

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

B E T W E E N:

**IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,  
R.S.C. 1985, c. C-36, AS AMENDED**

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT  
OF 1242939 B.C. UNLIMITED LIABILITY COMPANY, 1241423 B.C. LTD.,  
1330096 B.C. LTD., 1330094 B.C. LTD., 1330092 B.C. UNLIMITED LIABILITY  
COMPANY, 1329608 B.C. UNLIMITED LIABILITY COMPANY, 2745263  
ONTARIO INC., 2745270 ONTARIO INC., SNOSPMIS LIMITED, 2472596  
ONTARIO INC., AND 2472598 ONTARIO INC.**

Applicants

**AFFIDAVIT**

I, Marleigh Dick, of the City of Toronto, in the Province of Ontario, AFFIRM:

1. I am an associate with the law firm of Osler, Hoskin & Harcourt LLP, lawyers for Pathlight Capital LP, and, as such, have knowledge of the matters contained in this Affidavit.
2. Attached as **Exhibit "A"** is a true copy of the Consent to Intercreditor Agreement dated as of March 7, 2025 among (a) Bank of America, N.A., as agent for the ABL Secured Parties, (b) Pathlight Capital LP, as agent for the Term Loan Secured Parties, (c) Restore Capital, LLC, as agent under the proposed Junior DIP Financing and (d) the Loan Parties (all capitalized terms as defined in the Consent to Intercreditor Agreement) (without exhibits).

**AFFIRMED BEFORE ME** over  
videoconference this 25<sup>th</sup> day of August, 2025  
in accordance with O. Reg. 431/20,  
Administering Oath or Declaration Remotely.  
The affiant is located in the City of Toronto, in  
the Province of Ontario and the commissioner  
is located in the City of Toronto, in the  
Province of Ontario.



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Commissioner for Taking Affidavits  
(or as may be)

SIERRA ELISABETH MARGARET FARR  
LSO# 87551D



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**MARLEIGH DICK**

This is Exhibit "A" referred to in the Affidavit of Marleigh Dick affirmed by Marleigh Dick at the City of Toronto in the Province of Ontario, before me on August 25, 2025 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



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*Commissioner for Taking Affidavits (or as may be)*

SIERRA ELISABETH MARGARET FARR  
LSO# 87551D

**CONSENT TO INTERCREDITOR AGREEMENT**

This **CONSENT AND ACKNOWLEDGMENT TO INTERCREDITOR AGREEMENT**, dated as of March 7, 2025 (this “Consent”), among (a) **BANK OF AMERICA, N.A.**, as agent for the ABL Secured Parties (in such capacity, the “ABL Agent”) (subject to Section 8 below), (b) **PATHLIGHT CAPITAL LP**, as agent for the Term Loan Secured Parties (in such capacity, the “Term Loan Agent”), (c) Restore Capital, LLC, as agent under the proposed Junior DIP Financing (as defined below) (in such capacity, the “Junior DIP Agent”), including for the lenders party thereto (such lenders, the “Junior DIP Lenders”), and (d) the Loan Parties (as defined below).

**RECITALS**

**WHEREAS**, reference is made to that certain Second Amended and Restated Intercreditor Agreement, dated as of December 23, 2024 (as amended, amended and restated, restated, supplemented or otherwise modified from time to time, the “Intercreditor Agreement”), among the ABL Agent and the Term Loan Agent, and as acknowledged by **HUDSON’S BAY COMPANY ULC**, an unlimited liability company organized under the laws of the Province of British Columbia, as the Lead Borrower (in such capacity, the “Lead Borrower”) and the Subsidiaries of the Lead Borrower party to the ABL Credit Agreement and Term Loan Credit Agreement referred to the Intercreditor Agreement (together with the Lead Borrower, the “Loan Parties”);

**WHEREAS**, on or about the date hereof, the Lead Borrower and the other Loan Parties are expected to commence proceedings (the “CCAA Proceedings”) under the *Companies’ Creditors Arrangement Act* (Canada) (the “CCAA”) before the Ontario Superior Court of Justice (Commercial List) (the “Court”);

**WHEREAS**, in connection with the CCAA Proceedings, certain ABL Secured Parties propose to provide, and the Loan Parties propose to incur, DIP Financing on the terms and conditions set forth in that certain Junior DIP Term Sheet (the “Junior DIP Term Sheet” and such DIP Financing, the “Junior DIP Financing”), a copy of which is attached hereto as Exhibit A, with Restore Capital, LLC acting as agent under such DIP Financing (in such capacity, the “Junior DIP Agent”); and

**WHEREAS**, certain of the terms of such Junior DIP Financing require the consent of the Term Loan Agent under the Intercreditor Agreement, and the Term Loan Agent is willing to provide such consent, on the terms and subject to the conditions set forth in this Consent.

**NOW THEREFORE**, in consideration of the premises and other good and valuable consideration, the parties hereto hereby agree as follows:

Section 1. Defined Terms. Any capitalized term used in this Consent and not defined in this Consent shall have the meaning assigned to such term in the Intercreditor Agreement. Any terms defined in this Consent by cross-reference to the Junior DIP Term Sheet shall at any time hereafter be construed to refer to the equivalent term in any definitive documentation for the Junior DIP Financing.

Section 2. Consent. The Term Loan Agent agrees and consents as follows:

(a) Notwithstanding the provisions of the Intercreditor Agreement, solely in connection with the Junior DIP Financing, the Term Loan Agent consents to the amount of the Junior DIP Financing so long as (1) the sum of the maximum aggregate principal amount of loans and letter of credit accommodations outstanding under any such Junior DIP Financing, together with, but without duplication, the aggregate outstanding principal amount of loans and outstanding

amount of letters of credit made, issued or incurred pursuant to the ABL Loan Documents (and which have not been cash collateralized as contemplated by the Junior DIP Term Sheet), does not exceed, at any time, the sum of (i) the result (not less than zero) of (A) C\$11,891,950 (consisting of the outstanding amount of letters of credit under the ABL Credit Agreement as of the date hereof), minus (B) the amount by which such letters of credit have been cash collateralized, minus (C) the amount by which the face amount of any such letter of credit has been reduced (or in the event any such letter of credit is cancelled or terminated, the face amount of such letter of credit at the time of such cancellation or termination), plus (ii) the result (not less than zero) of (A) C\$136,847,000.00 (consisting of the outstanding principal amount of FILO Term Loans (as defined in the ABL Credit Agreement) as of the date hereof), minus (B) the amount of all payments of the principal of such FILO Term Loans, plus (iii) the result (not less than zero) of (A) \$28,151,800.72 (consisting of the Applicable FILO Premium (as defined in the ABL Credit Agreement) due and owing as of the date hereof), minus (B) all payments of amount in respect of the Applicable FILO Premium, plus (iv) the result (not less than zero) of (A) C\$16,000,000 (consisting of the principal amount of loans under the Junior DIP Financing), minus (B) the amount of all payments of the principal of such loans under the Junior DIP Financing (the amount derived from this clause (1), the “Modified Maximum ABL Facility Amount”) and (2) the amount of Bank Products (including Secured Rate Contracts) included in the ABL Obligations does not exceed the result (not less than zero) of (A) C\$15,000,000, minus (B) the amount of cash collateral maintained by the ABL Agent or the ABL Secured Parties in respect of Bank Products (the amount derived from the this clause (2), the “Maximum Bank Products Amount”). The ABL Agent, the Term Loan Agent and the Junior DIP Agent hereby acknowledge and agree that ABL Obligations (including obligations under the Junior DIP Financing) consisting of (x) the aggregate outstanding principal amount of loans and outstanding amount of letters of credit made, issued or incurred pursuant to the ABL Loan Documents and the Junior DIP Financing in excess of the Modified Maximum ABL Facility Amount (together any interest, fees or reimbursement obligations accrued on or with respect to such amounts (other than interest, fees, indemnities and reimbursement obligations on ABL Obligations (including obligations under the Junior DIP Financing) not constituting Excess ABL Obligations added to the loan account and interest and fees thereon, including interest on the Applicable FILO Premium)) and (y) outstanding Bank Products (including Secured Rate Contracts) in excess of the Maximum Bank Products Amount shall, in each case of clause (x) and (y), constitute Excess ABL Obligations for all purposes of the Intercreditor Agreement.

(b) The Term Loan Agent waives Section 6.1(a)(1)(ii) and Section 6.1(a)(1)(iv) of the Intercreditor Agreement with respect to the Junior DIP Financing.

(c) Notwithstanding the provisions of Section 5.2(a)(1) of the Intercreditor Agreement, the Term Loan Agent consents to the Junior DIP Financing having a default interest rate of up to Term CORRA (as defined in the ABL Credit Agreement) plus 14.50% *per annum*, which exceeds the 2.00% increase in default rate of interest permitted by Section 5.2(a)(1) of the Intercreditor Agreement.

(d) No part of the ABL Obligations shall constitute “Excess ABL Obligations” as a result of the ABL Agent’s failure to maintain a Reserve against the Borrowing Base in connection with the Junior DIP Financing for any Carve Out.

(e) No part of the (i) outstanding Revolving Obligations (as defined in the ABL Credit Agreement) or (ii) outstanding FILO Term Loans (as defined in the ABL Credit Agreement) and Applicable FILO Premium (as defined in the ABL Credit Agreement), in each case, constitute Excess ABL Obligations based on the Loan Parties’ most recent Borrowing Base Certificate delivered to the ABL Agent and attached hereto as Exhibit B.

(f) Notwithstanding the provisions of Section 5.2(a)(6) of the Intercreditor Agreement, the Term Loan Agent consents to the release of Reserves in connection with the Junior DIP Financing, including without limitation, deductions to the Borrowing Base (as defined in the ABL Credit Agreement) for the aggregate principal amount of FILO Term Loans (as defined in the ABL Credit Agreement) and the release or reduction of Reserves in effect as of the Closing Date (as defined in the ABL Credit Agreement).

Section 3. Certain Covenants. In consideration of the consents set forth in Section 2, the parties hereto hereby agree as follows:

(a) Without the prior written consent of the Term Loan Agent, the Junior DIP Agent shall not consent to any DIP Budget (as defined in the Junior DIP Term Sheet) or change or modification thereto, including in connection with delivery of any Updated DIP Budget (as defined in the Junior DIP Term Sheet) under the Junior DIP Financing or otherwise in connection with the CCAA Proceedings.

(b) Without the prior written consent of the Term Loan Agent (not to be unreasonably withheld, conditioned or delayed), the Junior DIP Agent shall not (i) consent to, or require, the sale or liquidation of any Specified Term Loan Leasehold Real Property or other Term Loan Priority Collateral or (ii) consent to or approve the terms of any Lease Solicitation Process or the SISP to the extent such terms affect or govern the sale or liquidation of any Specified Term Loan Leasehold Real Property or other Term Loan Priority Collateral.

Section 4. Conditions Precedent to Consent. This Consent will become effective as of the date hereof, subject to the satisfaction (or waiver) of each of the following conditions:

(a) This Consent shall have been duly executed by each of ABL Agent (subject to Section 8 below), the Term Loan Agent, the Junior DIP Agent and the Loan Parties.

(b) Receipt by the Term Loan Agent (or its counsel) of the initial DIP Budget (as defined in the Junior DIP Term Sheet).

(c) Receipt by the Term Loan Agent (or its counsel) of the substantially final Junior DIP Term Sheet intended to be filed with the Court upon commencement of the CCAA Proceedings.

(d) Receipt by the Term Loan Agent (or its counsel) of a copy of (i) the Liquidation Services Agreement (as defined in the Junior DIP Term Sheet) and (ii) the list of the Loan Parties' retail stores which are expected to be subject to the liquidation of inventory contemplated in the Liquidation Services Agreement.

(e) The Court shall have granted the Initial Order, which shall be in form and substance satisfactory to the Term Loan Agent.

Section 5. Effect on the Intercreditor Agreement. Except as expressly modified by this Consent, nothing in this Consent shall be deemed to impair or otherwise affect the rights and obligations of the parties under the Intercreditor Agreement and the terms and provisions of the Intercreditor Agreement are hereby ratified and confirmed and shall continue in full force and effect, including, without limitation, with respect to (i) the Junior DIP Financing, the Junior DIP Agent and the Junior DIP Lenders and (ii) the rights of the Term Loan Agent and the other Term Loan Secured Parties with respect to the Loan Parties and the Term Loan Priority Collateral, and in the CCAA Proceedings. Without limiting the foregoing, the

Junior DIP Agent hereby agrees (on behalf of itself and the Junior DIP Lenders) that, notwithstanding anything to the contrary in the in the Junior DIP Term Sheet or any definitive documentation for the Junior DIP Financing, neither the Junior DIP Agent or any Junior DIP Lender shall take any action, including any action with respect to the Loan Parties and the Term Loan Priority Collateral, or in the CCAA Proceedings, that are inconsistent with the agreements and covenants of the ABL Secured Parties set forth in the Intercreditor Agreement.

Section 6. Governing Law. This Consent and any claims, controversy, dispute or cause of action (whether in contract or tort or otherwise) based upon, arising out of or relating to this Consent and the transactions contemplated hereby shall be governed by, and construed in accordance with, the law of the State of New York. This Consent constitutes the entire contract among the parties relating to the subject matter hereof and supersedes any and all previous agreements and understandings, oral or written, relating to the subject matter hereof.

Section 7. Authorization and Execution. By its signature, each person executing this Consent on behalf of a party hereto represents and warrants to the other parties hereto that it is duly authorized to execute this Consent. This Consent may be executed in counterparts (and by different parties hereto in different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. Delivery of an executed counterpart of a signature page of this Consent by telecopy, pdf or other electronic transmission shall be as effective as delivery of a manually executed counterpart of this Consent.

Section 8. Agreement between the Junior Agent and Term Loan Agent. Solely as between ReStore Capital LLC, in its capacity as the Junior DIP Agent and FILO Agent (the “Junior Agent”), and the Term Loan Agent (on behalf of itself and the other Term Loan Secured Parties), the Term Loan Agent agrees that if this Consent is not effective as a result of the ABL Agent or Loan Parties not executing this Consent, then the consents in Section 2 shall be binding and enforceable upon the Term Loan Agent (on behalf of itself and the other Term Loan Secured Parties), including but not limited to the new definition of Modified Maximum ABL Facility Amount. Solely as between the Junior Agent and the Term Loan Agent (on behalf of itself and the other Term Loan Secured Parties), any application of Collateral or Proceeds thereof pursuant to Section 4.1(b) and (c) of the Intercreditor Agreement or turnover in accordance with Section 4.1(e) of the Intercreditor Agreement shall give effect to the consents in Section 2. This Section 8 shall be effective upon the Junior Agent and the Term Loan Agent executing this Consent.

[Remainder of page intentionally blank.]

**IN WITNESS WHEREOF**, the parties hereto have caused this Consent to be executed and delivered as of the date first above written.

**PATHLIGHT CAPITAL LP**, as Term Loan Agent

By: Pathlight GP LLC, its General Partner

DocuSigned by:  
  
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By: \_\_\_\_\_

Name: Matthew Williams

Title: Managing Director



**BANK OF AMERICA, N.A., as ABL Agent**

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

Name:

Title:

**RESTORE CAPITAL, LLC**, as Junior DIP Agent

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

Name: T. Kellan Grant

Title: EVP Commercial Counsel

Acknowledged and Agreed to by:

**LOAN PARTIES:**

**HUDSON'S BAY COMPANY ULC**

Signed by:  
By: Jennifer Bewley  
Name: Jennifer Bewley  
Title: Chief Financial Officer

**HBC CANADA PARENT HOLDINGS INC.**

Signed by:  
By: Jennifer Bewley  
Name: Jennifer Bewley  
Title: Treasurer

**THE BAY HOLDINGS ULC**

Signed by:  
By: Jennifer Bewley  
Name: Jennifer Bewley  
Title: Chief Financial Officer

**THE BAY LIMITED PARTNERSHIP,**

By: its general partner, THE BAY HOLDINGS ULC

Signed by:  
By: Jennifer Bewley  
Name: Jennifer Bewley  
Title: Chief Financial Officer

**HBC BAY HOLDINGS I INC.**

Signed by:  
By: Jennifer Bewley  
Name: Jennifer Bewley  
Title: Assistant Treasurer

**LOAN PARTIES (CONT'D):**  
**HBC BAY HOLDINGS II ULC**

Signed by:  
By: Jennifer Bewley  
Name: Jennifer Bewley  
Title: Assistant Treasurer

**HBC CANADA PARENT HOLDINGS 2 INC.**

Signed by:  
By: Jennifer Bewley  
Name: Jennifer Bewley  
Title: Chief Financial Officer

Exhibit A

Junior DIP Term Sheet

[see attached]

Exhibit B

March 5, 2025 Borrowing Base Certificate

[see attached]

**IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT  
ACT, R.S.C. 1985, c. C-36, AS AMENDED, AND IN THE MATTER OF THE  
1242939 B.C. UNLIMITED LIABILITY COMPANY et al.**

Court File No: CV-25-00738613-00CL

Applicants

**ONTARIO**

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

PROCEEDING COMMENCED AT TORONTO

**AFFIDAVIT**

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Lawyers for Pathlight Capital LP