

**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 HUDSON'S BAY COMPANY ULC COMPAGNIE DE
LA BAIE D'HUDSON SRI, HBC CANADA PARENT HOLDINGS INC., HBC
CANADA PARENT HOLDINGS 2 INC., HBC BAY HOLDINGS I INC., HBC
BAY HOLDINGS II ULC, THE BAY HOLDINGS ULC, THE BAY
HOLDINGS II ULC, HBC CENTREPOINT GP INC., HBC YSS 1 LP INC.,
HBC YSS 2 LP INC., HBC HOLDINGS GP INC., SNOSPMIS LIMITED,
2472596 ONTARIO INC. and 2472598 ONTARIO INC.

Applicants

**AIDE MEMOIRE OF THE FILO AGENT
(NOVEMBER 3, 2025 CASE CONFERENCE)**

October 31, 2025

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TO: **SERVICE LIST**

AIDE MEMOIRE OF THE FILO AGENT (NOVEMBER 3, 2025 CASE CONFERENCE)

1. The FILO Agent respectfully requests that the Court determine a single issue: the FILO Agent's request for an order precluding the use of its priority collateral to pay approximately \$3.9 million in dead rent during the 30-day disclaimer period now running in respect of the Central Walk Leases.
2. The FILO Lenders' collateral has funded the Company's pursuit of the Central Walk Transaction, notwithstanding that the FILO Lenders did not stand to benefit from the Central Walk Transaction. The Monitor concluded this to be neither "fair nor equitable" in July 2025.¹
3. The FILO Agent has sought to rectify this unfair and inequitable situation by disclaiming the Central Walk Leases since at least July 8, 2025, when the FILO Agent brought its motion that was eventually heard on August 28 and 29, 2025 and decided on October 24, 2025.² Now that the Central Walk Transaction has been rejected, no party has appealed and the Central Walk Leases have been disclaimed, there can be no justification for the FILO Lenders to bear the cost of a windfall for the Landlords, who are mere unsecured creditors.

A. BACKGROUND

4. Section 32(1) of the CCAA permits a debtor company to provide notice and disclaim any pre-filing agreements, including real property leases.³ The agreement is disclaimed and comes to an end 30 days after the date of notice.⁴
5. The FILO Agent sought orders that would bring about the cessation of rent payments, including an order amending paragraph 10 of the Amended and Restated Initial Order, dated March 21, 2025 (the "**ARIO**")⁵ to eliminate the requirement that HBC pay rent on the Central Walk Leases and directing that no rent be paid from the FILO Lenders' priority collateral from the earlier

¹ Sixth Report of the Monitor, dated July 14, 2025, at para 5.30.

² Motion Record of the FILO Agent, dated July 8, 2025.

³ [Companies' Creditors Arrangement Act, R.S.C., 1985, c. C-36](#) ("CCAA"), at s. [32\(1\)](#).

⁴ [CCAA](#), at sections [32\(2\)](#) and [32\(5\)\(a\)](#).

⁵ Amended and Restated Initial Order, dated March 21, 2025 ("**ARIO**"), at para 10.

of the notice of disclaimer or the date of any decision of the Court declining to approve the lease assignment.⁶ The Court's October 24, 2025 decision did not determine this issue.⁷

6. The situation moving forward is now more clear. On Tuesday, October 28, 2025, the Company delivered disclaimer notices in connection with the Central Walk Leases. The Company intends to make rent payments during the 30-day disclaimer period in light of paragraph 10(a) of the ARIO.

7. The FILO Agent's position on this issue is as set out in its factum dated August 21, 2025, and in its reply factum, dated August 27, 2025.⁸ The issues are now narrower in light of the Court's ruling:

(a) Payment of rent is not required by the CCAA, and any claim by the Landlords to the payment of rent is an unsecured claim that ranks behind those of the FILO Lenders; and

(b) Any restructuring purpose that might have been served by the payment of rent in paragraph 10(a) of the ARIO has ended.

B. THE LANDLORDS SHOULD BE TREATED AS ANY OTHER UNSECURED CREDITORS IN RESPECT OF THEIR CLAIMS FOR POST-FILING RENT

8. Pursuant to section 11.01(a) of the CCAA, the Court cannot make an order prohibiting a person from requiring immediate payment in exchange for a debtor's use of leased property.⁹ Put another way, the Landlords can insist on payment of rent as a condition of continued supply of leased premises. But nothing in that provision (nor any other provision in the CCAA) requires payment of rent, or gives the Landlords remedies for non-payment.¹⁰

9. Paragraph 10(a) of the ARIO requires the Company to pay rent but does not give the Landlords a priority or secured claim to payment of rent, ahead of pre-filing secured creditors, if rent is not paid. The purpose of the provision is simply to give orderly effect to the intention of

⁶ Amended Notice of Motion of the FILO Agent, dated July 25, 2025, at para 1(d.1).

⁷ At paragraph 202 of the decision, the Court directed the Monitor to distribute \$4 million to the FILO Agent but dismissed the balance of the relief sought by the FILO Agent. Notwithstanding this, there are no reasons in the decision that address the payment of rent during the disclaimer period.

⁸ Factum of the FILO Agent, dated August 21, 2025, at paras 40-41, 56; Reply Factum of the FILO Agent, dated August 27, 2025, at paras 28-35.

⁹ [CCAA](#), at section [11.01\(a\)](#).

¹⁰ See Reply Factum of the FILO Agent, dated August 27, 2025, at para 30.

section 11.01(a), so that an insolvent debtor and its landlords can have practical certainty while a debtor continues to ask a Landlord to supply a leased premises. That arrangement will in most cases be more practical than a Landlord insisting on daily payments of rent.

10. Once a Company ceases to require use of a leased premises, nothing in the Act requires payment of rent.¹¹ In other words, “there is no specific CCAA provision that requires a company to make payment to persons who supply good and services in the post-filing period (including a landlord for post-filing rent)”.¹² This is reflected in the Alberta model CCAA Order, which provides only that rent “may” (but need not) be paid until such time as a debtor’s real property lease is disclaimed.¹³ This is sensible given that an obligation to pay rent (absent some express grant of security) is an unsecured claim.¹⁴

11. The Court always has the jurisdiction to amend a section 11 order, as section 67 of the ARIO reflects.¹⁵

12. Contrary to the position of the Landlords, an order prohibiting payment of rent from the FILO Lenders’ secured collateral does not breach section 11.01(a) because the Company is no longer demanding supply of the premises. This will, of course, leave the Landlords (like any other unpaid pre- or post-filing suppliers) with an unsecured claim against the Company. But any such claims rank behind those of secured creditors absent the grant of a post-filing charge, which the Landlords do not have. Arrangements to pay unsecured post-filing suppliers to the detriment of secured creditors was a sufficient reason for the Alberta Court in *Razor Energy* to deny approval of an RVO.¹⁶

13. The Landlords may well have other remedies available to them besides a claim for rent, and, to the extent they wish to exercise them, they should be permitted to do so – for instance, by re-entry into the premises before the end of the 30-day period. But without any security which

¹¹ See Reply Factum of the FILO Agent, dated August 27, 2025, at para 35.

¹² *Quest University Canada (Re)*, [2020 BCSC 921](#), at para 43.

¹³ Replacement to Tab 34 of FILO Agent Compendium – Comparison of Ontario and Alberta Model CCAA Orders.

¹⁴ *Quest University Canada (Re)*, [2020 BCSC 921](#), at paras 43, 50; *Bellatrix Exploration Ltd. (Re)*, [2020 ABQB 809](#), at paras 45-47. See also Reply Factum of the FILO Agent, dated August 27, 2025, at para 31.

¹⁵ ARIO, at para 67.

¹⁶ *Razor Energy Corp, Razor Holdings Gp Corp., and Blade Energy Services Corp (Re)*, [2025 ABKB 30](#) at paras 88-89. See Reply Factum of the FILO Agent, dated August 27, 2025, at para 31.

ranks ahead of the FILO Lenders, the Landlords are not entitled to insist on the use of the FILO Lenders' collateral to collect on their unsecured claims to rent.

C. RENT PAYMENTS NO LONGER SERVE ANY RESTRUCTURING PURPOSE

14. The Landlords' insistence on regular payments of rent may have been justified so long as the Company was "using" the leased premises within the meaning of section 11.01(a).¹⁷ Thus, the Landlords had the right to insist on rent as a condition of continued supply while the liquidation sale was ongoing, and, arguably, to the extent that the Company sought to preserve the Central Walk Leases for the now-failed transaction.¹⁸

15. But there can now be no question that the Company is not "using" the premises. This is a liquidating CCAA, with no restructuring purpose, or need for the leases, as is clear from the disclaimers issued.¹⁹

16. In these circumstances, a debtor must be free to cease paying rent, where continuing to pay would be to the detriment of secured creditors. The Company's secured creditors must be free to insist on preservation of the collateral over which they have security. That was true before any disclaimer of the leases (as the Alberta Model Order contemplates). It must still be true once the Company has disclaimed the leases at issue. The Company can hand back the keys to the Landlords immediately, and the Landlords, if they wish, can take steps to terminate the leases or exercise other remedies²⁰ so that the premises may be leased to other parties or otherwise used by the Landlords.

17. The progress of this proceeding to date justifies bringing an end to the use of the FILO Lenders' collateral to pay rent. The Landlords have benefitted from 5 months of additional rent in an effort that has turned out to be of no value to the estate. At this stage, the priority payment of a further bonus of at least \$3.9 million in rent to the Landlords from the FILO Lenders' collateral would compound the unfairness to the FILO Lenders. The Court has found that it is not clear who

¹⁷ See Reply Factum of the FILO Agent, dated August 27, 2025, at paras 33, 35.

¹⁸ The FILO Agent does not concede this point.

¹⁹ *Quest University Canada (Re)*, [2020 BCSC 921](#), at para 90(e).

²⁰ And, to the extent required, the ARIO can be modified to expressly permit those steps.

the fulcrum creditor will be, acknowledging the real risk of shortfall that the FILO Lenders face.²¹ There is no valid prejudice to the Landlords, who have had months to plan for this eventuality, given that the FILO Agent has sought this relief since July. In opposing the Central Walk Transaction, the Landlords themselves were expressly content to go without rent for several years rather than see the leases continued with Central Walk as a tenant.²²

18. The Landlords have argued that the disclaimer notice period provided by CCAA section 32 would be rendered meaningless if a debtor company could immediately cease performing its contract on the day it gives notice.²³ This submission misses the point. The failure by a debtor to continue to perform during a 30-day notice period may give rise to a claim against the debtor. But that is no different than any failure or refusal to perform prior to that 30-day notice period. Any debtor is free to cease performing to a post-filing supplier or landlord, and the only immediate remedy that section 11.01(a) gives to such a party is the right to cease to perform. It does not grant them a priority charge for any claim to damages for non-payment or other breach of contract.

19. For these reasons and those set out in the FILO Agent's written and oral submissions at the original motion, the FILO Agent respectfully requests that the relief sought be granted.



**Matthew B. Lerner / Brian Kolenda
/ Christopher Yung / Julien Sicco**

²¹ Endorsement of Justice Osborne, dated October 24, 2025, at para 209.

²² See, for example, the Affidavit of Franco Perugini, sworn July 29, 2025, at para 27.

²³ Factum of Cadillac Fairview, dated August 25, 2025, at para 23.

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in its capacity as FILO Agent

**ONTARIO
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**IN THE MATTER OF THE *COMPANIES' CREDITORS*
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Applicants

**SIXTH REPORT OF THE MONITOR
ALVAREZ & MARSAL CANADA INC.**

JULY 14, 2025

5.29 The Monitor acknowledges that the costs of pursuing the Central Walk Transaction, including continuing to pay the post-filing rent owing under the Subject Leases, erodes the FILO Agent's collateral. Although the FILO Agent may ultimately be able to recover funds from the Applicants' other assets, including the pension surplus, in order to be repaid in full, certain of such recoveries are highly contingent, and to the extent the pension surplus in particular is ultimately realized, may take considerable time to realize.

5.30 Taking into consideration:

- (a) the likely protracted timeline to obtain a final court determination regarding the Central Walk APA;
- (b) the carrying costs of the Subject Leases and the ongoing professional fees related to pursuing the Central Walk Transaction;
- (c) the significant risk that the Central Walk Transaction does not ultimately close;
- (d) the lack of agreement as between the FILO Agent and Pathlight as to who should bear the costs and risks of pursuing the Central Walk Transaction; and

(e) the FILO Agent's objections to continuing to pursue the Central Walk Transaction, the Monitor does not think it is fair nor equitable for the FILO Agent's priority collateral to continue to be used to fund the pursuit of the Central Walk Transaction, particularly in circumstances where Pathlight is the lender that stands to gain the most from the transaction being completed. The Monitor's view is that unless such costs are funded by another source

or another consensual resolution is reached between the parties, the Central Walk APA should be terminated and the Subject Leases should be disclaimed.

Monitor's Enhanced Powers

5.31 As discussed above, the Monitor does not agree with many of the FILO Agent's assertions made in the Fredericks Affidavit, and it does not agree that the Applicants have been mismanaged during these CCAA Proceedings. As set out in the Prior Reports, the Monitor has supported the relief sought by the Applicants at each of the previously attended motions in these proceedings. However, the Monitor notes that it may be appropriate at some point in these CCAA Proceedings for its powers to be expanded given that, among other things, the Company is no longer operating an active business or pursuing a going concern restructuring.

5.32 Should the Court determine that a change in the Applicants' governance is necessary, the Monitor is prepared to act in accordance with the terms of the Expanded Powers Order.

5.33 The FILO Agent is seeking, in the alternative, for Richter to be appointed as the receiver of the Applicants. The FILO Agent did not file a receivership application in connection with this alternative relief and the Monitor does not believe it is necessary nor in the best interests of the Applicants' stakeholders for Richter to be appointed as receiver of the Applicants at this time.

Proposed Distribution

5.34 The Monitor does not believe that it is necessary nor appropriate for the Expanded Powers Order to require the Applicants to make the Proposed Distribution. The Stay Extension and

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

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ONTARIO INC.**

Applicants

NOTICE OF MOTION

The Moving Party, ReStore Capital, LLC ("**ReStore**"), in its capacity as agent (the "**FILO Agent**"), on behalf of a syndicate of lenders (the "**FILO Lenders**" and together with the FILO Agent, the "**FILO Parties**") will make a motion before the Honourable Justice Osborne of the Ontario Superior Court of Justice (Commercial List) on Tuesday, July 15, 2025 at 9:00 a.m., or as soon thereafter as the motion can be heard.

PROPOSED METHOD OF HEARING: The Motion is to be heard

- ☐ In writing under subrule 37.12.1(1) because it is;
- ☐ In writing as an opposed motion under subrule 37.12.1(4);
- ☒ In person;
- ☐ By telephone conference;
- ☒ By video conference.

at the following location:

Zoom Link: To be provided to the Service List once made available by the Court.

Please advise if you plan to attend the motion by emailing jake.harris@blakes.com

THE MOTION IS FOR¹:

1. An Order (the “**Expanded Powers Order**”) pursuant to the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the “**CCAA**”) that, among other things:

- (a) abridges the time for service of the Notice of Motion and the Motion Record and dispenses with further service thereof, if necessary;
- (b) expands the powers of the Alvarez & Marsal Canada Inc., in its role as monitor (in such capacity, the “**Monitor**”) of the Applicants, to allow the Monitor to conduct the affairs and operations of the Applicants for the benefit of all their stakeholders;
- (c) authorizes and directs the Monitor cause the Company to terminate the Asset Purchase Agreement among Hudson’s Bay Company ULC Compagnie de la Baie D’Hudson SRI (“**HBC**”), as vendor, Ruby Liu Commercial Investment Corp., as purchaser, and Weihong Liu as Guarantor dated May 23, 2025 (the “**Central Walk APA**), as well as the transaction subject thereto (the “**Central Walk Transaction**”);
- (d) authorizes and directs the Monitor to cause HBC to immediately disclaim of all its remaining leases subject to the Central Walk APA for which a transaction has not closed and that are not subject to any other potential transaction;
- (e) directs HBC to distribute \$6 million to the FILO Agent; and
- (f) grants certain related and ancillary relief to better ensure that the FILO Lenders’ rights and interests are safeguarded.

¹ Capitalized terms not otherwise defined herein have the meanings given to them in the Affidavit of Ian Fredericks sworn July 8, 2025.

2. Such further and other relief as may be requested by the Agent and as this Honourable Court considers just.

THE GROUNDS FOR THE APPLICATION ARE:

Background

3. ReStore is a credit-focused investment manager operating as part of the broader financial and asset-based business of Hilco Global (“**Hilco**”), an advisory and investment firm that specializes in asset monetization, restructuring, and valuation services across various industries. ReStore and Hilco have a long history of supporting HBC’s business, and, in December 2024, ReStore as FILO Agent on behalf of the FILO Lenders closed on a \$151 million FILO Term Loan to assist HBC with urgent working capital needs.

4. On March 7, 2025, HBC was granted CCAA protection following a serious and immediate liquidity crisis. ReStore and a subset of the FILO Lenders provided the \$16 million DIP Facility that allowed HBC to fund these CCAA proceedings on an interim basis.

5. ReStore and HBC then began negotiations on the A&R DIP Agreement to provide further funding for HBC to carry out its restructuring. The A&R DIP Agreement contained certain restrictions meant to protect the interests of the FILO Lenders. However, due to better than expected receipts from HBC’s GOB Sale, on March 20, 2025, HBC informed the FILO Agent (in its capacity as DIP Agent) that it intended to repay the DIP Facility and terminate the DIP Term Sheet and rely solely on receipts from the GOB Sale (i.e. the sale of the FILO Lenders’ collateral) to fund the proceeding.

6. This decision significantly increased the risk to the FILO Lenders’ position, which the FILO Agent and HBC attempted to resolve by agreeing to a restructuring framework agreement

(the “**RFA**”). The Court ultimately declined to approve the RFA, but the FILO Parties were comforted by the guardrails that the Court put in its endorsement dated March 29, 2025 (the “**Endorsement**”) that empowered the Monitor to have increased oversight over HBC’s cash flows, expenditures and disbursements.

7. Notwithstanding the guardrails in the Endorsement, HBC has proceeded to manage its affairs in a manner seriously prejudicial to the FILO Lenders’ interests. HBC has mismanaged its wind down and taken actions to the detriment of the FILO Lenders, resulting in the FILO Lenders’ projected shortfall increasing from \$43 million to \$72 million between May 9 and June 17, 2025, despite an approximately \$54 million increase in receipts over expectations.

8. HBC has mismanaged its liquidation in several ways. Among other things, HBC’s failure to deliver disclaimer notices in a timely fashion, its failure to properly close stores and remove FF&E, and its decision to unnecessarily pay for the removal of signage has led to an additional approximately \$18 million of actual or forecast expenditures. The sole source of funding for these expenditures is the cash collateral that would otherwise form the basis of the FILO Lenders’ recovery.

9. Most significantly, HBC is actively pursuing an uneconomical and imprudent transaction to the prejudice of the FILO Lenders and at their expense. On May 23, 2025, HBC entered into the Central Walk APA and the Central Walk Transaction with Ruby Liu Corp. The Central Walk Transaction contemplates the assignment of 28 of HBC’s leases (the “**Central Walk Leases**”) with either (i) the consent of the applicable landlords or (ii) the approval of this Court.

10. HBC has incurred exorbitant rent costs and professional fees in trying to obtain the necessary landlord consents with nothing to show for it despite the landlords having indicated long ago that no consent will be provided. No motion to approve the Central Walk Transaction or to

compel the assignment of the Central Walk Leases has been brought in more than a month.

11. In addition to the costs of pursuing the Central Walk Transaction, 21 of the 28 Central Walk Leases are the priority collateral of Pathlight, not the FILO Lenders. However, HBC has exclusively used the FILO Lenders' collateral to fund negotiations with the landlords. While the FILO Lenders will stand to derive much less benefit from the Central Walk Transaction than Pathlight, they are bearing all the risk of its potential failure.

Termination of the Central Walk APA and Central Walk Transaction

12. Due to the exorbitant costs associated with the failed Central Walk Transaction, the FILO Agent seeks to have the Central Walk APA and the Central Walk Transaction terminated by this Court. The FILO Agent also seeks in the Expanded Powers Order a requirement for HBC to immediately disclaim all leases subject to the Central Walk APA that have not already been transferred and that are not subject to any other potential transaction.

Requested Distribution to FILO Agent

13. The FILO Agent also requires that \$6 million be immediately distributed to the FILO Agent. An additional \$6 million of proceeds was generated from the sale of the Undisputed Central Walk Leases which amount is not contemplated in the Fifth Cash Flow and is above and beyond what HBC requires to satisfy budgeted expenses. Accordingly, \$6 million should be distributed to the FILO Agent as soon as possible to reduce its exposure.

Expanded Powers of the Monitor

14. HBC's failure to properly manage its liquidation for the benefit of its creditors calls for enhanced involvement and control by a court officer who is required to act with a view to the interests of creditors, rather than the continued involvement of a board of directors of a non-

operating business.

15. The Monitor has the ability to supervise HBC's conduct, but it does not currently have authority to make decisions that may be required to protect the interests of stakeholders. A change is required to ensure that the interests of creditors are respected and protected.

16. The Expanded Powers Order proposes to expand the powers of the Monitor to manage the Applicants' business in a manner similar to that of a "Super Monitor" in other CCAA proceedings. This change will allow for the professional liquidation and wind down of the Applicants for the benefit of all stakeholders.

17. In the alternative to the expansion of the powers of the Monitor, the FILO Agent seeks the appointment of Richter Consulting Inc. as receiver and manager of the Applicants.

OTHER GROUNDS

18. The provisions of the CCAA and the inherent and equitable jurisdiction of this Honourable Court;

19. Rule 2.03, 3.02, 14.05 and 16 of the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194, as amended; and

20. Such further and other grounds as counsel may advise.

THE FOLLOWING DOCUMENTARY EVIDENCE will be used at the hearing of this Motion:

- (a) The Fredericks Affidavit;
- (b) The affidavit of Jennifer Bewley sworn on March 7, 2025;
- (c) The affidavit of Jennifer Bewley sworn on March 14, 2025;
- (d) The affidavit of Jennifer Bewley sworn on March 21, 2025;
- (e) The affidavit of Michael Culhane sworn on June 16, 2025;
- (f) The Pre-filing Report of the Monitor dated March 7, 2025;

- (g) The First Report of the Monitor dated March 16, 2025;
- (h) The Supplement to the First Report of the Monitor dated March 21, 2025;
- (i) The Fifth Report of the Monitor dated June 19, 2025; and
- (j) Such further and other evidence as counsel may advise and this Honourable Court may permit.

Date: July 8, 2025

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Lawyers for the FILO Agent

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

THE HONOURABLE MR

)

FRIDAY, THE 21st DAY

JUSTICE OSBORNE

)

OF MARCH, 2025

**IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,
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INC., SNOSPMIS LIMITED, 2472596 ONTARIO INC., and 2472598 ONTARIO INC.**

AMENDED AND RESTATED INITIAL ORDER

THIS MOTION, made by Hudson's Bay Company ULC Compagnie de la Baie D'Hudson SRI ("**Hudson's Bay**"), HBC Canada Parent Holdings Inc., HBC Canada Parent Holdings 2 Inc., HBC Bay Holdings I Inc., HBC Bay Holdings II ULC, The Bay Holdings ULC, HBC Centerpoint GP Inc., HBC YSS 1 LP Inc., HBC YSS 2 LP Inc., HBC Holdings GP Inc., Snospmis Limited, 2472596 Ontario Inc., and 2472598 Ontario Inc. (collectively, the "**Applicants**") for an order amending and restating the initial order of Justice Osborne issued on March 7, 2025 (the "**Initial Order**") pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**") was heard this day at 330 University Avenue, Toronto, Ontario and via videoconference.

ON READING the affidavits of Jennifer Bewley sworn March 7, 2025 (the "**First Bewley Affidavit**"), March 14, 2025 (the "**Second Bewley Affidavit**"), and March 21, 2025 (the "**Third Bewley Affidavit**"), and the Exhibits thereto, the pre-filing report of Alvarez & Marsal Canada Inc. ("**A&M**"), in its capacity as proposed monitor of the Applicants dated March 7, 2025, the first report of A&M (the "**First Report**"), in its capacity as monitor of the Applicants (in such capacity, the "**Monitor**"), dated March 16, 2025, and the Supplement to the First Report of the Monitor dated March 21, 2025, on being advised that the secured creditors who are likely to be affected by the charges created herein were given notice, and on hearing the submissions of counsel to the

Applicants, counsel to the Monitor, and such other parties as listed on the Counsel Slip, with no one else appearing although duly served as appears from the affidavits of service of Brittney Ketwaroo sworn March 17, 2025, and March 21, 2025.

SERVICE AND DEFINITIONS

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion and the Motion Record is hereby abridged and validated so that this Motion is properly returnable today and hereby dispenses with further service thereof.

2. **THIS COURT ORDERS** that capitalized terms used but not defined in this Order shall have the meanings given to them in the First Bewley Affidavit, the Second Bewley Affidavit and the Third Bewley Affidavit.

APPLICATION

3. **THIS COURT ORDERS AND DECLARES** that the Applicants are companies to which the CCAA applies. Although not Applicants, HBC Holdings LP, RioCan-HBC General Partner Inc., RioCan-HBC Limited Partnership, RioCan-HBC (Ottawa) Holdings Inc., RioCan-HBC (Ottawa) GP, Inc., RioCan-HBC (Ottawa) Limited Partnership ("**RioCan-Hudson's Bay Ottawa LP**"), HBC YSS 1 Limited Partnership ("**YSS 1**"), HBC YSS 2 Limited Partnership ("**YSS 2**"), HBC Centerpoint LP, and The Bay Limited Partnership (collectively, the "**Non-Applicant Stay Parties**", and together with the Applicants, "**Hudson's Bay Canada**") shall have the benefits of the protections and authorizations provided by this Order.

PLAN OF ARRANGEMENT

4. **THIS COURT ORDERS** that the Applicants shall have the authority to file with this Court a plan of compromise or arrangement (the "**Plan**").

POSSESSION OF PROPERTY AND OPERATIONS

5. **THIS COURT ORDERS** that the Applicants shall remain in possession and control of their current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof (the "**Property**"). For greater certainty, Property does not include the assets, undertakings or properties of any Non-Applicant Stay Party, including the interests of any Non-Applicant Stay Party in any head lease held by RioCan- Hudson's Bay

JV, YSS 1, YSS 2, RioCan-HBC (Ottawa) Holdings Inc., RioCan-HBC (Ottawa) GP, Inc., or RioCan-Hudson's Bay Ottawa LP (a "**JV Head Lease**") or any property held by an Applicant as nominee or bare trustee for a Non-Applicant Stay Party or other Person. Subject to further Order of this Court, the Applicants shall continue to carry on business in a manner consistent with the preservation of their business (the "**Business**") and Property. The Applicants shall each be authorized and empowered to continue to retain and employ their employees, contractors, advisors, consultants, agents, experts, appraisers, valuers, brokers, accountants, counsel and such other persons (collectively "**Assistants**") currently retained or employed by them, with liberty to retain such further Assistants as they deem reasonably necessary or desirable in the ordinary course of business or for the carrying out of the terms of this Order.

6. **THIS COURT ORDERS** that Hudson's Bay and The Bay Limited Partnership shall be entitled to continue to utilize their existing central cash management systems currently in place as described in the First Bewley Affidavit, or with the consent of the Monitor and the DIP Agent, replace it with another substantially similar central cash management system (the "**Cash Management System**") and that any present or future bank providing the Cash Management System shall not be under any obligation whatsoever to inquire into the propriety, validity or legality of any transfer, payment, collection or other action taken under the Cash Management System, or as to the use or application by Hudson's Bay and The Bay Limited Partnership of funds transferred, paid, collected or otherwise dealt with in the Cash Management System, shall be entitled to provide the Cash Management System without any liability in respect thereof to any Person (as hereinafter defined) other than Hudson's Bay and The Bay Limited Partnership, pursuant to the terms of the documentation applicable to the Cash Management System, and shall be, in its capacity as provider of the Cash Management System, an unaffected creditor under any Plan with regard to any claims or expenses it may suffer or incur in connection with the provision of the Cash Management System.

7. **THIS COURT ORDERS** that the Applicants shall be entitled but not required to pay the following expenses whether incurred prior to, on or after the date of the Initial Order, subject to compliance with the DIP Budget to the extent that such expenses are incurred and payable by the Applicants:

- (a) all outstanding and future wages, salaries, employee and pension benefits (including, without limitation, employee medical, dental, registered retirement savings plan contributions and similar benefit plans or arrangements), vacation

pay and employee and director expenses payable on or after the date of the Initial Order, in each case incurred in the ordinary course of business and consistent with existing compensation policies and arrangements and all other payroll and benefits processing and servicing expenses;

- (b) subject to further Order of this Court, all outstanding amounts related to honouring gift cards incurred in the ordinary course of business and consistent with existing policies and procedures, but only up to April 6, 2025;
- (c) the fees and disbursements of any Assistants retained or employed by the Applicants, at their standard rates and charges;
- (d) with the consent of the Monitor, amounts owing for goods or services supplied to the Applicants prior to the date of the Initial Order by:
 - (i) logistics or supply chain providers, including transportation providers, customs brokers, freight forwarders and security and armoured truck carriers, and including amounts payable in respect of customs and duties for goods;
 - (ii) providers of information, internet, telecommunications and other technology, including e-commerce providers and related services;
 - (iii) providers of payment, credit, and debit processing related services; and
 - (iv) other third-party suppliers or service providers,

if, in the opinion of the Applicants following consultation with the Monitor, such supplier or service provider is critical to the Business.

8. **THIS COURT ORDERS** that, except as otherwise provided to the contrary herein, the Applicants shall be entitled, subject to compliance with the DIP Budget, but not required, to pay all reasonable expenses incurred by them in carrying on their Business in the ordinary course after the date of the Initial Order, and in carrying out the provisions of this Order, which expenses shall include, without limitation:

- (a) all expenses and capital expenditures reasonably necessary for the preservation of the Property or the Business including, without limitation, payments on account

of insurance (including directors' and officers' insurance), maintenance and security services; and

- (b) payment for goods or services actually supplied to the Applicants following the date of the Initial Order, including, with the consent of the Monitor, payments to obtain the release or delivery of goods contracted for prior to the date of the Initial Order.

9. **THIS COURT ORDERS** that the Applicants shall, in accordance with legal requirements, remit or pay:

- (a) any statutory deemed trust amounts in favour of the Crown in right of Canada or of any Province thereof or any other taxation authority which are required to be deducted from the Applicants' employees' wages, including, without limitation, amounts in respect of (i) employment insurance, (ii) Canada Pension Plan, (iii) Quebec Pension Plan, (iv) income taxes, and (v) all other amounts related to such deductions or employee wages payable for periods following the date of the Initial Order pursuant to the *Income Tax Act* (Canada), the Canada Pension Plan, the *Employment Insurance Act* (Canada) or similar provincial statutes;
- (b) all goods and services taxes, harmonized sales taxes or other applicable sales taxes (collectively, "**Sales Taxes**") required to be remitted by the Applicants in connection with the sale of goods and services by the Applicants, but only where such Sales Taxes are accrued or collected after the date of the Initial Order, and, where such Sales Taxes were accrued or collected prior to the date of the Initial Order but not required to be remitted until on or after the date of the Initial Order, only if provided for in the DIP Budget; and
- (c) any amount payable to the Crown in right of Canada or of any Province thereof or any political subdivision thereof or any other taxation authority in respect of municipal realty, municipal business, workers' compensation or other taxes, assessments or levies of any nature or kind which are entitled at law to be paid in priority to claims of secured creditors and which are attributable to or in respect of the carrying on of the Business by the Applicants.

10. **THIS COURT ORDERS** that:

- (a) until a real property lease, including a sublease, and related documentation to which any Applicant is a party (directly and not as nominee or bare trustee) (each a "**Lease**") is disclaimed in accordance with the CCAA or otherwise consensually terminated, such Applicant shall pay all amounts constituting rent or payable as rent under Leases (including, for greater certainty, common area maintenance charges, utilities and any other amounts payable to the applicable landlord (each a "**Landlord**") under such Lease, but for greater certainty, excluding accelerated rent or penalties, fees or other charges arising as a result of the insolvency of the Applicants or the making of this Order) or as otherwise may be negotiated between the Applicant and the Landlord from time to time ("**Rent**"), for the period commencing from and including the date of the Initial Order, twice monthly in equal payments on the first and fifteenth day of each month, in advance (but not in arrears). On the date of the first of such payments, any Rent relating to the period commencing from and including the date of the Initial Order shall also be paid; and
- (b) notwithstanding paragraph 10(a), Hudson's Bay shall not pay any Rent or other amount to RioCan-Hudson's Bay JV, YSS 1, YSS 2, or RioCan-Hudson's Bay Ottawa LP under any Lease (collectively, the "**JV Leases**", and "**JV Lease**" means any of them) in excess of the aggregate amount of \$7,000,000 (plus applicable sales tax) in any calendar month (the "**JV Monthly Cap**"), which shall be payable on the same terms as all other Leases as provided for in this Order, provided that (i) to the extent any JV Lease is disclaimed or terminated, the JV Monthly Cap shall automatically be reduced by an amount equal to the pro rata amount attributable to such JV Lease based on the rent and other amounts payable under such JV Lease relative to all the other JV Leases, (ii) rent payable under the Leases for Georgian Mall and Oakville Place shall not be subject to the JV Monthly Cap, and the Loan Parties shall pay such rent in accordance with the terms of such Leases in effect as at the commencement of the CCAA Proceedings, (iii) the JV Monthly Cap for March 2025 shall be reduced by the aggregate amount paid by the Loan Parties under the JV Leases for the period of March 1, 2025 to and including March 7, 2025, and (iv) any amounts due and payable under any JV Lease during the CCAA Proceedings not permitted to be paid under this paragraph shall (A) accrue with interest at the same rate as the DIP Facility and (B) be secured by the JV Rent Charge (as defined below).

11. **THIS COURT ORDERS** that RioCan-Hudson's Bay JV, YSS 1, YSS 2, and RioCan-Hudson's Bay Ottawa LP shall collectively be entitled to the benefit of and are hereby granted a charge (the "**JV Rent Charge**") on the Property, as security for any Rent payable by Hudson's Bay to RioCan-Hudson's Bay JV, YSS 1, YSS 2, and RioCan-Hudson's Bay Ottawa LP, after March 7, 2025, and not paid (the "**Unpaid JV Rent**"), which JV Rent Charge shall secure an unconditional obligation to pay without any claim of set-off. The JV Rent Charge shall have the priority as set out in paragraphs 49 and 51 herein.

12. **THIS COURT ORDERS** that the Applicants shall not disclaim or resiliate any Lease without the prior written consent of the Pathlight Lenders, which consent shall not be unreasonably withheld, conditioned or delayed; provided that if the Pathlight Lenders do not consent to the disclaimer or resiliation of any Lease, the Pathlight Lenders shall pay to the Applicants the amount of all rental payments due under such Lease after the date on which the disclaimer or resiliation would have become effective and any such payment shall be a Protective Advance (as defined in the Pathlight Credit Agreement), subject to the terms of the Pathlight Credit Facility, as may be amended in accordance with its terms.

13. **THIS COURT ORDERS** that, except as specifically permitted herein, or as provided for in the DIP Budget, the Applicants are hereby directed, until further Order of this Court:

- (a) to make no payments of principal, interest thereon or otherwise on account of amounts owing by any one of the Applicants to any of their creditors as of the date of the Initial Order except as expressly provided for in the DIP Budget;
- (b) to grant no security interests, trusts, liens, mortgages, charges or encumbrances upon or in respect of any of Hudson's Bay Canada's current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof ("**Hudson's Bay Canada's Property**"); and
- (c) to not grant credit or incur liabilities except in the ordinary course of the Business.

14. **THIS COURT ORDERS** each Non-Applicant Stay Party to make no distributions, payments or transfers of any kind except to (a) the pre-filing secured lenders of the Non-Applicant Stay Party (collectively, the "**Non-Applicant Secured Creditors**"), (b) arm's length creditors of such Non-Applicant Stay Party in the ordinary course of business, and (c) other creditors of such

Non-Applicant Stay Party with the prior written consent of the relevant Non-Applicant Secured Creditor(s) of such Non-Applicant Stay Party.

RESTRUCTURING

15. **THIS COURT ORDERS** that the Applicants shall, subject to such requirements as are imposed by the CCAA, have the right to:

- (a) in addition to any liquidation conducted pursuant to the Liquidation Solicitation Process, permanently or temporarily cease, downsize or shut down any of their businesses or operations, and to dispose of redundant or non-material assets not exceeding \$250,000 in any one transaction or \$1,000,000 in the aggregate;
- (b) subject to the requirements of the CCAA and paragraphs 10, 12, 16, and 17 herein, vacate, abandon, or quit the whole but not part of any leased premises and/or disclaim any Lease, and any ancillary agreements relating to any leased premises;
- (c) terminate the employment of any of their employees or temporarily lay off any of their employees as they deem appropriate;
- (d) in consultation with the Monitor, engage in discussions with, and solicit proposals and agreements from, third parties in respect of the liquidation of the inventory, furniture, equipment and fixtures located in and/or forming part of the Property (the “**Liquidation Solicitation Process**”), and return to Court for the approval of any such agreement;
- (e) in consultation with the Monitor, engage in discussions with, and solicit proposals and agreements from, real estate advisors and other Assistants as may be desirable to pursue all avenues and offers for the sale, transfer or assignment of Leases (and any leases held by the Non-Applicant Stay Parties) to third parties, in whole or in part (the “**Lease Monetization Process**”) and return to Court for approval of any such agreement; and
- (f) pursue all restructuring options for Hudson’s Bay Canada including, without limitation, all avenues of refinancing of their business (“**Hudson’s Bay Canada’s Business**”) or Hudson’s Bay Canada’s Property, in whole or in part, subject to the prior approval of this Court being obtained before any material refinancing,

all of the foregoing to permit the Applicants to proceed with an orderly restructuring of the Business.

16. **THIS COURT ORDERS** that the relevant Applicant shall provide each of the relevant Landlords with notice of the Applicant's intention to remove any fixtures from any leased premises at least seven (7) days prior to the date of the intended removal. The relevant Landlord shall be entitled to have a representative present in the leased premises to observe such removal and, if the Landlord disputes such Applicant's entitlement to remove any such fixture under the provisions of the Lease, such fixture shall remain on the premises and shall be dealt with as agreed between any applicable secured creditors, such Landlord and the Applicant, or by further Order of this Court upon application by such Applicant on at least two (2) days notice to such Landlord and any such secured creditors. If the relevant Applicant disclaims the Lease governing such leased premises in accordance with Section 32 of the CCAA, it shall not be required to pay Rent under such Lease pending resolution of any such dispute (other than Rent payable for the notice period provided for in Section 32(5) of the CCAA), and the disclaimer of the Lease shall be without prejudice to such Applicant's claim to the fixtures in dispute.

17. **THIS COURT ORDERS** that if a notice of disclaimer is delivered pursuant to Section 32 of the CCAA, then (a) during the notice period prior to the effective time of the disclaimer, the Landlord may show the affected leased premises to prospective tenants during normal business hours, on giving the relevant Applicant and the Monitor 24 hours' prior written notice, and (b) at the effective time of the disclaimer, the relevant Landlord shall be entitled to take possession of any such leased premises without waiver of or prejudice to any claims or rights such Landlord may have against such Applicant in respect of such Lease or leased premises, provided that nothing herein shall relieve such landlord of its obligation to mitigate any damages claimed in connection therewith.

STAY OF PROCEEDINGS

18. **THIS COURT ORDERS** that until and including May 15, 2025, or such later date as this Court may order (the "**Stay Period**"), no proceeding or enforcement process in any court or tribunal (each, a "**Proceeding**") shall be commenced or continued against or in respect of Hudson's Bay Canada or the Monitor, or their respective employees, directors, advisors, officers and representatives acting in such capacities, or affecting the Business or the Property, except with the written consent of Hudson's Bay Canada and the Monitor, or with leave of this Court, and

any and all Proceedings currently under way against or in respect of Hudson's Bay Canada or their employees, directors, officers or representatives acting in such capacities, or affecting Hudson's Bay Canada's Business and Hudson's Bay Canada's Property are hereby stayed and suspended pending further Order of this Court.

NO EXERCISE OF RIGHTS OR REMEDIES

19. **THIS COURT ORDERS** that during the Stay Period, all rights and remedies of any individual, firm, corporation, governmental body or agency, or any other entities (all of the foregoing, collectively being "**Persons**" and each being a "**Person**") against or in respect of Hudson's Bay Canada or the Monitor, or their respective employees, directors, officers, advisors and representatives acting in such capacities or affecting Hudson's Bay Canada's Business or Hudson's Bay Canada's Property, are hereby stayed and suspended except with the prior written consent of Hudson's Bay Canada and the Monitor, or leave of this Court, provided that nothing in this Order shall (a) empower Hudson's Bay Canada to carry on any business which they are not lawfully entitled to carry on, (b) affect such investigations, actions, suits or proceedings by a regulatory body as are permitted by Section 11.1 of the CCAA, (c) prevent the filing of any registration to preserve or perfect a security interest, or (d) prevent the registration of a claim for lien.

NO INTERFERENCE WITH RIGHTS

20. **THIS COURT ORDERS** that during the Stay Period, no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by Hudson's Bay Canada, including but not limited to renewal rights in respect of existing insurance policies on the same terms, except with the prior written consent of Hudson's Bay Canada and the Monitor, or with leave of this Court.

CONTINUATION OF SERVICES

21. **THIS COURT ORDERS** that during the Stay Period, all Persons having oral or written agreements with Hudson's Bay Canada or statutory or regulatory mandates for the supply of goods and/or services, including without limitation all computer software, communication and other data services, centralized banking services, cash management services, payment processing services, payroll and benefit services, insurance, freight services, transportation services, customs clearing, warehouse and logistic services, utility or other services to Hudson's

Bay Canada's Business or Hudson's Bay Canada are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply or license of such goods or services as may be required by Hudson's Bay Canada and that Hudson's Bay Canada shall be entitled to the continued use of their current premises, telephone numbers, facsimile numbers, internet addresses, email addresses, social media accounts, and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of the Initial Order are paid by Hudson's Bay Canada in accordance with normal payment practices of Hudson's Bay Canada or such other practices as may be agreed upon by the supplier or service provider and each of the Hudson's Bay Canada entities and the Monitor, or as may be ordered by this Court.

NO PRE-FILING VS POST-FILING SET-OFF

22. **THIS COURT ORDERS** that no Person shall be entitled to set off any amounts that: (a) are or may become due to Hudson's Bay Canada in respect of obligations arising prior to the date of the Initial Order with any amounts that are or may become due from Hudson's Bay Canada in respect of obligations arising on or after the date of the Initial Order; or (b) are or may become due from Hudson's Bay Canada in respect of obligations arising prior to the date of the Initial Order with any amounts that are or may become due to Hudson's Bay Canada in respect of obligations arising on or after the date of the Initial Order, in each case without the consent of Hudson's Bay Canada and the Monitor, or with leave of this Court.

NON-DEROGATION OF RIGHTS

23. **THIS COURT ORDERS** that, notwithstanding anything else in this Order (other than pursuant to Section 9), no Person shall be prohibited from requiring immediate payment for goods, services, use of leased or licensed property or other valuable consideration provided on or after the date of the Initial Order, nor shall any Person be under any obligation on or after the date of the Initial Order to advance or re-advance any monies or otherwise extend any credit to Hudson's Bay Canada. Nothing in this Order shall derogate from the rights conferred and obligations imposed by the CCAA.

KEY EMPLOYEE RETENTION PLAN

24. **THIS COURT ORDERS** that the Key Employee Retention Plan (the "**KERP**"), as described in the Second Bewley Affidavit, an unredacted copy of which is attached as Confidential

Appendix “1” to the First Report, is hereby approved and the Applicants are authorized to make the payments contemplated thereunder in accordance with the terms and conditions of the KERP.

25. **THIS COURT ORDERS** that payments made by the Applicants pursuant to this Order do not and will not constitute preferences, fraudulent conveyances, transfers at undervalue, oppressive conduct, or other challengeable or voidable transactions under any applicable law.

26. **THIS COURT ORDERS** that the Key Employees referred to in the KERP shall be entitled to the benefit of and are hereby granted a charge on the Property (the “**KERP Charge**”), which charge shall not exceed an aggregate amount of \$3,000,000 to secure any payments to the Key Employees under the KERP. The KERP Charge shall have the priority as set out in paragraphs 49 and 51 herein.

PROCEEDINGS AGAINST DIRECTORS AND OFFICERS

27. **THIS COURT ORDERS** that during the Stay Period, and except as permitted by subsection 11.03(2) of the CCAA, no Proceeding may be commenced or continued against any of the former, current or future directors or officers of Hudson’s Bay Canada with respect to any claim against the directors or officers that arose before the date of the Initial Order and that relates to any obligations of Hudson’s Bay Canada whereby the directors or officers are alleged under any law to be liable in their capacity as directors or officers for the payment or performance of such obligations.

DIRECTORS’ AND OFFICERS’ INDEMNIFICATION AND CHARGE

28. **THIS COURT ORDERS** that the Applicants shall indemnify their directors and officers against obligations and liabilities that they may incur as directors or officers of the Applicants after the commencement of the within proceedings, except to the extent that, with respect to any officer or director, the obligation or liability was incurred as a result of the director’s or officer’s gross negligence or wilful misconduct.

29. **THIS COURT ORDERS** that the directors and officers of the Applicants shall be entitled to the benefit of and are hereby granted a charge (the “**Directors’ Charge**”) on the Property, which charge shall not exceed an aggregate amount of \$49,200,000, as security for the indemnity provided in paragraph 28 of this Order. The Directors’ Charge shall have the priority as set out in paragraphs 49 and 51 herein.

30. **THIS COURT ORDERS** that, notwithstanding any language in any applicable insurance policy to the contrary, (a) no insurer shall be entitled to be subrogated to or claim the benefit of the Directors' Charge, and (b) the Applicants' directors and officers shall only be entitled to the benefit of the Directors' Charge to the extent that they do not have coverage under any directors' and officers' insurance policy, or to the extent that such coverage is insufficient to pay amounts indemnified in accordance with paragraph 28 of this Order.

APPOINTMENT OF MONITOR

31. **THIS COURT ORDERS** that A&M is, as of the date of the Initial Order, appointed pursuant to the CCAA as the Monitor, an officer of this Court, to monitor the business and financial affairs of the Applicants with the powers and obligations set out in the CCAA or set forth herein and that Hudson's Bay Canada and their shareholders, partners, members, officers, directors, and Assistants shall advise the Monitor of all material steps taken by Hudson's Bay Canada pursuant to this Order, and shall co-operate fully with the Monitor in the exercise of its powers and discharge of its obligations and provide the Monitor with the assistance that is necessary to enable the Monitor to adequately carry out the Monitor's functions.

32. **THIS COURT ORDERS** that the Monitor, in addition to its prescribed rights and obligations under the CCAA, is hereby directed and empowered to:

- (a) monitor the Applicants' receipts and disbursements and the compliance with the DIP Budget;
- (b) report to this Court at such times and intervals as the Monitor may deem appropriate with respect to matters relating to the Property, the Business, and such other matters as may be relevant to the proceedings herein;
- (c) assist the Applicants, to the extent required by the Applicants, in their dissemination of financial and other information to the DIP Agent and its counsel on a periodic basis as agreed to between the Applicants and the DIP Agent, or as may reasonably be requested by the DIP Agent;
- (d) advise the Applicants in their preparation of the Applicants' cash flow statements and reporting required by the DIP Agent, which information shall be reviewed with the Monitor and delivered to the DIP Agent and its counsel on a periodic basis, or as may reasonably be requested by the DIP Agent;

- (e) advise the Applicants in their development of a Plan and any amendments to the Plan;
- (f) assist the Applicants, to the extent required by the Applicants, with the holding and administering of creditors' or shareholders' meetings for voting on the Plan;
- (g) have full and complete access to the Property, including the premises, books, records, data, including data in electronic form, and other financial documents of the Applicants, to the extent that is necessary to adequately assess Applicants' business and financial affairs or to perform its duties arising under this Order;
- (h) be at liberty to engage independent legal counsel or such other persons, as the Monitor deems necessary or advisable respecting the exercise of its powers and performance of its obligations under this Order;
- (i) liaise and consult with any Assistants, any liquidators selected through the Liquidation Solicitation Process and any real estate advisors or other Assistants selected through the Lease Monetization Process, to the extent required, with respect to all matters related to the Property, the Business, and such other matters as may be relevant to the proceedings herein; and
- (j) perform such other duties as are required by this Order or by this Court from time to time.

33. **THIS COURT ORDERS** that the Monitor shall not take possession of Hudson's Bay Canada's Property and shall take no part whatsoever in the management or supervision of the management of Hudson Bay Canada's Business and shall not, by fulfilling its obligations hereunder, be deemed to have taken or maintained possession or control of Hudson's Bay Canada's Business or Hudson's Bay Canada's Property, or any part thereof.

34. **THIS COURT ORDERS** that nothing herein contained shall require the Monitor to occupy or to take control, care, charge, possession or management (separately and/or collectively, "**Possession**") of any of Hudson's Bay Canada's Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without

limitation, the *Canadian Environmental Protection Act, 1999*, the *Ontario Environmental Protection Act*, the *Ontario Water Resources Act*, the *Ontario Occupational Health and Safety Act*, the *British Columbia Environmental Management Act*, the *British Columbia Riparian Areas Protection Act*, the *British Columbia Workers Compensation Act*, the *Alberta Environmental Protection and Enhancement Act*, the *Alberta Water Act*, the *Alberta Occupational Health and Safety Act*, the *Manitoba Environment Act*, the *Manitoba Contaminated Sites Remediation Act*, the *Manitoba Workplace Safety and Health Act*, the *Quebec Environmental Quality Act*, the *Quebec Act Respecting Occupation Health and Safety*, *The Environmental Management and Protection Act, 2010* (Saskatchewan), *The Agricultural Operations Act* (Saskatchewan), *The Dangerous Goods Transportation Act* (Saskatchewan), *The Saskatchewan Employment Act*, *The Emergency Planning Act* (Saskatchewan), *The Water Security Agency Act* (Saskatchewan), the *Nova Scotia Environment Act*, the *Nova Scotia Water Resources Protection Act*, or the *Nova Scotia Occupational Health and Safety Act*, and the regulations thereunder (the “**Environmental Legislation**”), provided however that nothing herein shall exempt the Monitor from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Monitor shall not, as a result of this Order, or anything done in pursuance of the Monitor’s duties and powers under this Order, be deemed to be in Possession of any of Hudson’s Bay Canada’s Property within the meaning of any Environmental Legislation, unless it is actually in possession.

35. **THIS COURT ORDERS** that that the Monitor shall provide any creditor of the Applicants and the DIP Agent with information provided by the Applicants in response to reasonable requests for information made in writing by such creditor addressed to the Monitor. The Monitor shall not have any responsibility or liability with respect to the information disseminated by it pursuant to this paragraph. In the case of information that the Monitor has been advised by the Applicants is confidential, the Monitor shall not provide such information to creditors unless otherwise directed by this Court or on such terms as the Monitor and the Applicants may agree.

36. **THIS COURT ORDERS** that, in addition to the rights and protections afforded the Monitor under the CCAA or as an officer of this Court, the Monitor shall incur no liability or obligation as a result of its appointment or the carrying out of the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part. Nothing in this Order shall derogate from the protections afforded the Monitor by the CCAA or any applicable legislation.

37. **THIS COURT ORDERS** that the Monitor, counsel to the Monitor and counsel to the Applicants shall be paid their reasonable fees and disbursements (including pre-filing fees and

disbursements), in each case at their standard rates and charges, whether incurred prior to, on or subsequent to, the date of the Initial Order by the Applicants, as part of the costs of these proceedings. The Applicants are hereby authorized and directed to pay the accounts of the Monitor, counsel for the Monitor and counsel for the Applicants bi-weekly or on such other terms as such parties may agree. In addition, the Applicants are hereby authorized to pay to the Monitor and counsel to the Monitor, retainers in the amounts of \$200,000 each, to be held by them as security for payment of their respective fees and disbursements outstanding from time to time.

38. **THIS COURT ORDERS** that the Monitor and its legal counsel shall pass their accounts from time to time, and for this purpose the accounts of the Monitor and its legal counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.

39. **THIS COURT ORDERS** that the Applicants' counsel, Reflect Advisors, LLC ("**Reflect**"), the Monitor, and its counsel shall be entitled to the benefit of and are hereby granted a charge (the "**Administration Charge**") on the Property, which charge shall not exceed an aggregate amount of \$2,800,000 as security for their professional fees and disbursements incurred at the standard rates and charges of the Monitor and such counsel, both before and after the making of this Order in respect of these proceedings. The Administration Charge shall have the priority as set out in paragraphs 49 and 51 hereof.

APPROVAL OF ADVISOR AGREEMENT

40. **THIS COURT ORDERS** that the agreement dated February 14, 2025, engaging Reflect Advisors, LLC ("**Reflect**") as financial advisor to Hudson's Bay in the form attached as Exhibit "F" to the Second Bewley Affidavit (the "**Reflect Engagement Agreement**"), and the retention of Reflect under the terms thereof, is hereby approved and ratified and the Applicants are authorized and directed to make the payments contemplated thereunder in accordance with the terms and conditions of the Reflect Engagement Agreement.

DIP FACILITY

41. **THIS COURT ORDERS** that Hudson's Bay, is hereby authorized and empowered to obtain and borrow under the DIP Facility from the DIP Lenders in accordance with and subject to the DIP Term Sheet provided that such borrowings shall not individually or in the aggregate exceed \$16 million in order to finance the working capital requirements, and other general corporate purposes and capital expenditures of itself and HBC Canada Parent Holdings Inc., HBC

Canada Parent Holdings 2 Inc., HBC Bay Holdings I Inc., HBC Bay Holdings II ULC, The Bay Holdings ULC, and The Bay Limited Partnership (collectively, the “**Loan Parties**”).

42. **THIS COURT ORDERS** that such DIP Facility shall be on the terms and subject to the conditions set forth in the DIP Term Sheet between the Loan Parties and the DIP Lenders dated as of March 7, 2025, appended as **Exhibit “D”** to the First Bewley Affidavit (the “**DIP Term Sheet**”).

43. **THIS COURT ORDERS** that the Loan Parties are hereby authorized and empowered to execute and deliver such agreements, instruments, mortgages, charges, hypothecs and security documents, guarantees and other definitive documents (collectively with the DIP Term Sheet, the “**Definitive Documents**”), as may be contemplated by the DIP Term Sheet or as may be reasonably required by the DIP Lenders pursuant to the terms thereof, and the Loan Parties are hereby authorized and directed to pay and perform all of their indebtedness, interest, fees, liabilities and obligations to the DIP Lenders under and pursuant to the Definitive Documents (collectively, the “**DIP Obligations**”) as and when the same become due and are to be performed, notwithstanding any other provision of this Order.

44. **THIS COURT ORDERS** that the DIP Agent, for the benefit of itself and the DIP Lenders, is hereby granted a charge (the “**DIP Charge**”) on the Loan Parties’ Property as security for the DIP Obligations, which DIP Charge shall be in the aggregate amount of the DIP Obligations outstanding at any given time under the Definitive Documents. The DIP Charge shall not secure an obligation that exists before the date of the Initial Order. The DIP Charge shall have the priority as set out in paragraphs 49 and 51 hereof.

45. **THIS COURT ORDERS** that, notwithstanding any other provision of this Order:

- (a) the DIP Agent may take such steps from time to time as it may deem necessary or appropriate to file, register, record or perfect the DIP Charge or the Definitive Documents;
- (b) upon the occurrence of an event of default under the Definitive Documents or the DIP Charge, the DIP Agent on behalf of the DIP Lenders, (i) upon three business days’ notice to the Loan Parties and the Monitor, may exercise any and all of its rights and remedies against the Loan Parties or the Loan Parties’ Property under or pursuant to the Definitive Documents and the DIP Charge, including without

limitation to apply to this Court for the appointment of a receiver, receiver and manager or interim receiver or for a bankruptcy order against the Loan Parties and for the appointment of a trustee in bankruptcy of the Loan Parties, or to seize and retain proceeds from the sale of the Property and the cash flow of the Loan Parties to repay amounts owing to the DIP Lenders in accordance with the Definitive Documents (subject in each case to the priorities set out in paragraph 39 of this Order), and (ii) immediately upon providing written notice of the occurrence of an Event of Default to the Loan Parties and the Monitor, may cease making advances to Hudson's Bay and set off and/or consolidate any amounts owing by the DIP Lenders to the Loan Parties against the obligations of the Loan Parties to the DIP Lenders under the Definitive Documents or the DIP Charge, and make demand, accelerate payment and give other notices; and

- (c) the foregoing rights and remedies of the DIP Agent and the DIP Lenders shall be enforceable against any trustee in bankruptcy, interim receiver, receiver or receiver and manager of the Loan Parties or the Loan Parties' Property.

46. **THIS COURT ORDERS AND DECLARES** that the DIP Agent and the DIP Lenders be treated as unaffected in any plan of arrangement or compromise under the CCAA, or any proposal filed under the BIA, with respect to any advances made under the Definitive Documents.

47. **THIS COURT ORDERS AND DECLARES** that this Order is subject to provisional execution and that if any of the provisions of this Order in connection with the Definitive Documents or the DIP Charge shall subsequently be stayed, modified, varied, amended, reversed or vacated in whole or in part (collectively, a "**Variation**"), such Variation shall not in any way impair, limit or lessen the priority, protections, rights or remedies of the DIP Agent and the DIP Lenders, whether under this Order (as made prior to the Variation), under the Definitive Documents with respect to any advances made or obligations incurred prior to the DIP Lenders being given notice of the Variation, and the DIP Lenders shall be entitled to rely on this Order as issued (including, without limitation, the DIP Charge) for all advances so made and other obligations set out in the Definitive Documents.

48. **THIS COURT ORDERS** that the Loan Parties are hereby authorized and directed to repay all DIP Financing Obligations (as defined in the DIP Term Sheet) in accordance with a payout statement to be provided by the DIP Agent and reviewed by the Monitor. Following such

repayment, the DIP Charge shall be terminated, released and discharged without any further act or formality, provided that such repayment and termination of the DIP Charge shall not be effective until the Monitor's independent counsel has rendered an opinion confirming the validity and enforceability of the security interests of the ABL Lender.

CHARGES CREATED BY THIS ORDER

49. **THIS COURT ORDERS** that the priorities of the Administration Charge, the KERP Charge, the Directors' Charge, the DIP Charge, and the JV Rent Charge (collectively, the "**Charges**"), as among them, shall be as follows:

With respect to all Property other than the Loan Parties':

First - Administration Charge (to the maximum amount of \$2,800,000);

Second – KERP Charge (to the maximum amount of \$3,000,000);

Third – Directors' Charge (to the maximum amount of \$13,500,000);

Fourth – DIP Charge;

Fifth – JV Rent Charge; and

Sixth – Directors' Charge (to the maximum amount of \$35,700,000).

With respect to the Loan Parties' Property, subject in all cases to the Priority Waterfall (as defined in the DIP Term Sheet), as amongst themselves, the priorities of the Charges shall be as follows:

Priority Ranking	ABL Priority Collateral	Pathlight Priority Collateral	Other Collateral (as defined in the DIP Term Sheet)
1 st	Administration Charge (to the maximum amount of \$2,800,000).	Administration Charge (to the maximum amount of \$2,800,000).	Administration Charge (to the maximum amount of \$2,800,000).
2 nd	KERP Charge (to the maximum amount of \$3,000,000).	KERP Charge (to the maximum amount of \$3,000,000).	KERP Charge (to the maximum amount of \$3,000,000).
3 rd	All amounts owing under the Revolving Credit Facility and FILO Credit	All amounts owing under the Pathlight Credit Facility (other than Excess Term Loan Obligations).	Directors' Charge (to the maximum amount of \$13,500,000).

	Facility (other than Excess ABL Obligations).		
4 th	Directors' Charge (to the maximum amount of \$13,500,000).	All amounts owing under the Revolving Credit Facility and FILO Credit Facility (other than Excess ABL Obligations).	DIP Charge.
5 th	DIP Charge.	Directors' Charge (to the maximum amount of \$13,500,000).	JV Rent Charge.
6 th	JV Rent Charge.	DIP Charge.	Directors' Charge (to the maximum amount of \$35,700,000).
7 th	Directors' Charge (to the maximum amount of \$35,700,000).	JV Rent Charge.	
8 th	All amounts owing under the Pathlight Credit Facility (other than Excess Term Loan Obligations).	Directors' Charge (to the maximum amount of \$35,700,000).	

50. **THIS COURT ORDERS** that the filing, registration or perfection of the Charges shall not be required, and that the Charges shall be valid and enforceable for all purposes, including as against any right, title or interest filed, registered, recorded or perfected subsequent to the Charges coming into existence, notwithstanding any such failure to file, register, record or perfect.

51. **THIS COURT ORDERS** that the Charges shall constitute a charge on the Property and shall rank in priority to all other security interests, trusts, liens, charges and encumbrances, claims of secured creditors, statutory or otherwise (collectively, "**Encumbrances**") in favour of any Person.

52. **THIS COURT ORDERS** that except as otherwise expressly provided for herein, the Applicants shall not grant any Encumbrances over any Property that rank in priority to, or *pari passu* with, any of the Charges, unless the Applicants also obtain the prior written consent of the Monitor, the DIP Agent, and the beneficiaries of the Administration Charge the Directors' Charge, the KERF Charge and the JV Rent Charge or further Order of this Court.

53. **THIS COURT ORDERS** that the Administration Charge, the Directors' Charge, the KERP Charge, the DIP Definitive Documents, the DIP Charge, and the JV Rent Charge shall not be rendered invalid or unenforceable and the rights and remedies of the chargees entitled to the benefit of the Charges (collectively, the "**Chargees**") and/or the DIP Lenders thereunder shall not otherwise be limited or impaired in any way by (a) the pendency of these proceedings and the declarations of insolvency made herein; (b) any application(s) for bankruptcy order(s) issued pursuant to BIA, or any bankruptcy order made pursuant to such applications; (c) the filing of any assignments for the general benefit of creditors made pursuant to the BIA; (d) the provisions of any federal, provincial or other statutes; or (e) any negative covenants, prohibitions or other similar provisions with respect to borrowings, incurring debt or the creation of Encumbrances, contained in any existing loan documents, lease, sublease, offer to lease or other agreement (collectively, an "**Agreement**") which binds the Applicants, and notwithstanding any provision to the contrary in any Agreement:

- (a) neither the creation of the Charges nor the execution, delivery, perfection, registration or performance of the Definitive Documents shall create or be deemed to constitute a breach by the Applicants of any Agreement to which they are a party;
- (b) none of the Chargees shall have any liability to any Person whatsoever as a result of any breach of any Agreement caused by or resulting from the Loan Parties entering into the Definitive Documents, the creation of the Charges, or the execution, delivery or performance of the Definitive Documents; and
- (c) the payments made by the Applicants pursuant to this Order, the Definitive Documents, and the granting of the Charges, do not and will not constitute preferences, fraudulent conveyances, transfers at undervalue, oppressive conduct, or other challengeable or voidable transactions under any applicable law.

54. **THIS COURT ORDERS** that any Charge created by this Order over leases of real property in Canada shall only be a Charge in the Applicants' interest in such real property leases.

SEALING

55. **THIS COURT ORDERS** that Confidential Appendix "1" to the First Report is hereby sealed pending further order of the Court, and shall not form part of the public record.

INSURANCE FINANCING

56. **THIS COURT ORDERS** that Hudson's Bay is authorized to enter into one or more Continuous Premium Instalment Contracts (each a "**PIC**") with Imperial PFS Payments Canada, ULC ("**IPFS**") pursuant to which IPFS shall provide financing to Hudson's Bay for the purchase of one or more policies of insurance (the "**Financed Policies**").

57. **THIS COURT ORDERS** that in the event of a payment default under a PIC, IPFS shall be permitted without further order of the Court, to exercise its rights under the PIC to cancel the Financed Policies and to receive any unearned premiums (the "**Unearned Premiums**") that may be refunded by the insurers as a result of same.

58. **THIS COURT ORDERS** that, notwithstanding any other provision of this Order or any other order issued in these proceedings, none of the Charges or Encumbrances existing as of the date hereof or any further charges that may be created in these proceedings, shall apply to the Unearned Premiums.

SERVICE AND NOTICE

59. **THIS COURT ORDERS** that the Monitor shall (a) without delay, publish in The Globe and Mail (National Edition) a notice containing the information prescribed under the CCAA, (b) within five days after the date of this Order, (i) make this Order publicly available in the manner prescribed under the CCAA, (ii) send, in the prescribed manner, a notice to every known creditor who has a claim against the Applicants of more than \$1000, and (iii) prepare a list showing the names and addresses of those creditors and the estimated amounts of those claims, and make it publicly available in the prescribed manner, all in accordance with Section 23(1)(a) of the CCAA and the regulations made thereunder, provided that the Monitor shall not make the claims, names and addresses of any individual persons who are creditors available.

60. **THIS COURT ORDERS** that the E-Service Protocol of the Commercial List (the "**Protocol**") is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Protocol (which can be found on the Commercial List website at <http://www.ontariocourts.ca/scj/practice/practice-directions/toronto/e-service-protocol/>) shall be valid and effective service. Subject to Rule 17.05, this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the *Rules of Civil Procedure*. Subject to Rule 3.01(d) of the *Rules of Civil Procedure* and paragraph 21 of the Protocol, service of

documents in accordance with the Protocol will be effective on transmission. This Court further orders that a Case Website shall be established in accordance with the Protocol with the following URL: alvarezandmarsal.com/HudsonsBay

61. **THIS COURT ORDERS** that the Applicants, the Monitor and their respective counsel are at liberty to serve or distribute this Order, and other materials and orders as may be reasonably required in these proceedings, including any notices, or other correspondence, by forwarding true copies thereof by electronic message to the Applicants' creditors or other interested parties and their advisors. For greater certainty, any such distribution or service shall be deemed to be in satisfaction of a legal or judicial obligation and notice requirements within the meaning of clause 3(c) of the *Electronic Commerce Protection Regulations*, Reg. 81000-2-175 (SOR/DORS).

62. **THIS COURT ORDERS** that if the service or distribution of documents in accordance with the Protocol is not practicable, the Applicants and the Monitor are at liberty to serve or distribute this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or facsimile transmission to the Applicants' creditors or other interested parties at their respective addresses as last shown on the records of the Applicants and that any such service or distribution by courier, personal delivery or facsimile transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

GENERAL

63. **THIS COURT ORDERS** that the Applicants or the Monitor may from time to time apply to this Court to amend, vary or supplement this Order or for advice and directions in the discharge of their powers and duties hereunder.

64. **THIS COURT ORDERS** that nothing in this Order shall prevent the Monitor from acting as an interim receiver, a receiver, a receiver and manager, or a trustee in bankruptcy of any Hudson's Bay Canada entity, the Business or the Property.

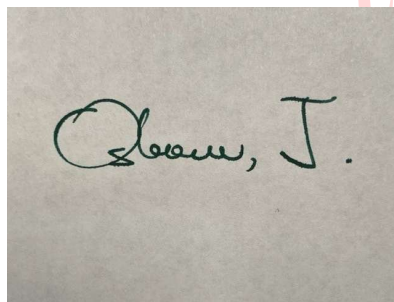
65. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States, to give effect to this Order and to assist the Applicants, the Monitor and their respective DIP Agent in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are

hereby respectfully requested to make such orders and to provide such assistance to the Applicants and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Monitor in any foreign proceeding, or to assist the Applicants and the Monitor and their respective DIP Agent in carrying out the terms of this Order.

66. **THIS COURT ORDERS** that each of the Applicants and the Monitor shall be at liberty and are 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 Monitor 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.

67. **THIS COURT ORDERS** that subject to paragraph 47 any interested party (including the Applicants and the Monitor) may apply to this Court to vary or amend this Order on not less than seven (7) days notice to any other party or parties likely to be affected by the order sought or upon such other notice, if any, as this Court may order.

68. **THIS COURT ORDERS** that this Order and all of its provisions are effective as of 12:01 a.m. Eastern/Daylight Time on the date of this Order.

A rectangular box containing a handwritten signature in dark ink. The signature appears to be "Osborne, J." written in a cursive, slightly stylized script.

Digitally signed
by Osborne J.

Date:

2025.03.23

22:47:12 -04'00'

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

Proceeding commenced at Toronto

AMENDED AND RESTATED INITIAL ORDER
(MARCH 21, 2025)

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Lawyers for the Applicants

**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
HUDSON'S BAY COMPANY ULC COMPAGNIE DE LA BAIE D'HUDSON SRL, HBC
CANADA PARENT HOLDINGS INC., HBC CANADA PARENT HOLDINGS 2 INC.,
HBC BAY HOLDINGS I INC., HBC BAY HOLDINGS II ULC, THE BAY HOLDINGS
ULC, HBC CETERPOINT GP INC., HBC YSS 1 LP INC., HBC YSS 2 LP INC., HBC
HOLDINGS GP INC., SNOSPMIS LIMITED, 2472596 ONTARIO INC., and 2472598
ONTARIO INC.**

Applicants

AMENDED NOTICE OF MOTION

The Moving Party, ReStore Capital, LLC ("**ReStore**"), in its capacity as agent (the "**FILO Agent**"), on behalf of a syndicate of lenders (the "**FILO Lenders**" and together with the FILO Agent, the "**FILO Parties**") will make a motion before the Honourable Justice Osborne of the Ontario Superior Court of Justice (Commercial List) on August 28, 2025 ~~Tuesday, July 15, 2025~~ at ~~9:00~~ 10:00 a.m., or as soon thereafter as the motion can be heard.

PROPOSED METHOD OF HEARING: The Motion is to be heard

- ☐ In writing under subrule 37.12.1(1) because it is;
- ☐ In writing as an opposed motion under subrule 37.12.1(4);
- ☒ In person;
- ☐ By telephone conference;
- ☒ By video conference.

at the following location:

Zoom Link: To be provided to the Service List once made available by the Court.

Please advise if you plan to attend the motion by emailing jake.harris@blakes.com

THE MOTION IS FOR¹:

1. An Order (the “**Expanded Powers Order**”) pursuant to the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the “**CCAA**”) that, among other things:

- (a) abridges the time for service of the Notice of Motion and the Motion Record and dispenses with further service thereof, if necessary;
- (b) expands the powers of the Alvarez & Marsal Canada Inc., in its role as monitor (in such capacity, the “**Monitor**”) of the Applicants, to allow the Monitor to conduct the affairs and operations of the Applicants for the benefit of all their stakeholders;
- (c) authorizes ~~and directs~~ the Monitor to cause the Company to terminate the Asset Purchase Agreement among Hudson’s Bay Company ULC Compagnie de la Baie D’Hudson SRI (“**HBC**”), as vendor, Ruby Liu Commercial Investment Corp., as purchaser, and Weihong Liu as Guarantor dated May 23, 2025 (the “**Central Walk APA**), as well as the transaction subject thereto (the “**Central Walk Transaction**”);
- (d) authorizes and directs the Monitor to cause HBC to immediately disclaim ~~of~~ all of its remaining leases subject to the Central Walk APA for which a transaction has not closed and that are not subject to any other potential transaction (the “**Remaining Leases**”), unless the Pathlight Lenders or the Purchaser under the Central Walk APA agree to bear any Rent and other costs associated with the pursuit of the Central Walk Transaction (including, without limitation, any

¹ Capitalized terms not otherwise defined herein have the meanings given to them in the Affidavit of Ian Fredericks sworn July 8, 2025.

professional fees, Monitor fees and fees of legal counsel) (the “**Central Walk Costs**”);

(d.1) amends paragraph 10 of the ARIO to eliminate the requirement that the Applicants pay any Rent on any Remaining Leases and directs that no Rent on account of the Remaining Leases be paid from any ABL Priority Collateral from the earlier of (1) notice of disclaimer of any of the Remaining Leases, including, for greater certainty, during any period of notice provided for in Section 32(5) of the CCAA; and (2) the date of any decision of the Court declining to approve the Central Walk Transaction;

(d.2) requires that if the Central Walk Transaction is terminated or not approved, that the Purchaser under the Central Walk APA or the Pathlight Lenders reimburse to the Applicants any Central Walk Costs incurred from and after July 15, 2025, and that any such amounts be deemed to be ABL Priority Collateral;

(d.3) requires, as a condition of any approval or implementation of the Central Walk Transaction, that a portion of any proceeds from the Central Walk APA equivalent to the Central Walk Costs incurred from and after July 15, 2025 be deemed to be ABL Priority Collateral;

(e) directs HBC to distribute \$6 million to the FILO Agent; ~~and~~

(e.1) makes such other orders as may be necessary, pursuant to section 11 of the CCAA, to ameliorate any prejudice that would otherwise be occasioned on the FILO Lenders as a result of the pursuit of the Central Walk Transaction; and

(f) grants certain related and ancillary relief to better ensure that the FILO Lenders’ rights and interests are safeguarded.

2. Such further and other relief as may be requested by the Agent and as this Honourable Court considers just.

THE GROUNDS FOR THE APPLICATION ARE:

Background

3. ReStore is a credit-focused investment manager operating as part of the broader financial and asset-based business of Hilco Global (“**Hilco**”), an advisory and investment firm that specializes in asset monetization, restructuring, and valuation services across various industries. ReStore and Hilco have a long history of supporting HBC’s business, and, in December 2024, ReStore as FILO Agent on behalf of the FILO Lenders closed on a \$151 million FILO Term Loan to assist HBC with urgent working capital needs.

4. On March 7, 2025, HBC was granted CCAA protection following a serious and immediate liquidity crisis. ReStore and a subset of the FILO Lenders provided the \$16 million DIP Facility that allowed HBC to fund these CCAA proceedings on an interim basis.

5. ReStore and HBC then began negotiations on the A&R DIP Agreement to provide further funding for HBC to carry out its restructuring. The A&R DIP Agreement contained certain restrictions meant to protect the interests of the FILO Lenders. However, due to better than expected receipts from HBC’s GOB Sale, on March 20, 2025, HBC informed the FILO Agent (in its capacity as DIP Agent) that it intended to repay the DIP Facility and terminate the DIP Term Sheet and rely solely on receipts from the GOB Sale (i.e. the sale of the FILO Lenders’ collateral) to fund the proceeding.

6. This decision significantly increased the risk to the FILO Lenders’ position, which the FILO Agent and HBC attempted to resolve by agreeing to a restructuring framework agreement

(the “**RFA**”). The Court ultimately declined to approve the RFA, but the FILO Parties were comforted by the guardrails that the Court put in its endorsement dated March 29, 2025 (the “**Endorsement**”) that empowered the Monitor to have increased oversight over HBC’s cash flows, expenditures and disbursements.

7. Notwithstanding the guardrails in the Endorsement, HBC has proceeded to manage its affairs in a manner seriously prejudicial to the FILO Lenders’ interests. HBC has mismanaged its wind down and taken actions to the detriment of the FILO Lenders, resulting in the FILO Lenders’ projected shortfall increasing from \$43 million to \$72 million between May 9 and June 17, 2025, despite an approximately \$54 million increase in receipts over expectations.

8. HBC has mismanaged its liquidation in several ways. Among other things, HBC’s failure to deliver disclaimer notices in a timely fashion, its failure to properly close stores and remove FF&E, and its decision to unnecessarily pay for the removal of signage has led to an additional approximately \$18 million of actual or forecast expenditures. The sole source of funding for these expenditures is the cash collateral that would otherwise form the basis of the FILO Lenders’ recovery.

9. Most significantly, HBC is actively pursuing an uneconomical and imprudent transaction to the prejudice of the FILO Lenders and at their expense. On May 23, 2025, HBC entered into the Central Walk APA and the Central Walk Transaction with Ruby Liu Corp. The Central Walk Transaction contemplates the assignment of 28 of HBC’s leases (the “**Central Walk Leases**”) with either (i) the consent of the applicable landlords or (ii) the approval of this Court.

10. HBC has incurred exorbitant rent costs and professional fees in trying to obtain the necessary landlord consents with nothing to show for it despite the landlords having indicated long ago that no consent will be provided. No motion to approve the Central Walk Transaction or to

compel the assignment of the Central Walk Leases has been brought in more than a month.

11. In addition to the costs of pursuing the Central Walk Transaction, 21 of the 28 Central Walk Leases are the priority collateral of Pathlight, not the FILO Lenders. However, HBC has exclusively used the FILO Lenders' collateral to fund negotiations with the landlords. While the FILO Lenders will stand to derive much less benefit from the Central Walk Transaction than Pathlight, they are bearing all the risk of its potential failure.

Costs ~~Termination~~ of the Central Walk APA and Central Walk Transaction

12. Due to the exorbitant costs associated with the failed Central Walk Transaction, the FILO Agent seeks to have the Rent and other costs associated with the Central Walk APA and the Central Walk Transaction borne by the parties who stand to benefit by it. ~~terminated by this Court.~~ The FILO Agent also seeks in the Expanded Powers Order ~~a requirement~~ the power for HBC to terminate the Central Walk Transaction, to immediately disclaim all leases subject to the Central Walk APA that have not already been transferred and that are not subject to any other potential transaction and to cease paying Rent on account of those leases.

Requested Distribution to FILO Agent

13. The FILO Agent also requires that \$6 million be immediately distributed to the FILO Agent. An additional \$6 million of proceeds was generated from the sale of the Undisputed Central Walk Leases which amount is not contemplated in the Fifth Cash Flow and is above and beyond what HBC requires to satisfy budgeted expenses. Accordingly, \$6 million should be distributed to the FILO Agent as soon as possible to reduce its exposure.

Expanded Powers of the Monitor

14. HBC's failure to properly manage its liquidation for the benefit of its creditors calls for

enhanced involvement and control by a court officer who is required to act with a view to the interests of creditors, rather than the continued involvement of a board of directors of a non-operating business.

15. The Monitor has the ability to supervise HBC's conduct, but it does not currently have authority to make decisions that may be required to protect the interests of stakeholders. A change is required to ensure that the interests of creditors are respected and protected.

16. The Expanded Powers Order proposes to expand the powers of the Monitor to manage the Applicants' business in a manner similar to that of a "Super Monitor" in other CCAA proceedings. This change will allow for the professional liquidation and wind down of the Applicants for the benefit of all stakeholders.

17. In the alternative to the expansion of the powers of the Monitor, the FILO Agent seeks the appointment of Richter Consulting Inc. as receiver and manager of the Applicants.

OTHER GROUNDS

18. The provisions of the CCAA and the inherent and equitable jurisdiction of this Honourable Court;

19. Rule 2.03, 3.02, 14.05 and 16 of the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194, as amended; and

20. Such further and other grounds as counsel may advise.

THE FOLLOWING DOCUMENTARY EVIDENCE will be used at the hearing of this Motion:

- (a) The Fredericks Affidavit;
- (b) The affidavit of Jennifer Bewley sworn on March 7, 2025;
- (c) The affidavit of Jennifer Bewley sworn on March 14, 2025;
- (d) The affidavit of Jennifer Bewley sworn on March 21, 2025;

- (e) The affidavit of Michael Culhane sworn on June 16, 2025;
- (f) The Pre-filing Report of the Monitor dated March 7, 2025;
- (g) The First Report of the Monitor dated March 16, 2025;
- (h) The Supplement to the First Report of the Monitor dated March 21, 2025;
- (i) The Fifth Report of the Monitor dated June 19, 2025; and
- (j) Such further and other evidence as counsel may advise and this Honourable Court may permit.

<u>July 25, 2025</u>	<u>LENCZNER SLAGHT LLP</u> <u>Barristers</u> <u>130 Adelaide Street West, Suite 2600</u> <u>Toronto, ON M5H 3P5</u> <u>Matthew B. Lerner (55085W)</u> <u>Tel: (416) 865-2940</u> <u>Email: mlerner@litigate.com</u> <u>Brian Kolenda (60153N)</u> <u>Tel: (416) 865-2897</u> <u>Email: bkolenda@litigate.com</u> <u>Christopher Yung (62082I)</u> <u>Tel: (416) 865-2976</u> <u>Email: cyung@litigate.com</u> <u>Julien Sicco (82939D)</u> <u>Tel: (416) 640-7983</u> <u>Email: jsicco@litigate.com</u> <u>Lawyers for ReStore Capital, LLC,</u> <u>in its capacity as FILO Agent</u>
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Date: July 8, 2025

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Lawyers for the FILO Agent

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 HUDSON'S BAY COMPANY ULC COMPAGNIE DE LA
BAIE D'HUDSON SRI et al.

ONTARIO
SUPERIOR COURT OF JUSTICE (COMMERCIAL LIST)

Proceeding Commenced at Toronto

NOTICE OF MOTION

LENCZNER SLAGHT LLP

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Lawyers for ReStore Capital, LLC,
in its capacity as FILO Agent

CITATION: *In Re Hudson's Bay Company*, 2025 ONSC 5998
COURT FILE NO.: CV-25-00738613-00CL
DATE: 20251024

**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
HUDSON'S BAY COMPANY ULC COMPAGNIE DE LA BAIE D'HUDSON SRI, HBC
CANADA PARENT HOLDINGS INC., HBC CANADA PARENT HOLDINGS 2 INC., HBC
BAY HOLDINGS I INC., HBC BAY HOLDINGS II ULC, THE BAY HOLDINGS ULC, HBC
CENTERPOINT GP INC., HBC YSS 1 LP INC., HBC YSS 2 LP INC., HBC HOLDINGS GP
INC., SNOSPMIS LIMITED, 2472596 ONTARIO INC., and 2472598 ONTARIO INC.,
Applicants

BEFORE: Peter J. Osborne J.

COUNSEL:

Maria Konyukhova, Elizabeth Pillon, Sinziana Henning, Philip Yang and Brittney Ketwaroo for
the Applicants

Graham Phoenix and Jayson Thomas for Ruby Liu Commercial Investment Corp.

Jeremy Dacks, Marc Wasserman and David Rosenblatt for Pathlight Capital LP

Matthew Lerner, Brian Kolenda, Christopher Yung and Julien Sicco for ReStore Capital LLC,
the FILO Agent

Jeremy Opolsky and David Bish for The Cadillac Fairview Corporation

Matthew Gottlieb, Andrew Winton and Annecy Pang for KingSett Capital Inc.

D. J. Miller and Andrew Nesbitt for Oxford Properties Group

example: *Acerus Pharmaceuticals Corporation (Re)*, 2023 ONSC 3314, at para. 39; *Plan of Arrangement of Fire & Flower Holdings Corp. et al.*, 2023 ONSC 4934, at paras. 35-36; *Ontario Securities Commission v. Bridging Finance Inc.*, 2022 ONSC 1857, at paras. 50-54; and *Attorney General of Canada v. Silicon Valley Bank*, 2023 ONSC 4703, at paras. 28-33. The first requirement is met.

194. I am also satisfied that the second requirement is met since the order sought is necessary to prevent the risks identified above. This is an important public interest because reasonably alternative measures will not prevent the risk. Disclosure of the competing bids, while the process is incomplete, could and very likely would impair both the integrity of the process and the result.
195. The third requirement is also met. While the Confidential Appendix containing the summaries of bids would be kept confidential on a temporary basis, the balance of the materials on the motion would not be sealed, and are available to the public.
196. The sealing order is to have effect only until further order of this court. Until the Lease Monetization Process previously authorized in this proceeding (which includes the present motion) has been completed and any contested matters have been finally determined, the public disclosure of this material would materially and likely irrevocably compromise any subsequent monetization or sale process, all to the detriment of the stakeholders and the objective of maximizing recoveries for their benefits.
197. On balance, I am satisfied that the benefits of the requested order outweigh its negative effects. The small amount of information over which confidentiality is sought to be maintained is discrete, proportional and limited.
198. Accordingly, the sealing order is granted.
199. To ensure that the court record is complete, counsel for the Applicants are directed to file a physical copy of the confidential appendix to the 8th Report with the Commercial List Office in a sealed envelope marked: "Confidential and sealed by court order; not to form part of the public record".

The FILO Agent's Motion

200. As stated at the outset of these reasons, the FILO Agent seeks various heads of relief on its motion.
201. Certain of the relief sought is affected by my disposition of the Applicants' lease approval motion as discussed above. The Monitor advised in submissions on the motion that if the lease assignments were not approved, the leases would be disclaimed. Accordingly, no further relief is necessary in that regard.
202. For the reasons below, the Monitor is directed to distribute \$4 million to the FILO Agent as against its priority indebtedness. The motion for the balance of the relief sought by the FILO Agent is dismissed.

203. As a general observation, all of the relief sought by the FILO Agent flows from its overarching position that the FILO Lenders whom it represents are the first ranking secured creditors of HBC, that notwithstanding that the Applicants have generated material recoveries, distributions to date have been for significantly lower amounts, and the Central Walk Transaction ought to never have been pursued by the Applicants as it has eroded the collateral of the FILO Lenders.
204. This is reinforced by that FILO Agent where it states in its factum that the need for [the relief it is seeking] “is best illustrated by the simple fact that, as things stand, the FILO Lenders could only receive \$12.5 million in proceeds from the Central Walk Transaction. This compares to the \$11.7 million of the FILO Lenders’ priority collateral spent ... This compares to the \$37.4 million expected to be available to Pathlight to recover against, at no cost to them.”
205. Fundamentally, the complaints and concerns of the FILO Agent relate to costs generally and the allocation of costs in this *CCAA* proceeding. Those concerns may or may not be well-founded and they may or may not properly result in a disproportionate allocation of professional fees and other restructuring costs, awards of costs, and/or other relief. It is well established that this court has broad jurisdiction to allocate costs in a *CCAA* proceeding as among stakeholders both pursuant to s. 11 of the *CCAA* and as a result of the court’s inherent and equitable jurisdiction. However, in my view, all of that is for another day.
206. At this stage, it would be extraordinary in a *CCAA* proceeding, and in my view is inappropriate in the particular circumstances here, to grant an order requiring one creditor or group of creditors to pay ongoing costs and expenses of the Applicants (such as lease costs) on the basis that ultimate recoveries for creditors seeking that relief may be compromised or reduced, or on the basis that the present motion would, if successful, have generated recoveries to be distributed primarily to the benefit of another creditor.
207. At least in large part, such an order here (i.e., an order requiring Pathlight to pay the costs under the CW Leases) would effectively be a predetermination of a number of issues: whether and to what extent the creditor rights of the FILO Agent rank in priority to those of Pathlight; over which assets; and whether either or both of those creditor groups will recover on proven claims and to what extent.
208. These issues have not been finally determined. As the FILO Agent itself submits in its factum, “[A]ll of the costs of this proceeding, including the costs of pursuing the Central Walk Transaction, will have to be addressed at some point.” I accept that submission, but in my view, that point is not today. Moreover, I am not persuaded that it would be fair or appropriate at this stage to allocate costs of one particular transaction or event in isolation, as opposed to allocating costs in a just and equitable manner considering all of the circumstances, typically at the end of the proceeding.
209. As observed above in these reasons, the Monitor submits, and I agree, that it is likely that the identity of the fulcrum creditor (i.e., the FILO Agent or Pathlight) will be unknown in

any event until a determination is made with respect to entitlement to what is apparently going to be a significant surplus in the HBC pension plans. That issue has yet to be addressed and will be vigorously contested.

210. Further, it would also be extraordinary and also not appropriate in the circumstances, to direct that a potential purchaser of assets pay costs as requested. I see no basis to order the Purchaser here to pay rent or other costs on leases that have not been assigned to it or in respect of which the leasehold interests held by HBC have not been purchased by it.
211. It is important to remember with respect to the request that costs of the Central Walk Transaction be borne (particularly at this stage) by one creditor (Pathlight), or by the Purchaser, that the Transaction was pursued pursuant to the Lease Monetization Process previously approved by this court, with the input of the FILO Agent who did not oppose the Process.
212. Accordingly, in my view, it is not appropriate today to make any order requiring either Pathlight or the Purchaser to bear any costs related to the CW Leases (including the payment of rent). Given my decision to not approve the assignment of the CW Leases, there are no proceeds of the Central Walk APA, such that the request that any such proceeds equivalent to Central Walk Costs incurred from and after July 15, 2025 be deemed to be ABL Priority Collateral, is moot.
213. The FILO Agent also sought an order requiring the preservation (by the Monitor) of the deposit paid by the Purchaser in connection with the Central Walk Transaction, in the event it was not approved.
214. To the extent that this is being pursued, I see no basis to make that order. The Central Walk APA provides for the return of the deposit in the event the Transaction is not completed (and I have declined to approve it). To order the forfeiture of that deposit to stand as against amounts claimed by the FILO Agent would be inappropriate for the same reasons set out above in respect of the claims for rent and other lease costs. It would also be unfair to the Purchaser who, while unsuccessful in its support of the motion of the Applicants to have the leases assigned to it, has not engaged in conduct such that what effectively amounts to a penalty ought to be awarded against it.
215. To be clear, in dismissing the motion of the FILO Agent for the payment of rent and other lease costs, I am concluding that such a request amounts to an allocation of costs, and is premature for the reasons set out above. I am making no determination about whether any costs of this proceeding, including professional costs, are reasonable or appropriate, nor am I making any determination about the proportion of those costs for which any party or parties ought ultimately to be responsible.
216. The FILO Agent was vigorous in its submissions not only about the allocation of costs, but the quantum of costs generally. I have heard those submissions. I continue to expect the court-appointed Monitor to fulfil its role as a court officer, to work to streamline this CCAA process, resolve issues where that is possible, and assist the court with the efficient

**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**

B E T W E E N:

AND IN THE MATTER OF A PLAN OF COMPROMISE OR
ARRANGEMENT OF HUDSON'S BAY COMPANY ULC COMPAGNIE DE
LA BAIE D'HUDSON SRI, HBC CANADA PARENT HOLDINGS INC., HBC
CANADA PARENT HOLDINGS 2 INC., HBC BAY HOLDINGS 1 INC., HBC
BAY HOLDINGS II ULC, THE BAY HOLDINGS ULC, HBC CENTREPOINT
GP INC., HBC YSS 1 LP INC., HBC YSS 2 LP INC., HBC HOLDINGS GP
INC., SNOSPMIS LIMITED, 2472596 ONTARIO INC. and
2472598 ONTARIO INC.

Applicants

**FACTUM OF THE FILO AGENT
(FILO AGENT'S MOTION: RETURNABLE AUGUST 28, 2025)**

August 21, 2025

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in its capacity as FILO Agent

stages of the wind-down, including the conclusion of any litigation/appeals related to the Central Walk Transaction, the sale of the Charter, dealing with employee and retiree claims, and pursuing the pension surplus for the benefit of creditors.

B. The FILO Lenders should not bear any costs associated with the delay in the consummation of the Central Walk Transaction

40. To date, the Applicants' cash has been used to fund all expenses of the CCAA proceeding. That cash is ABL Priority Collateral, over which the FILO Lenders have a priority claim. The FILO Agent intends to seek to remedy any inequities in respect of the proceeding in their entirety at an appropriate time.

41. But there is now no serious dispute about what the Monitor has said: that it is unfair for the FILO Lenders to exclusively shoulder the risk and costs of the Central Walk Transaction, when the majority of the benefits will flow to the Pathlight Lenders.⁸¹ This state of affairs is antithetical to the well-known principle that, as articulated by Justice Morawetz, "it is essential, in a court supervised process, to give due consideration to the priority rights of secured creditors."⁸²

42. For the reasons set out below, the FILO Agent seeks orders that will ensure that the costs of delay associated with the consummation of the Central Walk Transaction, if it closes at all, are borne (or reimbursed) by those parties who participated in or benefitted from that delay: the Pathlight Lenders or the Purchaser.

⁸¹ Sixth Report, at para 5.30, [CC p D717](#).

⁸² *Windsor Machine & Stamping Limited (Re)*, [2009 CanLII 39771](#) at [para 43](#). See also *Razor Energy Corp, Razor Holdings Gp Corp., and Blade Energy Services Corp (Re)*, [2025 ABKB 30](#) at [para 88](#) (refusing to approve a proposed RVO transaction that had a disproportionate impact on a single secured creditor, despite "business efficiency").

56. To the extent necessary, the ARIO should also be amended to clarify that no rent shall be paid after any notices of disclaimer. This motion marks the end of a lengthy Lease Monetization Process that everyone expected to bring an end to rent. Millions of dollars in dead rent have already been paid on premises the Applicants have not “use[d]”, within the meaning of section 11.01(a). Once notices of disclaimer are delivered, there is no reason for any rent to be paid thereafter.¹⁰⁷ While the CCAA contemplates a notice of disclaimer becoming effective after 30 days, there is no good reason why this insolvent estate should not be immediately relieved of those costs. The leases can immediately come to an end, with the keys handed back to the Landlords, or their costs shifted to those who wish to maintain them.

C. The Court should order a distribution to the FILO Agent of at least \$4 Million at this time

57. The Central Walk APA has cost approximately \$4.7 million per month,¹⁰⁸ and when a conservative amount of professional fees are allocated the costs are approximately \$6 to \$7 million per month.¹⁰⁹ While an exact cost allocation remains to be determined, there can be no argument that on any allocation of costs as requested above, at least \$4 million will ultimately be allocated to Pathlight. The Applicants have already indicated that the \$4 million of Pathlight collateral from the Affiliate Lease transaction would be available for costs related to the Central Walk APA.¹¹⁰

58. There should be no delay in distributing a further \$4 million from the ABL Priority Collateral held by the Applicants. There is sufficient cash flow projected to do so. The Monitor is holding an equivalent amount of Pathlight Priority Collateral. There is enough time for the Monitor

¹⁰⁷ Contrast with *Quest University Canada (Re)*, [2020 BCSC 921](#) at [para 90](#), see also *In Re Hudson’s Bay Company*, [2025 ONSC 1530](#) at [para 60](#), regarding the exercise of discretion on a case-by-case basis.

¹⁰⁸ Sixth Report, at para 5.28, [CC p D716](#).

¹⁰⁹ Fredericks Reply Affidavit, at para 34, [CC p 5044](#).

¹¹⁰ Responding Factum of the Applicants dated July 14, 2025, at para. 19, [CC p D1959](#).

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
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., HBC YSS 1 LP
INC., HBC YSS 2 LP INC., 2745270 ONTARIO INC., SNOSPMIS LIMITED, 2472596
ONTARIO INC., AND 2472598 ONTARIO INC.**

Applicants

REPLY FACTUM OF THE FILO AGENT
(FILO AGENT'S MOTION: RETURNABLE AUGUST 28, 2025)

August 27, 2025

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Lawyers for ReStore Capital, LLC,
in its capacity as FILO Agent

Fredericks testified to remained intact: that the FILO Agent would not be required to fund the maintenance of the Pathlight Leases at all.⁴⁵

27. The FILO Agent did not and does not resile from the essential business understanding reached and reflected in the Consent, namely that its priority cash collateral be used to fund the Pathlight Leases until only the first week of July. The Court should ensure that Pathlight cannot resile from its end of that bargain, and saddle the FILO Lenders with the costs of collecting on its collateral.

The Court should take urgent action to prevent further erosion of the FILO Lenders' priority collateral

A. The Landlords misunderstand the position of the FILO Agent, which does not seek to require them to make the Leases available

28. Cadillac Fairview misunderstands the FILO Agent's position. It argues that the Court does not have jurisdiction to "order Cadillac Fairview to lease to the Applicants the properties under the CF Leases without being rightfully paid for them" based on section 11.01(a).⁴⁶

29. In this regard, the FILO Agent merely seeks an end to the Applicants funding rent payments:

- (a) After any order, unless another party puts them in funds to do so, to ensure that the FILO Lenders' priority collateral is not used to fund the payments; and
- (b) Immediately after any disclaimer.

⁴⁵ Fredericks Reply Affidavit, at para 11, [CC p F5036](#); Fredericks Affidavit, Exhibit "E" (the "**Intercreditor Agreement**"), at para 3.3(j), [CC p D518](#).

⁴⁶ Cadillac Fairview Factum, dated August 25, 2025, at para 17, [CC p F16509](#).

30. Section 11.01 does not guarantee continuing payment of rent or any other post-filing suppliers. Rather it is a prohibition against requiring the provision of leased property (or other supply), rent-free. The Landlords can continue to “require[e] immediate payment for ... leased ...property” and withdraw the supply (subject to the terms of the Leases) upon non-payment. But section 11.01(b) does not, itself, provide any independent justification for the Applicants bearing the cost of those leases, if those with an economic interest in them wish for them to remain in good standing.

31. Post-filing suppliers, like the Landlords, are unsecured creditors whose claims rank behind those of secured creditors absent an order to the contrary,⁴⁷ including an order designating the post-filing suppliers as “critical suppliers” under section 11.4.⁴⁸ For this reason, the Court in *Razor Energy* denied approval of an RVO because it concluded that the payment of unsecured post-filing suppliers to the detriment of secured creditors was inequitable.⁴⁹

32. In the present case, the only positive obligation for the Applicants to pay rent arises out of section 10(a) of the ARIO which the FILO Agent has expressly sought to vary since its Amended Notice of Motion was served on July 26, 2025.⁵⁰ The Landlords are not surprised by this position, and indeed raised objections to it at the July 31, 2025 hearing.

⁴⁷ *Razor Energy Corp, Razor Holdings Gp Corp., and Blade Energy Services Corp (Re)*, [2025 ABKB 30](#) at [para 68](#) (“Although it is expected that amounts owing for post-filing goods and services will be paid on an ongoing basis, and will be kept current, post-filing creditors do not enjoy any priority to secured creditors if their claims are not paid when due, unless the court has granted a charge to secure those amounts.”)

⁴⁸ Companies’ Creditors Arrangement Act, R.S.C., 1985, c. C-36 (“CCAA”), at [s.11.4](#).

⁴⁹ *Razor Energy Corp, Razor Holdings Gp Corp., and Blade Energy Services Corp (Re)*, [2025 ABKB 30](#) at [paras 88-89](#).

⁵⁰ Amended and Restated Initial Order, dated March 21, 2025 (“ARIO”), at para 10(a), [CC p D615](#); Amended Notice of Motion of the FILO Agent, dated July 25, 2025, [CC F16983](#).

33. There is no statutory basis for requiring the Applicants to pay for premises they will not longer need as of the date of disclaimer of the leases. Continued use of the premises was the determining factor in the case cited by the Landlords, *Cosgrove-Moore Bindery Services Ltd (Re)*⁵¹, as it was in *Quest University Canada (Re)*⁵². In this case the Landlords can and should be handed back the keys on the disclaimer date.

34. The lifting of the requirement for payment, and the conditionality sought by the FILO Agent on any payment, does not prejudice the Landlords. If the FILO Agent's submissions are accepted, any of the other parties with the economic interests who wish to use (or preserve for future use) the Subject Leases are free to advance funds to make those payments. If they choose not to do so, any failure to pay rent will trigger consequences that may include an unsecured post-filing claim, and, potentially, justification for lifting of the stay of proceedings under sections 18 to 20 of the ARIO, the exercise of remedies for late or non-payment of rent under the relevant Leases, and re-entry by the Landlords.

35. Section 10(a) of the ARIO is based on the Model Order, but it is just that: an order that can be varied. There is no other source of obligation to pay rent during any CCAA proceeding, including during the 30-day disclaimer period, and certainly not sections 32(1) and 32(5)(a) of the CCAA.⁵³ Non-payment during the 30-day disclaimer period is an ordinary risk that any unsecured post-filing supplier faces. Moreover, the requirement to pay in section 10(a) of the ARIO was justified when the leases were integral to the business of the debtors, and all parties could be certain that the leases would not be breached or terminated. But that justification has fallen away now that

⁵¹ *Cosgrove-Moore Bindery Services Ltd (Re)*, [2000 CanLII 22377](#) (ON SC) at [para 7](#).

⁵² *Quest University Canada (Re)*, [2020 BCSC 921](#) at [para 90](#).

⁵³ Cadillac Fairview Factum, at paras 22-23, [CC p F16510](#); CCAA, at [ss.32\(1\)](#) and [32\(5\)\(a\)](#).

the Leases will either be assigned or disclaimed, this latter result being one that the Landlords have sought for months.

B. Central Walk can be made to bear responsibility for the Central Walk Costs in certain circumstances

36. The FILO Agent does not seek to saddle the Purchaser with responsibility for the Central Walk Transaction costs at large, as Pathlight⁵⁴ claims.

37. Instead, the FILO Agent is only seeking that the Purchaser bear such costs, as the party with an economic interest in the transaction, and as a party who has contributed to those costs, if:

- (a) Central Walk seeks to maintain the Leases in good order pending any appeal; or
- (b) there is a basis for the forfeit of Central Walk's deposit based on the Applicants' allegation that the APA was breached, which issue would be determined at a later time.⁵⁵

38. The purported chilling effect on purchasers is a bogeyman that the Court can safely ignore. The Purchaser is a sophisticated, well-capitalized enterprise. The Central Walk APA was negotiated by sophisticated lawyers, and the Purchaser agreed to expose itself to liability if it did not perform its end of the bargain. It cannot be surprised by any risk that it may bear such costs, and certainly not from its deposit. Nor could it have had any expectation that it is the FILO Lenders who would fund costs to preserve the Subject Leases. The Purchaser was aware of section 12 of the ARIIO, which expressly permitted disclaimer (or passing of costs to Pathlight) by the

⁵⁴ Pathlight Factum, at paras 42-45, [CC p F17034-F17035](#).

⁵⁵ FILO Agent Factum, Exhibit "D", Draft Order, [CC p F9142](#).

Revised: January 21, 2014

Court File No. _____

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

THE HONOURABLE _____)
JUSTICE _____) WEEKDAY, THE #
DAY OF MONTH, 20YR

Clerk's Stamp:

COURT FILE NUMBER
COURT
JUDICIAL CENTRE OF

COURT OF QUEEN'S BENCH OF ALBERTA



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

AND IN THE MATTER OF A PLAN OF
COMPROMISE OR ARRANGEMENT OF [THE
DEBTOR(S)]

APPLICANT:

~~AND IN THE MATTER OF A
PLAN OF COMPROMISE OR
ARRANGEMENT OF
[APPLICANT'S NAME] (the
"Applicant")~~

RESPONDENT(S):

DOCUMENT

CONTACT INFORMATION OF PARTY

FILING THIS DOCUMENT:

ALBERTA TEMPLATE CCAA INITIAL ORDER

[LAW FIRM NAME]

[Address]

[Address]

Solicitor: ●

Telephone: ●

Facsimile: ●

Email: ●

File Number: ●

DATE ON WHICH ORDER WAS

PRONOUNCED:

NAME OF JUDGE WHO MADE THIS

ORDER:

LOCATION OF HEARING:

~~INITIAL ORDER~~ [*NOTE: DO NOT USE THIS ORDER AS A PRECEDENT WITHOUT
REVIEWING THE ACCOMPANYING EXPLANATORY NOTES.]

~~THIS APPLICATION, made by the Applicant, pursuant to the *Companies' Creditors
Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "CCAA") was heard this day at 330
University Avenue, Toronto, Ontario.~~

~~ON READING the affidavit of [NAME] sworn [DATE] and the Exhibits thereto, and on~~

UPON the application of [NAME] (the "Applicant"); AND UPON having read the Originating Application, the Affidavit of ●; and the Affidavit of Service of ● [if applicable], filed; AND UPON reading the consent of [NAME] to act as Monitor; AND UPON being advised that the secured creditors who are likely to be affected by the charges created herein ~~were given notice, and on hearing the submissions of counsel for [NAMES], no one appearing for [NAME] although duly served as appears from the affidavit of service of [NAME] sworn [DATE] and on reading the consent of [MONITOR'S NAME] to act as the Monitor,~~ have been provided notice of this application and either do not oppose or alternatively consent to the within Order [if applicable]; AND UPON hearing counsel for ●; AND UPON reading the Pre-Filing Report of [Monitor's Name]; IT IS HEREBY ORDERED AND DECLARED THAT:

SERVICE

1. ~~THIS COURT ORDERS that t~~The time for service of the N~~notice of A~~application and the Application Record~~for this order (the "Order") is hereby abridged and validated so that deemed good and sufficient [if applicable] and this A~~application is properly returnable today~~and hereby dispenses with further service thereof.~~

APPLICATION

2. ~~THIS COURT ORDERS AND DECLARES that t~~The Applicant is a company to which the Companies' Creditors Arrangement Act of Canada (the "CCAA") applies.

PLAN OF ARRANGEMENT

3. ~~THIS COURT ORDERS that t~~The Applicant shall have the authority to file and may, subject to further order of this Court, file with this Court a plan of compromise or arrangement (hereinafter referred to as the "Plan").

POSSESSION OF PROPERTY AND OPERATIONS

4. ~~THIS COURT ORDERS that t~~The Applicant shall:
 - (a) remain in possession and control of its current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof (the "Property");

- (b) ~~S~~subject to further ~~O~~order of this Court, ~~the Applicant shall~~ continue to carry on business in a manner consistent with the preservation of its business (the “**Business**”) and Property~~;~~_i
- (c) ~~The Applicant is~~ be authorized and empowered to continue to retain and employ the employees, consultants, agents, experts, accountants, counsel and such other persons (collectively “**Assistants**”) currently retained or employed by it, with liberty to retain such further Assistants as it deems reasonably necessary or desirable in the ordinary course of business or for the carrying out of the terms of this Order~~;~~ and
- (d) ~~5.[THIS COURT ORDERS that the Applicant shall~~ be entitled to continue to utilize the central cash management system currently in place as described in the Affidavit of [NAME] sworn [DATE] or replace it with another substantially similar central cash management system (the “**Cash Management System**”) and that any present or future bank providing the Cash Management System shall not be under any obligation whatsoever to inquire into the propriety, validity or legality of any transfer, payment, collection or other action taken under the Cash Management System, or as to the use or application by the Applicant of funds transferred, paid, collected or otherwise dealt with in the Cash Management System, shall be entitled to provide the Cash Management System without any liability in respect thereof to any Person (as hereinafter defined) other than the Applicant, pursuant to the terms of the documentation applicable to the Cash Management System, and shall be, in its capacity as provider of the Cash Management System, an unaffected creditor under the Plan with regard to any claims or expenses it may suffer or incur in connection with the provision of the Cash Management System.]
[See Explanatory Note]

5. ~~6.THIS COURT ORDERS that~~ To the extent permitted by law, the Applicant shall be entitled but not required to ~~pay~~ make the following advances or payments of the following expenses ~~whether,~~_i incurred prior to or after this Order:

- (a) all outstanding and future wages, salaries, employee and pension benefits, vacation pay and expenses payable on or after the date of this Order, in each case incurred in the ordinary course of business and consistent with existing compensation policies and arrangements; and
- (b) the reasonable fees and disbursements of any Assistants retained or employed by the Applicant in respect of these proceedings, at their standard rates and charges~~;~~ including for periods prior to the date of this Order.

6. ~~7. THIS COURT ORDERS that, e~~ Except as otherwise provided to the contrary herein, the Applicant shall be entitled but not required to pay all reasonable expenses incurred by the Applicant in carrying on the Business in the ordinary course after this Order, and in carrying out the provisions of this Order, which expenses shall include, without limitation:

- (a) all expenses and capital expenditures reasonably necessary for the preservation of the Property or the Business including, without limitation, payments on account of insurance (including directors and officers insurance), maintenance and security services; and
- (b) payment for goods or services actually supplied to the Applicant following the date of this Order.

7. ~~8. THIS COURT ORDERS that, t~~ The Applicant shall remit, in accordance with legal requirements, or pay:

- (a) any statutory deemed trust amounts in favour of the Crown in ~~f~~Right of Canada or of any Province thereof or any other taxation authority ~~which~~that are required to be deducted from employees' wages, including, without limitation, amounts in respect of ~~(i)~~:

(i) employment insurance, ~~(ii)~~

(ii) Canada Pension Plan, ~~(iii)~~

(iii) Quebec Pension Plan, and

~~(iv)~~ income taxes.

but only where such statutory deemed trust amounts arise after the date of this Order, or are not required to be remitted until after the date of this Order, unless otherwise ordered by the Court;

- (b) all goods and services or other applicable sales taxes (collectively, "**Sales Taxes**") required to be remitted by the Applicant in connection with the sale of goods and services by the Applicant, but only where such Sales Taxes are accrued or collected after the date of this Order, or where such Sales Taxes were accrued or collected prior to the date of this Order but not required to be remitted until on or after the date of this Order~~i~~; and
- (c) any amount payable to the Crown in ~~f~~Right of Canada or of any Province thereof or any political subdivision thereof or any other taxation authority in respect of municipal realty, municipal business or other taxes, assessments or levies of any nature or kind which are entitled at law to be paid in priority to claims of secured creditors and ~~which~~that are attributable to or in respect of the carrying on of the Business by the Applicant.

8. ~~9. THIS COURT ORDERS that until~~ Until such time as a real property lease is disclaimed {or resiliated} in accordance with the CCAA, the Applicant ~~shall~~ may pay all amounts constituting rent or payable as rent under real property leases (including, for greater certainty, common area maintenance charges, utilities and realty taxes and any other amounts payable as rent to the landlord under the lease) based on the terms of existing lease arrangements or as otherwise may be negotiated between by the Applicant ~~and the landlord~~ from time to time ("Rent"), for the period commencing from and including the date of this ~~Order, twice monthly in equal payments on the first and fifteenth day of each month, in advance (but not in arrears).~~ Order ("Rent"). but shall not pay any rent in arrears. ~~On the date of the first of such payments, any Rent relating to the period commencing from and including the date of this Order shall also be paid.~~
9. ~~10. THIS COURT ORDERS that, e~~ Except as specifically permitted herein in this Order, the Applicant is hereby directed, until further ~~O~~ o rder of this Court: ~~(a)~~
- (a) to make no payments of principal, interest thereon or otherwise on account of amounts owing by the Applicant to any of its creditors as of ~~this~~ the date; of this Order. ~~(b)~~
 - (b) to grant no security interests, trust, liens, charges or encumbrances upon or in respect of any of its Property; and ~~(c)~~
 - (c) not to ~~not~~ grant credit or incur liabilities except in the ordinary course of the Business.

RESTRUCTURING

10. ~~11. THIS COURT ORDERS that t~~ The Applicant shall, subject to such requirements as are imposed by the CCAA **[and such covenants as may be contained in the Definitive Documents (as hereinafter defined in paragraph [33]),]** have the right to:
- (a) permanently or temporarily cease, downsize or shut down any portion of its business or operations; {and to dispose of redundant or non-material assets not exceeding [\$_____] in any one transaction or [\$_____] in the aggregate}; provided that any sale that is either (i) in excess of the above thresholds, or (ii) in favour of a person related to the Applicant (within the meaning of section 36(5) of the CCAA), shall require authorization by this Court in accordance with section 36 of the CCAA;
 - (b) {terminate the employment of such of its employees or temporarily lay off such of its employees as it deems appropriate}; and on such terms as may be agreed upon between

the Applicant and such employee, or failing such agreement, to deal with the consequences thereof in the Plan;

(c) disclaim or resiliate, in whole or in part, with the prior consent of the Monitor (as defined below) or further Order of the Court, their arrangements or agreements of any nature whatsoever with whomsoever, whether oral or written, as the Applicant deems appropriate, in accordance with section 32 of the CCAA; and

(d) ~~(e)~~ pursue all avenues of refinancing of its Business or Property, in whole or part, subject to prior approval of this Court being obtained before any material refinancing,

all of the foregoing to permit the Applicant to proceed with an orderly restructuring of the Business (the “**Restructuring**”).

11. ~~12. THIS COURT ORDERS that t~~ The Applicant shall provide each of the relevant landlords with notice of the Applicant's intention to remove any fixtures from any leased premises at least seven (7) days prior to the date of the intended removal. The relevant landlord shall be entitled to have a representative present in the leased premises to observe such removal. ~~and, if~~ If the landlord disputes the Applicant's entitlement to remove any such fixture under the provisions of the lease, such fixture shall remain on the premises and shall be dealt with as agreed between any applicable secured creditors, such landlord and the Applicant, or by further ~~O~~ Order of this Court upon application by the Applicant on at least two (2) days' notice to such landlord and any such secured creditors. If the Applicant disclaims ~~{or resiliates}~~ the lease governing such leased premises in accordance with ~~S~~ section 32 of the CCAA, it shall not be required to pay Rent under such lease pending resolution of any such dispute ~~{other than Rent payable for the notice period provided for in Ssection 32(5) of the CCAA}~~, and the disclaimer ~~{or resiliation}~~ of the lease shall be without prejudice to the Applicant's claim to the fixtures in dispute.

12. ~~13. THIS COURT ORDERS that if~~ a notice of disclaimer ~~{or resiliation}~~ is delivered pursuant to ~~S~~ section 32 of the CCAA, then ~~(a)~~:

(a) during the notice period prior to the effective time of the disclaimer ~~{or resiliation}~~, the landlord may show the affected leased premises to prospective tenants during normal business hours, on giving the Applicant and the Monitor 24 hours' prior written notice; ~~;~~ and

~~(b)~~

(b) at the effective time of the disclaimer ~~{or resiliation}~~, the relevant landlord shall be entitled to take possession of any such leased premises without waiver of or prejudice to any

claims or rights such landlord may have against the Applicant in respect of such lease or leased premises and such landlord shall be entitled to notify the Applicant of the basis on which it is taking possession and to gain possession of and re-lease such leased premises to any third party or parties on such terms as such landlord considers advisable, provided that nothing herein shall relieve such landlord of its obligation to mitigate any damages claimed in connection therewith.

NO PROCEEDINGS AGAINST THE APPLICANT OR THE PROPERTY

13. ~~14. THIS COURT ORDERS that u~~Until and including [DATE – MAX. 30 DAYS], or such later date as this Court may order (the “**Stay Period**”), no proceeding or enforcement process in any court ~~or tribunal~~ (each, a “**Proceeding**”) shall be commenced or continued against or in respect of the Applicant or the Monitor, or affecting the Business or the Property, except with ~~the written consent of the Applicant and the Monitor, or with~~ leave of this Court, and any and all Proceedings currently under way against or in respect of the Applicant or affecting the Business or the Property are hereby stayed and suspended pending further ~~O~~orders of this Court.

NO EXERCISE OF RIGHTS OR REMEDIES

14. ~~15. THIS COURT ORDERS that d~~During the Stay Period, all rights and remedies of any individual, firm, corporation, governmental body or agency, or any other entities (all of the foregoing, collectively being “**Persons**” and each being a “**Person**”), whether judicial or extra-judicial, statutory or non-statutory against or in respect of the Applicant or the Monitor, or affecting the Business or the Property, are hereby stayed and suspended ~~except with the written consent of the Applicant and the Monitor, or~~ and shall not be commenced, proceeded with or continued except with leave of this Court, provided that nothing in this Order shall ~~(i);~~:
- (a) empower the Applicant to carry on any business ~~which~~that the Applicant is not lawfully entitled to carry on; ~~(ii);~~
 - (b) affect such investigations, actions, suits or proceedings by a regulatory body as are permitted by ~~S~~section 11.1 of the CCAA; ~~(iii);~~
 - (c) prevent the filing of any registration to preserve or perfect a security interest; ~~or (iv);~~
 - (d) prevent the registration of a claim for lien; or
 - (e) exempt the Applicant from compliance with statutory or regulatory provisions relating to health, safety or the environment.

15. Nothing in this Order shall prevent any party from taking an action against the Applicant 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 Monitor at the first available opportunity.

NO INTERFERENCE WITH RIGHTS

16. ~~THIS COURT ORDERS that d~~During the Stay Period, no ~~P~~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 Applicant, except with the written consent of the Applicant and the Monitor, or leave of this Court.

CONTINUATION OF SERVICES

17. ~~THIS COURT ORDERS that d~~During the Stay Period, all ~~P~~persons having ~~oral or written agreements with the Applicant or~~;

- (a) statutory or regulatory mandates for the supply of goods and/or services; or
(b) oral or written agreements or arrangements with the Applicant, 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 Business or the Applicant;

are hereby restrained until further ~~O~~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 Applicant, ~~and that t~~ or exercising any other remedy provided under such agreements or arrangements. The Applicant shall be entitled to the continued use of its current premises, telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the ~~normal~~usual prices or charges for all such goods or services received after the date of this Order are paid by the Applicant in accordance with ~~normal~~the payment practices of the Applicant, or such other practices as may be agreed upon by the supplier or service provider and each of the Applicant and the Monitor, or as may be ordered by this Court.

NON-DEROGATION OF RIGHTS

18. ~~THIS COURT ORDERS that, notwithstanding anything else~~ Nothing in this Order, ~~no Person shall be~~ has the effect of ~~prohibited~~ prohibiting a person from requiring immediate payment for

goods, services, use of leased or licensed property or other valuable consideration provided on or after the date of this Order, nor shall any ~~P~~person, other than the Interim Lender where applicable, be under any obligation on or after the date of this Order to advance or re-advance any monies or otherwise extend any credit to the Applicant. ~~Nothing in this Order shall derogate from the rights conferred and obligations imposed by the CCAA.~~

PROCEEDINGS AGAINST DIRECTORS AND OFFICERS

19. ~~THIS COURT ORDERS that d~~During the Stay Period, and except as permitted by subsection 11.03(2) of the CCAA and paragraph [15] of this Order, no Proceeding may be commenced or continued against any of the former, current or future directors or officers of the Applicant with respect to any claim against the directors or officers that arose before the date ~~hereof~~of this Order and that relates to any obligations of the Applicant whereby the directors or officers are alleged under any law to be liable in their capacity as directors or officers for the payment or performance of such obligations, until a compromise or arrangement in respect of the Applicant, if one is filed, is sanctioned by this Court or is refused by the creditors of the Applicant or this Court.

DIRECTORS' AND OFFICERS' INDEMNIFICATION AND CHARGE

20. ~~THIS COURT ORDERS that t~~The Applicant shall indemnify its directors and officers against obligations and liabilities that they may incur as directors and or officers of the Applicantss after the commencement of the within proceedings, except to the extent that, with respect to any officer or director, the obligation ~~or liability~~ was incurred as a result of the director's or officer's gross negligence or wilful misconduct.
21. ~~THIS COURT ORDERS that t~~The directors and officers of the Applicant shall be entitled to the benefit of and are hereby granted a charge (the "**Directors' Charge**") on the Property, which charge shall not exceed an aggregate amount of ~~[\$ ———]~~, as security for the indemnity provided in paragraph [20] of this Order. The Directors' Charge shall have the priority set out in paragraphs ~~[3837]~~ and ~~[4039]~~ herein.
22. ~~THIS COURT ORDERS that, n~~Notwithstanding any language in any applicable insurance policy to the contrary, ~~(a)~~:
- (a) no insurer shall be entitled to be subrogated to or claim the benefit of the Directors' Charge, and ~~(b)~~

- (b) the Applicant's directors and officers shall only be entitled to the benefit of the Directors' Charge to the extent that they do not have coverage under any directors' and officers' insurance policy, or to the extent that such coverage is insufficient to pay amounts indemnified in accordance with paragraph [20] of this Order.

APPOINTMENT OF MONITOR

23. ~~THIS COURT ORDERS that~~ [MONITOR'S NAME] is hereby appointed pursuant to the CCAA as the Monitor, an officer of this Court, to monitor the Property, ~~b~~Business, and financial affairs ~~of~~and the Applicant with the powers and obligations set out in the CCAA or set forth herein and that the Applicant and its shareholders, officers, directors, and Assistants shall advise the Monitor of all material steps taken by the Applicant pursuant to this Order, and shall co-operate fully with the Monitor in the exercise of its powers and discharge of its obligations and provide the Monitor with the assistance that is necessary to enable the Monitor to adequately carry out the Monitor's functions.
24. ~~THIS COURT ORDERS that t~~The Monitor, in addition to its prescribed rights and obligations under the CCAA, is hereby directed and empowered to:
- (a) monitor the Applicant's receipts and disbursements, Business and dealings with the Property;
 - (b) report to this Court at such times and intervals as the Monitor may deem appropriate with respect to matters relating to the Property, the Business, and such other matters as may be relevant to the proceedings herein and immediately report to the Court if in the opinion of the Monitor there is a material adverse change in the financial circumstances of the Applicant;
 - (c) assist the Applicant, to the extent required by the Applicant, in its dissemination, to the ~~DIP~~Interim Lender and its counsel on a [TIME INTERVAL] basis of financial and other information as agreed to between the Applicant and the ~~DIP~~Interim Lender which may be used in these proceedings, including reporting on a basis ~~to be agreed with the DIP as~~ reasonably required by the Interim Lender;
 - (d) advise the Applicant in its preparation of the Applicant's cash flow statements and reporting required by the ~~DIP~~Interim Lender, which information shall be reviewed with the Monitor and delivered to the ~~DIP~~Interim Lender and its counsel on a periodic basis, but not less than [TIME INTERVAL], or as otherwise agreed to by the ~~DIP~~Interim Lender;

- (e) advise the Applicant in its development of the Plan and any amendments to the Plan;
 - (f) assist the Applicant, to the extent required by the Applicant, with the holding and administering of creditors' or shareholders' meetings for voting on the Plan;
 - (g) have full and complete access to the Property, including the premises, books, records, data, including data in electronic form, and other financial documents of the Applicant, to the extent that is necessary to adequately assess the ~~Applicant's~~ Property, b Business, and financial affairs of the Applicant or to perform its duties arising under this Order;
 - (h) be at liberty to engage independent legal counsel or such other persons as the Monitor deems necessary or advisable respecting the exercise of its powers and performance of its obligations under this Order;
 - (i) hold funds in trust or in escrow, to the extent required, to facilitate settlements between the Applicants and any other Person; and
 - (j) ~~(i)~~ perform such other duties as are required by this Order or by this Court from time to time.
25. ~~THIS COURT ORDERS that t~~ The Monitor shall not take possession of the Property and shall take no part whatsoever in the management or supervision of the management of the Business and shall not, by fulfilling its obligations hereunder, or by inadvertence in relation to the due exercise of powers or performance of duties under this Order, be deemed to have taken or maintained possession or control of the Business or Property, or any part thereof.
26. Nothing in this Order ~~THIS COURT ORDERS that nothing herein contained~~ shall require the Monitor to occupy or to take control, care, charge, possession or management ~~(separately and/or collectively, "Possession")~~ of any of the Property that might be environmentally contaminated, ~~might be a pollutant or a contaminant,~~ or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal ~~of~~ or waste or other contamination ~~including, without limitation, the Canadian Environmental Protection Act, the Ontario Environmental Protection Act, the Ontario Water Resources Act, or the Ontario Occupational Health and Safety Act and regulations thereunder (the "Environmental Legislation"),~~ provided however that ~~nothing herein shall~~ this Order does not exempt the Monitor from any duty to report or make disclosure imposed by applicable E environmental L egislation or regulation. The Monitor shall not, as a result of this Order

or anything done in pursuance of the Monitor's duties and powers under this Order, be deemed to be in ~~P~~possession of any of the Property within the meaning of any federal or provincial ~~E~~environmental ~~L~~egislation, ~~unless it is actually in possession.~~

26. ~~27. THIS COURT ORDERS that that t~~The Monitor shall provide any creditor of the Applicant and the ~~DIP~~Interim Lender with information provided by the Applicant in response to reasonable requests for information made in writing by such creditor addressed to the Monitor. The Monitor shall not have any responsibility or liability with respect to the information disseminated by it pursuant to this paragraph. In the case of information that the Monitor has been advised by the Applicant is confidential, the Monitor shall not provide such information to creditors unless otherwise directed by this Court or on such terms as the Monitor and the Applicant may agree.
27. ~~28. THIS COURT ORDERS that, in~~In addition to the rights and protections afforded the Monitor under the CCAA or as an ~~e~~Officer of this Court, the Monitor shall incur no liability or obligation as a result of its appointment or the carrying out of the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part. Nothing in this Order shall derogate from the protections afforded the Monitor by the CCAA or any applicable legislation.
28. ~~29. THIS COURT ORDERS that t~~The Monitor, counsel to the Monitor, and counsel to the Applicant shall be paid their reasonable fees and disbursements (including any pre-filing fees and disbursements related to these CCAA proceedings), in each case at their standard rates and charges, by the Applicant as part of the costs of these proceedings. The Applicant is hereby authorized and directed to pay the accounts of the Monitor, counsel for the Monitor and counsel for the Applicant on a **[TIME INTERVAL]** basis and, in addition, the Applicant is hereby authorized to pay to the Monitor, counsel to the Monitor, and counsel to the Applicant, retainers in the respective amount[s] of \$~~_____ [, respectively,]~~ ●, to be held by them as security for payment of their respective fees and disbursements outstanding from time to time.
29. ~~30. THIS COURT ORDERS that t~~The Monitor and its legal counsel shall pass their accounts from time to time, ~~and for this purpose the accounts of the Monitor and its legal counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.~~
30. ~~31. THIS COURT ORDERS that t~~The Monitor, counsel to the Monitor, if any, and the Applicant's counsel, as security for the professional fees and disbursements incurred both before and after the granting of this Order, shall be entitled to the benefits of and are hereby granted a charge (the "**Administration Charge**") on the Property, which charge shall not exceed an aggregate amount of

[\$], as security for their professional fees and disbursements incurred at the ~~standard~~normal rates and charges of the Monitor and such counsel, both before and after the making of this Order in respect of these proceedings. The Administration Charge shall have the priority set out in paragraphs ~~[3837]~~ and ~~[4039]~~ hereof.

DIP~~INTERIM~~ FINANCING

31. ~~32.THIS COURT ORDERS that t~~The Applicant is hereby authorized and empowered to obtain and borrow under a credit facility from **[DIP~~INTERIM~~ LENDER'S NAME]** (the "**DIP~~Interim~~ Lender**") in order to finance the Applicant's working capital requirements and other general corporate purposes and capital expenditures, provided that borrowings under such credit facility shall not exceed [\$] unless permitted by further ~~O~~orders of this Court.
32. ~~33.THIS COURT ORDERS THAT s~~Such credit facility shall be on the terms and subject to the conditions set forth in the commitment letter between the Applicant and the **DIP~~Interim~~ Lender** dated as of **[DATE]** (the "**Commitment Letter**"), filed.
33. ~~34.THIS COURT ORDERS that t~~The Applicant is hereby authorized and empowered to execute and deliver such credit agreements, mortgages, charges, hypothecs, and security documents, guarantees and other definitive documents (collectively, the "**Definitive Documents**"), as are contemplated by the Commitment Letter or as may be reasonably required by the **DIP~~Interim~~ Lender** pursuant to the terms thereof, and the Applicant is hereby authorized and directed to pay and perform all of its indebtedness, interest, fees, liabilities, and obligations to the **DIP~~Interim~~ Lender** under and pursuant to the Commitment Letter and the Definitive Documents as and when the same become due and are to be performed, notwithstanding any other provision of this Order.
34. ~~35.THIS COURT ORDERS that the DIP~~The **Interim Lender** shall be entitled to the benefits of and is hereby granted a charge (the "**DIP~~Interim~~ Lender's Charge**") on the Property, ~~which DIP~~ to secure all obligations under the Definitive Documents incurred on or after the date of this Order which charge shall not exceed the aggregate amount advanced on or after the date of this Order under the Definitive Documents. The Interim Lender's Charge shall not secure any obligation ~~that~~ existing before this the date this Order is made. ~~The DIP~~[see Explanatory Notes] The **Interim Lender's Charge** shall have the priority set out in paragraphs ~~[3837]~~ and ~~[4039]~~ hereof.

35. ~~36. THIS COURT ORDERS that, n~~Notwithstanding any other provision of this Order:

- (a) the ~~DIP~~Interim Lender may take such steps from time to time as it may deem necessary or appropriate to file, register, record or perfect the ~~DIP~~Interim Lender's Charge or any of the Definitive Documents;
- (b) upon the occurrence of an event of default under the Definitive Documents or the ~~DIP~~Interim Lender's Charge, the ~~DIP~~Interim Lender, upon ~~—~~[●] days notice to the Applicant and the Monitor, may exercise any and all of its rights and remedies against the Applicant or the Property under or pursuant to the Commitment Letter, Definitive Documents, and the ~~DIP~~Interim Lender's Charge, including without limitation, to cease making advances to the Applicant and set off and/or consolidate any amounts owing by the ~~DIP~~Interim Lender to the Applicant against the obligations of the Applicant to the ~~DIP~~Interim Lender under the Commitment Letter, the Definitive Documents or the ~~DIP~~Interim Lender's Charge, to make demand, accelerate payment, and give other notices, or to apply to this Court for the appointment of a receiver, receiver and manager or interim receiver, or for a bankruptcy order against the Applicant and for the appointment of a trustee in bankruptcy of the Applicant; and
- (c) the foregoing rights and remedies of the ~~DIP~~Interim Lender shall be enforceable against any trustee in bankruptcy, interim receiver, receiver or receiver and manager of the Applicant or the Property.

36. ~~37. THIS COURT ORDERS AND DECLARES that the DIP~~The Interim Lender shall be treated as unaffected in any plan of arrangement or compromise filed by the Applicant under the CCAA, or any proposal filed by the Applicant under the *Bankruptcy and Insolvency Act* of Canada (the "BIA"), with respect to any advances made under the Definitive Documents.

VALIDITY AND PRIORITY OF CHARGES ~~CREATED BY THIS ORDER~~

37. ~~38. THIS COURT ORDERS that t~~The priorities of the Directors' Charge, the Administration Charge and the ~~DIP~~Interim Lender's Charge, as among them, shall be as follows:

First – Administration Charge (to the maximum amount of ~~[\$ —]~~);

Second – ~~DIP~~Interim Lender's Charge; and

Third – Directors' Charge (to the maximum amount of ~~[\$ —]~~).

38. ~~39. THIS COURT ORDERS that t~~ The filing, registration or perfection of the Directors' Charge, the Administration Charge or the ~~DIP~~Interim Lender's Charge (collectively, the "**Charges**") shall not be required, and ~~that~~ the Charges shall be valid and enforceable for all purposes, including as against any right, title or interest filed, registered, recorded or perfected subsequent to the Charges coming into existence, notwithstanding any such failure to file, register, record or perfect.
39. ~~40. THIS COURT ORDERS that e~~ Each of the Directors' Charge, the Administration Charge, and the ~~DIP~~Interim Lender's Charge (all as constituted and defined herein) shall constitute a charge on the Property and subject always to section 34(11) of the CCAA such Charges shall rank in priority to all other security interests, trusts, liens, charges and encumbrances, and claims of secured creditors, statutory or otherwise (collectively, "**Encumbrances**") in favour of any Person. [See Explanatory Notes.]
40. ~~41. THIS COURT ORDERS that e~~ Except as otherwise expressly provided for herein, or as may be approved by this Court, the Applicant shall not grant any Encumbrances over any Property that rank in priority to, or *pari passu* with, any of the Directors' Charge, the Administration Charge or the ~~DIP~~Interim Lender's Charge, unless the Applicant also obtains the prior written consent of the Monitor, the ~~DIP~~Interim Lender, and the beneficiaries of the Directors' Charge and the Administration Charge, or further ~~O~~orders of this Court.
41. ~~42. THIS COURT ORDERS that t~~ The Directors' Charge, the Administration Charge, ~~[the Commitment Letter, the Definitive Documents,]~~ and the ~~DIP~~Interim Lender's Charge shall not be rendered invalid or unenforceable and the rights and remedies of the chargees entitled to the benefit of the Charges (collectively, the "**Chargees**") and/or the ~~DIP~~Interim Lender thereunder shall not otherwise be limited or impaired in any way by ~~(a)~~:
- (a) the pendency of these proceedings and the declarations of insolvency made ~~herein;~~ in this Order;
 - (b) any application(s) for bankruptcy order(s) issued pursuant to BIA, or any bankruptcy order made pursuant to such applications; ~~(e)~~
 - (c) the filing of any assignments for the general benefit of creditors made pursuant to the BIA; ~~(d)~~
 - (d) the provisions of any federal or provincial statutes; or ~~(e)~~

- (e) any negative covenants, prohibitions or other similar provisions with respect to borrowings, incurring debt or the creation of Encumbrances, contained in any existing loan documents, lease, sublease, offer to lease or other agreement (collectively, an “**Agreement**”) ~~which~~that binds the Applicant, and notwithstanding any provision to the contrary in any Agreement:
- (i) ~~(a)~~ neither the creation of the Charges nor the execution, delivery, perfection, registration or performance of any documents in respect thereof **[including the Commitment Letter or the Definitive Documents]** shall create or be deemed to constitute a new breach by the Applicant of any Agreement to which it is a party;
- (ii) ~~(b)~~ none of the Chargees shall have any liability to any Person whatsoever as a result of any breach of any Agreement caused by or resulting from the creation of the Charges, **[the Applicant entering into the Commitment Letter, the creation of the Charges]**, or the execution, delivery or performance of the Definitive Documents; and
- (iii) ~~(c)~~ the payments made by the Applicant pursuant to this Order, **[including the Commitment Letter or the Definitive Documents]**, and the granting of the Charges, do not and will not constitute preferences, fraudulent conveyances, transfers at undervalue, oppressive conduct, or other challengeable or voidable transactions under any applicable law.

~~43. THIS COURT ORDERS that any Charge created by this Order over leases of real property in Canada shall only be a Charge in the Applicant's interest in such real property leases.~~

ALLOCATION

42. Any interested Person may apply to this Court on notice to any other party likely to be affected for an order to allocate the Administration Charge, the Interim Lender's Charge, and the Directors' Charge amongst the various assets comprising the Property.

SERVICE AND NOTICE

43. ~~44. THIS COURT ORDERS that~~ ~~the~~ The Monitor shall (i) without delay, publish in **[newspapers specified by the Court]** a notice containing the information prescribed under the CCAA; (ii) within five (5) days after the date of this Order; (A) make this Order publicly available in the manner prescribed under the CCAA, (B) send, in the prescribed manner, a notice to every known creditor

who has a claim against the Applicant of more than \$1,000; and (C) prepare a list showing the names and addresses of those creditors and the estimated amounts of those claims, and make it publicly available in the prescribed manner, all in accordance with ~~S~~section 23(1)(a) of the CCAA and the regulations made thereunder.

~~44. 45. THIS COURT ORDERS that t~~The E-Service ~~Protocol~~Guide of the Commercial List (the “~~Protocol~~Guide”) is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the ~~Protocol~~Guide (which can be found on the Commercial List website at ~~http://www.ontariocourts.ca/scj/practice/practice-directions/toronto/e-service-protocol/~~http://www.ontariocourts.ca/scj/practice/practice-directions/toronto/e-service-protocol/: ~~[●]~~ shall be valid and effective service. Subject to Rules ~~17.05-11.25 and 11.26~~ this Order shall constitute an order for substituted service pursuant to Rule ~~16.04~~11.28 of the Rules of ~~Civil Procedure~~Court. Subject to ~~Rule 3.01(d) of the Rules of Civil Procedure and~~ paragraph ~~21~~13 of the ~~Protocol~~Guide, service of documents in accordance with the ~~Protocol~~Guide will be effective on transmission. This Court further orders that a Case Website shall be established in accordance with the ~~Protocol~~Guide with the following URL ‘~~@~~’.

~~46. [●]. THIS COURT ORDERS that if the service or distribution of documents in accordance with the Protocol is not practicable, the Applicant and the Monitor are at liberty to serve or distribute this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or facsimile transmission to the Applicant's creditors or other interested parties at their respective addresses as last shown on the records of the Applicant and that any such service or distribution by courier, personal delivery or facsimile transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.~~

45.

GENERAL

~~46. 47. THIS COURT ORDERS that t~~The Applicant or the Monitor may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.

47. ~~48.~~ Notwithstanding Rule 6.11 of the *Alberta Rules of Court*, unless otherwise ordered by this Court, the Monitor 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 Monitor's reports shall be filed by the Court Clerk notwithstanding that they do not include an original signature. ~~THIS COURT ORDERS that~~
48. ~~not~~ Nothing in this Order shall prevent the Monitor from acting as an interim receiver, a receiver, a receiver and manager, or a trustee in bankruptcy of the Applicant, the Business or the Property.
49. ~~49. THIS COURT HEREBY REQUESTS~~ This Court hereby requests the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in ~~the United States~~ any foreign jurisdiction, to give effect to this Order and to assist the Applicant, the Monitor and their respective 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 Applicant and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Monitor in any foreign proceeding, or to assist the Applicant and the Monitor and their respective agents in carrying out the terms of this Order.
50. ~~50. THIS COURT ORDERS that e~~ Each of the Applicant and the Monitor 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 Monitor 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.
51. ~~51. THIS COURT ORDERS that a~~ Any interested party (including the Applicant and the Monitor) may apply to this Court to vary or amend this Order on not less than seven (7) days' notice to any other party or parties likely to be affected by the order sought or upon such other notice, if any, as this Court may order.
52. ~~52. THIS COURT ORDERS that t~~ This Order and all of its provisions are effective as of 12:01 a.m. ~~Eastern~~ Mountain Standard/Daylight Time on the date of this Order.

Date of issuance _____

Justice of the Court of Queen's Bench of Alberta

**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
HUDSON'S BAY COMPANY ULC COMPAGNIE DE LA BAIE D'HUDSON SRI,
HBC CANADA PARENT HOLDINGS INC., HBC CANADA PARENT HOLDINGS 2 INC.,
HBC BAY HOLDINGS I INC., HBC BAY HOLDINGS II ULC, THE BAY HOLDINGS ULC,
HBC CENTREPOINT GP INC., HBC HOLDINGS GP INC., SNOSPMIS LIMITED,
2472596 ONTARIO INC., and 2472598 ONTARIO INC.**

Applicants

**AFFIDAVIT OF FRANCO PERUGINI
(Sworn July 29, 2025)**

I, Franco Perugini, of the City of Toronto, in the Province of Ontario, MAKE OATH
AND SAY:

1. I am the Senior Vice President, Real Estate & Legal of Hudson's Bay Company ULC Compagnie De La Baie D'Hudson SRI ("**Hudson's Bay**" or the "**Company**"), and certain other Applicants.¹

2. I, together with other members of management, have been responsible for overseeing the Applicants' restructuring efforts. As such, I have knowledge of the matters to which I hereinafter depose, except where otherwise stated. I have also reviewed the records, press releases, and public filings of Hudson's Bay Canada and have spoken with certain of the directors, officers and/or employees of Hudson's Bay Canada, as necessary, together with the Monitor and Reflect. Where I have relied upon such information, I believe such information to be true. The Applicants do not, and do not intend to, waive privilege by any statement herein.

3. On July 19, 2025, I attended a job fair organized by Central Walk (as defined below) and had discussions with members of the Central Walk team. On or about July 23, 2025, I was

¹ The Applicants include the following entities: Hudson's Bay, HBC Canada Parent Holdings Inc., HBC Canada Parent Holdings 2 Inc., HBC Bay Holdings I Inc., HBC Bay Holdings II ULC, The Bay Holdings ULC, HBC Centerpoint GP Inc., HBC Holdings GP Inc., Snospmis Limited, 2472596 Ontario Inc., and 2472598 Ontario Inc. (collectively, the "**Applicants**").

facilitate and encourage former Hudson's Bay employees to apply for new jobs. Additional employees will be hired by Central Walk in connection with the three Hudson's Bay Leases acquired by Central Walk on June 26, 2025.

23. To date, the circumstances in respect of the Central Walk Bid have been well publicised in the media and in Court materials filed in these CCAA Proceedings, which have been posted on the Monitor's website. It is well known that the Landlords under the CW Leases have firmly opposed the Central Walk Bid since shortly after their introductory meetings with Central Walk (and in several cases, even before such meetings took place) and are firmly opposing this motion. The FILO Agent has changed its position and is also opposing this motion for its own reasons.

24. The Applicants believe that the Central Walk APA generates meaningful financial and societal value to their stakeholders, including employment for up to 1,800 individuals, their suppliers, lenders and the objecting Landlords themselves. The CW Transactions, if completed, will result in a recovery of over \$50 million for the Applicants' creditors. Beyond this recovery, the CW Transactions create meaningful value for the Applicants' broader stakeholder group, including former Hudson's Bay employees (hundreds of whom could secure employment at reopened stores) and the Landlords opposing this motion. Certain of these benefits are summarily described immediately below and set out in greater detail in the balance of this affidavit.

25. Central Walk anticipates that its stores will be ready to open on a rolling basis between six and twelve months following closing of the CW Transactions. The reopening of 25 stores and the restoration of approximately 1,800 jobs will create wide-ranging positive ripple effects in the economies of where the stores are located. The CW Transactions and reopening of the stores will create renewed opportunities for suppliers, service providers, logistics operators, and a wide range of local businesses. Local economic activity will be stimulated, increasing tax revenues, and reinvigorating surrounding retail centres through renewed foot traffic and commercial demand. If the Central Walk APA is not approved, the significant benefits and value creation outlined above will be lost and/or significantly delayed.

26. The alternative to the CW Transactions is that the CW Leases may be immediately disclaimed back to the Landlords for no consideration given the lack of support from the Applicants' secured lenders to fund a process to remarket the CW Leases.

27. Based on the results and timelines of prior large-scale Canadian retail insolvencies such as Target and Nordstrom, it is very likely that the timeline for redevelopment or absorption of the

premises subject to the CW Leases is likely to be several years or, in some instances, possibly longer.

28. Although Target exited the Canadian market over a decade ago, some of its former disclaimed retail spaces still remain available for lease today. Similarly, in the case of Nordstrom's exit, most of the disclaimed premises remain vacant today, two years after such premises were disclaimed.

29. The current Canadian real estate market environment is challenging, particularly with respect to large-format retail redevelopment and absorption of vacant space. Recessionary pressures, tariffs, and limited interest from U.S. department store companies, have all contributed to the slower redevelopment and absorption of large-format commercial real estate leases in Canada. Redevelopment of such sites for alternative uses (such as residential) has been significantly adversely impacted by high interest rates, recessionary pressures and complex zoning and entitlement issues. Re-purposing of these sites for alternative uses would likely take a significant amount of time (potentially decades) and investment.

30. With over 64 Leases having already been disclaimed by Hudson's Bay, and the potential for another 25 CW Leases to be disclaimed if the CW Transactions are not approved (which covers approximately 15 million square feet of retail space), the market for Canadian retail space will be further flooded, likely resulting in significantly extended timelines for redevelopment and absorption.

II. THE APPLICANTS' LEASE SOLICITATION EFFORTS⁴

31. Following commencement of the CCAA Proceedings and approval by this Court of the Lease Monetization Process on March 21, 2025, the Applicants, with the assistance of Oberfeld and Reflect, and under the supervision of the Monitor, conducted the Lease Monetization Process.

32. In the Second Culhane Affidavit and Reports of the Monitor, a detailed description of the Lease Monetization Process was provided. In summary:

⁴ All capitalized terms used in this section and not otherwise defined have the meanings given to them in the Lease Monetization Process.

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

**IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,
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CANADA PARENT HOLDINGS INC., HBC CANADA PARENT HOLDINGS 2 INC.,
HBC BAY HOLDINGS I INC., HBC BAY HOLDINGS II ULC, THE BAY HOLDINGS
ULC, HBC CENTERPOINT HP INC., HBC HOLDINGS GP INC., SNOSPMIS
LIMITED, 2472596 ONTARIO INC., and 2472598 ONTARIO INC.**

(the "Applicants")

**FACTUM OF THE CADILLAC FAIRVIEW CORPORATION LIMITED
(FILO AGENT'S MOTION)**

August 25, 2025

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**Lawyers for The Cadillac Fairview Corporation
Limited**

19. Paragraphs 9 and 18 of the Initial Order and paragraphs 10 and 23 of the ARIO are both consistent with the model CCAA order.

20. The FILO Agent consented to both the Initial Order and the ARIO. It would be highly inequitable and without legal basis for the Court to, at this stage of the Applicants' CCAA proceeding, negate its own prior Orders.

There is a statutory right to be paid rent during any disclaimer notice period

21. The FILO Agent also seeks an order that there be no rent paid during the 30-day notice period following any disclaimer of the Remaining Leases. There is neither lawful nor equitable basis for making such an order.

22. The CCAA permits an Applicant to disclaim a contract, subject to the requirements of section 32 of the CCAA. Section 32(1) requires that contract counterparties receive notice of disclaimer.¹⁶ Section 32(5)(a) of the CCAA provides that where such disclaimer is not contested, it becomes effective 30 days after notice is given. In other words, a contract remains binding on the debtor during the statutory 30-day notice period.

23. If a debtor could immediately cease performing its contract on the day it gives notice, the notice period would be meaningless, and the contract would for all intents and purposes have been disclaimed immediately. The CCAA does not permit this. It is a matter of basic fairness and balancing interests that Parliament required that contractual counterparties be given notice of a debtor's intention to cease performing a contract.

¹⁶ CCAA, s. [32\(1\)](#).

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

AND IN THE MATTER OF THE COMPROMISE OR ARRANGEMENT OF HUDSON'S BAY COMPANY ULC COMPAGNIE DE LA BAIE
D'HUDSON SRI et al.

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

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

PROCEEDING COMMENCED AT TORONTO

**AIDE MEMOIRE
(NOVEMBER 3, 2025 CASE CONFERENCE)**

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