

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

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 DCL CORPORATION (the "**Applicant**")

AFFIDAVIT OF NANCY THOMPSON
(Sworn March 29, 2023)

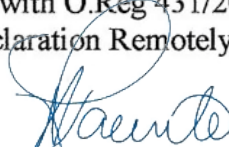
I, **Nancy Thompson**, of the City of Brampton, in the Regional Municipality of Peel,
MAKE OATH AND SAY AS FOLLOWS:

1. I am a law clerk at Blake, Cassels & Graydon LLP ("**Blakes**"), lawyers for the Applicant, and as such have knowledge of the matters deposed to in this affidavit.
2. This affidavit is intended to supplement the Affidavit of Scott Davido sworn March 10, 2023 and the Supplement to the Fourth Affidavit of Scott Davido sworn March 28, 2023 (the "**Supplement**") in support of the Applicant's motion for, among other things, the issuance of an Approval and Vesting Order and an extension of the Stay Period until June 30, 2023. Capitalized terms not otherwise defined herein have the meaning ascribed to them in the Supplement.

3. Attached hereto as **Exhibit "A"** is a copy of the Fourth Amendment to the Intercreditor Agreement described in the Supplement beginning at paragraph 18, and inadvertently omitted as an exhibit to the Supplement.

SWORN BEFORE ME

☐ in person OR ☒ by video conference
by Nancy Thompson of the City of Brampton, in
the Regional Municipality of Peel, before me at
the City of Vaughan in the Regional
Municipality of York, on March 29, 2023, in
accordance with O.Reg 431/20, Administering
Oath or Declaration Remotely



A Commissioner for Taking Affidavits, etc.

Alexia Parente (LSO# 81927G)

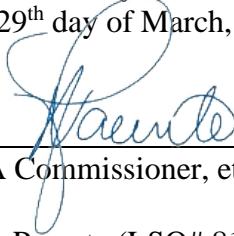


NANCY THOMPSON

This is **Exhibit “A”** referred to in the

Affidavit of Nancy Thompson

sworn before me by video conference
this 29th day of March, 2023



A Commissioner, etc.

Alexia Parente (LSO# 81927G)

AMENDMENT NO. 4 TO INTERCREDITOR AGREEMENT

AMENDMENT NO. 4 TO INTERCREDITOR AGREEMENT, dated as of March 28, 2023 (this “Amendment No. 4”), is by and between WELLS FARGO BANK, NATIONAL ASSOCIATION, in its capacity as agent under the ABL Documents, including its successors and assigns in such capacity from time to time (“ABL Agent”), and DELAWARE TRUST COMPANY (as successor to VIRTUS GROUP, LP), not in its individual capacity but solely in its capacity as administrative agent and collateral agent under the Term Loan Documents, including its successors and assigns in such capacity from time to time (“Term Loan Agent”).

W I T N E S S E T H :

WHEREAS, on December 20, 2022 (the “Petition Date”), (i) DCL Corporation (USA) LLC (formerly known as Lansco Colors, LLC), a Delaware limited liability company, as debtor and debtor-in-possession under the Bankruptcy Code (“DCL USA”), and DCL Corporation (BP), LLC, a Delaware limited liability company, as debtor and debtor-in-possession under the Bankruptcy Code (“DCL BP,” and together with DCL USA, individually, a “US Borrower” and collectively, “US Borrowers”) each commenced a voluntary chapter 11 case, as administratively consolidated (individually, a “Chapter 11 Case” and collectively, the “Chapter 11 Cases”), with the United States Bankruptcy Court for the District of Delaware (the “US Bankruptcy Court”) and (ii) DCL Corporation (formerly known as Dominion Colour Corporation and as successor by amalgamation to Monteith Inc.), an Ontario corporation, as debtor under the CCAA (“DCL Canada” or “Canadian Borrower,” and together with US Borrowers, individually a “Borrower” and collectively, “Borrowers”) commenced a case (the “CCAA Case,” and together with the Chapter 11 Cases, the “Bankruptcy Cases”) in the Ontario Superior Court of Justice, Commercial List, in Toronto, Ontario, Canada (the “Canadian Bankruptcy Court”, and together with the US Bankruptcy Court, each a “Bankruptcy Court” as hereinafter further defined) seeking relief under the provisions of the Companies’ Creditors Arrangement Act (Canada) (the “CCAA”);

WHEREAS, prior to the Petition Date, ABL Agent and certain lenders entered into a senior secured asset-based credit facility with Borrowers as set forth in the Credit Agreement, dated as of April 25, 2018, by and among Borrowers, H.I.G. Colors, Inc., a Delaware corporation (“Holdings”), DCL Holdings (USA), Inc. (formerly known as Lansco Holdings, Inc.), a Delaware corporation (“DCL Holdings”), the subsidiaries of Holdings party thereto as guarantors (together with Holdings, the “Guarantors”), the lenders party thereto, and ABL Agent (as amended, supplemented or otherwise modified, the “Pre-Petition ABL Credit Agreement”);

WHEREAS, prior to the Petition Date, Term Loan Agent (or its predecessor) and certain lenders entered into a senior secured term loan facility with DCL Canada, DCL Holdings, and Holdings (together with DCL Canada and DCL Holdings, each a “Term Loan Borrower” and collectively “Term Loan Borrowers”) as set forth in the Credit Agreement, dated as of April 6, 2018, by and among Term Loan Borrowers, the other Guarantors, the lenders party thereto and Term Loan Agent (as amended, supplemented or otherwise modified, the “Pre-Petition Term Loan Credit Agreement”);

WHEREAS, after the Petition Date, Borrowers entered into a senior secured, super-priority debtor-in-possession asset-based credit facility with ABL Agent and the lenders party thereto as set forth in the Senior Secured, Super-Priority Debtor-in-Possession Credit Agreement, dated as of December 22, 2022, by and among ABL Agent, such lenders, Borrowers and the Guarantors party thereto (as amended, supplemented or otherwise modified, the “DIP ABL Credit Agreement,” and together with all agreements, documents and instruments at any time executed and/or delivered in connection therewith or related thereto, as from time to time amended, modified, supplemented, extended, renewed, restated, or replaced, collectively, the “DIP ABL Loan Documents”);

WHEREAS, ABL Agent and Term Loan Agent have entered into the Intercreditor Agreement, dated as

of April 25, 2018, between ABL Agent and Term Loan Agent, as acknowledged by ABL Borrowers, Term Loan Borrowers and Guarantors (as amended, supplemented or otherwise modified, the “Intercreditor Agreement”);

WHEREAS, the Term Loan Claimholders and the ABL Claimholders desire to amend the Intercreditor Agreement in connection with the Bankruptcy Cases and the credit facility provided by the ABL Agent and the lenders party thereto pursuant to the DIP ABL Credit Agreement (the “DIP ABL Facility”); and

WHEREAS, by this Amendment No. 4, ABL Agent and Term Loan Agent intend to evidence such amendments.

NOW, THEREFORE, in consideration of the foregoing and the mutual agreements and covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. Definitions.

(a) Interpretation. All terms used herein which are not otherwise defined herein, including but not limited to, those terms used in the recitals hereto, shall have the respective meanings assigned thereto in the Intercreditor Agreement (as amended by this Amendment No. 4) or in the DIP Credit Agreement, as applicable.

(b) Additional Definitions. The Intercreditor Agreement is hereby amended to include, in addition and not in limitation, the following definitions:

“Amendment No. 4” means Amendment No. 4 to Intercreditor Agreement, dated as of March 28, 2023, by and among ABL Agent and Term Loan Agent, as acknowledged and agreed to by Grantors, as the same now exists or may hereafter be amended, amended and restated, modified, supplemented, extended, renewed, restated or replaced.

“Bankruptcy Cases” shall have the meaning set forth in the preamble of this Amendment No. 4.

“Canadian Revolver Usage” means, as of any date of determination, the sum of (a) the amount of outstanding “Canadian Revolving Loans” (inclusive of “Canadian Swing Loans” and “Special Advances” to all Canadian Borrowers), as such terms are defined in the DIP Credit Agreement, plus (b) the amount of the “Letter of Credit Usage” (as such term is defined in the DIP Credit Agreement) of all Canadian Borrowers, plus (c) the amount of the “Canadian Revolver Usage” as such term is defined in the Pre-Petition ABL Credit Agreement.

“Revolver Usage” means, as of any date of determination, the sum of the Canadian Revolver Usage and the US Revolver Usage.

“Special Reserve” means \$2,000,000.

“Supplemental ABL DIP Debt” means, as of any date of determination, the amount on or after March 18, 2023 by which the Revolver Usage exceeds the Combined Borrowing Base after giving effect to the Special Reserve. Nothing contained herein shall be construed to limit any of the rights of ABL Agent to establish and increase or decrease Reserves pursuant to, and in accordance with, the ABL Documents.

“US Revolver Usage” means, as of any date of determination, the sum of (a) the amount of outstanding US Revolving Loans (inclusive of “Swing Loans” and “Protective Advances” to US Borrowers), as such terms are defined in the DIP Credit Agreement, plus (b) the amount of the “Letter of Credit Usage” (as such term is defined in the DIP Credit Agreement) of the US Borrowers, plus (c) the amount of the “US Revolver Usage” as such term is defined in the Pre-Petition ABL Credit

Agreement.

(c) Amendments to Definitions. All references to the term “ABL Documents” in the Intercreditor Agreement shall be deemed to include the DIP ABL Loan Documents for purposes of this Amendment No. 4.

2. Amendment to Application of Proceeds. Notwithstanding anything to the contrary in Section 2.1, Section 4.1 or otherwise in the Intercreditor Agreement or any Financing Order, unless and until the payment in full in cash of the Supplemental ABL DIP Debt has occurred, Term Loan Agent, on behalf of the Term Loan Claimholders, agrees that any Term Loan Priority Collateral, or proceeds thereof, received in connection with any sale or other disposition of the Term Loan Priority Collateral (or amounts distributed on account of a Lien in such Collateral or the proceeds thereof) received in connection with the Bankruptcy Cases shall (at such time as such Term Loan Priority Collateral or proceeds or other amounts have been monetized) be applied:

(a) first, to the payment in full in cash of the Supplemental ABL DIP Debt in accordance with the DIP Credit Agreement,

(b) second, to the payment in full in cash of reasonable and documented out-of-pocket costs and expenses of Term Loan Agent in connection with any Enforcement Action or Insolvency Proceeding,

(c) third, to the payment in full in cash of the Term Loan Priority Debt in accordance with the Term Loan Documents, provided, that, Term Loan Claimholders may elect to pay over such amounts to certain professionals in the Bankruptcy Cases but for purposes hereof such amounts shall be considered as if applied to the Term Loan Priority Debt,

(d) fourth, to the payment in full in cash of reasonable and documented out-of-pocket costs and expenses of ABL Agent in connection with any Enforcement Action or Insolvency Proceeding (to the extent ABL Agent's Enforcement Action or action in the Insolvency Proceeding was permitted under the Intercreditor Agreement),

(e) fifth, to the payment in full in cash of the ABL Priority Debt in accordance with the ABL Documents,

(f) sixth, to the payment in full in cash of the Excess Term Loan Debt in accordance with the Term Loan Documents,

(g) seventh, to the payment in full in cash of the Excess ABL Debt in accordance with the ABL Documents.

3. Turnover.

(a) Notwithstanding anything to the contrary in the Intercreditor Agreement or any Bankruptcy Court Order, unless and until the payment in full in cash of the Supplemental ABL DIP Debt has occurred, any Term Loan Priority Collateral, or proceeds thereof received by any of the Term Loan Claimholders in connection with an Enforcement Action or Insolvency Proceeding with respect to the Term Loan Priority Collateral or otherwise shall be segregated and held in trust for the benefit of the ABL Claimholders (and such amounts shall not be applied to the Term Loan Debt), until the earlier of (i) one hundred eighty (180) days after the commencement of the sale or other disposition of a material portion of the Collateral, including the solicitation of bids from third parties to conduct the liquidation of the Collateral, the engagement or retention of sales brokers, marketing agents, investments bankers, auctioneers or other third parties for the purposes of valuing, marketing, promoting and selling such Collateral, and (ii) the date that all or substantially all of the ABL Priority Collateral has been collected, sold or otherwise disposed of. For purposes hereof, the references in clause (i) of the immediately preceding sentence to the sale or other disposition of a material portion of the Collateral and in clause (ii) of the immediately preceding sentence to the collection, sale or other disposition of

the ABL Priority Collateral shall, in each case, not be applicable to the sale of the Collateral pursuant to the Amended and Restated Asset Purchase Agreement, dated as of February 13, 2023, by and among Pigments Holdings, Inc., a Delaware corporation, as buyer, and H.I.G. Colors Holdings, Inc., a Delaware corporation, and its direct and indirect Subsidiaries that are debtors in the Bankruptcy Cases, as sellers, to the extent that the consideration for such purchase of the Collateral pursuant thereto includes the payment in full in cash of the ABL Debt. If all or any portion of the Supplemental ABL DIP Debt is outstanding on the earlier of such dates, then commencing on and after the earlier of such dates, the Term Loan Claimholders shall forthwith transfer and pay over to ABL Agent any Term Loan Priority Collateral or proceeds thereof (with any necessary endorsements) in an amount up to the Supplemental ABL DIP Debt then outstanding, which transfer or payments shall be made without offset, defense, deduction or counterclaim of any kind, nature or description. ABL Agent is hereby authorized to make any such endorsements as agent for the Term Loan Claimholders and this authorization is coupled with an interest and is irrevocable until the payment in full in cash of the Supplemental ABL DIP Debt.

(b) Notwithstanding anything to the contrary in Section 3.5(b) or Section 4.2 of the Intercreditor Agreement, the ABL Claimholders may retain any proceeds of Term Loan Priority Collateral received by any of them in connection with any Enforcement Action or otherwise prior to the Payment in Full of Term Loan Priority Debt until the payment in full in cash of the Supplemental ABL DIP Debt and shall not be required to hold such amounts in trust or pay them over to Term Loan Agent.

2. Representation and Warranties. Each of ABL Agent and Term Loan Agent represents and warrants to the other that the execution, delivery and performance by it of this Amendment No. 4 has been duly authorized by all necessary organizational actions and in the case of Term Loan Agent in accordance with, and to the extent required by, the Term Loan Documents and in the case of ABL Agent in accordance with, and to the extent required by, the ABL Documents.

3. Effect of Amendment No. 4. Except as expressly set forth herein, no other amendments, changes or modifications to the Existing Intercreditor Agreement are intended or implied, and in all other respects the Intercreditor Agreement is hereby specifically ratified, restated and confirmed by all parties hereto as of the effective date hereof and each Grantor hereby confirms its acknowledgement of this Amendment No. 4 and that it is, and shall be, subject to the terms hereof.

4. Governing Law. The validity, interpretation and enforcement of this Amendment No. 4 and any dispute arising out of the relationship between the parties hereto whether in contract, tort, equity or otherwise, shall be governed by the internal laws of the State of New York but excluding any principles of conflicts of law or other rule of law that would cause the application of the law of any jurisdiction other than the laws of the State of New York.

5. Binding Effect. This Amendment No. 4 shall be binding upon and inure to the benefit of each of the parties hereto and their respective successors and assigns.

6. Waiver, Modification, Etc. No provision or term of this Amendment No. 4 may be modified, altered, waived, discharged or terminated orally, but only by an instrument in writing executed by the party against whom such modification, alteration, waiver, discharge or termination is sought to be enforced.

7. Entire Agreement. This Amendment No. 4 and the Intercreditor Agreement represent the entire agreement and understanding concerning the subject matter hereof among the parties hereto, and supersedes all other prior agreements, understandings, negotiations and discussions, representations, warranties, commitments, proposals, offers and contracts concerning the subject matter hereof, whether oral or written.

8. Headings. The headings listed herein are for convenience only and do not constitute matters to be construed in interpreting this Amendment No. 4.

9. Counterparts; Electronic Signatures. This Amendment No. 4 may be executed by means of (a) an electronic signature that complies with the federal Electronic Signatures in Global and National Commerce Act, state enactments of the Uniform Electronic Transactions Act, or any other relevant and applicable electronic signatures law; (b) an original manual signature; or (c) a faxed, scanned, or photocopied manual signature. Each electronic signature or faxed, scanned, or photocopied manual signature shall for all purposes have the same validity, legal effect, and admissibility in evidence as an original manual signature. This Amendment No. 4 may be executed in any number of counterparts, each of which shall be deemed to be an original, but such counterparts shall, together, constitute only one instrument.

[remainder of page intentionally left blank]

IN WITNESS WHEREOF, the parties hereto have caused this Amendment No. 4 to be duly executed and delivered as of the day and year first above written.

ABL AGENT

WELLS FARGO BANK, NATIONAL ASSOCIATION,
as ABL Agent

By: Carmela Digitally signed by
Name: Massari Carmela Massari
Title: _____ Date: 2023.03.27
12:45:00 -04'00'

TERM LOAN AGENT

DELAWARE TRUST COMPANY,
as Term Loan Agent

By: _____
Name: _____
Title: _____

[SIGNATURES CONTINUE ON NEXT PAGE]

IN WITNESS WHEREOF, the parties hereto have caused this Amendment No. 4 to be duly executed and delivered as of the day and year first above written.


ABL AGENT

WELLS FARGO BANK, NATIONAL ASSOCIATION,
as ABL Agent

By: _____
Name: _____
Title: _____

TERM LOAN AGENT

DELAWARE TRUST COMPANY,
as Term Loan Agent

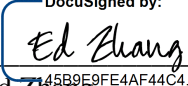
By:  _____
Name: Sean Foronjy
Title: Vice President

[SIGNATURES CONTINUE ON NEXT PAGE]

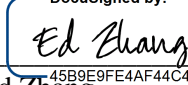
ACKNOWLEDGED:

BORROWERS:

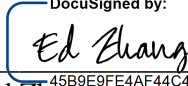
DCL CORPORATION (USA) LLC,
Debtor and Debtor-in-Possession

By: 
Name: Ed Zhang
Title: Vice President, Treasurer and Secretary

DCL CORPORATION (BP), LLC,
Debtor and Debtor-in-Possession

By: 
Name: Ed Zhang
Title: Vice President, Treasurer and Secretary

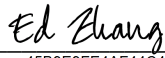
DCL CORPORATION,
Debtor

By: 
Name: Ed Zhang
Title: Vice President, Treasurer and Secretary

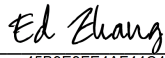
ACKNOWLEDGED:

GUARANTORS

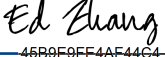
DOMINION COLOUR CORPORATION (USA),
Debtor and Debtor-in-Possession

DocuSigned by:
By: 
Name: Ed Zhang
Title: Vice President, Treasurer and Secretary


DCL HOLDINGS (USA), INC.,
Debtor and Debtor-in-Possession

DocuSigned by:
By: 
Name: Ed Zhang
Title: Vice President, Treasurer and Secretary

H.I.G. COLORS HOLDINGS, INC.,
Debtor and Debtor-in-Possession

DocuSigned by:
By: 
Name: Ed Zhang
Title: Vice President, Treasurer and Secretary


H.I.G. COLORS, INC.,
Debtor and Debtor-in-Possession

DocuSigned by:
By: 
Name: Ed Zhang
Title: Vice President, Treasurer and Secretary

DCL CORPORATION (NL) B.V.

By: _____
Name: David Charles Herak
Title: Director A

DCL CORPORATION (EUROPE) LIMITED

DocuSigned by:
By: 
Name: Ed Zhang
Title: Vice President, Treasurer and Secretary

ACKNOWLEDGED:

GUARANTORS

DOMINION COLOUR CORPORATION (USA),
Debtor and Debtor-in-Possession

By: _____
Name: Ed Zhang
Title: Vice President, Treasurer and Secretary

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Debtor and Debtor-in-Possession

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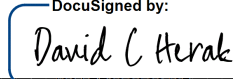
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By: _____
Name: Ed Zhang
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H.I.G. COLORS, INC.,
Debtor and Debtor-in-Possession

By: _____
Name: Ed Zhang
Title: Vice President, Treasurer and Secretary

DCL CORPORATION (NL) B.V.

By:  _____
Name: David Charles Herak
Title: Director A

DCL CORPORATION (EUROPE) LIMITED

By: _____
Name: Ed Zhang
Title: Vice President, Treasurer and Secretary

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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF DCL CORPORATION

Applicant

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

Proceeding commenced at Toronto

AFFIDAVIT OF NANCY THOMPSON
(SWORN MARCH 29, 2023)

BLAKE, CASSELS & GRAYDON LLP
199 Bay Street
Suite 4000, Commerce Court West
Toronto Ontario M5L 1A9

Linc Rogers LSO #43562N
Tel: 416-863-4168
Email: linc.rogers@blakes.com

Milly Chow LSO #35411D
Tel: 416-863-2594
Email: milly.chow@blakes.com

Alexia Parente LSO #81927G
Tel: 416-863-2417
Email: alexia.parente@blakes.com

Lawyers for the Applicant