

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>APPLICATION</u>
ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT	Dentons Canada LLP Bankers Court 15th Floor, 850 - 2nd Street S.W. Calgary, Alberta T2P 0R8 Attention: David Mann QC / John Regush Ph. (403) 268-7097 / 7086 Fx. (403) 268-3100 File No.: 562129-3

NOTICE TO RESPONDENTS: Service List attached as Schedule "A"

This application is made against you. You are a respondent.

You have the right to state your side of this matter before the Judge.

To do so, you must be in Court when the application is heard as shown below:

Date: August 18, 2021
Time: 3:00 p.m.
Where: Calgary Courts Centre
601 5th St SW
Calgary, AB T2P 5P7
Via Web-Ex – See Schedule "B"
Before Whom: The Honourable Justice Romaine

Go to the end of this document to see what you can do and when you must do it.

REMEDY CLAIMED OR SOUGHT:

1. Panterra Mortgage & Financial Corporation Ltd. (the “**Lender**”) respectfully seeks:
 - (a) an Order, substantially in the form attached as Schedule “C” hereto (the “**Receivership Order**”):
 - (i) declaring that the time for service of this Application be abridged, that this Application is properly returnable, and that further service of the Application be dispensed with; and
 - (ii) appointing Deloitte Restructuring Inc. (“**Deloitte**”), as receiver and manager (the “**Receiver**”) of all of the assets, undertakings, and properties of Cococo Chocolatiers Inc. (“**Cococo**”) pursuant to section 243 of the *Bankruptcy and Insolvency Act*, RSC 1985 c B-3 and section 13 of the *Judicature Act*, RSA 2000 c J-2;
 - (b) an Order, substantially in the form attached as Schedule “D” hereto (the “**Sale Process Order**”):
 - (i) declaring that the time for service of this Application be abridged, that this Application is properly returnable, and that further service of the Application be dispensed with;
 - (ii) approving the sale process (the “**Sale Process**”);
 - (iii) approving the Stalking Horse Bid (as defined in the Sale Process Order);
 - (iv) providing for the vesting of the assets purchased by the Stalking Horse Bid in the Lender if no superior offers are obtained or superior offers do not close in the Sale Process; and
 - (c) such further and other relief as this Honourable Court may deem just and appropriate.

GROUND FOR MAKING THIS APPLICATION:

Loan Agreement and Security

2. Cococo is indebted to the Lender pursuant to certain loan obligations and related security acquired by the Lender pursuant to an assignment of indebtedness, as amended and rectified (the “**Assignment**”).
3. Additionally, the Lender made available to Cococo certain credit facilities pursuant to a loan agreement dated September 15, 2017 (the “**2017 Operating Loan Agreement**”, collectively with the indebtedness acquired by the Assignment Agreement, the “**Loans**”).

4. In addition to other security held by the Lender, pursuant to a general security agreement dated September 15, 2017 (the "**GSA**") Cococo granted the Lender, among other things, a security interest in all of its present and after acquired personal property and a floating charge over all of its real property, in each case securing repayment of all obligations and liability of Cococo to the Lender.

Default and Demand

5. Amounts advanced to Cococo under the Loans are payable on demand by the Lender or have matured.
6. On July 27, 2021, the Lender, through its legal counsel, issued a demand letter to Cococo for payment of all amounts outstanding to the Lender (the "**Demand Letter**"). The Demand Letter was accompanied with a Notice of Intention to Enforce Security pursuant to subsection 244 of the *Bankruptcy and Insolvency Act*, RSC 1985 c B-3 ("**NOI**").
7. Despite delivery of the Demand Letter and NOI, Cococo has failed or neglected to pay, and continues to fail or neglect to pay the Indebtedness (as defined herein) to the Lender.
8. As of August 11, 2021, the total indebtedness due and owing to the Lender by Cococo exceeds \$10.6 Million, plus all accruing interest, fees and expenses (collectively, the "**Indebtedness**").

Appointment of Receiver

9. The Lender is entitled under its security to appoint a receiver and manager over Cococo.
10. The Lender is the fulcrum creditor in these proceedings.
11. Absent additional borrowings Cococo will shortly run out of funds necessary for its operations. The Lender is unwilling to continue to loan monies to Cococo in the current circumstances, nor is it agreeable to Cococo obtaining financing that would take priority over its security.
12. There is presently an intractable shareholder dispute in respect of Cococo, such that the ability of Cococo to effectively continue operations is in doubt.
13. In the circumstances, there is tremendous uncertainty regarding the operations of Cococo and the Lender's collateral is in jeopardy.
14. The appointment of a receiver and manager over the assets of Cococo is necessary, just and convenient in order to protect the interests of the Lender, and to preserve and realize upon the assets in order to recover the Indebtedness.

15. Deloitte has consented to act as receiver and manager should the Court so appoint it.

Stalking Horse Bid and Sale Process

16. The Lender is the fulcrum creditor, and has determined that the process most likely to maximize realizations of the property of Cococo is for the Lender to put forward a credit bid, and for that bid to serve as a stalking horse bid in a sales process to be conducted by the Receiver.
17. For reasons of efficiency and economy, this Honourable Court should issue an order that provides for vesting of assets in the Lender in accordance with the terms of the Stalking Horse Bid, without the necessity of further Court appearance, should no superior bids be received in the Sale Process or should superior bids received fail to close.
18. Such further and other grounds as counsel may advise and this Honourable Court may permit.

MATERIAL OR EVIDENCE TO BE RELIED ON:

19. The Affidavit of Brian Beck sworn August 11, 2021, to be filed.
20. A Pre-Filing Report of the Receiver, to be filed.
21. The pleadings and proceedings herein.
22. Such further and other material or evidence as counsel may advise and this Honourable Court may permit.

APPLICABLE RULES:

23. *Alberta Rules of Court*, Alta Reg 124/2010.
24. *Bankruptcy and Insolvency General Rules*, CRC, c 368.
25. Such further and other Rules as counsel may advise and this Honourable Court may permit.

APPLICABLE ACTS AND REGULATIONS:

26. *Bankruptcy and Insolvency Act*, RSC 1985 c B-3.
27. *Judicature Act*, RSA 2000 c J-2.
28. Such further and other Acts and Regulations as counsel may advise and this Honourable Court may permit.

HOW THE APPLICATION IS PROPOSED TO BE HEARD OR CONSIDERED:

29. Via Web-Ex, before the presiding Justice in Chambers sitting on the Commercial List.

WARNING

If you do not come to Court either in person or by your lawyer, the Court may give the applicant what it wants in your absence. You will be bound by any order that the Court makes. If you want to take part in this application, you or your lawyer must attend in Court on the date and time shown at the beginning of the form. If you intend to rely on an affidavit or other evidence when the application is heard or considered, you must reply by giving reasonable notice of the material to the applicant.

Schedule "A" to the Application

<u>Party</u>	<u>Contact Information</u>	<u>Status</u>	<u>Method of Service</u>
Cococo Chocolatiers Inc.	2320 2 Avenue SE Calgary, Alberta T2E 6J9 bbeck@cococoinc.com	Debtor	Courier and Email
Panterra Mortgage & Financial Corporation Ltd. Attn: Brian Beck	brianbeck@glbh.com	Secured Creditor	Email
Dentons Canada LLP Attn: David Mann, QC and John Regush	david.mann@dentons.com john.regush@dentons.com	Counsel to Panterra Mortgage & Financial Corporation Ltd.	Email
Deloitte Restructuring Inc. Attn: Bob Taylor and Naomi McGregor	bobtaylor@deloitte.ca naomcgregor@deloitte.ca	Proposed Receiver	Email
Torys LLP Attn: Kyle Kashuba and Jessie Mann	kkashuba@torys.com jmann@torys.com	Counsel to Proposed Receiver	Email
261820 Alberta Ltd.	5505 6TH STREET SE CALGARY, AB T2H 1L6	PPR Registrant	Courier
Bankers Hall LP, BCIMC Realty Corporation, Bankers Hall GP Inc., and Bankers Hall GP Trust	c/o Brookfield Office Properties Management LP 335 - 8 AVENUE SW - SUITE 1700 CALGARY, AB T2P 1C9 Attention: Law Department	PPR Registrants	Courier
HSBC Bank Canada	407 8TH AVENUE SW CALGARY, AB T2P 1E5	PPR Registrant	Courier

CWB NATIONAL LEASING INC.	1525 BUFFALO PLACE WINNIPEG, MB R3T 1L9 Fax #: 204 954 9099	PPR Registrant	Courier
Wells Fargo Equipment Finance Company	1290 CENTRAL PARKWAY W. SUITE 1100 MISSISSAUGA, ON L5C 4R3	PPR Registrant	Courier
RCAP Leasing Inc.	5575 NORTH SERVICE RD, STE 300 BURLINGTON, ON L7L 6M1	PPR Registrant	Courier
RCAP Leasing Inc.	300-5575 NORTH SERVICE RD, BURLINGTON, ON L7L 6M1	PPR Registrant	Courier
Canada Revenue Agency	c/o Surrey National Verification and Collections Centre 9755 King George Boulevard Surrey BC V3T 5E1	Canada Revenue Agency	Courier
1075397 Alberta Ltd.	220 - 19th Street SE Calgary, Alberta	Landlord	Courier
13th Avenue SE LP / 13th Avenue SE GP Inc.	c/o MDC Property Services Ltd. Suite 200, 1029 - 17th Avenue SW Calgary, AB T2T 0A9	Landlord	Courier
Northern Horizon Properties Ltd.	Suite 1900, 333 7th Avenue SW Calgary, Alberta T2P 2Z1	Landlord	Courier
Oxford Properties Retail Holdings Inc.	Royal Bank Plaza, North Tower 200 Bay Street, Suite 900 Toronto, Ontario M5J 2J2	Landlord	Courier

and Oxford Properties Retail Holdings II Inc.	Attention: Real Estate Management Legal Services Department		
Bankers Hall LP and bcIMC Realty Corporation	c/o Brookfield Properties Canada Management LP Suite 1700, 335 - 8th Avenue SW Calgary, Alberta T2P 1C9 Attention: Law Department	Landlord	Courier
Riotrin Properties Inc.	c/o Trinity Development Group Inc. 222 Somerset Street West, Suite 401 Ottawa, Ontario K2P 2G3	Landlord	Courier
Riotrin Properties Inc.	RioCan Real Estate Investment Trust The Exchange Tower Suite 1310 2 First Canadian Place Toronto, Ontario M5X 1E3 Attention: President	Landlord	Courier
Grosvenor Canada Limited and ADMNS Broadmead Investment Corporation	Suite 2000 -1040 West Georgia Street Vancouver, British Columbia V6E 4H1 Attention: The President	Landlord	Courier
Town Properties Ltd.	c/o Equitex Realty Ltd. 5th Floor - 707 Fort Street Victoria, BC V8W 3G3	Landlord	Courier

Schedule "B" to the Application

Counsel: Please ensure that all relevant parties have received Webex information.

Virtual Courtroom 60 has been assigned for the above noted matter:

Virtual Courtroom Link:

<https://albertacourts.webex.com/meet/virtual.courtroom60>

Instructions for Connecting to the Meeting

1. Click on the link above or open up Chrome or Firefox and cut and paste it into your browser address bar.
2. If you do not have the Cisco Webex application already installed on your device, the site will have a button to install it. Follow installation instructions. Enter your full name and email address when prompted
3. Click on the **Open Cisco Webex Meeting**.
4. You will see a preview screen. Click on **Join Meeting**.

Key considerations for those attending:

1. Please connect to the courtroom **15 minutes prior** to the start of the hearing.
2. Please ensure that your microphone is muted and remains muted for the duration of the proceeding, unless you are speaking. Ensure that you state your name each time you speak.
3. If bandwidth becomes an issue, some participants may be asked to turn off their video and participate by audio only.
- 4. Note: Recording or rebroadcasting of the video is prohibited.**
- 5. Note: It is highly recommended you use headphones with a microphone or a headset when using Webex. This prevents feedback.**

If you are a non-lawyer attending this hearing remotely, **you must** complete the undertaking located here: <https://www.albertacourts.ca/qb/resources/announcements/undertaking-and-agreement-for-non-lawyers>

For more information relating to Webex protocols and procedures, please visit:

<https://www.albertacourts.ca/qb/court-operations-schedules/webex-remote-hearings-protocol>

You can also join the meeting via the "Cisco Webex Meetings" App on your smartphone/tablet or other smart device. You can download this via the App marketplace and join via the link provided above.

Thank you,

Schedule "C" to the Application

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>RECEIVERSHIP ORDER</u>
ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT	Dentons Canada LLP Bankers Court 15th Floor, 850 - 2nd Street S.W. Calgary, Alberta T2P 0R8 Attention: David Mann QC / John Regush Ph. (403) 268-7097 / 7086 Fx. (403) 268-3100 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**") in respect of Cococo Chocolatiers Inc. (the "**Debtor**"); **AND UPON** having read the Application, the Affidavit of Brian Beck sworn August 11, 2021; and the Affidavit of Service of _____; **AND UPON** reading the consent of Deloitte Restructuring Inc. to act as receiver and manager ("**Receiver**") of the Debtor, to be filed; **AND UPON** hearing counsel for the Lender, and such other parties as made submissions on their own behalf or through counsel;

IT IS HEREBY ORDERED AND DECLARED THAT:

SERVICE

1. The time for service of the notice of application for this order (the "**Order**") is hereby abridged and deemed good and sufficient and this application is properly returnable today

APPOINTMENT

2. Pursuant to section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3 ("**BIA**") and section 13(2) of the *Judicature Act*, R.S.A. 2000, c.J-2, Deloitte Restructuring Inc. is hereby

appointed Receiver, without security, of all of the Debtor's current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate, including all proceeds thereof (the "**Property**").

RECEIVER'S POWERS

3. The Receiver is hereby empowered and authorized, but not obligated, to act at once in respect of the Property and, without in any way limiting the generality of the foregoing, the Receiver is hereby expressly empowered and authorized to do any of the following where the Receiver considers it necessary or desirable:
 - (a) to take possession of and exercise control over the Property and any and all proceeds, receipts and disbursements arising out of or from the Property;
 - (b) to receive, preserve and protect the Property, or any part or parts thereof, including, but not limited to, the changing of locks and security codes, the relocating of Property to safeguard it, the engaging of independent security personnel, the taking of physical inventories and the placement of such insurance coverage as may be necessary or desirable;
 - (c) to manage, operate and carry on the business of the Debtor, including the powers to enter into any agreements, incur any obligations in the ordinary course of business, cease to carry on all or any part of the business, or cease to perform any contracts of the Debtor;
 - (d) to engage consultants, appraisers, agents, experts, auditors, accountants, managers, counsel and such other persons from time to time and on whatever basis, including on a temporary basis, to assist with the exercise of the Receiver's powers and duties, including without limitation those conferred by this Order;
 - (e) to purchase or lease machinery, equipment, inventories, supplies, premises or other assets to continue the business of the Debtor or any part or parts thereof;
 - (f) to receive and collect all monies and accounts now owed or hereafter owing to the Debtor and to exercise all remedies of the Debtor in collecting such monies, including, without limitation, to enforce any security held by the Debtor;
 - (g) to settle, extend or compromise any indebtedness owing to or by the Debtor;
 - (h) to execute, assign, issue and endorse documents of whatever nature in respect of any of the Property, whether in the Receiver's name or in the name and on behalf of the Debtor, for any purpose pursuant to this Order;
 - (i) to undertake environmental or workers' health and safety assessments of the Property and operations of the Debtor;
 - (j) to initiate, prosecute and continue the prosecution of any and all proceedings and to defend all proceedings now pending or hereafter instituted with respect to the Debtor, the Property or the Receiver, and to settle or compromise any such proceedings. The authority hereby conveyed shall extend to such appeals or applications for judicial review

in respect of any order or judgment pronounced in any such proceeding, and provided further that nothing in this Order shall authorize the Receiver to defend or settle the action in which this Order is made unless otherwise directed by this Court;

- (k) to market any or all the Property, including advertising and soliciting offers in respect of the Property or any part or parts thereof and negotiating such terms and conditions of sale as the Receiver in its discretion may deem appropriate;
- (l) to sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business:
 - (i) without the approval of this Court in respect of any transaction not exceeding \$100,000, provided that the aggregate consideration for all such transactions does not exceed \$500,000; and
 - (ii) with the approval of this Court in respect of any transaction in which the purchase price or the aggregate purchase price exceeds the applicable amount set out in the preceding clause,

and in each such case notice under subsection 60(8) of the *Personal Property Security Act*, R.S.A. 2000, c. P-7 or any other similar legislation in any other province or territory shall not be required;

- (m) to apply for any vesting order or other orders (including, without limitation, confidentiality or sealing orders) necessary to convey the Property or any part or parts thereof to a purchaser or purchasers thereof, free and clear of any liens or encumbrances affecting such Property;
- (n) to report to, meet with and discuss with such affected Persons (as defined below) as the Receiver deems appropriate all matters relating to the Property and the receivership, and to share information, subject to such terms as to confidentiality as the Receiver deems advisable;
- (o) to register a copy of this Order and any other orders in respect of the Property against title to any of the Property, and when submitted by the Receiver for registration this Order shall be immediately registered by the Registrar of Land Titles of Alberta, or any other similar government authority, notwithstanding Section 191 of the *Land Titles Act*, RSA 2000, c. L-4, or the provisions of any other similar legislation in any other province or territory, and notwithstanding that the appeal period in respect of this Order has not elapsed and the Registrar of Land Titles shall accept all Affidavits of Corporate Signing Authority submitted by the Receiver in its capacity as Receiver of the Debtor and not in its personal capacity;
- (p) to apply for any permits, licences, approvals or permissions as may be required by any governmental authority and any renewals thereof for and on behalf of and, if thought desirable by the Receiver, in the name of the Debtor;
- (q) to enter into agreements with any trustee in bankruptcy appointed in respect of the Debtor, including, without limiting the generality of the foregoing, the ability to enter into occupation agreements for any property owned or leased by the Debtor;

- (r) to retain for the unexpired term, assign, surrender, renegotiate, or terminate any lease or agreement related to the Property;
- (s) to collect the rents, profits and other receipts arising from the Property or any part thereof;
- (t) to exercise any shareholder, partnership, joint venture or other rights which the Debtor may have;
- (u) to assign the Debtor into bankruptcy; and
- (v) to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations;

and in each case where the Receiver takes any such actions or steps, it shall be exclusively authorized and empowered to do so, to the exclusion of all other Persons, including the Debtor, and without interference from any other Person, (as defined below).

DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE RECEIVER

4. (i) The Debtor, (ii) all of its current and former directors, officers, employees, agents, accountants, legal counsel and shareholders, and all other persons acting on its instructions or behalf, and (iii) all other individuals, firms, corporations, governmental bodies or agencies, or other entities having notice of this Order (all of the foregoing, collectively, being "**Persons**" and each being a "**Person**") shall forthwith advise the Receiver of the existence of any Property in such Person's possession or control, shall grant immediate and continued access to the Property to the Receiver, and shall deliver all such Property (excluding Property subject to liens the validity of which is dependent on maintaining possession) to the Receiver upon the Receiver's request.
5. All Persons shall forthwith advise the Receiver of the existence of any books, documents, securities, contracts, orders, corporate and accounting records, and any other papers, records and information of any kind related to the business or affairs of the Debtor, and any computer programs, computer tapes, computer disks, or other data storage media containing any such information (the foregoing, collectively, the "**Records**") in that Person's possession or control, and shall provide to the Receiver or permit the Receiver to make, retain and take away copies thereof and grant to the Receiver unfettered access to and use of accounting, computer, software and physical facilities relating thereto, provided however that nothing in this paragraph or in paragraph 6 of this Order shall require the delivery of Records, or the granting of access to Records, which may not be disclosed or provided to the Receiver due to the privilege attaching to solicitor-client communication or documents prepared in contemplation of litigation or due to statutory provisions prohibiting such disclosure.
6. If any Records are stored or otherwise contained on a computer or other electronic system of information storage, whether by independent service provider or otherwise, all Persons in possession or control of such Records shall forthwith give unfettered access to the Receiver for the purpose of allowing the Receiver to recover and fully copy all of the information contained therein whether by way of printing the information onto paper or making copies of computer disks or such other manner of retrieving and copying the information as the Receiver in its discretion deems expedient, and shall not alter, erase or destroy any Records without the prior written

consent of the Receiver. Further, for the purposes of this paragraph, all Persons shall provide the Receiver with all such assistance in gaining immediate access to the information in the Records as the Receiver may in its discretion require including providing the Receiver with instructions on the use of any computer or other system and providing the Receiver with any and all access codes, account names and account numbers that may be required to gain access to the information.

NO PROCEEDINGS AGAINST THE RECEIVER

7. No proceeding or enforcement process in any court or tribunal (each, a “**Proceeding**”), shall be commenced or continued against the Receiver except with the written consent of the Receiver or with leave of this Court.

NO PROCEEDINGS AGAINST THE DEBTOR OR THE PROPERTY

8. No Proceeding against or in respect of the Debtor or the Property shall be commenced or continued except with the written consent of the Receiver or with leave of this Court and any and all Proceedings currently under way against or in respect of the Debtor or the Property are hereby stayed and suspended pending further Order of this Court, provided, however, that nothing in this Order shall: (i) prevent any Person from commencing a proceeding regarding a claim that might otherwise become barred by statute or an existing agreement if such proceeding is not commenced before the expiration of the stay provided by this paragraph 8; and (ii) affect a Regulatory Body's investigation in respect of the Debtor or an action, suit or proceeding that is taken in respect of the Debtor by or before the Regulatory Body, other than the enforcement of a payment order by the Regulatory Body or the Court. “**Regulatory Body**” means a person or body that has powers, duties or functions relating to the enforcement or administration of an Act of Parliament or of the legislature of a Province.

NO EXERCISE OF RIGHTS OR REMEDIES

9. All rights and remedies of any Person, whether judicial or extra judicial, statutory or non-statutory (including, without limitation, set-off rights) against or in respect of the Debtor or, the Receiver, or affecting the Property, are hereby stayed and suspended and shall not be commenced, proceeded with or continued except leave of this Court provided, however, that nothing in this Order shall:
 - (a) empower the Debtor to carry on any business that the Debtor is not lawfully entitled to carry on;
 - (b) prevent the filing of any registration to preserve or perfect a security interest;
 - (c) prevent the registration of a claim for lien; or
 - (d) exempt the Debtor from compliance with statutory or regulatory provisions relating to health, safety or the environment.
10. Nothing in this Order shall prevent any party from taking an action against the Debtor where such an action must be taken in order to comply with statutory time limitations in order to preserve their rights at law, provided that no further steps shall be taken by such party except in accordance

with the other provisions of this Order, and notice in writing of such action be given to the Receiver at the first available opportunity.

NO INTERFERENCE WITH THE RECEIVER

11. No Person shall accelerate, suspend, discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by the Debtor, except with the written consent of the Receiver or leave of this Court. Nothing in this Order shall prohibit any party to an eligible financial contract (as defined in the BIA) from closing out and terminating such contract in accordance with its terms.

CONTINUATION OF SERVICES

12. All persons having:
 - (a) statutory or regulatory mandates for the supply of goods and/or services; or
 - (b) oral or written agreements or arrangements with the Debtor, including without limitation all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation, services, utility or other services to the Debtor;

are hereby restrained until further order of this Court from discontinuing, altering, interfering with, suspending or terminating the supply of such goods or services as may be required by the Receiver or exercising any other remedy provided under such agreements or arrangements. The Receiver shall be entitled to the continued use of the Debtor's current premises, telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the usual prices or charges for all such goods or services received after the date of this Order are paid by the Receiver in accordance with the payment practices of the Debtor, or such other practices as may be agreed upon by the supplier or service provider and the Receiver, or as may be ordered by this Court.

RECEIVER TO HOLD FUNDS

13. All funds, monies, cheques, instruments, and other forms of payments received or collected by the Receiver from and after the making of this Order from any source whatsoever, including without limitation the sale of all or any of the Property and the collection of any accounts receivable in whole or in part, whether in existence on the date of this Order or hereafter coming into existence, shall be deposited into one or more new accounts to be opened by the Receiver (the "**Post Receivership Accounts**") and the monies standing to the credit of such Post Receivership Accounts from time to time, net of any disbursements provided for herein, shall be held by the Receiver to be paid in accordance with the terms of this Order or any further order of this Court.

EMPLOYEES

14. Subject to employees' rights to terminate their employment, all employees of the Debtor shall remain the employees of the Debtor until such time as the Receiver, on the Debtor's behalf, may terminate the employment of such employees. The Receiver shall not be liable for any employee-related liabilities, including any successor employer liabilities as provided for in section

14.06(1.2) of the BIA, other than such amounts as the Receiver may specifically agree in writing to pay, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*, S.C. 2005, c.47 (“**WEPPA**”).

15. Pursuant to clause 7(3)(c) of the *Personal Information Protection and Electronic Documents Act*, S.C. 2000, c. 5, the Receiver shall disclose personal information of identifiable individuals to prospective purchasers or bidders for the Property and to their advisors, but only to the extent desirable or required to negotiate and attempt to complete one or more sales of the Property (each, a “**Sale**”). Each prospective purchaser or bidder to whom such personal information is disclosed shall maintain and protect the privacy of such information and limit the use of such information to its evaluation of the Sale, and if it does not complete a Sale, shall return all such information to the Receiver, or in the alternative destroy all such information. The purchaser of any Property shall be entitled to continue to use the personal information provided to it, and related to the Property purchased, in a manner which is in all material respects identical to the prior use of such information by the Debtor, and shall return all other personal information to the Receiver, or ensure that all other personal information is destroyed.

LIMITATION ON ENVIRONMENTAL LIABILITIES

16. (a) Notwithstanding anything in any federal or provincial law, the Receiver is not personally liable in that position for any environmental condition that arose or environmental damage that occurred:
- (i) before the Receiver's appointment; or
 - (ii) after the Receiver's appointment unless it is established that the condition arose or the damage occurred as a result of the Receiver's gross negligence or wilful misconduct.
- (b) Nothing in sub-paragraph 16 exempts a Receiver from any duty to report or make disclosure imposed by a law referred to in that sub-paragraph.
- (c) Notwithstanding anything in any federal or provincial law, but subject to sub-paragraph 16 hereof, where an order is made which has the effect of requiring the Receiver to remedy any environmental condition or environmental damage affecting the Property, the Receiver is not personally liable for failure to comply with the order, and is not personally liable for any costs that are or would be incurred by any person in carrying out the terms of the order,
- (i) if, within such time as is specified in the order, within 10 days after the order is made if no time is so specified, within 10 days after the appointment of the Receiver, if the order is in effect when the Receiver is appointed, or during the period of the stay referred to in clause (ii) below, the Receiver:
 - A. complies with the order, or

- B. on notice to the person who issued the order, abandons, disposes of or otherwise releases any interest in any real property affected by the condition or damage;
- (ii) during the period of a stay of the order granted, on application made within the time specified in the order referred to in clause (i) above, within 10 days after the order is made or within 10 days after the appointment of the Receiver, if the order is in effect when the Receiver is appointed, by,
 - A. the court or body having jurisdiction under the law pursuant to which the order was made to enable the Receiver to contest the order; or
 - B. the court having jurisdiction in bankruptcy for the purposes of assessing the economic viability of complying with the order; or
- (iii) if the Receiver had, before the order was made, abandoned or renounced or been divested of any interest in any real property affected by the condition or damage.

LIMITATION ON THE RECEIVER'S LIABILITY

- 17. Except for gross negligence or wilful misconduct, as a result of its appointment or carrying out the provisions of this Order the Receiver shall incur no liability or obligation that exceeds an amount for which it may obtain full indemnity from the Property. Nothing in this Order shall derogate from any limitation on liability or other protection afforded to the Receiver under any applicable law, including, without limitation, Section 14.06, 81.4(5) or 81.6(3) of the BIA.

RECEIVER'S ACCOUNTS

- 18. The Receiver and counsel to the Receiver shall be paid their reasonable fees and disbursements, in each case, incurred at their standard rates and charges. The Receiver and counsel to the Receiver shall be entitled to the benefits of and are hereby granted a charge (the "**Receiver's Charge**") on the Property, as security for their professional fees and disbursements incurred at the normal rates and charges of the Receiver and such counsel, both before and after the making of this Order in respect of these proceedings, and the Receiver's Charge shall form a first charge on the Property in priority to all security interests, trusts, deemed trusts liens, charges and encumbrances, statutory or otherwise, in favour of any Person but subject to section 14.06(7), 81.4(4) and 81.6(2) of the BIA.
- 19. The Receiver and its legal counsel shall pass their accounts from time to time.
- 20. Prior to the passing of its accounts, the Receiver shall be at liberty from time to time to apply reasonable amounts, out of the monies in its hands, against its fees and disbursements, including the legal fees and disbursements, incurred at the normal rates and charges of the Receiver or its counsel, and such amounts shall constitute advances against its remuneration and disbursements when and as approved by this Court.

FUNDING OF THE RECEIVERSHIP

21. The Receiver is at liberty and it is hereby empowered to borrow by way of a revolving credit or otherwise, such monies from time to time as it may consider necessary or desirable, provided that the outstanding principal amount does not exceed \$400,000 (or such greater amount as this Court may by further order authorize) at any time, at such rate or rates of interest as it deems advisable for such period or periods of time as it may arrange, for the purpose of funding the exercise of the powers and duties conferred upon the Receiver by this Order, including interim expenditures. The whole of the Property shall be and is hereby charged by way of a fixed and specific charge (the "**Receiver's Borrowings Charge**") as security for the payment of the monies borrowed, together with interest and charges thereon, in priority to all security interests, trusts, deemed trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subordinate in priority to the Receiver's Charge and the charges set out in sections 14.06(7), 81.4(4) and 81.6(2) of the BIA.
22. Neither the Receiver's Borrowings Charge nor any other security granted by the Receiver in connection with its borrowings under this Order shall be enforced without leave of this Court.
23. The Receiver is at liberty and authorized to issue certificates substantially in the form annexed as Schedule "A" hereto (the "**Receiver's Certificates**") for any amount borrowed by it pursuant to this Order.
24. The monies from time to time borrowed by the Receiver pursuant to this Order or any further order of this Court and any and all Receiver's Certificates evidencing the same or any part thereof shall rank on a *pari passu* basis, unless otherwise agreed to by the holders of any prior issued Receiver's Certificates.
25. The Receiver shall be allowed to repay any amounts borrowed by way of Receiver's Certificates out of the Property or any proceeds, including any proceeds from the sale of any assets without further approval of this Court.

ALLOCATION

26. Any interested party may apply to this Court on notice to any other party likely to be affected, for an order allocating the Receiver's Charge and Receiver's Borrowings Charge amongst the various assets comprising the Property.

GENERAL

27. The Receiver may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.
28. Notwithstanding Rule 6.11 of the *Alberta Rules of Court*, unless otherwise ordered by this Court, the Receiver will report to the Court from time to time, which reporting is not required to be in affidavit form and shall be considered by this Court as evidence. The Receiver's reports shall be filed by the Court Clerk notwithstanding that they do not include an original signature.
29. Nothing in this Order shall prevent the Receiver from acting as a trustee in bankruptcy of the Debtor.

30. This Court hereby requests the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in any foreign jurisdiction to give effect to this Order and to assist the Receiver and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Receiver in any foreign proceeding, or to assist the Receiver and its agents in carrying out the terms of this Order.
31. The Receiver be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order and that the Receiver is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.
32. The Plaintiff shall have its costs of this application, up to and including entry and service of this Order, provided for by the terms of the Plaintiff's security or, if not so provided by the Plaintiff's security, then on a substantial indemnity basis, including legal costs on a solicitor client full indemnity basis, to be paid by the Receiver from the Debtor's estate with such priority and at such time as this Court may determine.
33. Any interested party may apply to this Court to vary or amend this Order on not less than 7 days' notice to the Receiver and to any other party likely to be affected by the order sought or upon such other notice, if any, as this Court may order.

WEBSITE

34. The Receiver shall establish and maintain a website in respect of these proceedings and shall post there as soon as practicable:
 - (a) all materials prescribed by statute or regulation to be made publicly available; and
 - (b) all applications, reports, affidavits, orders and other materials filed in these proceedings by or on behalf of the Receiver, or served upon it, except such materials as are confidential and the subject of a sealing order or pending application for a sealing order.
35. 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 or otherwise served with notice of 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; and
 - (b) posting a copy of this Order on the Receiver's Website

and service on any other person is hereby dispensed with.

36. 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

SCHEDULE "A"

RECEIVER CERTIFICATE

CERTIFICATE NO. _____

AMOUNT _____

1. THIS IS TO CERTIFY that Deloitte Restructuring Inc. receiver and manager (the "**Receiver**") of all of the assets, undertakings and properties of Cococo Chocolatiers Inc. appointed by Order of the Court of Queen's Bench of Alberta and Court of Queen's Bench of Alberta in Bankruptcy and Insolvency (collectively, the "**Court**") dated the 18th day of August (the "**Order**") made in action number 2101-_____, has received as such Receiver from the holder of this certificate (the "**Lender**") the principal sum of \$_____, being part of the total principal sum of \$_____ which the Receiver is authorized to borrow under and pursuant to the Order.
2. The principal sum evidenced by this certificate is payable on demand by the Lender with interest thereon calculated and compounded [**daily**] [**monthly not in advance on the _____ day of each month**] after the date hereof at a notional rate per annum equal to the rate of _____ per cent above the prime commercial lending rate of Bank of _____ from time to time.
3. Such principal sum with interest thereon is, by the terms of the Order, together with the principal sums and interest thereon of all other certificates issued by the Receiver pursuant to the Order or to any further order of the Court, a charge upon the whole of the Property, in priority to the security interests of any other person, but subject to the priority of the charges set out in the Order and the *Bankruptcy and Insolvency Act*, and the right of the Receiver to indemnify itself out of such Property in respect of its remuneration and expenses.
4. All sums payable in respect of principal and interest under this certificate are payable at the main office of the Lender at _____.
5. Until all liability in respect of this certificate has been terminated, no certificates creating charges ranking or purporting to rank in priority to this certificate shall be issued by the Receiver to any person other than the holder of this certificate without the prior written consent of the holder of this certificate.
6. The charge securing this certificate shall operate so as to permit the Receiver to deal with the Property) as authorized by the Order and as authorized by any further or other order of the Court.

7. The Receiver does not undertake, and it is not under any personal liability, to pay any sum in respect of which it may issue certificates under the terms of the Order.

DATED the _____ day of _____, 20__.

Deloitte Restructuring Inc.,
solely in its capacity as Receiver of the Property
(as defined in the Order), and not in its personal
or corporate capacity

Per: _____

Name:

Title:

Schedule "D" to the Application

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>ORDER – APPROVAL OF SALE PROCESS AND STALKING HORSE</u>
ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT	Dentons Canada LLP Bankers Court 15th Floor, 850 - 2nd Street S.W. Calgary, Alberta T2P 0R8 Attention: David Mann QC / John Regush Ph. (403) 268-7097 / 7086 Fx. (403) 268-3100 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 _____; **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 Initial 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.

Annex "A" to the Order

[Not included in form attached to Application due to size, to be appended to form of Order]

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" to the Order

"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
- COCOCOCHOCOLATIERS.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" to the Order

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	<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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