiting or impairing the other provisions of this Agreement.

ARTICLE 33
Non-Merger

- 33.1** The provisions of this Agreement (including, without limitation, the representations and warranties of the Purchaser), shall survive Closing and shall not merge in the Sales Process Order or in any other documents delivered hereunder.

ARTICLE 34
Further Assurances

- 34.1** Each of the Parties shall from time to time hereafter and upon any reasonable request and at the cost of the other Party, make or cause to be made all such further acts, deeds, assurances and things as may be required or necessary to more effectually implement and carry out the true intent and meaning of this Agreement.

ARTICLE 35
Counterparts

- 35.1** This Agreement may be executed in any number of counterparts and delivered via facsimile or email in PDF format, 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.

ARTICLE 36
Solicitors as Agents

- 36.1** Any notice, approval, waiver, agreement, instrument, document or communication permitted, required or contemplated by this Agreement may be given or delivered and accepted or received by the Purchaser's solicitors on behalf of the Purchaser and by the Receiver's solicitors on behalf of the Receiver and any tender of closing documents and the balance of the Purchase Price and/or any other payment hereunder may be made upon the Purchaser's solicitors and the Receiver's solicitors, as the case may be.

ARTICLE 37
Nominee

- 37.1** The Receiver acknowledges and agrees that, the Purchaser is a nominee on behalf of parties having a beneficial interest in the acquisition of, or the ownership of the Purchased Assets, and such parties shall have no liability whatsoever pursuant to or rising out of this Agreement.

DELOITTE RESTRUCTURING INC., solely in its capacity as court-appointed Receiver and Manager of Cococo Chocolatiers Inc. and not in its personal or corporate capacity

Per: _____

Name: _____

Title: _____

PANTERRA MORTGAGE & FINANCIAL CORPORATION LTD.

Per: _____

Name: _____

Title: _____

I have authority to bind the corporation.

Schedule A – Choses in Action

Part 1 – Litigation

<p>The Plaintiff's claim in Provincial Court of Alberta (Civil) Action Number P2190101325 Cococo Chocolatiers Inc. v Wild Rose Investments, L.L.C., Helen Shum, and Eddie Shum</p>
<p>The Plaintiff's claim in Provincial Court of Alberta (Civil) Action Number P2190101266 Cococo Chocolatiers Inc. v Roshan Holdings Inc. and Darlene Longueil</p>
<p>The Counterclaim of the Plaintiff by Counterclaim Cococo Chocolatiers Inc. in Court of Queen's Bench of Alberta Action Number 2003-16696. Cococo Chocolatiers Inc. v. DKM Holdings Inc., Ken Freeland, Mike Freeland, 411913 Alberta Ltd., 413772 Alberta Ltd., 413773 Alberta Ltd., Ryan Boschman, Ronald Boschman, 539696 Alberta Ltd., Duane Peters, Tracy Hansen, 784075 Alberta Ltd., Judite Holder, and 1247999 Ontario Ltd.</p>
<p>The Plaintiff's claim in Court of Queen's Bench Action Number 1501-14252 Cococo Chocolatiers Inc. v. Train Trailers Rentals Limited</p>
<p>The claim of Cococo Chocolatiers Inc. as an unsecured creditor in Court of Queen's Bench of Alberta Court File Number BK 25-2072482 In the Matter of the Bankruptcy of Bernard Willy Margueritte Callebaut</p>
<p>The Default Judgment and Bill of Costs of Cococo Chocolatiers Inc. in Court of Queen's Bench Action Number 1601-02192, and all associated registrations and rights of enforcement.</p>
<p>Cococo Chocolatiers Inc. v. 1213725 Ontario Inc.</p>

Part B – Debts or Other

<p>The demand obligations and resulting debts upon demand, owing to Cococo Chocolatiers Inc. by Christine McAuley and/or Sugar Rush Chocolates Ltd.</p>
<p>All outstanding accounts receivable of Cococo Chocolatiers Inc. existing as of the Closing Date, a listing of which will be attached to this Schedule A as of the Closing Date for reference, and which shall include but not be limited to the accounts receivable owing by the following if uncollected at the Closing Date:</p>

Aged AR August 10, 2021

Customer No.	Customer Name	Current	1 to 30	31 to 60	61 to 90	Over 90	Total	
			Days	Days	Days	Days		
1102	784075 ALBETA LTD. / DUANE PETERS / TRACY HANSEN	0.00	0.00	0.00	0.00	12,494.33	12,494.33	
1200	539696 ALBERTA LTD. / RYAN BOSCHMAN / RON BOSCHMAN	0.00	0.00	0.00	0.00	9,630.84	9,630.84	
1202	LQCONCEPTS, LLC / LA QUITA CORBETT MARTIN	0.00	0.00	0.00	0.00	4,646.81	4,646.81	
1900	ROSHAN HOLDINGS LTD. / DARLENE LONGUEIL	0.00	0.00	0.00	0.00	13,195.53	13,195.53	
2303	STARWOOD CHOCOLATERIES INC. / JACQUELINE PEARSON	0.00	0.00	0.00	0.00	52,910.07	52,910.07	
2306	1247999 ONTARIO LTD. / JUDITE HOLDER	0.00	0.00	0.00	0.00	1,250.51	1,250.51	
3000	WILD ROSE INVESTMENTS LLC / HELEN SHUM / EDDIE SHUM	0.00	0.00	0.00	0.00	54,522.26	54,522.26	
3001	737861 ALBERT LTD. / DON MCCAFFREY	3,860.63	0.00	0.00	0.00	0.00	3,860.63	
6000	COCOCO CHOCOLATIERS CENTRAL INC.	0.00	0.00	0.00	5,875.72	41,441.39	47,317.11	
CAN001	CANMORE TEA COMPANY INC.	0.00	0.00	0.00	0.00	753.90	753.90	
DUZ001	DUZU DATES	0.00	66.48	0.00	0.00	0.00	66.48	
ERI000	ERIKS NORTH AMERICA	0.00	0.00	3,775.60	0.00	0.00	3,775.60	
FIT000	FITWAVE	0.00	1,338.18	0.00	0.00	0.00	1,338.18	
GLB001	G.L. BLACK HOLDINGS LTD	0.00	0.00	0.00	0.00	69.30	69.30	
HEY000	HEY HAPPY COFFEE	0.00	0.00	432.00	0.00	0.00	432.00	
PUR001	PURE CASINO YELLOWHEAD	0.00	0.00	0.00	0.00	1,166.97	1,166.97	
SOB001	SOBEYS INC	0.00	0.00	0.00	0.00	2,532.28	2,532.28	
REC000	RECEPTION SALES	0.00	273.00	387.00	125.00	111.70	896.70	
REC001	RECEIVER GENERAL FOR CANADA	0.00	0.00	0.00	0.00	22,796.99	22,796.99 GST Overpayr	
REN000	RENEGADE TRAILER SOLUTIONS	0.00	2,520.00	0.00	0.00	0.00	2,520.00	
TV5000	TV5 QUEBEC CANADA	0.00	0.00	6,405.00	0.00	0.00	6,405.00	
Report Total:		3,860.63	4,197.66	10,999.60	6,000.72	217,522.88	242,581.49	
							Interest	31,217.65
							Revised	211,363.84
							GL	1100
								134,204.57
								1150
								77,159.27
								211,363.84
							Variance	0.00

Schedule B – Excluded Assets

- Each and every agreement and contract, of any kind whatsoever, whether written or unwritten, express or implied, that does or could obligate Cococo to sell or otherwise provide any product or service to any third party including, in particular, any (immediately prior to the Closing Date) current or former dealer customer of Cococo's.
- Any and all agreements and contracts, of any kind whatsoever, between Cococo and any other party, provided however that the following agreements and contracts shall not be Excluded Assets, unless specifically identified as Excluded Assets in this Schedule:
 - all service contracts and agreements to enter into service contracts relating to the management, service, maintenance, operation, repair and cleaning of the Purchased Assets or the furnishing of supplies or services thereto;
 - the Choses in Action;
 - all Leases;
 - all Warranties and Guarantees
- The Plaintiff's Civil Claim against Cococo in Provincial Court of Alberta (Civil) Action Number P2090102871; 630344 Alberta Inc. v. Cococo Chocolatiers Inc.
- Any claim by, or alleged debt owing to, Massound Hassannia & Nahideh Hassannia under or in respect of any lease of premises by them (directly or indirectly), such premises being identifiable as 314A and 314B Richmond Road, Ottawa, Ontario, to Cococo Chocolatiers Ottawa Inc. as tenant.
- Any claim by, or alleged debt owing to, The Calgary Airport Authority, under or in respect of Lease No. YYC1289 or Lease No. YYC2126, or any related storage or service leases or contracts, including Storage Space License YYC2162 or the IT Shared Services Agreement dated for reference January 1, 2017, all of which exist in respect of two retail store concessions vacated by Cococo with the consent of The Calgary Airport Authority.
- The following leases, plus any other Leases as the Purchaser may identify upon written notice to the Receiver, which shall be provided not less than five (5) Business Days prior to the Closing Date:
 - (a) **Bankers Hall Retail Lease:** Lease Agreement originally between 4087844 Canada Inc., as landlord, Cococo Chocolatiers Central Inc., as tenant, and Cococo Chocolatiers Inc, as indemnifier, dated June 11, 2013, as amended (the "**Bankers Hall Retail Lease**"), which may be further particularized as originally pertaining to Retail Unit #224 in Bankers Hall, 315 – 8th Avenue SW Calgary, Alberta, and having been amended by A Premises Relocation and Lease Amending and Extension Agreement between Bankers Hall LP and bcIMC Realty Corporation, as landlord, Cococo Chocolatiers Central Inc., as tenant, and Cococo Chocolatiers Inc., as indemnifier dated August 1, 2018 regarding Unit 236 at Bankers Hall 315 – 8th Avenue SW Calgary, Alberta, and as further amended by Rent Reduction Agreements dated September 2, 2020, December 18, 2020, and February 18, 2021.

- (b) **Bankers Hall Storage Agreement:** Storage Agreement made as of November 28, 2013 originally as between Bankers Hall LP and bcIMC Realty Corporation, as landlord, and Cococo Chocolatiers Central Inc., as tenant, as the same may have been amended and/or superseded or replaced from time to time (the “**Bankers Hall Storage Agreement**”).

- (c) **Government Street Retail Lease:** Offer to Lease/Interim Agreement from Cococo Chocolatiers Inc. to Town Properties Ltd. c/o Equitex Realty Ltd dated November 29, 2019 regarding a portion of the property having civic address 612 View Street 1205 Government Street Victoria, BC and legally described as Lot 167, Victoria City.

Schedule C – Intellectual Property

<u>Canada</u>			
Trademark	Application #	Registration #	Goods and Services
HALO GELATO (Word)	1523763	TMA845133	Goods: Gelato
P & DESIGN OF YOUNG BOY (Design)	1319814	TMA702861	Services: Operation of a manufacturing, wholesale and retail establishment selling chocolate
CHOCOLATES BY BERNARD (Word)	1234516	TMA719159	Services: Sale of chocolates and chocolate food products
CHOCOLATERIE BERNARD (Word)	1234470	TMA719023	Services: Sale of chocolate and chocolate food products
CHOCOLATES BY BERNARD CALLEBAUT (Word)	1091732	TMA635554	Goods: Chocolates Services: Operation of a retail establishment selling chocolates
COCOCO (Word)	1530197	TMA847323	Goods: (1)Chocolate confections, namely chocolate confections filled with fresh creams, butter creams, marzipan, ganaches, pralines and liquers, solid chocolates, solid molded chocolates, chocolate bars, chocolate wafers, chocolate covered nuts, chocolate covered fruits, chocolate covered coffee beans, chocolate covered ginger, molded chocolate shapes and characters, chocolate cups; frozen desserts, namely ice cream, soft-serve ice cream, frozen

		<p>malted beverages, gelatos, chocolate-based baking ingredients namely, solid baking chocolate, cocoa powder, chocolate shavings, chocolate drops, chocolate sprinkles, chocolate decorations, chocolate sauces and spread; chocolate-based snack foods namely, chocolate dipped biscuits, chocolate dipped biscotti, chocolate covered pretzels, chocolate cookies and chocolate pastries; chocolate flavourings for beverages, namely hot chocolate and chocolate flavourings for hot or cold coffee beverages</p> <p>(2) Beverages namely coffee namely whole bean coffee, ground coffee and chocolate flavoured coffee beverages</p> <p>Services: (1) Retail store services namely retail store selling chocolate confections, frozen desserts, chocolate-based baking ingredients, chocolate sauces and spreads, chocolate-based snack foods and cookies, chocolate flavourings for beverages, coffee</p>
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			<p>beans, ground coffee and beverages</p> <p>(2) Cafe services namely cafe serving coffee, tea, beverages, coffee flavoured drinks, tea flavoured drinks, pastries, snacks, chocolate confections, frozen desserts, chocolate-based snack foods and cookies</p> <p>(3) Wholesale and distribution of chocolate confections, frozen desserts, chocolate-based baking ingredients, chocolate sauces and spreads, chocolate-based snack foods and cookies, chocolate flavorings for beverages, coffee beans, ground coffee and beverages</p> <p>(4) Retail sale through an internet website of chocolate confections, frozen desserts, chocolate-based baking ingredients, chocolate sauces and spreads, chocolate-based snack foods and cookies, chocolate flavourings for beverages, coffee beans, ground coffee and beverages</p>
<p>TRUFFLE TREASURES (Word)</p>	<p>1399021</p>	<p>TMA790964</p>	<p>Goods: (1) Chocolate</p> <p>(2) Confectionery products, namely, granola, hot chocolate packs, cocoa powder, roasted coaco bags,</p>

		<p>and sauces, namely, fondue sauces, caramel sauces, and fudge sauces</p> <p>Services: (1) Retail sales of chocolate</p> <p>(2) Retail sales of confectionery items, namely, granola, hot chocolate packs, cocoa powder, roasted cacao bags, and sauces, namely, fondue sauces, caramel sauces, and fudge sauces</p> <p>(3) Retail sales of beverages, namely, coffee, tea, hot chocolate, bottled water, and fruit juices, of baked goods, namely, waffles, crepes, pastries, and cookies, and of ice cream and gelato</p> <p>(4) Retail sales of gift items and household items, namely, books, journals, card decks, candles, air diffusers, jewellery, and household decorations made of glass, and of non-electric coffee and tea accessories, namely, ceramic mugs and ceramic tea pots</p> <p>(5) Café services</p> <p>(6) Retail sales of gift items and household items, namely, candle holders, household decorations made of</p>
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			metals, ceramics and wood, tea balls, and ceramic coffee pots
CHOCOLATERIE BERNARD 'C (Word)	0779368	TMA456117	Goods: (1) Chocolates; chocolate confectionary; candy ice cream; cookies; cakes, sauces; chocolate spreads; gift boxes; recipe cards and cookbooks; gift packaging, namely wrapping appear, paper and metallic ribbons and bows and gift cards and chocolate recipes Services: (1) Operation of a business dealing in the sale of chocolates; chocolate confectionery, candy ice cream; cookies; cakes, sauces; chocolate spreads; gift boxes; recipe cards and cookbooks; gift packaging, namely wrapping paper, paper and metallic ribbons and bows and gift cards and chocolate recipes
CHOCOLATERIE BERNARD CALLEBAUT (Word)	0655302	TMA391640	Goods: (1) Chocolates, chocolate confectionery, candy, ice cream, cookies, cakes, and related items namely, sauces, spreads, gift boxes, tins and gift packaging, and chocolate recipes and cookbooks Services: (1) Operation of business dealing in the sale of chocolates,

			confectionery, candy, ice cream, cookies, cakes and related items
GOOD CLEAN FUN (Word)	1668677	TMA964132	Goods: (1) Chocolate confections, namely chocolate confections filled with creams, marizpan, ganaches, pralines and liqueurs, solid chocolates, solid molded chocolates, chocolate bars, chocolate wafers, chocolate covered nuts, chocolate covered fruits, chocolate covered coffee beans, chocolate covered ginger, molded chocolate shapes and characters, chocolate cups; frozen desserts namely, ice cream, soft-serve ice cream, frozen malted beverages, gelatos; chocolate-based baking ingredients namely, solid baking chocolate, cocoa powder, cocoa nibs, chocolate shavings, chocolate drops, chocolate sprinkles, chocolate decorations, chocolate sauces and spreads; chocolate-based snack foods namely, chocolate dipped biscuits, chocolate covered pretzels, chocolate cookies and chocolate pastries; chocolate flavourings for beverages, namely hot chocolate and chocolate flavourings

			<p>for hot or cold coffee beverages; beverages namely chocolate flavoured coffee beverages</p> <p>Services: (1) Retail store services namely retail store featuring chocolate confections, frozen desserts, chocolate-based baking ingredients, chocolate sauces and spreads, chocolate-based snack foods and cookies, chocolate flavourings for beverages, coffee beans, ground coffee and beverages; cafe services namely cafe serving coffee, tea, beverages, coffee flavoured drinks, tea flavoured drinks, pastries, snacks, chocolate confections, frozen desserts, chocolate-based snack foods and cookies; wholesale and distribution of chocolate confections, frozen desserts, chocolate-based baking ingredients, chocolate sauces and spreads, chocolate-based snack foods and cookies, chocolate flavourings for beverage; retail sale through an internet website of chocolate confections, frozen desserts, chocolate-based baking ingredients, chocolate sauces and spreads,</p>
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			chocolate-based snack foods and cookies, chocolate flavourings for beverages, coffee beans, ground coffee and beverages
POD Design (Design)	1646883	TMA909351	Goods: (1) Chocolate confections, namely confections filled with fresh creams, butter creams, marzipan, ganaches, parlines and liquers, solid chocolates, solid molded chocolates, chocolate bars, chocolate wafers, chocolate covered nuts, chocolate covered fruits, chocolate covered coffee beans, chocolate covered ginger, molded chocolate shapes and characters, chocolate cups; frozen desserts namely, ice cream, soft-serve ice cream, frozen malted beverages, gelatos; chocolate-based baking ingredients namely, solid baking chocolate, cocoa powder, chocolate shavings, chocolate drops, chocolate sprinkles, chocolate decorations, chocolate sauces and spreads; chocolate-based snack foods namely, chocolate dipped biscuits, chocolate dipped biscotti, chocolate covered pretzels, chocolate cookies and

			<p>chocolate pastries; chocolate flavourings for beverages, namely hot chocolate and chocolate flavourings for hot or cold coffee beverages; beverages namely coffee namely whole bean coffee, ground coffee and chocolate flavoured coffee beverages</p> <p>Services: (1) Retail store services namely retail store featuring chocolate confections, frozen desserts, chocolate-based baking ingredients, chocolate sauces and spreads, chocolate-based snack foods and cookies, chocolate flavourings for beverages, coffee beans, ground coffee and beverages; cafe services namely cafe serving coffee, tea, beverages, coffee flavoured drinks, tea flavoured drinks, pastries, snacks, chocolate confections, frozen desserts, chocolate-based snack foods and cookies.</p>
<u>United States</u>			
Trademark	Application #	Registration #	Goods and Services
COCOCO	85364066	4848721	Goods/Services: Chocolate confections, namely, chocolate confections filled with fresh creams, butter creams, marzipan,

		<p>ganaches, pralines and liqueurs, solid chocolates, solid molded chocolates, chocolate bars, chocolate wafers, chocolate covered nuts, chocolate covered fruits, chocolate covered coffee beans, chocolate covered ginger, molded chocolate shapes and characters, chocolate cups; frozen desserts namely, ice cream, soft-serve ice cream, frozen malted beverages, namely, milk shakes and milk-based ice cream beverages, gelatos; chocolate-based baking ingredients, namely, solid baking chocolate, cocoa powder, chocolate shavings, chocolate drops, chocolate sprinkles, edible chocolate decorations, chocolate sauces and spreads; chocolate-based snack foods, namely, chocolate dipped biscuits, chocolate dipped biscotti, chocolate covered pretzels, chocolate pastries; chocolate flavorings for beverages, namely, hot chocolate and chocolate flavorings for hot or cold coffee beverages; chocolate flavored coffee beverages; all of the</p>
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			<p>aforesaid goods containing cocoa</p> <p>Goods/Services: Retail store services featuring cocoa, and featuring chocolate confections, frozen desserts, chocolate-based baking ingredients, chocolate sauces and spreads, chocolate-based snack foods and cookies, chocolate flavorings for beverages, coffee beans, ground coffee and beverages</p> <p>Goods/Services: Cafe services, namely, cafe featuring cocoa, and featuring coffee, tea, beverages, coffee flavored drinks, tea flavored drinks, pastries, snacks, chocolate confections, frozen desserts, chocolate-based snack foods and cookies</p>
COCOCO	85364060	4848720	<p>Goods/Services: Chocolate confections, namely, chocolate confections filled with fresh creams, butter creams, marzipan, ganaches, pralines and liqueurs, solid chocolates, solid molded chocolates, chocolate bars, chocolate wafers, chocolate covered nuts, chocolate covered fruits, chocolate covered coffee beans, chocolate covered</p>

			<p>ginger, molded chocolate shapes and characters, chocolate cups; frozen desserts, namely, ice cream, soft-serve ice cream, frozen malted beverages, namely, milk shakes and milk-based ice cream beverages, gelatos; chocolate-based baking ingredients, namely, solid baking chocolate, cocoa powder, chocolate shavings, chocolate drops, chocolate sprinkles, edible chocolate decorations, chocolate sauces and spreads; chocolate-based snack foods, namely, chocolate dipped biscuits, chocolate dipped biscotti, chocolate covered pretzels, chocolate pastries; chocolate flavorings for beverages, namely, hot chocolate and chocolate flavorings for hot or cold coffee beverages; chocolate flavored coffee beverages; all of the aforesaid goods containing cocoa</p> <p>Goods/Services: Retail store services featuring cocoa, and featuring chocolate confections, frozen desserts, chocolate-based baking ingredients, chocolate sauces and spreads,</p>
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			<p>chocolate-based snack foods and cookies, chocolate flavorings for beverages, coffee beans, ground coffee and beverages</p> <p>Goods/Services: Cafe services, namely, cafe featuring cocoa, and featuring coffee, tea, beverages, coffee flavored drinks, tea flavored drinks, pastries, snacks, chocolate confections, frozen desserts, chocolate-based snack foods and cookies</p>
CHOCOLATERIE BERNARD	78509821	3587119	<p>Goods/Services: Retail store services featuring chocolates and chocolate food products; mail order services featuring chocolates and chocolate food products; on-line retail store services featuring chocolates and chocolate food products</p>
CHOCOLATES BY BERNARD	78513997	3554168	<p>Goods/Services: Retail store services featuring chocolates and chocolate food products; mail order services featuring chocolates and chocolate food products; on-line retail store services featuring chocolates and chocolate food products</p>

Domain Names:

- BERNARDC.COM
- bernardcallebaut.com
- chocolate-together.ca
- chocolate-together.com
- chocolateriebernard.com
- CHOCOLATERIEBERNARD.XXX
- chocolateriebernardandsons.com
- CHOCOLATERIEBERNARDC.XXX
- CHOCOLATERIEBERNARDCALLEBAUT.XXX
- CHOCOLATERIECOCOCO.CA
- CHOCOLATERIECOCOCO.COM
- chocolatesbybernard.com
- CHOCOLATESBYBERNARD.XXX
- chocolatesbybernardandsons.com
- CHOCOLATESBYBERNARDCALLEBAUT.XXX
- chocolatetogether.biz
- chocolatetogether.ca
- chocolatetogether.co
- chocolatetogether.com
- chocolatetogether.live
- chocolatetogether.net
- chocolatetogether.org
- COCOCOCHOCLATIERS.COM
- cococochocolate.ca

- cocochocolate.com
- COCOCOCHOCOLATEIRS.COM
- COCOCOCHOCOLATERIE.CA
- COCOCOCHOCOLATERIE.COM
- COCOCOCHOCOLATIER.CA
- COCOCOCHOCOLATIER.COM
- COCOCOCHOCOLATIERS.CA
- COCOCOCHOCOLATIERS.COM
- COCOCOINC.CA
- COCOCOINC.COM
- COCOCOONLINE.CA
- COCOCOONLINE.COM
- COCOCOSTORE.CA
- COCOCOSTORE.COM
- rubycacao.ca
- rubychocolatecanada.ca
- rubychocolatecanada.com
- rubychocolates.ca
- rubychocolatetogether.ca
- rubychocolatetogether.com
- rubycocoa.ca
- rubycouv.ca
- rubycouv.com
- rubycouverture.ca
- rubycouverture.com

- thechocolatetogether.com
- whatischocolate.ca
- chocolateriebernardcallebaut.com

Schedule D – Leases

1. **Calgary Factory Lease:** Lease between 1075397 Alberta Ltd. as landlord and Cococo Chocolatiers Inc. as tenant, as amended (the “**Calgary Factory Lease**”), which may be further particularized as pertaining to the property bearing civic address 2320 – 2nd Avenue SE Calgary, Alberta and legally described as Plan 7810519 Block 5 Lot 2 excepting thereout all mines and minerals, with the original and unamended lease bearing a Commencement Date of January 1, 2016, as amended by Lease Amending Agreement made as of August 3, 2018 between 1075397 Alberta Ltd. and Cococo Chocolatiers Inc., and the letter from the tenant to the landlord exercising its option under section 8(a) of Schedule “D” of the lease, dated August 6, 2019.
2. **First Street Retail Lease:** Lease originally between First Street Equities Inc. as landlord and 1563181 Alberta Ltd. as tenant dated October 19, 2010, as amended (the “**First Street Retail Lease**”), which may be further particularized as pertaining to the property bearing civic address 1313 – 1st Street SE Calgary, Alberta, and having been amended by the Lease Renewal and Amending Agreement dated September 30, 2015 between 13th Avenue SE LP by its general partner 13th Avenue SE GP Inc., as landlord, and Cococo Chocolatiers Inc., as tenant, and by the Rent Repayment Agreement dated March 24, 2021 between 13th Avenue SE LP, by its General Partner 13th Avenue SE GP Inc., as landlord, and Cococo Chocolatiers Inc., as tenant, and including also related documentation pertaining to a pending surrender of the original leased premises and relocation of such premises to a different unit in the same building.
3. **8th Street Retail Lease:** Lease between Northern Horizon Properties Ltd., as landlord, and Cococo Chocolatiers Inc., as tenant, dated November 8, 2012 (the “**8th Street Retail Lease**”) regarding the property bearing civic address 1509 8th Street SW Calgary, Alberta and legally described as Plan A1 Block 111 The Southerly 25 feet of Lots 19 and 20.
4. **Southcentre Retail Lease:** Lease between Oxford Properties Retail Holdings Inc. and Oxford Properties Retail Holdings II Inc., as landlord, and Cococo Chocolatiers Inc., as tenant, dated February 9, 2011, as amended (the “**Southcentre Retail Lease**”), which may be further particularized as pertaining to the property described as Southcentre Mall, Unit 318, Calgary, Alberta, and having been amended by the Lease Extension and Amending Agreement between Oxford Retail Holdings Inc. and Oxford Properties Retail Holdings II Inc., as landlord, and Cococo Chocolatiers Inc., as tenant, dated November 20, 2017, by the letter agreement dated October 28, 2019 between Oxford Properties Retail Holdings Inc. and Oxford Properties Retail Holdings II Inc., as landlord, and Cococo Chocolatiers Inc. O/A Bernard Callebaut, as tenant, by the partly executed Lease Extension and Amending Agreement dated November 27, 2019 between Oxford Properties Retail Holdings Inc. and Oxford Properties Retail Holdings II Inc., as landlord, and Cococo Chocolatiers Inc., as tenant, and by the letter agreement dated January 8, 2021 between Oxford Properties Retail Holdings Inc. and Oxford Properties Retail Holdings II Inc., as landlord, and Cococo Chocolatiers Inc., O/A “Bernard Callebaut”, as tenant.
5. **Southcentre Storage License:** Storage Space Licence Agreement dated March 7, 2018 between Oxford Properties Retail Holdings Inc. and Oxford Properties Retail Holdings II Inc., as licensor, and Cococo Chocolatiers Inc. as licensee (the “**Southcentre Storage License**”).

6. **Signal Hill Retail Lease:** Lease originally between Riotrin Properties Inc., as landlord, and 737861 Alberta Ltd., as tenant, dated ____ November, 1998, as amended (the “**Signal Hill Retail Lease**”), which may be further particularized as pertaining to lands legally described as Plan 961 1831 Block 1 Lot 9, and having been amended by a Lease Amending and Extending Agreement between Riotrin Properties Inc., as landlord, and Chocolaterie Bernard Callebaut Limited Partnership, by its manager partner Chocolaterie Bernard Callebaut, as tenant, dated March 10, 2008, by an Assignment of Lease between Deloitte & Touch Inc., as Receiver, 1563181 Alberta Ltd., as assignee, and Riotrin Properties Inc., as landlord, dated October 25, 2010, by a Lease Amending and Extending Agreement between Riotrin Properties Inc., as landlord, and Cococo Chocolatiers Inc., as tenant, dated May 2, 2013, by a Lease Amending and Extending Agreement between Riotrin Properties Inc., as landlord, and Cococo Chocolatiers Inc (t/a “Chocolaterie Bernard Callebaut”), as tenant, dated January 19, 2018, and by the letter agreement between Riotrin Properties Inc., as landlord, and Cococo Chocolatiers Inc., as tenant, dated November 17, 2020.

7. **Broadmead Retail Lease:** Standard Retail Lease between Grosvenor Canada Limited and ADMNS Broadmead Investment Corporation, as landlord, and Cococo Chocolatiers Inc., as tenant, dated August 1, 2014 regarding Unit #520, Broadmead Village Shopping Centre, 777 Royal Oak Drive, Victoria, British Columbia, as amended by an Extension of Lease Agreement between Grosvenor Canada Limited and ADMNS Broadmead Investment Corporation, as landlord, and Cococo Chocolatiers Inc., as tenant, dated July 22, 2019 and the Letter Agreement between Grosvenor Canada Limited and ADMNS Broadmead and Cococo Chocolatiers Inc. dated September 16, 2020 (the “**Broadmead Retail Lease**”).

Schedule E – Permitted Encumbrances

<u>Registration Number</u>	<u>Secured Party(ies)</u>	<u>Description</u>
14122416142	HSBC BANK CANADA	The entire right, title, claim and interest of the debtor in and to the principal sum, interest and all other monies owing and payable or hereafter owing and payable to the debtor pursuant to the terms of the instrument or instruments described as 329-139452 and the entire right, title, claim and interest of the debtor in and to the said instrument or instruments. And all proceeds including, without limitation, all goods, securities, instruments, documents of title, chattel paper, intangibles and money (all as defined in the Personal Property Security Act, any regulations thereunder and any amendments thereto).
15121015415	CWB NATIONAL LEASING INC	ALL TELEPHONE SYSTEM AND VOIP OF EVERY NATURE OR KIND DESCRIBED IN AGREEMENT NUMBER 2746964, BETWEEN THE SECURED PARTY AND THE DEBTOR, AS AMENDED FROM TIME TO TIME, TOGETHER WITH ALL ATTACHMENTS, ACCESSORIES AND SUBSTITUTIONS.
17090117338	WELLS FARGO EQUIPMENT FINANCE COMPANY	ALL GOODS WHICH ARE PHOTOCOPIERS, MULTIFUNCTION DEVICES, PRINTERS, PRODUCTION PRINTERS, FAX MACHINES, PROJECTORS, VIDEO CONFERENCING, INTERACTIVE WHITEBOARDS, SERVERS, AND SOFTWARE MANUFACTURED, DISTRIBUTED, OR SOLD BY

		<p>RICOH CANADA INC. THE GOODS DESCRIBED HEREIN TOGETHER WITH ALL ATTACHMENTS, ACCESSORIES, ACCESSIONS, REPLACEMENTS, 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, 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 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. (REFERENCE NO. 9931780-001) (FOR INTERNAL USE ONLY) (AS MAY BE AMENDED OR UPDATED FROM TIME TO TIME)</p>
RCAP LEASING INC.	18043034209	ALL OFFICE, COPIER, PRINTER EQUIPMENT FROM TIME TO TIME LEASED BY THE SECURED PARTY TO THE DEBTOR AS DESCRIBED ON LEASES, CONDITIONAL SALES AGREEMENTS AND ANY OTHER FINANCING

		AGREEMENTS ENTERED INTO BETWEEN THE SECURED PARTY AND THE DEBTOR FROM TIME TO TIME AND ANY PROCEEDS THEREOF, TOGETHER WITH ALL REPLACEMENT PARTS, ACCESSORIES AND ATTACHMENTS.
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Schedule F – Sales Process

Annex "B"

Clerk's Stamp:

COURT FILE NUMBER	2101-
COURT	COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL CENTRE	CALGARY
PLAINTIFF	PANTERRA MORTGAGE & FINANCIAL CORPORATION LTD.
DEFENDANTS	COCOCO CHOCOLATIERS INC.
DOCUMENT	<u>RECEIVER'S CLOSING CERTIFICATE</u>
ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT	[]

Recitals

- A. Pursuant to an Order of the Honourable Justice Romaine of the Court of Queen's Bench of Alberta, Judicial District of Calgary (the "**Court**") dated August 18, 2021, Deloitte Restructuring Inc. was appointed as the receiver and manager (the "**Receiver**") of the undertakings property, and assets of Cococo Chocolatiers Inc. (the "**Debtor**").
- B. Pursuant to an Order of the Honourable Justice Romaine of the Court dated August 18, 2021 (the "**Sales Process Order**"), the Court authorized and directed the Receiver to enter into the stalking horse bid (the "**Stalking Horse Bid**") with Panterra Mortgage & Financial Corporation Ltd. (the "**Stalking Horse Bidder**") and conduct the sale process ("**Sale Process**").
- C. The Sale Process Order provides for the vesting of the Purchased Assets in the Stalking Horse Bidder if no Superior Bid is received in the Sale Process or if the Winning Bid and Replacement Winning Bid fail to close.
- D. Unless otherwise indicated herein, capitalized terms have the meanings set out in the Sale Process Order

THE RECEIVER CERTIFIES THE FOLLOWING:

- 1. [No Superior Bid was received.] [The Winning Bid and Replacement Winning Bid failed to close.]
- 2. The nominee of the Purchaser is [].
- 3. The following leases are added to Schedule B – Excluded Assets:
 - a. []

4. The Stalking Horse Bidder has paid, and the Receiver has received, the Purchase Price for the Purchased Assets payable on closing in accordance with the Stalking Horse Bid.
5. The conditions to closing set out in the Stalking Horse Bid have been satisfied or waived by the Stalking Horse Bidder and the Receiver.
6. The transaction contemplated by the Stalking Horse Bid has been completed to the satisfaction of the Receiver.

This certificate was delivered by the Receiver at [TIME] on [DATE].

Deloitte Restructuring Inc., solely in its capacity as Court-appointed receiver and manager of the assets, properties, and undertakings of Cococo Chocolatiers Inc., and not in its personal or corporate capacity

Per: _____

Name:

Annex “C”

“Intellectual Property” meaning:

- (a) in any jurisdiction, all trademarks or trade names, designs, domain names, business names, corporate names, or any other similar names to the foregoing related to the Business owned or controlled by Cococo and any rights, claims and interest therein, or any outstanding or pending applications or rights, claims or interest in respect thereof, and including without restriction: the specific trademarks outlined in the chart below and the domain names outlined in the chart below;
- (b) all manuals and recipes, techniques and procedures of the Business, owned or used by Cococo, as it is presently is or has ever been conducted, as necessary or convenient for the manufacture, storage and distribution of chocolates and related food products from and in the Premises or elsewhere and all information, documentation and data (hard copy or electronic) relating to same, and whether or not such chocolates and related food products are currently being produced from such Premises or not;
- (c) the design, industrial design, or decoration of any packaging or Premises, owned by Cococo and used by the Business, including any likeness or signature used thereon;
- (d) all brands and branding schemes related to the Business owned or controlled by Cococo, including colour schemes, images, videos, slogans, look and feel, and floor plan design;
- (e) all social media accounts related to the Business owned or controlled by Cococo
- (f) all plans, specifications and models relating to the Business including the set up and operation of retail stores or any aspect thereof;
- (g) all copyrights and moral rights therein, as applicable, of any original works related to the Business owned or operated by Cococo;
- (h) technology, computer telecommunications and electronic equipment, devices and apparatus relating to the operation of the Business and owned or operated by Cococo together with all written and electronic manuals and software relating to such operating systems (including all licenses, proprietary rights and rights of use relating to same) which relate to or are necessary for the operation of the Business and which may, without limitation, contain specifications, designs, market research, customer lists, business plans, receipts and general information for the operation of the Business; and,
- (i) all of the systems located on the Premises (including telephone and computer systems and software and security/monitoring systems).

<u>Canada</u>			
Trademark	Application #	Registration #	Goods and Services
HALO GELATO (Word)	1523763	TMA845133	Goods: Gelato
P & DESIGN OF YOUNG BOY (Design)	1319814	TMA702861	Services: Operation of a manufacturing, wholesale and retail establishment selling chocolate
CHOCOLATES BY BERNARD (Word)	1234516	TMA719159	Services: Sale of chocolates and chocolate food products
CHOCOLATERIE BERNARD (Word)	1234470	TMA719023	Services: Sale of chocolate and chocolate food products

<p>CHOCOLATES BY BERNARD CALLEBAUT (Word)</p>	<p>1091732</p>	<p>TMA635554</p>	<p>Goods: Chocolates Services: Operation of a retail establishment selling chocolates</p>
<p>COCOCO (Word)</p>	<p>1530197</p>	<p>TMA847323</p>	<p>Goods: (1)Chocolate confections, namely chocolate confections filled with fresh creams, butter creams, marzipan, ganaches, pralines and liquers, solid chocolates, solid molded chocolates, chocolate bars, chocolate wafers, chocolate covered nuts, chocolate covered fruits, chocolate covered coffee beans, chocolate covered ginger, molded chocolate shapes and characters, chocolate cups; frozen desserts, namely ice cream, soft-serve ice cream, frozen malted beverages, gelatos, chocolate-based baking ingredients namely, solid baking chocolate, cocoa powder, chocolate shavings, chocolate drops, chocolate sprinkles, chocolate decorations, chocolate sauces and spread; chocolate-based snack foods namely, chocolate dipped biscuits, chocolate dipped biscotti, chocolate covered pretzels, chocolate cookies and chocolate pastries; chocolate flavourings</p>

			<p>for beverages, namely hot chocolate and chocolate flavourings for hot or cold coffee beverages</p> <p>(2) Beverages namely coffee namely whole bean coffee, ground coffee and chocolate flavoured coffee beverages</p> <p>Services: (1) Retail store services namely retail store selling chocolate confections, frozen desserts, chocolate-based baking ingredients, chocolate sauces and spreads, chocolate-based snack foods and cookies, chocolate flavourings for beverages, coffee beans, ground coffee and beverages</p> <p>(2) Cafe services namely cafe serving coffee, tea, beverages, coffee flavoured drinks, tea flavoured drinks, pastries, snacks, chocolate confections, frozen desserts, chocolate-based snack foods and cookies</p> <p>(3) Wholesale and distribution of chocolate confections, frozen desserts, chocolate-based baking ingredients, chocolate sauces and spreads, chocolate-based snack foods and cookies, chocolate flavorings for</p>
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			<p>beverages, coffee beans, ground coffee and beverages</p> <p>(4) Retail sale through an internet website of chocolate confections, frozen desserts, chocolate-based baking ingredients, chocolate sauces and spreads, chocolate-based snack foods and cookies, chocolate flavourings for beverages, coffee beans, ground coffee and beverages</p>
TRUFFLE TREASURES (Word)	1399021	TMA790964	<p>Goods: (1) Chocolate</p> <p>(2) Confectionery products, namely, granola, hot chocolate packs, cocoa powder, roasted coaco bags, and sauces, namely, fondue sauces, caramel sauces, and fudge sauces</p> <p>Services: (1) Retail sales of chocolate</p> <p>(2) Retail sales of confectionery items, namely, granola, hot chocolate packs, cocoa powder, roasted cacao bags, and sauces, namely, fondue sauces, caramel sauces, and fudge sauces</p> <p>(3) Retail sales of beverages, namely, coffee, tea, hot chocolate, bottled water, and fruit juices, of baked goods,</p>

			<p>namely, waffles, crepes, pastries, and cookies, and of ice cream and gelato</p> <p>(4) Retail sales of gift items and household items, namely, books, journals, card decks, candles, air diffusers, jewellery, and household decorations made of glass, and of non-electric coffee and tea accessories, namely, ceramic mugs and ceramic tea pots</p> <p>(5) Café services</p> <p>(6) Retail sales of gift items and household items, namely, candle holders, household decorations made of metals, ceramics and wood, tea balls, and ceramic coffee pots</p>
<p>CHOCOLATERIE BERNARD 'C (Word)</p>	<p>0779368</p>	<p>TMA456117</p>	<p>Goods: (1) Chocolates; chocolate confectionery; candy ice cream; cookies; cakes, sauces; chocolate spreads; gift boxes; recipe cards and cookbooks; gift packaging, namely wrapping appear, paper and metallic ribbons and bows and gift cards and chocolate recipes</p> <p>Services: (1) Operation of a business dealing in the sale of chocolates; chocolate confectionery, candy ice cream; cookies;</p>

			<p>cakes, sauces; chocolate spreads; gift boxes; recipe cards and cookbooks; gift packaging, namely wrapping paper, paper and metallic ribbons and bows and gift cards and chocolate recipes</p>
<p>CHOCOLATERIE BERNARD CALLEBAUT (Word)</p>	0655302	TMA391640	<p>Goods: (1) Chocolates, chocolate confectionery, candy, ice cream, cookies, cakes, and related items namely, sauces, spreads, gift boxes, tins and gift packaging, and chocolate recipes and cookbooks</p> <p>Services: (1) Operation of business dealing in the sale of chocolates, confectionery, candy, ice cream, cookies, cakes and related items</p>
<p>GOOD CLEAN FUN (Word)</p>	1668677	TMA964132	<p>Goods: (1) Chocolate confections, namely chocolate confections filled with creams, marizpan, ganaches, pralines and liqueurs, solid chocolates, solid molded chocolates, chocolate bars, chocolate wafers, chocolate covered nuts, chocolate covered fruits, chocolate covered coffee beans, chocolate covered ginger, molded chocolate shapes and characters, chocolate cups; frozen desserts namely, ice cream, soft-serve ice cream, frozen</p>

			<p>malted beverages, gelatos; chocolate-based baking ingredients namely, solid baking chocolate, cocoa powder, cocoa nibs, chocolate shavings, chocolate drops, chocolate sprinkles, chocolate decorations, chocolate sauces and spreads; chocolate-based snack foods namely, chocolate dipped biscuits, chocolate covered pretzels, chocolate cookies and chocolate pastries; chocolate flavourings for beverages, namely hot chocolate and chocolate flavourings for hot or cold coffee beverages; beverages namely chocolate flavoured coffee beverages</p> <p>Services: (1) Retail store services namely retail store featuring chocolate confections, frozen desserts, chocolate-based baking ingredients, chocolate sauces and spreads, chocolate-based snack foods and cookies, chocolate flavourings for beverages, coffee beans, ground coffee and beverages; cafe services namely cafe serving coffee, tea, beverages, coffee flavoured drinks, tea flavoured drinks, pastries, snacks,</p>
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			chocolate confections, frozen desserts, chocolate-based snack foods and cookies; wholesale and distribution of chocolate confections, frozen desserts, chocolate-based baking ingredients, chocolate sauces and spreads, chocolate-based snack foods and cookies, chocolate flavourings for beverage; retail sale through an internet website of chocolate confections, frozen desserts, chocolate-based baking ingredients, chocolate sauces and spreads, chocolate-based snack foods and cookies, chocolate flavourings for beverages, coffee beans, ground coffee and beverages
POD Design (Design)	1646883	TMA909351	Goods: (1) Chocolate confections, namely confections filled with fresh creams, butter creams, marzipan, ganaches, parlins and liquers, solid chocolates, solid molded chocolates, chocolate bars, chocolate wafers, chocolate covered nuts, chocolate covered fruits, chocolate covered coffee beans, chocolate covered ginger, molded chocolate shapes and characters, chocolate

			<p>cups; frozen desserts namely, ice cream, soft-serve ice cream, frozen malted beverages, gelatos; chocolate-based baking ingredients namely, solid baking chocolate, cocoa powder, chocolate shavings, chocolate drops, chocolate sprinkles, chocolate decorations, chocolate sauces and spreads; chocolate-based snack foods namely, chocolate dipped biscuits, chocolate dipped biscotti, chocolate covered pretzels, chocolate cookies and chocolate pastries; chocolate flavourings for beverages, namely hot chocolate and chocolate flavourings for hot or cold coffee beverages; beverages namely coffee namely whole bean coffee, ground coffee and chocolate flavoured coffee beverages</p> <p>Services: (1) Retail store services namely retail store featuring chocolate confections, frozen desserts, chocolate-based baking ingredients, chocolate sauces and spreads, chocolate-based snack foods and cookies, chocolate flavourings for beverages, coffee beans, ground coffee and beverages; cafe</p>
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			services namely cafe serving coffee, tea, beverages, coffee flavoured drinks, tea flavoured drinks, pastries, snacks, chocolate confections, frozen desserts, chocolate-based snack foods and cookies.
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United States

Trademark	Application #	Registration #	Goods and Services
COCOCO	85364066	4848721	Goods/Services: Chocolate confections, namely, chocolate confections filled with fresh creams, butter creams, marzipan, ganaches, pralines and liqueurs, solid chocolates, solid molded chocolates, chocolate bars, chocolate wafers, chocolate covered nuts, chocolate covered fruits, chocolate covered coffee beans, chocolate covered ginger, molded chocolate shapes and characters, chocolate cups; frozen desserts namely, ice cream, soft-serve ice cream, frozen malted beverages, namely, milk shakes and milk-based ice cream beverages, gelatos; chocolate-based baking ingredients, namely, solid baking chocolate, cocoa powder, chocolate shavings, chocolate drops,

			<p>chocolate sprinkles, edible chocolate decorations, chocolate sauces and spreads; chocolate-based snack foods, namely, chocolate dipped biscuits, chocolate dipped biscotti, chocolate covered pretzels, chocolate pastries; chocolate flavorings for beverages, namely, hot chocolate and chocolate flavorings for hot or cold coffee beverages; chocolate flavored coffee beverages; all of the aforesaid goods containing cocoa</p> <p>Goods/Services: Retail store services featuring cocoa, and featuring chocolate confections, frozen desserts, chocolate-based baking ingredients, chocolate sauces and spreads, chocolate-based snack foods and cookies, chocolate flavorings for beverages, coffee beans, ground coffee and beverages</p> <p>Goods/Services: Cafe services, namely, cafe featuring cocoa, and featuring coffee, tea, beverages, coffee flavored drinks, tea flavored drinks, pastries, snacks, chocolate confections, frozen desserts,</p>
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			chocolate-based snack foods and cookies
COCOCO	85364060	4848720	<p>Goods/Services:</p> <p>Chocolate confections, namely, chocolate confections filled with fresh creams, butter creams, marzipan, ganaches, pralines and liqueurs, solid chocolates, solid molded chocolates, chocolate bars, chocolate wafers, chocolate covered nuts, chocolate covered fruits, chocolate covered coffee beans, chocolate covered ginger, molded chocolate shapes and characters, chocolate cups; frozen desserts, namely, ice cream, soft-serve ice cream, frozen malted beverages, namely, milk shakes and milk-based ice cream beverages, gelatos; chocolate-based baking ingredients, namely, solid baking chocolate, cocoa powder, chocolate shavings, chocolate drops, chocolate sprinkles, edible chocolate decorations, chocolate sauces and spreads; chocolate-based snack foods, namely, chocolate dipped biscuits, chocolate dipped biscotti, chocolate covered pretzels, chocolate</p>

			<p>pastries; chocolate flavorings for beverages, namely, hot chocolate and chocolate flavorings for hot or cold coffee beverages; chocolate flavored coffee beverages; all of the aforesaid goods containing cocoa</p> <p>Goods/Services: Retail store services featuring cocoa, and featuring chocolate confections, frozen desserts, chocolate-based baking ingredients, chocolate sauces and spreads, chocolate-based snack foods and cookies, chocolate flavorings for beverages, coffee beans, ground coffee and beverages</p> <p>Goods/Services: Cafe services, namely, cafe featuring cocoa, and featuring coffee, tea, beverages, coffee flavored drinks, tea flavored drinks, pastries, snacks, chocolate confections, frozen desserts, chocolate-based snack foods and cookies</p>
CHOCOLATERIE BERNARD	78509821	3587119	<p>Goods/Services: Retail store services featuring chocolates and chocolate food products; mail order services featuring chocolates and chocolate food products; on-line retail</p>

			store services featuring chocolates and chocolate food products
CHOCOLATES BY BERNARD	78513997	3554168	Goods/Services: Retail store services featuring chocolates and chocolate food products; mail order services featuring chocolates and chocolate food products; on-line retail store services featuring chocolates and chocolate food products

Domain Names:

- BERNARDC.COM
- bernardcallebaut.com
- chocolate-together.ca
- chocolate-together.com
- chocolateriebernard.com
- CHOCOLATERIEBERNARD.XXX
- chocolateriebernardandsons.com
- CHOCOLATERIEBERNARDC.XXX
- CHOCOLATERIEBERNARDCALLEBAUT.XXX
- CHOCOLATERIECOCOCO.CA
- CHOCOLATERIECOCOCO.COM
- chocolatesbybernard.com
- CHOCOLATESBYBERNARD.XXX
- chocolatesbybernardandsons.com
- CHOCOLATESBYBERNARDCALLEBAUT.XXX

- chocolatetogether.biz
- chocolatetogether.ca
- chocolatetogether.co
- chocolatetogether.com
- chocolatetogether.live
- chocolatetogether.net
- chocolatetogether.org
- COCOCOCHOCLATIERS.COM
- cococo-chocolate.ca
- cococo-chocolate.com
- COCOCOCHOCOLATEIRS.COM
- COCOCOCHOCOLATERIE.CA
- COCOCOCHOCOLATERIE.COM
- COCOCOCHOCOLATIER.CA
- COCOCOCHOCOLATIER.COM
- COCOCOCHOCOLATIERS.CA
- COCOCOCHOCOLATIERS.COM
- COCOCOINC.CA
- COCOCOINC.COM
- COCOCOONLINE.CA
- COCOCOONLINE.COM
- COCOCOSTORE.CA
- COCOCOSTORE.COM
- rubycacao.ca
- rubychocolatecanada.ca
- rubychocolatecanada.com

- rubychocolates.ca
- rubychocolatetogether.ca
- rubychocolatetogether.com
- rubycocoa.ca
- rubycouv.ca
- rubycouv.com
- rubycouverture.ca
- rubycouverture.com
- thechocolatetogether.com
- whatischocolate.ca
- chocolateriebernardcallebaut.com

Annex "D"

Permitted Encumbrances

<u>Registration Number</u>	<u>Secured Party(ies)</u>	<u>Description</u>
14122416142	HSBC BANK CANADA	The entire right, title, claim and interest of the debtor in and to the principal sum, interest and all other monies owing and payable or hereafter owing and payable to the debtor pursuant to the terms of the instrument or instruments described as 329-139452 and the entire right, title, claim and interest of the debtor in and to the said instrument or instruments. And all proceeds including, without limitation, all goods, securities, instruments, documents of title, chattel paper, intangibles and money (all as defined in the Personal Property Security Act, any regulations thereunder and any amendments thereto).
15121015415	CWB NATIONAL LEASING INC	ALL TELEPHONE SYSTEM AND VOIP OF EVERY NATURE OR KIND DESCRIBED IN AGREEMENT NUMBER 2746964, BETWEEN THE SECURED PARTY AND THE DEBTOR, AS AMENDED FROM TIME TO TIME, TOGETHER WITH ALL ATTACHMENTS, ACCESSORIES AND SUBSTITUTIONS.
17090117338	WELLS FARGO EQUIPMENT FINANCE COMPANY	ALL GOODS WHICH ARE PHOTOCOPIERS, MULTIFUNCTION DEVICES, PRINTERS, PRODUCTION PRINTERS, FAX MACHINES, PROJECTORS, VIDEO CONFERENCING, INTERACTIVE WHITEBOARDS, SERVERS, AND SOFTWARE MANUFACTURED, DISTRIBUTED, OR SOLD BY

		<p>RICOH CANADA INC. THE GOODS DESCRIBED HEREIN TOGETHER WITH ALL ATTACHMENTS, ACCESSORIES, ACCESSIONS, REPLACEMENTS, 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, 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 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. (REFERENCE NO. 9931780-001) (FOR INTERNAL USE ONLY) (AS MAY BE AMENDED OR UPDATED FROM TIME TO TIME)</p>
18043034209	RCAP LEASING INC.	<p>ALL OFFICE, COPIER, PRINTER EQUIPMENT FROM TIME TO TIME LEASED BY THE SECURED PARTY TO THE DEBTOR AS DESCRIBED ON LEASES, CONDITIONAL SALES AGREEMENTS AND</p>

		ANY OTHER FINANCING AGREEMENTS ENTERED INTO BETWEEN THE SECURED PARTY AND THE DEBTOR FROM TIME TO TIME AND ANY PROCEEDS THEREOF, TOGETHER WITH ALL REPLACEMENT PARTS, ACCESSORIES AND ATTACHMENTS.
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