Court File No. CV-25-00734339-00CL

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 COMARK HOLDINGS INC., BOOTLEGGER CLOTHING INC., CLEO FASHIONS INC. AND RICKI'S FASHIONS INC.

APPLICANTS

MOTION RECORD OF THE APPLICANTS
(Comeback Hearing returnable January 17, 2025)

January 16, 2024

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TO: THE SERVICE LIST

Court File No.: CV-25-00734339-00CL

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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF **COMARK HOLDINGS INC., BOOTLEGGER CLOTHING INC., CLEO FASHIONS INC. AND RICKI'S FASHIONS INC.**

APPLICANTS

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(as at January 15, 2025)

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[1] *Section headings are for managing the Service List only.*

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CENTRAL WALK WOODGROVE SHOPPING CENTRE INC. 370-4400 Hazelbridge Way, Richmond, British Columbia V6X 3R8 Attention: Emma Humphrey Email: Emma.Humphrey@centralwalk.com *Landlord for Woodgrove Centre (6631 Island Highway North, Nanaimo, BC)*	**PRIME SITE PROPERTIES INC.** 1101 Arthur Street West, Thunder Bay, Ontario P7E 5S2 Attention: Silvio Di Gregorio Email: primeste@tbaytel.net **c/o Mirabelli Corporation** 815 Norah Cresent, Thunder Bay Thunder Bay, Ontario P7C 5H9 Attention: Adrian Mirabelli Email: adrian.mirabelli@mirabellicorp.com *Landlord for Arthur Street Marketplace (1165 Arthur Street West, Thunder Bay, ON)*

ANTHEM MINETT CARLINGWOOD HOLDINGS INC. Suite 1100, Bentail 4, Box 49200 1055 Dunsmuir Street Vancouver, British Columbia V7X 1K8 Email: AR_Carlingwood@anthemproperties.com *Landlord for Carlingwood Mall (2121 Carling Avenue, Ottawa ON)*	**CATARAQUI HOLDINGS INC.** **c/o Primaris Management Inc.** 181 Bay Street, Suite 2700 Toronto, Ontario M5J 2T3 Attention: Elina Towie Email: etowie@primarisreit.com *Landlord for Cataraqui Town Centre (945 Gardiners Road, Kingston ON)*
WESTCLIFF MANAGEMENT LTD. 2600-600 de Maisonneuve Boulevard West, Suite 2900 Montreal, Quebec H3A 3J2 Email: info@westcliff.ca *Landlord for Champlain Place (477 Paul Street, Dieppe, NB)*	**PRIMARIS REAL ESTATE INVESTMENT TRUST** 181 Bay Street, Suite 2700 Toronto, Ontario M5J 2T3 Attention: Elina Towie Email: etowie@primarisreit.com *Landlord for Conestoga Mall (550 King Street North, Waterloo ON) and Sunridge Mall (2525 36th Street NE, Calgary, AB)*
MONTEZ (CORNER BROOK) INC. **c/o Westcliff Management Ltd.** 2600-600 de Maisonneuve Boulevard West, Montreal, Quebec H3A 3J2 Email: lgreene@cornerbrookmall.com *Landlord for Corner Brook Plaza (44 Maple Valley Road, Corner Brook, NL)*	**WBCS INC.** 1 Water Street East, Mall Administration Office Cornwall, Ontario K6H 6M2, Attention: Property Manager Email: leodoucet@weavingbaskets.ca *Landlord for Cornwall Square (1 Water Street East, Cornwall, ON)*
COTTONWOOD MALL LIMITED PARTNERSHIP **c/o Warrington PCI Management** #300-1030 West Georgia Street Vancouver, British Columbia V6E 2Y3 Email: AR@warringtonpci.com *Landlord for Cottonwood Mall (45585 Luckakuck Way, Chilliwack, BC)*	**COUNTRY CLUB CENTRE LTD.** **c/o Northwest Properties** 406-4190 Lougheed Highway Burnaby, British Columbia V5C 6A8 Email: reception@nwproperties.ca *Landlord for Country Club Mall (3200 Island Hwy., Nanaimo, BC)*

DEVONSHIRE MALL HOLDINGS INC. **c/o Primaris Management Inc.** 181 Bay Street, Suite 2700 Toronto, Ontario M5J 2T3 Attention: Elina Towie Email: etowie@primarisreit.com *Landlord for Devonshire Mall (3100 Howard Avenue, Windsor ON)*	**W.E. ROTH CONSTRUCTION LIMITED** **c/o Pioneer Property Management Ltd.** 420, 10320 – 102 Avenue, Edmonton, Alberta, T5J 4A1 Email: office@dugganwellnesscentre.ca *Landlord for Duggan Mall (6601 -48th Avenue, Camrose, AB)*
11445006 ALBERTA LTD. **c/o ONE Property Management Limited Partnership** #200, 12420-104 Avenue NW, Edmonton, Alberta T5N 3Z9 Attention: Patrick Moore Email: patrick.moore@shape.ca *Landlord for Emerald Hills Centre (5000 Emerald Hills Drive, Sherwood Park, AB)*	**TERRACAP INVESTMENTS (FRONTIER) INC.** **c/o Terracap Management Inc.** 100 Sheppard Avenue East, Suite 502 Toronto, Ontario M2N 6N5 Email: qkroschinski@terracap.ca *Landlord for Frontier Mall (11413 Railway Street East, North Battleford, SK)*
1540709 ONTARIO LIMITED **c/o Fishman Holdings North American Inc.** 16775 Yonge Street, Suite 300 Newmarket, Ontario L3Y 8J4 Attention: Corinna Muller Email: corinna.muller@avisonyoung.com *Landlord for Gateway Mall (1403 Central Avenue, Prince Albert, SK)*	**1000688186 ONTARIO INC.** **c/o Halton Management Inc.** 280 Guelph Street, Georgetown, Ontario L7G 4B1 Email: bharti@haltonmanagement.ca; info@haltonmanagement.ca *Landlord for Georgetown Market Place (280 Guelph Street, Georgetown, ON)*
HARVARD DIVERSIFIED ENTERPRISES INC. **c/o Harvard Developments Corporation** Suite 2000, 1874 Scarth Street, Regina, Saskatchewan S4P 4B3 Attention: Krista Bebeau Email: kbebeau@harvard.ca *Landlord for Grasslands @ Harbour Landing (4548 Gordon Road, Regina, SK)*	**HANEY PLACE CENTRES LTD.** **c/o Lorval Developments Ltd.** B520 – 20020 84 Avenue Langley, British Columbia V2Y 5K9 Email: haneyplaceaccounting@lorval.ca *Landlord for Haney Place (11900 Haney Place, Maple Ridge, BC)*

KILDONAN PLACE LTD. **c/o Primaris Management Inc.** 181 Bay Street, Suite 2700 Toronto, Ontario M5J 2T3 Attention: Elina Towie Email: etowie@primarisreit.com *Landlord for Kildonan Place (1555 Regent Avenue West, Winnipeg, MB)*	**11867865 CANADA INC. and 13711072 CANADA INC.** **c/o Knightstone Capital Management Inc.** 701-240 Saint-Jacques Street West Montreeal, Quebec H2Y 1L9 **c/o 11867865 Canada Inc.** 52 Gordon Crescent Westmount, Quebec H3Y 1M6 Email: jklaiman@canadianasset.com *Landlord for King's Crossing (97 Dalton Avenue, Kingston, ON)*
EUROPRO (LAMBTON MALL) LP 130 Adelaide Street West, Suite 1100 P.O. Box 194 Toronto, Ontario M5H 3P5 Email: asamko@europro.ca *Landlord for Lambton Mall (1380 London Road, Sarnia ON)*	**LANSDOWNE MALL INC.** **c/o Primaris Management Inc.** 181 Bay Street, Suite 2700 Toronto, Ontario M5J 2T3 Attention: Elina Towie Email: etowie@primarisreit.com *Landlord for Lansdowne Place (645 Lansdowne Street West, Peterborough, ON)*
LINDSAY SQUARE MALL INC. **c/o Davpart Inc.** 4576 Yonge Street, Suite 700 Toronto, Ontario M2N 6N4 Email: kakalr@davpart.com *Landlord for Lindsay Square (401 Kent Street West, Lindsay, ON)*	**HOOPP REALTY INC. and NSAHOPP MAYFLOWER INC.** **c/o McCor Management** 21 St. Clair Avenue East, Suite 1201 Toronto, Ontario M4T 1L9 Attention: Luc Corneli Email: lmahe@mccor.ca *Landlord for Mayflower Mall (800 Grand Lake Road, Sydney, NS)*

MEDICINE HAT MALL INC. **c/o Primaris Management Inc.** 181 Bay Street, Suite 2700 Toronto, Ontario M5J 2T3 Attention: Elina Towie Email: etowie@primarisreit.com *Landlord for Medicine Hat Mall (3292 Dunmore Road SE, Medicine Hat, AB)*	**HOOPP REALTY INC.** 55 City Centre Drive, Suite 800 Missisauga, Ontario L5B 1M3 **c/o Primaris Management Inc.** 181 Bay Street, Suite 2700 Toronto, Ontario M5J 2T3 Attention: Elina Towie Email: etowie@primarisreit.com *Landlord for New Sudbury Shopping Centre (1349 Lasalle Boulevard, Sudbury, ON)*
WESTDALE CONSTRUCTION CO. LIMITED **c/o Westdale Construction Co. Umlted** 35 Lesmill Road York, Ontario M38 2T3 Attention: Shopping Center Operations c/o Shopping Center Manager Email: tracir@westdaleproperties.com *Landlord for Northgate Mall (489 Albert Street North, Regina, SK)*	**TRINITY NORTHUMBERLAND INC.** **c/o Trinity Property Services Inc.** 77 Bloor Street West, Suite 1601 Toronto, Ontario M5S 1M2 Attention: President Email: notices@trinity-group.com c/o Attention: Vice President Operations *Landlord for Northumberland Mall (1111 Elgin Street West, Cobourg, ON)*
ORCHARD PARK SHOPPING CENTRE HOLDINGS INC. **c/o Primaris Management Inc.** 181 Bay Street, Suite 2700 Toronto, Ontario M5J 2T3 Attention: Elina Towie Email: etowie@primarisreit.com *Landlord for Orchard Park Shopping Centre (2271 Harvey Avenue, Kelowna, BC)*	**1663321 ONTARIO YARDS INC. and 1414614 ONTARIO INC.** **c/o Controlex** 223 Colonnade Road South, Suite 100 Ottawa, Ontario K2E 7K3 Attention: Marty Moshman Email: mkoshman@controlex.ca *Landlord for Ottawa Trainyards P.C. (100 Trainyards Drive, Ottawa, ON)*

PARK PLACE MALL HOLDINGS INC. **c/o Primaris Management Inc.** 181 Bay Street, Suite 2700 Toronto, Ontario M5J 2T3 Attention: Elina Towie Email: etowie@primarisreit.com *Landlord for Park Place (501 – 1st Avenue South, Lethbridge, AB)*	**PETER POND PORTFOLIO INC.** **c/o Primaris Management Inc.** 181 Bay Street, Suite 2700 Toronto, Ontario M5J 2T3 Attention: Elina Towie Email: etowie@primarisreit.com *Landlord for Peter Pond Shopping Centre (9713 Hardin Street, Fort McMurray, AB)*
PLACE D'ORLEANS HOLDINGS INC. **c/o Primaris Management Inc.** 181 Bay Street, Suite 2700 Toronto, Ontario M5J 2T3 Attention: Elina Towie Email: etowie@primarisreit.com *Landlord for Place D'Orleans (110 Place D'Orleans Drive, Orleans, ON)*	**QUINTE MALL HOLDINGS INC.** **c/o Primaris Management Inc.** 181 Bay Street, Suite 2700 Toronto, Ontario M5J 2T3 Attention: Elina Towie Email: etowie@primarisreit.com *Landlord for Quinte Mall (390 North Fort Street, Belleville, ON)*
REGENT MALL HOLDINGS INC. **c/o Primaris Management Inc.** 181 Bay Street, Suite 2700 Toronto, Ontario M5J 2T3 Attention: Elina Towie Email: etowie@primarisreit.com *Landlord for Regent Mall (1381 Regent Street, Fredericton, NB)*	**SHERWOOD PARK PORTFOLIO INC.** **c/o Primaris Management Inc.** 181 Bay Street, Suite 2720 Toronto, Ontario M5J 2T3 Attention: Elina Towie Email: etowie@primarisreit.com *Landlord for Sherwood Park Mall (2020 Sherwood Drive, Sherwood Park, AB)*
CAMERON CORPORATION **c/o Cameron Development Management Inc.** 10180 – 111 Street Edmonton, Alberta T5K 1K6 Attention: Executive Vice-President Email: ar@cameroncorporation.com *Landlord for South Edmonton Common (9735 19th Avenue Northwest, Edmonton, AB)*	**ST. ALBERT CENTRE HOLDINGS INC.** **c/o Primaris Management Inc.** 181 Bay Street, Suite 2700 Toronto, Ontario M5J 2T3 Attention: Elina Towie Email: etowie@primarisreit.com *Landlord for St. Albert Centre (375 St. Albert Road, St. Albert, AB)*

SM INTERNATIONAL HOLDINGS LTD. 293 Bay Street Sault Ste. Marie, Ontario P6A 1X3 Email: info@ssmcoc.com *Landlord for Station Mall (293 Bay Street, Sault Ste. Marie, ON)*	**STONE ROAD MALL HOLDINGS INC.** **c/o Primaris Management Inc.** 435 Stone Road, Guelph Ontario N1G 2X6 **c/o Primaris Management Inc.** 181 Bay Street, Suite 2700 Toronto, Ontario M5J 2T3 Attention: Elina Towie Email: etowie@primarisreit.com *Landlord for Stone Road Mall (435 Stone Road West, Guelph, ON)*
1865099 ONTARIO LIMITED 158 Dunlop Street East, Suite 201 Barrie, Ontario L4M 1B1 c/o 1865099 Ontario Limited P.O. Box 982 Barrie, Ontario L4M 5E1 Attention: Ashley Varcoe Email: ashleyvarcoe@rogers.com *Landlord for Suncoast Mall (397 Bayfield Road, Goderich, ON)*	**VOISIN DEVELOPMENTS LIMITED** **c/o Sunrise Shopping Centre** 101 Ira Needles Boulevard, Waterloo, Ontario N2J 3Z4 Email: accounting@voisindevelopments.ca *Landlord for Sunrise Shopping Centre (1400 Ottawa Street South, Kitchener, ON)*
102142508 SASKATCHEWAN CORP. **c/o Canadian Real Estate Investment Trust** 1 Springs Drive, Swift Current, Saskatchewan S9H 3X6 Email: Roxanne@becatax.com **c/o Pyramid Property Management & Real Estate Services** Attention: Terry Highet Email : info@pyramidproperty.ca *Landlord for Swift Current Mall (1 Springs Drive, Swift Current, SK)*	**PELLEX HOLDINGS LTD.** **c/o Crestwell Realty Inc.** 6060-450 Southwest Marine Drive, Vancouver, British Columbia V5X 0C3 Email: office@crestwell.com *Landlord for Tamarack Shopping Centre (1500 Cranbrook Street North, Cranbrook BC)*

EUROPRO (TECUMSEH MALL) LP 310 Wilson Avenue, Toronto, Ontario M3H 1S8 Email: ktaylor@europro.ca *Landlord for Tecumseh Mall (7654 Tecumseh Road, Windsor, ON)*	**THE INCC CORP.** **c/o Voisin Developments Limited** 101 Ira Needles Boulevard, Waterloo, Ontario N2J 3Z4 Email: accounting@voisindevelopments.ca *Landlord for The Boardwalk at Ira Needles, (210 The Boardwalk, Kitchener, ON)*
VILLAGE SHOPPING CENTRE (2006) INC. **c/o Plaza Group Management** 527 Queen Street, Suite 200 Fredericton, New Brunswick E3B 1B8 Attention: Nathalie Lalonde Email: nathalie.lalonde@plaza.ca, info@plaza.ca *Landlord for The Village, (430 Topsail Road, St. John's, NL)*	**1451945 ONTARIO LIMITED AND TIMMINS SQUARE SHOPPING CENTRE INC.** **c/o Bayfield Property Management** 40 Eglinton Avenue East, Suite 300 Toronto, Ontario M4P 3A2 Email: TimminsAdmin@bayfieldadvisors.com *Landlord for Timmins Square (1500 Riverside Drive, Timmins, ON)*
CT REIT (TOTEM MALL) INC. **c/o Edgecombe Realty Advisors Inc.** 100-1090 Homer Street, Vancouver, British Columbia V6B 2M9 Email: EFTadmin@ctreit.com *Landlord for Totem Mall (9600 – 93rd Avenue, Fort St. John, BC)*	**GULF & PACIFIC EQUITIES CORP.** 300-1300 Bay Street, Toronto, Ontario M5R 3K8 Email: accounting@gpequities.com *Landlord for Tricity Mall (6503 51st Street, Cold Lake, AB)*
MOUNTWATER CAPITAL CORP. **c/o Artis Victoria Square Ltd.** #306 - 1168 Hamilton Street, Vancouver, British Columbia V6B 2S2 Email: accounting@mountwatercapital.com *Landlord for Victoria Square (2223 Victoria Avenue East, Regina, SK)*	**G.C. WANETA PLAZA LTD.** Suite 1100, Bentail 4, Box 49200, 1055 Dunsmuir Street Vancouver, British Columbia V7X 1K8 Email: wanetaAR@anthemproperties.com *Landlord for Waneta Plaza (8100 Rock Island Highway, Trail, BC)*

WEST EDMONTON MALL PROPERTY INC. Suite 200, Phase III, West Edmonton Mall 8882-170 Street Edmonton, Alberta T5T 4M2 Attention: Anita Hoy Email: Anita.Hoy@wem.ca *Landlord for West Edmonton Mall (8882 – 170th Street, Edmonton, AB)*	**BENTALLGREENOAK (CANADA) LP** 1055 Dunsmuir Street, Suite 1800 PO Box 49001 Vancouver, British Columbia V7X 1B1 Attention: Wayne Popowich Email: wayne.popowich@bentallgreenoak.com *Landlord for Village Green Mall (4900 – 27th Street, Vernon, BC)*
LEYAD CORPORATION 1100 rue de Bleury Montreal, Quebec H2Z 1N4 Email: qunli@leyad.ca *Landlord for Wheeler Park Power Centre (177 Trinity Drive, Moncton, NB)*	**WESTDELL DEVELOPMENT CORP.** 1105 Wellington Road London, Ontario N6E 1V4 Attention: Kathleen Tasani Email: ktasani@westdellcorp.com *Landlord for Whiteoaks Mall (1105 Wellington Road South, London, ON)*
2467847 ONTARIO INC. (o/a Windsor Crossing Premium Outlets) 170 Industrial Parkway North, Unit A1 Aurora, Ontario L4G 4C3 Email: manage-group@royalcourtyards.com *Landlord for Windsor Crossing (1555 Talbot Road, Lasalle, ON)*	**EDMONTON CITY CENTRE INC.** 4000, 421 – 7th Avenue SW Calgary, Alberta T2P 4K9 **c/o Centrecorp Management Services Limited** 2851 John Street, Suite One, Markham, Ontario, L3R 5R7 Email: hello@edmontoncitycentre.com *Landlord for Edmonton City Centre East (10205 – 101st Street, Edmonton, AB)*

FIRST MILTON SHOPPING CENTRES LIMITED and CALLOWAY REIT (MILTON) INC. **c/o First Gulf Corporation** 351 King Street East, 13th Floor Toronto, Ontario M5A 0L6 Attention: Senior Vice President Retail Email: cdoan@firstgulf.com *Landlord for Milton Crossroads (1250 Steeles Avenue East, Milton, ON)*	**DRIFTWOOD MALL LTD. And 5275 INVESTMENTS LTD.** 102A-2345 Argentia Road, Mississauga, Ontario L4N 8K4 **c/o BentallGreenOak (Canada) Limited Partnership** Suite 1800, 1055 Dunsmuir Street Vancouver, British Columbia V7X 1B1 Attention: Abimbola Awomolo Email: Abimbola.Awomolo@bgo.com *Landlord for Driftwood Mall (2751 Cliffe Avenue, Courtenay, BC)*
HILLSIDE CENTRE HOLDINGS INC. 199 Bay Street, Suite 4000 Toronto, Ontario M5L 1A9 **c/o BentallGreenOak (Canada) Limited Partnership** Suite 1800, 1055 Dunsmuir Street Vancouver, British Columbia V7X 1B1 Attention: Shane Epp Email: Shane.Epp@bgo.com *Landlord for Hillside Centre (1644 Hillside Avenue, Victoria, BC)*	**HAMMER LP** 75 Centennial Parkway North Hamilton, Ontario L8E 2P2 **c/o Cushman & Wakefield Asset Services ULC** 161 Bay Street, Suite 1500, PO Box 602, Toronto, Ontario M5J 2S1 Attention: Lori Stuart Email: LegalNotices@cushwake.com; lori.stuart@cushwake.com *Landlord for Eastgate Square (75 Centennial Parkway North, Hamilton, ON)*

PFS RETAIL TWO INC. 130 King Street West, Suite 1710, PO Box 486 Toronto, Ontario M5X 1E5 **c/o BentallGreenOak (Canada) Limited Partnership** Suite 1800, 1055 Dunsmuir Street Vancouver, British Columbia V7X 1B1 Attention: Shane Epp Email: Shane.Epp@bgo.com *Landlord for Lloyd Mall (5211 – 44th Street, Lloydminster, AB)*	**OPB REALTY INC.** **c/o BentallGreenOak (Canada) Limited Partnership** Pen Center Administration 221 Glendale Avenue St. Catharines, Ontario L2T 2K9 Attention: Property Manager **c/o OPB Realty Inc.** 1875 Buckhorn Gate, Suite 601 Mississauga, Ontario L4W 5P1 Attention: Managing Director, Retail Services **c/o BentallGreenOak (Canada) Limited Partnership** Suite 1800, 1055 Dunsmuir Street Vancouver, British Columbia V7X 1B1 Attention: Paul Ceresne Email: Paul.Ceresne@bgo.com *Landlord for Pen Centre (221 Glendale Avenue, St. Catharines, ON)*
OPB REALTY INC. **c/o BentallGreenOak (Canada) Limited Partnership** Suite 1800, 1055 Dunsmuir Street Four Bentall Centre, PO Box 49001 Vancouver, British Columbia V7X 1B1 **c/o General Manager** 86 – 1225 St. Mary's Road Winnipeg, Manitoba R2M 2E5 Attention: Katherine Vicedo Email: Katherine.vicedo@bgo.com *Landlord for St. Vital Centre (1225 St. Mary's Road, Winnipeg, MB)*	**BCIMC REALTY CORPORATION** **c/o QuadReal Property Group Limited Partnership** Commerce Court West, 199 Bay Street, Suite 4900 Toronto, Ontario M5L 1G2 Attention: Management Office Email: kavitha.jadhav@quadreal.com *Landlord for Bower Place (4900 Molly Banister Drive, Red Deer, AB)*

2725312 CANADA INC., 2973758 CANADA INC., WILLOWBROOK LANGLEY HOLDINGS INC. **c/o QuadReal** 666 Burrard Street, Suite 800 Vancouver British Columbia V6C 2X8 Attention: Stephanie Knight Email: stephanie.knight@quadreal.com *Landlord for Willowbrook Mall (19705 Fraser Highway, Langley BC)*	**CEC LEASEHOLDS INC.** 1200 Waterfront Centre, 200 Burrard Street Vancouver, British Columbia V6C 3L6 **c/o Cushman & Wakefield Asset Services ULC** 161 Bay Street, Suite 1500, PO Box 602, Toronto, Ontario M5J 2S1 Email: LegalNotices@cushwake.com; eve.renaud@cushwake.com *Landlord for Calgary Eaton Centre (CORE Shopping Centre) (751 – 3rd Street SW, Calgary, AB)*
1562903 ONTARIO LIMITED **c/o McCOR Management (MB) Inc.** 1000 – 330 Portage Avenue Winnipeg, MB R3C 0C4 Attention: Kennith Ye Email: kyee@mccor.ca *Landlord for Garden City Shopping Centre (2305 McPhillips Street, Winnipeg, MB)*	**LONDONDERRY SHOPPING CENTRE INC.** 1900, 520 – 3rd Avenue SW Calgary, Alberta T2P 0R3 **c/o Cushman & Wakefield Asset Services ULC** 161 Bay Street, Suite 1500, PO Box 602, Toronto, Ontario M5J 2S1 Email: LegalNotices@cushwake.com; Marlene.Perrotta@cushwake.com *Landlord for Londonderry Mall (1 Londonderry Mall NW, Edmonton, AB)*

PICCADILLY PLACE MALL INC. 2900 – 550 Burrard Street Vancouver, British Columbia V6C 0A3 Attention: Lori Cymbaluk Email: lori.cymbaluk@jll.com *Landlord for Piccadily Mall (1151 -10th Avenue SW, Salmon Arm, BC)*	**DELOITTE MANAGEMENT SERVICES LP** **c/o Cushman & Wakefield ULC** Bay Adelaide Centre East 8 Adelaide Street West, Suite 200 Toronto, Ontario M5H 0A9 **c/o Deloitte Management Sercices LP** 2300-360 Main Street Winnipeg, Manitoba R3C 3Z3 **c/o 6644511 Canada Ltd.** 8 Adelaide Street West, Suite 200 Toronto, Ontario M5H 0A9 Attention: Fay Goveas & Izzy Lazarova Email: fay.goveas@ca.cushwake.com izzy.lazarova@cushwake.com *Sub-Landlord for cleo Corporate Office*

Ministries / Government:

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Court File No. CV-25-00734339-00CL

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 COMARK HOLDINGS INC., BOOTLEGGER CLOTHING INC., CLEO FASHIONS INC. AND RICKI'S FASHIONS INC.

APPLICANTS

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Court File No. CV-20-00642013-00CL

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 COMARK HOLDINGS INC., BOOTLEGGER CLOTHING INC., CLEO FASHIONS INC. AND RICKI'S FASHIONS INC.

APPLICANTS

NOTICE OF MOTION
(Comeback Hearing)

Comark Holdings Inc. ("**Comark**"), Ricki's Fashions Inc. ("**Ricki's**"), cleo fashions Inc. ("**cleo**"), and Bootlegger Clothing Inc. ("**Bootlegger**") (together, the "**Applicants**" or the "**Comark Group**") will make a Motion to a Judge presiding over the Commercial List on Friday, January 17, 2025 at 10a.m., or as soon after that time as the Motion can be heard.

PROPOSED METHOD OF HEARING: The Motion is to be heard

[ ] In writing under subrule 37.12.1(1);

[ ] In writing as an opposed motion under subrule 37.12.1(4);

[ ] In person;

[ ] By telephone conference;

[X] By video conference.

at the following location:

https://ca01web.zoom.us/j/61804264297?pwd=MEpzRUtlUVB0UGc4eStsVGNtYmkxUT09#success **(Meeting ID: 618 0426 4297 Passcode: 057603)**

THE MOTION IS FOR

1. a realization process approval order substantially in the form included at Tab 3 of the Motion Record (the "**Realization Process Approval Order**"), among other things:

   (a) approving a consulting agreement between the Applicants and Tiger Asset Solutions Canada, ULC ("**Tiger**" or the "**Consultant**") dated as of January 14, 2025 (as may be amended and restated in accordance with the terms of the Realization Process Approval Order, the "**Consulting Agreement**"), under which the Consultant will act as exclusive consultant for the purpose of conducting a sale (the "**Sale**") of the Applicants' merchandise and inventory (collectively, the "**Inventory**") and goods, furniture, fixtures, equipment and/or improvements to real property (collectively, the "**FF&E**") located at or in transit to the Applicants' stores included as "**Liquidating Stores**" at Exhibit "A-1" to the Consulting Agreement or at any Warehouse (as defined in the Consulting Agreement), or, in some cases, ordered by the Applicants following the commencement of the Sale;

   (b) approving the proposed sale guidelines (the "**Sale Guidelines**") for the orderly realization of the Inventory and FF&E at the Liquidating Stores; and

   (c) authorizing the Applicants, with the assistance of the Consultant, to undertake the Sale in accordance with the terms of the Realization Process Approval Order, the Consulting Agreement and the Sale Guidelines; and

2. an Amended and Restated Initial Order substantially in the form included at Tab 4 of the Motion Record ("**ARIO**"), among other things:

(a) abridging the time for service of this motion and dispensing with service on any person other than those served;

(b) extending the Stay Period (defined below) to May 15, 2025;

(c) authorizing the Applicants to enter into the DIP Term Sheet (defined below) and borrow under the DIP Facility (defined below) in maximum principal amount of $18 million, and granting the DIP Lender's Charge (defined below);

(d) authorizing the Applicants, with the support of the Monitor (defined below) and the DIP Lender (defined below), to pursue offers for or avenues of restructuring, sale or reorganization of the Applicants' business or the Property (defined below), in whole or in part, including pursuant to any solicitation process letter establishing bid procedures as may be determined by the Applicants and the Monitor, in consultation with the DIP Lender, for circulation to potentially interested parties identified by the Applicants and the Monitor, provided that completion of any such refinancing, restructuring, sale or reorganization transaction will be subject to Court approval (except as permitted by paragraph 12(a) of the ARIO or by the Realization Process Approval Order (defined below));

(e) approving the form of Merchandise Transfer Agreement (defined below), authorizing the Applicants and the Monitor to enter Merchandise Transfer Agreements with Overseas Vendors (defined below) and perform their respective obligations under any Merchandise Transfer Agreement, and authorizing and

approving any Merchandise Transfer Agreement executed by the Monitor and the Applicants prior to January 17, 2025; and

(f) increasing the maximum amount secured by the Administration Charge to $1 million and the maximum amount secured by the Directors' Charge to $7.4 million;

THE GROUNDS FOR THE MOTION ARE:[1]

Background

3. On January 7, 2025, the Applicants were granted protection under the *Companies' Creditors Arrangement Act*, RSC 1985, c C-36 (the "**CCAA**") pursuant to an Initial Order (the "**Initial Order**") of the Ontario Superior Court of Justice (Commercial List) (the "**Court**");

4. The Initial Order, among other things, (i) appointed Alvarez & Marsal Canada Inc. as monitor within these CCAA proceedings (the "**Monitor**"); (ii) granted a stay of proceedings against the Applicants, the Monitor, and their respective employees, directors, advisors, officers and representatives acting in such capacities for an initial 10-day period (the "**Initial Stay Period**"); (iii) authorized the Applicants to borrow from CIBC, as interim lender (the "**Interim Lender**"), under the existing CIBC Revolving Loan Facility (defined below) to fund the Applicants' working capital requirements and other general corporate purposes, capital expenditures, and costs of these proceedings during the Initial Stay Period, subject to certain conditions; (iv) authorized, but did not require, the Applicants to pay certain pre-filing amounts, with the consent of the Monitor and the Interim Lender, consistent with the Cash Flow Forecast

[1] Capitalized terms not otherwise defined have the meanings given to them in the Affidavit of Shamsh Kassam sworn January 16, 2025 (the "**Second Kassam Affidavit**").

(as defined in the Initial Affidavit) or otherwise agreed to with the Interim Lender; and (v) granted priority charges over the Property (as defined in the Initial Order);

Realization Process Approval Order

5. Given the Applicants' limited liquidity and ongoing carrying costs, the Applicants are seeking approval of the Sale of the Inventory and FF&E as soon as possible in order to maximize recoveries and limit operating costs, and to ensure that the Retail Entities can exit from the Liquidating Stores as soon as practicable;

6. After receiving bids from two third-party liquidators, Tiger was selected by the Applicants to assist in the realization of the Retail Entities' Inventory and FF&E based, among other things, on its in-depth expertise and knowledge of the Applicants' business, merchandise, and store operations, and its extensive experience conducting retail liquidations in Canada;

7. The proposed Sale is currently contemplated to run for no longer than 16 weeks following the Sale Commencement Date (as defined in the Consulting Agreement), which date can be extended or abridged by the Applicants and the Consultant, in consultation with the Monitor and the DIP Lender;

8. The Applicants intend to conduct the Sale at all of the Liquidating Stores. However, the Consultant and the Retail Entities have agreed that in the event of a going concern third-party transaction for some or all of the Retail Entities' business or assets, the Applicants are entitled to remove any Liquidating Stores from the Sale in accordance with the Consulting Agreement and the parties shall work cooperatively and in good faith to modify the transactions contemplated thereunder appropriately;

9. The Consulting Agreement is expressly subject to, among other things, approval of this Court;

10. The Sale set out in the Consulting Agreement and the Sale Guidelines were designed by the Applicants and the Consultant, in consultation with the Monitor and with the consent of the DIP Lender;

11. The Applicants expect that engaging the Consultant to assist with the Sale will produce better results than attempting to realize on the Inventory and FF&E without the assistance of the Consultant;

12. The Monitor supports the proposed Consulting Agreement, the Sale Guidelines, including the proposed timeline, and the Applicants' request for the Realization Process Approval Order;

ARIO

(a) **DIP Financing**

13. Pursuant to the Initial Order, the Applicants were granted interim funding from the Interim Lender under the Applicants' existing revolving facility (the "**CIBC Revolving Loan Facility**") during the Initial Stay Period (the "**Interim Borrowings**"). The Interim Borrowings are secured by a Court-ordered charge (the "**Interim Lender's Charge**") on all of the present and future assets, property and undertakings of the Applicants (the "**Property**") and by certain cash collateral and shares of Comark pledged by ParentCo. The Interim Borrowings mature on January 17, 2025;

14. Since the granting of the Initial Order, CIBC (the "**DIP Lender**") has agreed to provide additional funding to Comark, as Borrower, during these CCAA proceedings under a senior

secured, super priority, debtor-in-possession, revolving credit facility (the "**DIP Facility**") on the terms set out in a term sheet agreed to between the Borrower, the Retail Entities (defined below) and ParentCo as Guarantors, and the DIP Lender (the "**DIP Term Sheet**");

15. Based on the cash flow projections prepared by the Monitor (the "**Updated Cash Flow Forecast**"), the DIP Facility is expected to provide the Applicants with sufficient liquidity to continue their business operations during these CCAA proceedings while completing the Sale for the benefit of the Applicants and their stakeholders;

16. The DIP Facility is proposed to be secured by a Court-ordered super-priority charge (the "**DIP Lender's Charge**") on the Property, and by certain cash collateral and shares of Comark pledged by ParentCo.. The DIP Lender's Charge will not secure any obligation that exists before the ARIO is made. The DIP Lender's Charge will have priority over all other security interests, charges and liens, except the Administration Charge and other Permitted Priority Liens (as defined in the DIP Term Sheet). The DIP Lender's Charge will rank in priority to the Interim Lender's Charge (which will terminate upon repayment in full of the Interim Borrowings in accordance with the ARIO and the DIP Term Sheet) and the security granted with respect to the CIBC Credit Facilities. Given the current financial circumstances of the Applicants, the DIP Lender has indicated that it is not prepared to advance funds without the security of the DIP Lender's Charge, including the proposed priority thereof;

17. The Monitor is supportive of the approval of the DIP Term Sheet and the granting of the DIP Lender's Charge;

(b) **Authorization to Pursue a Transaction**

18. The Applicants, with the consent of the Monitor, are seeking the authority in the proposed ARIO to pursue offers for or avenues of refinancing, restructuring, sale or reorganization of the business or assets of the Applicants (a "**Transaction**"). Any such Transaction will be subject to the DIP Lender's consent;

19. Should the ARIO be granted, the Monitor intends to reach out forthwith to parties known to the Monitor and/or the Applicants who have expressed interest or may be interested in the business or assets of the Applicants. Depending on the level and nature of interest expressed, the Monitor may, in its reasonable judgment, establish a solicitation process letter setting out bid procedures (including minimum proposal requirements, key milestones, and successful bid selection criteria) as may be determined by the Applicants and Monitor, with the consent of the DIP Lender. If such bid procedures are established, the Monitor will clearly communicate such procedures to the potentially interested parties identified by the Applicants and the Monitor. Depending on the level of interest, the Monitor may, in its reasonable judgment, directly negotiate a Transaction with a potential acquirer, in lieu of a formal sales process. To the extent a Transaction results, it will be subject to prior approval of this Court;

20. The Applicants do not have sufficient liquidity under the Updated Cash Flow Forecast or funding under the DIP Budget to run a more formal sales process;

21. The authorization to pursue a Transaction on an accelerated process would give the Applicants and the Monitor the flexibility to pursue all value-maximizing avenues for the assets of the Applicants, which would benefit the Applicants' creditors and stakeholders generally;

(c) **Approval of Merchandise Transfer Agreement**

22. Certain of the inventory of Bootlegger, cleo and Ricki's (the "**Retail Entities**") is currently in-transit on cargo ships or being held at the port of entry. The Retail Entities have been unable to retrieve a sizeable portion of their in-transit merchandise because certain of the Retail Entities' foreign vendors (all based in China and Bangladesh) (the "**Overseas Vendors**") have refused to provide the original endorsed Forwarder's Cargo Receipt ("**FCR**") (which document is required to retrieve inventory at the port of entry) to the Retail Entities;

23. Since the granting of the Initial Order, the Applicants, with the consent of the Monitor and the DIP Lender, have entered into arrangements with a number of Overseas Vendors for the timely release of merchandise and/or FCRs in consideration for the payment of some portion of the pre-filing arrears, all in accordance with the Cash Flow Forecast and the Initial Order;

24. To help facilitate negotiations with other Overseas Vendors who are refusing or may in the future refuse to release FCRs and/or merchandise, the Applicants, with the assistance of the Monitor and with the consent of the DIP Lender, have drafted a template form of agreement (the "**Merchandise Transfer Agreement**");

25. In the proposed ARIO, the Applicants are seeking approval of the form of Merchandise Transfer Agreement, the authorization to enter into further arrangements with Overseas Vendors substantially in the form of the Merchandise Transfer Agreement, and the approval of Merchandise Transfer Agreements executed prior to January 17, 2025;

(d) **Increase to Charges**

26. The Initial Order approved the Administration Charge in the amount of $750,000, which was sized only to reflect fees and disbursements expected to be incurred by the Applicants' counsel, the Monitor and Monitor's counsel during the Initial Stay Period;

27. With the concurrence of the Monitor, the Applicants are seeking to increase the Administration Charge to $1 million. The DIP Lender does not object to the proposed increase to the Administration Charge;

28. The Initial Order approved the Directors' Charge for the initial Stay Period in the amount of $6.2 million;

29. With the concurrence of the Monitor, the Applicants are seeking to increase the Directors' Charge to $7.4 million. The DIP Lender does not object to the proposed increase to the Directors' Charge;

(e) **Extension of Stay Period**

30. The Applicants are seeking to extend the stay of proceedings granted in the Initial Order (the "**Stay Period**") up to and including May 15, 2025. The extension of the Stay Period is necessary and appropriate in the circumstances to permit the Applicants, with the assistance of the Consultant and under the oversight of the Monitor, to conduct the Sale in accordance with the Consulting Agreement and Sale Guidelines, while concurrently pursuing a going concern transaction or transactions for some or all of the Applicants' business or assets;

31. The Applicants have acted, and continue to act, in good faith and with due diligence in these CCAA proceedings. The Applicants have given notice of these CCAA proceedings to stakeholders including, most significantly, their landlords and employees. In consultation with the Monitor, the Applicants have engaged, and will continue engaging, in discussions with their stakeholders as these CCAA proceedings progress;

32. The Updated Cash Flow Forecast demonstrates that, subject to this Court's approval of the DIP Facility and DIP Lender's Charge in the form requested in the proposed ARIO, the Applicants will have access to sufficient liquidity to fund operations during the requested extension of the Stay Period;

33. The Monitor has expressed its support for the extension of the Stay Period to May 15, 2025;

Other Grounds

34. The provisions of the CCAA, including section 11.02, and the inherent and equitable jurisdiction of this Honourable Court;

35. Rules 1.04, 1.05, 2.03, 3.02, 16 and 37 of the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194, as amended, and section 106 and 137 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended; and

36. Such further and other grounds as the lawyers may advise.

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

37. The Affidavit of Shamsh Kassam, sworn January 6, 2025;

38. The Affidavit of Shamsh Kassam, sworn January 16, 2025;

39. The Pre-Filing Report of the Proposed Monitor dated January 7, 2025;

40. The First Report of the Monitor, to be filed; and

41. Such further and other evidence as the lawyers may advise and this Honourable Court may permit.

January 16, 2025

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Lawyers for the Applicants

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

Court File No. CV-20-00642013-00CL

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF COMARK HOLDINGS INC., BOOTLEGGER CLOTHING INC., CLEO FASHIONS INC. AND RICKI'S FASHIONS INC.

Ontario
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

Proceeding commenced at Toronto

NOTICE OF MOTION

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TAB 2

Court File No. CV-20-00642013-00CL

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 COMARK HOLDINGS INC., BOOTLEGGER CLOTHING INC., CLEO FASHIONS INC. AND RICKI'S FASHIONS INC.

APPLICANTS

AFFIDAVIT OF SHAMSH KASSAM
(Sworn January 16, 2025)

I, Shamsh Kassam, of the City of Vancouver, in the Province of British Columbia, MAKE OATH AND SAY:

1. I currently serve as Chief Executive Officer ("**CEO**") of Comark Holdings Inc. ("**Comark**"), Vice President of each of its subsidiaries, Ricki's Fashions Inc. ("**Ricki's**"), cleo fashions Inc. ("**cleo**") and Bootlegger Clothing Inc. ("**Bootlegger**") (together with Comark, the "**Applicants**" or the "**Comark Group**"), and a director of each of the Applicants. I am also a director and/or officer of a number of affiliated companies in a broader corporate group, including the parent company of Comark ("**ParentCo**"), the Comark Group's logistics provider, Parian Logistics Inc. ("**Parian**") and others. As such, I have personal knowledge of the matters deposed to in this Affidavit. Where I have relied on other sources of information, I have specifically referred to such sources and believe them to be true. In preparing this Affidavit, I have consulted with legal, financial and other advisors to the Applicants and other members of the senior management teams of the Applicants. The Applicants do not waive or intend to waive any applicable privilege by any statement herein.

2. This affidavit is made in support of a motion by the Applicants for:

(a) an Amended and Restated Initial Order ("**ARIO**"), among other things:

(i) extending the stay of proceedings until May 15, 2025;

(ii) authorizing the Applicants to enter into the DIP Term Sheet (defined below) and borrow under the DIP Facility (defined below) in the maximum principal amount of $18 million, and granting the DIP Lender's Charge (defined below);

(iii) authorizing the Applicants, with the support of the Monitor (defined below) and the DIP Lender (defined below), to pursue offers for or avenues of restructuring, sale or reorganization of the Comark Group business or the Property (defined below), in whole or in part, including pursuant to any solicitation process letter establishing bid procedures as may be determined by the Applicants and the Monitor, in consultation with the DIP Lender, for circulation to potentially interested parties identified by the Applicants and the Monitor, provided that completion of any such refinancing, restructuring, sale or reorganization transaction will be subject to Court approval (except as otherwise permitted by paragraph 12(a) of the ARIO or by the Realization Process Approval Order (defined below));

(iv) approving the form of Merchandise Transfer Agreement (defined below), authorizing the Applicants and the Monitor to enter Merchandise Transfer Agreements with Overseas Vendors (defined below) and perform their respective obligations under any Merchandise Transfer Agreement, and

authorizing and approving any Merchandise Transfer Agreement executed by the Monitor and the Applicants prior to the January 17, 2025; and

(v) increasing the maximum amount secured by the Administration Charge to $1 million and the maximum amount secured by the Directors' Charge to $7.4 million;

(b) A realization process approval order (the "**Realization Process Approval Order**"), among other things:

(i) approving a consulting agreement between the Applicants and Tiger Asset Solutions Canada, ULC (the "**Consultant**") dated as of January 14, 2025 (as may be amended and restated in accordance with the terms of the Realization Process Approval Order, the "**Consulting Agreement**"), under which the Consultant will act as exclusive consultant for the purpose of conducting a sale (the "**Sale**") of the Retail Entities' (defined below) merchandise and inventory (collectively, the "**Inventory**") and goods, furniture, fixtures, equipment and/or improvements to real property (collectively, the "**FF&E**") located at or in transit to the Applicants' Liquidating Stores (defined below) or at any Warehouse (as defined in the Consulting Agreement), or, in some cases, ordered by the Applicants following the commencement of the Sale;

(ii) approving the proposed sale guidelines (the "**Sale Guidelines**") for the orderly realization of the Inventory and FF&E at the Liquidating Stores; and

(iii) authorizing the Applicants, with the assistance of the Consultant, to undertake the Sale in accordance with the terms of the Realization Process Approval Order, the Consulting Agreement and the Sale Guidelines.

3. All references to monetary amounts in this affidavit are in Canadian dollars unless noted otherwise, and do not represent amounts or measures prepared in accordance with ASPE or US GAAP.

4. This affidavit is organized in the follow sections:

A. Overview of the Applicants' Activities since the Initial Order

5. On January 7, 2025, the Applicants were granted protection under the *Companies' Creditors Arrangement Act*, RSC 1985 c C-36 (the "**CCAA**") pursuant to an Initial Order (the "**Initial Order**") of the Ontario Superior Court of Justice (Commercial List) (the "**Court**"). A copy of the Initial Order is attached hereto as **Exhibit "A"**. A copy of the endorsements of Justice Cavanagh issued in connection with the Initial Order are attached hereto as **Exhibits "B"** and **"C"**.

6. In support of the application for the Initial Order, I swore the affidavit dated January 6, 2025 (the "**Initial Affidavit**"), which described, among other things, the events leading to the Applicants' insolvency and their urgent need for relief under the CCAA. A copy of my Initial Affidavit (without exhibits) is attached hereto as **Exhibit "D"**. Capitalized terms not otherwise defined herein have the meanings given to them in the Initial Affidavit.

7. The Initial Order, among other things, (i) appointed Alvarez & Marsal Canada Inc. as monitor within these CCAA proceedings (the "**Monitor**"); (ii) granted a stay of proceedings against the Applicants, the Monitor, and their respective employees, directors, advisors, officers and representatives acting in such capacities for an initial 10-day period (the "**Initial Stay Period**"); (iii) authorized the Applicants to borrow from CIBC, as interim lender (the "**Interim Lender**"), under the Applicants' existing revolving facility (the "**CIBC Revolving Loan Facility**") to fund the Applicants' working capital requirements and other general corporate purposes, capital expenditures, and costs of these proceedings during the Initial Stay Period, subject to certain conditions; (iv) authorized, but did not require, the Applicants to pay certain pre-filing amounts, with the consent of the Monitor and the Interim Lender, consistent with the Cash Flow Forecast (as defined in the Initial Affidavit) or otherwise agreed to with the Interim Lender; and (v) granted priority charges over the Property.

8. Since the granting of the Initial Order, the Applicants, in close consultation and with the assistance of the Monitor, have been working in good faith and with due diligence to, among other things:

(a) stabilize the businesses and operations of the Applicants as part of these CCAA proceedings to enable the Applicants to continue operating their retail store business and e-commerce business;

(b) advise their stakeholders, including landlords, employees, logistics suppliers, merchandise vendors, and others, of the granting of the Initial Order;

(c) negotiate the DIP Term Sheet with the Interim Lender;

(d) develop the Sale Guidelines and finalize arrangements with the Consultant for the orderly realization of the Applicants' Inventory and FF&E;

(e) engage with critical stakeholders; and

(f) respond to numerous creditor and stakeholder inquiries regarding these CCAA proceedings.

9. In accordance with the Initial Order:

(a) on January 7, 2025, the Monitor posted the Initial order and related application materials on the Monitor's website at https://www.alvarezandmarsal.com/ComarkRetail (the "**Monitor's Website**");

(b) the Monitor arranged for publication of a notice in *The Globe and Mail* (Nation Edition) containing the information prescribed under the CCAA, with such notice being published on January 10, 2025 and January 17, 2025; and

(c) on January 14, 2025, the Monitor sent a notice to, among others, all of the Applicants' known creditors who had claims over $1,000, including all known international creditors. Additionally, on January 15, 2025, the Monitor made publicly available on the Monitor's Website a list containing the names and addresses of those creditors and the estimated amounts of their claims (subject to the exclusions required by the Initial Order).

10. On January 7, 2025, a Case Center database was established for these CCAA proceedings and all counsel currently on the CCAA service list have been granted access thereto. A copy of the Initial Order and the Applicants' application materials were uploaded to the Case Center database that same day.

(a) Communication with Key Stakeholders

(i) Landlords

11. On January 7, 2025, counsel to the Applicants sent letters to all known landlords of the Applicants' retail stores (the "**Landlords**"), at their most recent email addresses contained in the Applicants' books and records, advising that the Applicants had applied for and been granted an Initial Order under the CCAA, providing a link to the Monitor's Website and directing the recipient to the Initial Order. The letters further advised that:

(a) payments of rent and other amounts outstanding under leases immediately prior to the effective time of the Initial Order have been stayed pursuant to the Initial Order,

and amounts payable in respect of rent after the effective time of the Initial Order will be paid by the Applicants in accordance with the Initial Order; and

(b) all vendors, including landlords, must continue honouring existing contractual obligations.

12. The Applicants, through their counsel, also circulated draft Sale Guidelines for the proposed Sale to certain Canadian counsel who represent a significant number of the Landlords for their review and subsequently engaged in discussions with such counsel, along with counsel to the Monitor, with respect to the proposed Sale Guidelines and certain other issues raised by landlords' counsel regarding the Initial Order and the proposed ARIO.

(ii) Employees

13. In addition to the Landlords and Overseas Vendors (described below), the Applicants completed the following outreach to their employees promptly after obtaining the Initial Order:

(a) on January 7, 2025, meetings were conducted with the corporate office leadership teams of Ricki's, cleo and Bootlegger (collectively, the "**Retail Entities**") advising of the Applicants' decision to file for CCAA protection, the issuance of the Initial Order, and the expected impact of the Initial Order on the Retail Entities' respective businesses;

(b) on January 7, 2025, meetings were conducted with the store leadership teams of the Retail Entities, including district managers and store managers, to advise of the Applicants' decision to file for CCAA protection, the issuance of the Initial Order, and the expected impact of the Initial Order on the Retail Entities' respective stores and operations;

(c) the store managers, in turn, held townhall meetings that same day at their respective store locations to advise store-level employees of the Applicants' decision to file for CCAA protection, the issuance of the Initial Order, and the expected impact of the Initial Order on the Retail Entities; and

(d) on January 8, 2025, all employees of the Retail Entities were sent a follow-up email re-iterating the above information regarding the CCAA Proceedings and enclosing a Frequently Asked Questions document (the **"Employee FAQs"**) addressing common employee issues and concerns. Employees of the Retail Entities were also provided with a copy of the press release issued in connection with the CCAA proceedings.

14. The Employee FAQs have since been posted on the applicable internal intranet site for each of the respective Retail Entities to ensure employees' ease of reference during these CCAA proceedings. The Retail Entities intend to supplement the Employee FAQs with answers to additional questions frequently received from impacted employees.

15. District managers of the Retail Entities have also been provided with a Customer Frequently Asked Questions document (the **"Customer FAQs"**) to distribute to the stores in their respective districts. The Customer FAQs are intended to facilitate employees' ability to respond to questions received from customers during the CCAA proceedings.

(iii) Overseas Vendors and CRSA

16. As described in the Initial Affidavit, the Retail Entities source approximately 82% of their merchandise from factories primarily based in China and Bangladesh (the "**Overseas Vendors**").

17. Prior to these CCAA proceedings, the Overseas Vendors were paid either via a power of attorney ("**POA**") arrangement (for vendors in Bangladesh) or via wire payments (for vendors in China). Under both arrangements, the Canadian Retail Shippers' Association ("**CRSA**"), a cooperative logistics venture of Canadian retailers and retail suppliers used by the Applicants to help reduce shipping and logistics costs, would release inventory to the Retail Entities (or their third-party transportation provider) at the port of entry only upon presentation of an original endorsed Forwarder's Cargo Receipt ("**FCR**"). The services provided by CRSA are integral to the Applicants' ability to operate during these CCAA proceedings.

18. Certain of the Retail Entities' merchandise is currently in-transit on cargo ships or being held at the port of entry. To ensure uninterrupted business operations during these CCAA proceedings, the Applicants have reached an agreement with the CRSA that will ensure the continuation of their services and release of inventory in the normal course, all in accordance with the authority granted in the Initial Order and the consent of the Monitor and the Interim Lender.

19. Despite the agreement with the CRSA, the Retail Entities have not been able to retrieve a sizeable portion of their in-transit merchandise because certain Overseas Vendors have refused to provide the required FCR to the Retail Entities, purportedly due to the outstanding arrears owing to them. Prior to the commencement of these CCAA proceedings, the Applicants owed approximately $36 million to Overseas Vendors.

20. Since the granting of the Initial Order, the Applicants, with the consent of the Monitor and the Interim Lender, have entered into arrangements with a number of Overseas Vendors for the timely release of merchandise and/or FCRs in consideration for the payment of some portion of the pre-filing arrears, all in accordance with the Initial Order.

21. To help facilitate negotiations with the Overseas Vendors who are refusing or may in the future refuse to release FCRs and/or merchandise, the Applicants, with the assistance of the Monitor and with the consent of the Interim Lender, have drafted a template form of agreement (the "**Merchandise Transfer Agreement**"), a copy of which is attached to this affidavit as **Exhibit "E"**. In the proposed ARIO, the Applicants are seeking approval of the form of Merchandise Transfer Agreement, the authorization to enter into further arrangements with Overseas Vendors substantially in the form of the Merchandise Transfer Agreement, and the approval of Merchandise Transfer Agreements executed prior to January 17, 2025. Under the Merchandise Transfer Agreement, the parties agree to the following procedure:

(a) Within two business days of the date of the applicable Merchandise Transfer Agreement, the Overseas Vendor shall deliver to the Monitor the original FCR and such other documents as necessary to enable the applicable Retail Entity to take possession of the inventory (the "**Transfer Documentation**"). The Monitor shall then notify the parties that it holds the Transfer Documentation in escrow (the "**Documentation Notice**").

(b) No later than one business day following the Documentation Notice, the applicable Retail Entity shall make a cash payment to the Overseas Vendor in the amount set out in the Merchandise Transfer Agreement (the "**Release Payment**").

(c) No later than one business day following receipt of the Release Payment, the Overseas Vendor shall notify the applicable Retail Entity and the Monitor that it has received the Release Payment (the "**Payment Notice**").

(d) Following the Payment Notice, the Monitor shall release the Transfer Documentation to the applicable Retail Entity.

22. The Merchandise Transfer Agreement provides that, (a) in the event that the Retail Entity does not effectuate the Release Payment, the Monitor shall release the Transfer Documentation to the Overseas Vendor; and (b) in the event that the Release Payment is paid out but the Overseas Vendor does not issue the Payment Notice, the Applicants and the Monitor shall be entitled to seek relief from this Court on an urgent basis.

(iv) Other Stakeholders

23. The Monitor and the Applicants have also engaged in discussions with certain other logistics providers and critical service providers to ensure uninterrupted business operations during these CCAA proceedings.

B. Realization Process and Consulting Agreement

24. In order to maximize the value of their assets, the Applicants are seeking the Court's approval of:

(a) the Consulting Agreement, a copy of which is attached hereto as **Exhibit "F"**; and

(b) the Sale Guidelines, which are attached as Exhibit "B" to the Consulting Agreement.

(a) Process for Identifying the Consultant

25. Pursuant to the authority set out in the Initial Order, the Monitor reached out to two potential third-party liquidators that are well known in the industry, indicating that the Monitor, on behalf of the Applicants, was seeking bids in connection with the realization of some or all of the Retail Entities' Inventory and FF&E, and, if interested in participating in a request for proposals process, they should execute and return a non-disclosure agreement (the "**NDA**"). Upon

receipt of an executed NDA by the Monitor, each third-party liquidator was given access to a populated data room including financial and operational details about the Applicants and the Inventory. Both potential liquidators signed an NDA. The liquidators were then asked to provide their bids. The bids were reviewed and discussed among the Applicants, the Monitor and the Interim Lender. After negotiations with Tiger Asset Solutions Canada, ULC ("**Tiger**"), in consultation with the Monitor and with the consent of the Interim Lender, Tiger, as Consultant, and the Applicants entered into the Consulting Agreement on January 14, 2025.

26. Tiger was selected by the Applicants based on, among other things, its in-depth expertise and knowledge of the Applicants' business, merchandise, and store operations (having recently conducted a third-party appraisal of the Applicants' inventory on behalf of CIBC), and its extensive experience conducting retail liquidations in Canada (including *Nordstrom Canada*, *GNC*, *Bed, Bath and Beyond*, *Chico's, Gymboree*, *Canadian Shoe Outlet*, *Stokes*, *Scotch and Soda*, *Sears Canada*, *Scholars Choice*, *Maison Ethier*, and *Payless Canada*). The Applicants have concluded that: (i) the Consultant's services are necessary for a seamless and efficient large-scale store closing process and to maximize the value of the Inventory and FF&E; and (ii) the Consultant is qualified and capable of performing the required tasks in a value-maximizing manner.

(b) The Sale

27. Given the Applicants' limited liquidity and ongoing carrying costs, the Applicants are seeking approval of an orderly realization of the Retail Entities' Inventory and FF&E as soon as possible in order to maximize recoveries and limit operating costs, and to ensure that the Retail Entities can exit from the Liquidating Stores as soon as practicable.

28. The proposed realization of the Inventory and FF&E is currently contemplated to run for no longer than 16 weeks following the Sale Commencement Date (defined below), which date can

be extended or abridged by the Applicants and the Consultant, in consultation with the Monitor and the DIP Lender. Key terms of the Consulting Agreement include:

(a) the Consultant is appointed as exclusive liquidator for purposes of conducting the Sale;

(b) the Sale will commence on a date agreed to by the Applicants and the Consultant following the granting of the Realization Process Approval Order (the "**Sale Commencement Date**") and conclude no later than 16 weeks following such Sale Commencement Date (the "**Sale Termination Date**" and the period between the Sale Commencement Date and the Sale Termination Date, the "**Sale Term**"). It is currently anticipated that the Sale will commence no later than January 18, 2025, with the Sale commencing at most stores on January 17, 2025, should the Realization Process Approval Order be approved;

(c) at present, the Applicants intend to conduct the Sale at substantially all of the Retail Entities' stores. As such, all such stores are listed as "**Liquidating Stores**" at Exhibit "A-1" to the Consulting Agreement. Importantly, the Applicants have the right under the Consulting Agreement to amend the list of Liquidating Stores (by removing store locations from Exhibit "A-1") at any time on or prior to January 31, 2025 or upon giving 14-days written notice after January 31, 2025;

(d) all sales during the Sale Term will be final with no returns or exchanges accepted or allowed following the Sale Commencement Date;

(e) the Liquidating Stores will accept cash, and credit and debit cards, during the Sale. Gift cards will not be accepted by the Applicants after 12:01a.m. on January 17, 2025;

(f) the Consultant, in collaboration with the Applicants, shall recommend staffing levels for the Liquidating Stores and appropriate incentive programs, if any, for the Liquidating Store's employees, which will be approved in advance by the Applicants in consultation with the Monitor and the DIP Lender (provided that payments under any such incentive program shall be the Applicants' responsibility);

(g) as consideration for its services in accordance with the Consulting Agreement, the Consultant is entitled to a fee with respect to Inventory sold at the Liquidating Stores during the Sale Term of 2.0% of the gross receipts from sales of Inventory during the Sale Term (excluding sales taxes) (the "**Merchandise Fee**");

(h) the Applicants are responsible for all expenses of the Sale, including (without limitation) all operating expenses of the Liquidating Stores, and all of the Consultant's reasonable and documented out-of-pocket expenses incurred pursuant to an aggregate budget established in connection with the transactions contemplated under the Consulting Agreement (the "**Expense Budget**"), which is attached as Exhibit "C" to the Consulting Agreement. Without the written consent of the Applicants, in consultation with the Monitor and the DIP Lender, the Expense Budget shall not exceed $3,842,223, including legal costs of the Consultant;

(i) concurrently with the execution of, and as a condition to the Consultant's obligations under the Consulting Agreement, the Applicants are required to fund

$475,000 (the "**Special Purpose Payment**") to the Consultant on account of any final amounts owing by the Applicants until the Final Reconciliation (defined below), or upon further order of the Court. The proposed Realization Process Approval Order approves the payment of the Special Purpose Payment *nunc pro tunc* and orders and declares that the Special Purpose Payment shall be and remain free of all claims and encumbrances (including the Charges and deemed trusts) of creditors and other stakeholders of the Applicants;

(j) the Consultant undertakes to sell during the Sale Term, on an "as is where is" basis, the FF&E located at or in the Liquidating Stores. The Consultant is entitled to a commission from the sale of all such FF&E equal to 15% of the gross proceeds of the sale of such FF&E (excluding sales taxes) (the "**FF&E Fee**"). The Applicants are responsible for all reasonable and documented out-of-pocket costs and expenses incurred by the Consultant in connection with the sale of FF&E;

(k) During the Sale Term, all accounting matters (including, without limitation, the determination of the Merchandise Fee, Sale Costs, Supervisor Costs, FF&E Fee, FF&E Costs (each as defined in the Consulting Agreement) and all other fees, expenses, or other amounts reimbursable or payable thereunder) are to be reconciled by the Applicants and the Consultant, in consultation with the Monitor, on every Wednesday for the prior calendar week and the amounts determined to be owing for such prior calendar week pursuant to such reconciliation shall be paid as soon as reasonably practicable in accordance with the DIP Budget (as defined in the DIP Term Sheet) but in all cases not more than 10 days following completion of such reconciliation;

(l) the Applicants and the Consultant, in consultation with the Monitor and the DIP Lender, will complete a final reconciliation and settlement of all amounts payable pursuant to the Consulting Agreement, including, without limitation, the determination of the Merchandise Fee, Sale Costs, Supervisor Costs, FF&E Fee, FF&E Costs and all other fees, expenses, or other amounts reimbursable or payable under the Consulting Agreement (the "**Final Reconciliation**"), no later than 20 days following the earlier of: (a) the Sale Termination Date for the last Liquidating Store; or (b) the date upon which the Consulting Agreement is terminated in accordance with its terms; and

(m) to the extent there is any Inventory remaining on the Sale Termination Date (the "**Remaining Inventory**"), if requested by the Applicants, such Remaining Inventory will be sold on behalf of the Applicants or otherwise disposed of by the Consultant as directed by the Applicants, in consultation with the Monitor.

29. As note above, as of the date of swearing this Affidavit, the Applicants intend to conduct the Sale at all of the Liquidating Stores. However, the Consultant and the Retail Entities have agreed that in the event of one or more going concern transactions, including to any related party, for any of the Applicants' businesses or any portion thereof, the Applicants are entitled to remove any Liquidating Stores from the Sale in accordance with the Consulting Agreement and the parties shall work cooperatively and in good faith to modify the transactions contemplated thereunder appropriately. Among other things, the Merchandise Fee and the FF&E fee will not apply to any Inventory or FF&E included in the applicable going concern transaction(s) once the applicable Liquidating Store is removed from Exhibit "A-1" to the Consulting

Agreement. The Applicants have the express right to terminate the Consulting Agreement in the event that they remove all Liquidating Stores from the Sale.

30. The Applicants intend to continue the sale of goods via their webstores or e-commerce websites (collectively, the "**Websites**"). Any goods sold by the Applicants via any Websites during the Sale Term until and including January 31, 2025 shall be deemed excluded from the definition of Merchandise in the Consulting Agreement and not subject to the Merchandise Fee. In the event that the Applicants decide to continue the sale of goods via their Websites for the period from and after February 1, 2025, the Merchandise Fee shall apply to such sales.

31. The Consulting Agreement is expressly subject to, among other things, approval of this Court. The Sale set out in the Consulting Agreement and the Sale Guidelines has been designed by the Applicants and the Consultant, in consultation with the Monitor and with the consent of the DIP Lender. I am of the view that engaging the Consultant to assist with the Sale will produce better results than attempting to realize on the Inventory and FF&E without the assistance of the Consultant.

32. The Consulting Agreement is subject to the Sale Guidelines attached as Exhibit "B" to the Consulting Agreement. The Sale Guidelines stipulate, among other things, that the Sale will be conducted in accordance with the terms of the leases for the Liquidating Stores (the "**Leases**") during each Liquidating Store's normal hours of operation. The Sale Guidelines may be amended on a store-by-store basis by agreement of the applicable Retail Entity, the Consultant, and the applicable Landlord. The Sale Guidelines also include the following key terms:

(a) the Sale shall be conducted so that each Liquidating Store remains open during its normal hours of operation provided for in its respective Lease, until the earlier of (i) the applicable Sale Termination Date and (ii) the date on which such Lease is

disclaimed in accordance with the ARIO and CCAA or otherwise consensually terminated by the applicable Retail Entity or Retail Entities and Landlord;

(b) the Sale shall end on the Sale Termination Date, which shall be no later than April 30, 2025;

(c) all display and hanging signs used by the Consultant in connection with the Sale shall be professionally produced and all hanging signs shall be hung in a professional manner;

(d) notwithstanding anything to the contrary contained in the Leases, the Consultant may advertise the Sale at the Liquidating Stores as an "everything on sale", "everything must go", "store closing" and/or similar theme sale at the Liquidating Stores;

(e) the Consultant shall be entitled to include additional merchandise in the Sale; provided that: (i) the additional merchandise is owned by an Applicant, is currently in the possession of, or in the control of, an Applicant (including in any Warehouse used by an Applicant), or is ordered from an existing supplier in respect of the Applicants' existing SKUs (as defined in the Consulting Agreement) by or on behalf of an Applicant, including merchandise currently in transit to an Applicant (including any Warehouse used by an Applicant) or a Liquidating Store; and (ii) the additional merchandise is of the type and quality typically sold in the Liquidating Stores and consistent with any restriction on usage of the Liquidating Stores set out in the applicable Leases;

(f) at the conclusion of the Sale and after the seven days following the Sale, which shall in no event be later than May 7, 2025 (the "**FF&E Removal Period**"), the Consultant shall arrange that the premises for each Liquidating Store are in "broom-swept" and clean condition, and shall arrange that the Liquidating Stores are in the same condition as on the commencement of the Sale, ordinary wear and tear excepted;

(g) the Retail Entities provide notice, including for purposes of the ARIO, to the Landlords of the Retail Entities and the Consultant's intention to sell and remove FF&E from the Liquidating Stores; and

(h) the Retail Entities and the Consultant shall not conduct any auctions of Inventory or FF&E at any of the Liquidating Stores.

33. I am advised by Ms. Tracy C. Sandler of Osler, Hoskin and Harcourt LLP, counsel to the Applicants, that the Sale Guidelines are substantially similar to those which have been granted in respect of Canadian stores in other Canadian retail insolvencies, including *Nordstrom Canada*, *Mastermind Toys*, and *Ted Baker*.

(c) Realization Process Approval Order

34. The proposed Realization Process Approval Order requested by the Applicants, among other things:

(a) approves, authorizes and ratifies the Consulting Agreement, the Sale Guidelines and the transactions contemplated thereunder;

(b) authorizes the Applicants, with the assistance of the Consultant, to conduct the Sale in accordance with the terms of the Realization Process Approval Order, the Consulting Agreement and the Sale Guidelines, and to advertise the Sale within the Liquidating Stores in accordance with the Sale Guidelines;

(c) authorizes the Applicants, with the assistance of the Consultant, to market and sell the Inventory and FF&E in accordance with the Sale Guidelines and the Consulting Agreement, free and clear of all liens, claims, encumbrances, security interests, mortgages, charges, trusts, deemed trusts, executions, levies, financial, monetary or other claims; and

(d) grants certain protections from liability in favour of the Consultant, including that:

(i) the Consultant shall not be deemed to be an owner or in possession, care, control or management of the Liquidating Stores or any Warehouse, of the assets located therein or associated therewith or of the Applicants' employees located at the Liquidating Stores, any Warehouse or any other property of the Applicants;

(ii) the Consultant shall not be deemed to be an employer, or a joint or successor employer or a related or common employer or payor within the meaning of any legislation; and

(iii) the Consultant shall bear no responsibility for any liability whatsoever relating to Claims (as defined in the Realization Process Approval Order) of customers, employees and any other persons arising from events occurring at the Liquidating Stores during and after the Sale Term or at any

> Warehouse, or otherwise in connection with the Sale, except to the extent that such Claims are the result of events or circumstances caused or contributed to by the gross negligence or wilful misconduct of the Consultant, its employees, supervisors, independent contractors, agents or other representatives, or otherwise in accordance with the Consulting Agreement.

35. I am advised by the Monitor and believe that the Monitor supports the proposed Consulting Agreement, the Sale Guidelines, including the proposed timeline, and the Applicants' request for the Realization Process Approval Order.

C. Amended and Restated Initial Order

(a) DIP Financing

36. Pursuant to the Initial Order, the Applicants were granted interim funding from the Interim Lender under the CIBC Revolving Loan Facility during the Initial Stay Period (the "**Interim Borrowings**"). The Interim Borrowings are secured by a Court-ordered charge (the "**Interim Lender's Charge**") on all of the present and future assets, property and undertakings of the Applicants (the "**Property**") and by certain cash collateral and shares of Comark pledged by ParentCo. The Interim Borrowings mature on January 17, 2025.

37. Since the granting of the Initial Order, CIBC (the "**DIP Lender**") has agreed to provide additional funding to Comark, as Borrower, during these CCAA proceedings under a senior secured, super priority, debtor-in-possession, revolving credit facility (the "**DIP Facility**") on the terms set out in a term sheet agreed to between the Borrower, the Retail Entities and ParentCo as

Guarantors, and the DIP Lender (the "**DIP Term Sheet**"). A copy of the final executed DIP Term Sheet is attached hereto as **Exhibit "G"**.

38. Based on the Updated Cash Flow Forecast, the DIP Facility is expected to provide the Applicants with sufficient liquidity to continue their business operations during these CCAA proceedings while completing the Sale described above for the benefit of the Applicants and their stakeholders.

39. The proposed DIP Facility includes the following commercial terms.[1] All defined terms below are defined in the DIP Term Sheet:

(a) **Facility size:** up to a maximum amount of $18 million.

(b) **Outside Date for Maturity:** May 30, 2025

(c) **Conditions precedent to DIP advances:** (i) each DIP Party executing and delivering the DIP Term Sheet and any other documents required by the DIP Lender; (ii) all representations and warranties of the DIP Parties under the DIP Term Sheet being true and correct in all material respects; (iii) the Court issuing the ARIO and Realization Process Approval Order, in form and substance satisfactory to the DIP Lender no later than January 17, 2025; (iv) no Event of Default having occurred; (v) the DIP Advance not causing the aggregate amount of all outstanding DIP Advances to (A) exceed the Maximum Amount or (B) be greater than the amount shown for the total aggregate DIP Advances in the DIP Budget; (vi) the aggregate DIP Exposure and the outstanding principal under the CIBC Revolving

[1] The below is intended to be a summary of the DIP Term Sheet only. Reference should be had to the DIP Term Sheet for the complete terms set out therein.

Loan Facility not exceeding an amount equal to the Borrowing Base; (vii) the continuation of the DIP Parties' cash management arrangements being approved by the ARIO; (viii) the DIP Parties making all necessary or advisable registrations and taking all other steps in applicable jurisdictions to evidence and give effect to the DIP Lender's Charge; (ix) there being no Liens ranking *pari passu* with or in priority to the DIP Lender's Charge other than the Permitted Priority Liens; (x) there being no order of the Court that contravenes the DIP Term Sheet, DIP Credit Agreement (if any) or any DIP Financing Credit Documents; (xi) the DIP Lender having received the Guarantee Amendment Documents from ParentCo; (xii) Comark having delivered an Advance Request in respect of such DIP Advance and all applicable Variance Reports in accordance with the DIP Term Sheet; (xiii) beginning on the week commencing on January 19, 2025, (A) for the period commencing on January 12, 2025 and ending the week prior to such DIP Advance Request the Actual Cumulative Receipts shall be equal to or greater than the "Minimum Cumulative Receipts" (as set out in Schedule "G" to the DIP Term Sheet), and (B) for the period commencing on January 12, 2025 and ending the week prior to such DIP Advance Request the Actual Cumulative Disbursements shall be equal to or less than the "Maximum Cumulative Disbursements" (as set out in Schedule "G" to the DIP Term Sheet); and (xiv) the sum of the aggregate principal amount outstanding under the CIBC Revolving Loan Facility (after giving effect to any repayment of the Interim Borrowings from the proceeds of such DIP Advance), less any repayment of the principal amount of the Pre-Filing Credit Agreement from sources other than DIP Advances plus the aggregate principal amount outstanding under the DIP Facility shall not exceed $24 million.

(d) **Mandatory Payments:** proceeds received by a DIP Party in respect of Accounts, and any instruments or Property received by a DIP Party for any Collateral, less $100,000 to indefeasibly pay the DIP Financing Obligations and Obligations in the following order: (A) first, the Obligations in respect of the CIBC Revolving Loan Facility, including the Interim Borrowings, until Repaid in Full, (B) second, the DIP Financing Obligations, until Repaid in Full, (C) third, the Obligations in respect of the CIBC Term Loan Facility (as defined in the Initial Affidavit), until Repaid in Full, and (D) fourth, the Obligations in respect of the BCAP Loan Facility, to be applied in accordance with the waterfall set out in the CIBC Credit Agreement, until Repaid in Full. The Proceeds shall be promptly turned over to the DIP Lender with proper assignments or endorsements by deposit to the Blocked Accounts. If at any time the total amount of DIP Advances exceeds the Maximum Amount (any such excess being referred to as a "**Currency Excess Amount**"), then the Borrowers shall immediately pay the DIP Lender an amount equal to the Currency Excess Amount, and, for greater certainty, the obligation to make such payment shall form part of the DIP Financing Obligations secured by the DIP Lender's Charge. If at any time, any account of the DIP Parties is in an overdraft position (any such amount in overdraft being the "**Overdraft Amount**"), then the Borrower shall immediately pay the DIP Lender an amount equal to the Overdraft Amount and, for greater certainty, the obligation to make such payment shall form part of the DIP Financing Obligations secured by the DIP Lender's Charge.

(e) **Commitment Fee:** 1.5% of the Maximum Amount, which is fully earned on execution of the DIP Term Sheet and shall be due and payable immediately in two instalments: (i) 0.25% of the Maximum Amount (being an amount equal to

$45,000), shall be due and payable on the date of the First Advance (as defined in the DIP Term Sheet), and (ii) 1.25% of the Maximum Amount (being an amount equal to $225,000), shall be immediately due and payable on May 2, 2025.

(f) **Interest:** 10% *per annum* for DIP Advances denominated in Canadian Dollars or U.S. Dollars, compounded monthly and payable monthly in arrears in cash on the first Business Day of each month, with the first payment being made on February 1, 2025. Upon the occurrence and during the continuation of an Event of Default, all overdue amounts shall bear interest at the applicable interest rate plus 2% per annum payable on demand in arrears in cash.

(g) **Events of Default:** (i) failure of the Borrower to pay principal, interest or other amounts when due pursuant to the DIP Term Sheet; (ii) failure of the Borrower to deliver, by no later than January 17, 2025, the DIP Budget; (iii) failure of the DIP Parties to perform or comply with any term pursuant to the DIP Term Sheet; (iv) any representation or warranty by the DIP Parties made in the DIP Term Sheet proving to be incorrect or misleading in any material respect; (v) issuance of any court order (A) dismissing or terminating these CCAA proceedings, (B) lifting the stay of proceedings in these CCAA proceedings for various reasons, (C) terminating the Sale prior to its completion, (D) granting any other Lien that is in priority to or *pari passu* with the DIP Lender's Charge; (E) modifying the DIP Term Sheet without the written consent of the DIP Lender, and (F) modifying any Court Order without the written consent of the DIP Lender; (vi) the expiry without further extension of the stay of proceedings provided for in the ARIO; (vii) the termination of the Sale prior to its completion, without the consent of the DIP Lender; (viii) a

Borrowing Base Report, Variance Report, Realization Process Report or Updated DIP Budget not being delivered when due under the DIP Term Sheet; (ix) (A) Actual Cumulative Receipts of the DIP Parties for the period commencing January 19, 2025 and ending at the end of any week are less than the "Minimum Cumulative Receipts" for such week, or (B) Actual Cumulative Disbursements of the DIP Parties for the period commencing January 19, 2025 and ending at the end of any week are more than the "Maximum Cumulative Disbursements" for such week; (x) filing by any DIP Party of any motion or proceeding that, among other things, is not consistent with any provision of the DIP Term Sheet; (xi) the making by the DIP Parties of a payment of any kind that is not permitted by the DIP Term Sheet; (xii) a default under or a revocation, termination or cancellation of any Material Contract; (xiii) denial or repudiation by the DIP Parties of the legality, validity, binding nature or enforceability of the DIP Term Sheet; (xiv) any Person seizing or levying upon any Collateral or exercising any right of distress, execution, foreclosure or similar enforcement process against any material portion of the Collateral; (xv) the entry of one or more final judgements, writs of execution, garnishment or attachment representing a claim in excess of $500,000 in the aggregate, against any Collateral; (xvi) the principal amount of outstanding DIP Advances exceeding the Maximum Amount; (xvii) the occurrence of any "Default" or "Event of Default" under the CIBC Credit Agreement, other than the Existing Events of Default; or (xviii) any Milestone set forth on Schedule "D" of the DIP Term Sheet not being satisfied.

40. The Applicants have also agreed to the following Milestone Dates, as set out at Schedule "D" to the DIP Term Sheet, which can be extended or waived with the express prior written consent

of the DIP Lender: (i) on January 17, 2025, if granted by this Court, the ARIO shall be issued and entered, (ii) on January 17, 2025, the parties shall execute and deliver all applicable DIP Financing Credit Documents (as defined in the DIP Term Sheet); (iii) on January 18, 2025, the Sale shall commence, (iv) on March 1, 2025, all outstanding Obligations (as defined in the DIP Term Sheet) under the CIBC Revolving Loan Facility shall be repaid in full, and (v) on April 27, 2025, the Sale shall be completed.

41. The DIP Facility is proposed to be secured by a Court-ordered super-priority charge (the "**DIP Lender's Charge**") on the Property, and by certain cash collateral and shares of Comark pledged by ParentCo. The DIP Lender's Charge will not secure any obligation that exists before the ARIO is made. The DIP Lender's Charge will have priority over all other security interests, charges and liens, except the Administration Charge and other Permitted Priority Liens (as defined in the DIP Term Sheet). The DIP Lender's Charge will rank in priority to the Interim Lender's Charge (which will terminate upon repayment in full of the Interim Borrowings in accordance with the ARIO and the DIP Term Sheet) and the security granted with respect to the CIBC Credit Facilities. Given the current financial circumstances of the Applicants, the DIP Lender has indicated that it is not prepared to advance funds without the security of the DIP Lender's Charge, including the proposed priority thereof.

42. I understand that the Monitor is supportive of the approval of the DIP Term Sheet and the granting of the DIP Lender's Charge.

(b) Authorization to Pursue a Transaction

43. Since the commencement of these CCAA proceedings, the Applicants have received outreaches and expressions of interest from several interested parties for the acquisition of certain of the Applicants' business and assets. The Applicants, with the consent of the Monitor, are seeking

the authority in the proposed ARIO to pursue offers for or avenues of refinancing, restructuring, sale or reorganization of the business or assets of the Applicants (a "**Transaction**"). Any such Transaction will be subject to the DIP Lender's consent.

44. Should the ARIO be granted, the Monitor intends to reach out forthwith to parties known to the Monitor and/or the Applicants who have expressed interest or may be interested in the business or assets of the Applicants. Depending on the level and nature of interest expressed, the Monitor may, in its reasonable judgment, establish a solicitation process letter setting out bid procedures (including minimum proposal requirements, key milestones, and successful bid selection criteria) as may be determined by the Applicants and Monitor with the consent of the DIP Lender. If such bid procedures are established, the Monitor will clearly communicate such procedures to the potentially interested parties identified by the Applicants and the Monitor. Depending on the level of interest, the Monitor may, in its reasonable judgment, directly negotiate a Transaction with a potential acquirer, in lieu of a formal sales process. To the extent a Transaction results, it will be subject to prior approval of this Court.

45. The Applicants do not have sufficient liquidity under the Updated Cash Flow Forecast or funding under the DIP Budget to run a more formal sales process. The funding in the DIP Budget is conditional on the Applicants commencing the Sale by no later than January 18, 2025, as any delay will further erode the Applicants' financial position.

46. The authorization to pursue a Transaction on an accelerated process as described herein would give the Applicants and the Monitor the flexibility to pursue all value-maximizing avenues for the assets of the Applicants, while concurrently conducting the Sale (with the ability to remove some or all of the Liquidating Stores from the Sale). This flexible and expedited process would benefit the Applicants' creditors and stakeholders generally by allowing the Applicants and the

Monitor to test the market to ascertain whether there may be a going concern transaction or transactions that would generate more value for creditors and stakeholders than the Sale. I understand that the DIP Lender has advised that it supports the Applicant and the Monitor engaging in discussions with potential interested parties in the manner described above.

(c) Increase to the Administration Charge and Directors' Charge

47. The Administration Charge is described at paragraphs 141 to 142 of my Initial Affidavit. The Initial Order approved the Administration Charge in the amount of $750,000, which was sized only to reflect fees and disbursements expected to be incurred or paid by the Applicants' counsel, the Monitor and Monitor's counsel during the Initial Stay Period. With the concurrence of the Monitor, the Applicants are now seeking to increase the Administration Charge to $1 million. I understand that the DIP Lender does not object to the proposed increase to the Administration Charge.

48. The Directors' Charge is described at paragraphs 143 to 146 of my Initial Affidavit. The Initial Order approved the Directors' Charge for the initial Stay Period in the amount of $6.2 million. With the concurrence of the Monitor, the Applicants are now seeking to increase the Directors' Charge to $7.4 million. I understand that the DIP Lender does not object to the proposed increase to the Directors' Charge.

(d) Extension of Stay Period

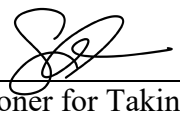
49. The Applicants are seeking to extend the stay of proceedings granted in the Initial Order (the "**Stay Period**") up to and including May 15, 2025. The extension of the Stay Period is necessary and appropriate in the circumstances to permit the Applicants, with the assistance of the Consultant and under the oversight of the Monitor, to conduct the Sale in accordance with the

Consulting Agreement and Sale Guidelines, while concurrently pursuing a going concern transaction or transactions for some or all of the Applicants' business or assets.

50. I believe that the Applicants have acted, and continue to act, in good faith and with due diligence in these CCAA proceedings. As described above, the Applicants have given notice of these CCAA proceedings to stakeholders including, most significantly, their Landlords and employees. In consultation with the Monitor, the Applicants have engaged, and will continue engaging, in discussions with their stakeholders as these CCAA proceedings progress.

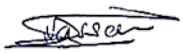
51. The cash flow projections prepared by the Monitor (the "**Updated Cash Flow Forecast**") demonstrate that, subject to this Court's approval of the DIP Facility and DIP Lender's Charge in the form requested in the proposed ARIO, the Applicants will have access to sufficient liquidity to fund operations during the requested extension of the Stay Period. The Monitor has expressed its support for the extension of the Stay Period to May 15, 2025.

SWORN BEFORE ME over videoconference this 16th day of January, 2025 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely. The affiant is located in the City of Vancouver, in the Province of British Columbia, while the commissioner is located in the City of Toronto, in the Province of Ontario.



Commissioner for Taking Affidavits
(or as may be)

Sierra Farr (LSO#87551D)



Shamsh Kassam

This is Exhibit "A" referred to in the Affidavit of SHAMSH KASSAM sworn by SHAMSH KASSAM of the City of Vancouver, in the Province of British Columbia, before me at the City of Toronto, in the Province of Ontario, on January 16, 2025 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.

Commissioner for Taking Affidavits (or as may be)

SIERRA FARR

(LSO# 87551D)

Court File No. CV-25-00734339-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

THE HONOURABLE MR.	)	TUESDAY, THE 7TH
	)	
JUSTICE CAVANAGH	)	DAY OF JANUARY, 2025

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 COMARK HOLDINGS INC., BOOTLEGGER CLOTHING INC., CLEO FASHIONS INC. AND RICKI'S FASHIONS INC. (collectively, the "**Applicants**")

INITIAL ORDER

THIS APPLICATION, made by the Applicants, pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**") was heard this day via videoconference.

ON READING the affidavit of Shamsh Kassam sworn January 6, 2025 and the Exhibits thereto (the "**Kassam Affidavit**"), the consent of Alvarez & Marsal Canada Inc. ("**A&M**") to act as monitor (in such capacity, the "**Monitor**") and the Pre-Filing Report of A&M in its capacity as proposed Monitor, and on hearing the submissions of counsel to the Applicants, the proposed Monitor, Canadian Imperial Bank of Commerce (the "**Interim Lender**"), and such other counsel present,

SERVICE

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

APPLICATION

2. **THIS COURT ORDERS AND DECLARES** that the Applicants are companies to which the CCAA applies.

POSSESSION OF PROPERTY AND OPERATIONS

3. **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**"). 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 are each authorized and empowered to continue to retain and employ the employees, independent contractors, advisors, consultants, agents, experts, appraisers, valuators, 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.

4. **THIS COURT ORDERS** that the Applicants shall be entitled to continue to use the central cash management system currently in place as described in the Kassam Affidavit or, with the prior consent of the Monitor and the Interim Lender, 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 Applicants 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 Applicants, 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 of compromise or arrangement filed under the CCAA with regard to any claims or expenses it may suffer or incur in connection with the provision of the Cash Management System.

5. **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 this Order:

(a) all outstanding and future wages, salaries, employee benefits (including, without limitation, employee medical, dental and similar benefit plans or arrangements), vacation pay and expenses, 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 expenses;

(b) all outstanding and future amounts invoiced to any of the Applicants from any independent contractors retained by any of the Applicants, in each case incurred in the ordinary course of business and consistent with existing payment arrangements;

(c) until January 17, 2025 or such other later date as the Applicants determine in consultation with the Interim Lender, all outstanding or future amounts owing in respect of existing customer pre-payments, deposits, return policies, refunds, discounts or other amounts on account of similar customer programs or obligations, including loyalty programs;

(d) until January 17, 2025 or such other later date as the Applicants determine in consultation with the Interim Lender, all outstanding or future amounts related to honouring gift cards issued before, on or after the date of this Order;

(e) to the extent included in the Cash Flow Forecast (as defined in the Kassam Affidavit) or otherwise approved by the Monitor and the Interim Lender, amounts owing for (I) any Parian Services or IT Services (each as defined in the Kassam Affidavit) supplied to the Applicants prior to the date of this Order, or (II) goods or services supplied to the Applicants prior to the date of this Order by any:

(i) providers of credit, debit and gift card processing related services;

(ii) logistics, warehouse or supply chain providers, including transportation providers, clearing houses, customs brokers, freight forwarders and security and armoured truck carriers, and including amounts payable in respect of customs and duties for goods;

(iii) providers of information, internet, telecommunications, and other technology, including e-commerce providers and related services; and

(iv) other suppliers or service providers if, in the opinion of the Applicants following consultation with the Monitor, such payment is necessary to maintain the uninterrupted operations of the Business;

(f) the fees and disbursements of any Assistants retained or employed by the Applicants in respect of these proceedings, at their standard rates and charges; and

(g) any other amounts to the extent included in the Cash Flow Forecast.

6. **THIS COURT ORDERS** that, except as otherwise provided to the contrary herein, the Applicants shall be entitled but not required to pay all reasonable expenses incurred by them in carrying on the Business in the ordinary course after this Order, and in carrying out the provisions of this Order and any other Order of this Court, 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, maintenance and security services; and

(b) payment for goods or services actually supplied to the Applicants following the date of this Order.

7. **THIS COURT ORDERS** that the Applicants shall remit, in accordance with legal requirements, 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, and (iv) income taxes;

(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 this Order, or where such Sales Taxes were accrued or collected prior to the date of this Order but not remitted until on or after the date of this Order; 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.

8. **THIS COURT ORDERS** that, until a real property lease (each, a "**Lease**") to which any Applicant is a party is disclaimed in accordance with the CCAA, or otherwise consensually terminated, the applicable Applicant that is party to such Lease shall pay, without duplication, all amounts constituting rent or payable as rent under such Lease (including, for greater certainty, common area maintenance charges, utilities and realty taxes and any other amounts payable to the applicable landlord (each, a "**Landlord**") under such Lease, but for greater certainty, excluding amounts owing which are stayed by this Order, accelerated rent or penalties, fees or other charges arising as a result of any default that is stayed by this Order, the insolvency of the Applicants or the making of this Order) or as otherwise may be negotiated between such Applicant and the Landlord from time to time ("**Rent**"), (a) incurred and relating solely to the period commencing from and including the date of this Order until and including January 17, 2025, as a single payment made forthwith following issuance of this Order, (b) incurred and relating solely to the period commencing from and including January 18, 2025, until and including January 31, 2025, as a single payment made forthwith following issuance of an amended and restated Initial Order in these CCAA proceedings, and (c) thereafter, twice-monthly in equal payments on the first and fifteenth day of each month, in advance (but not in arrears), in each case save and except for any component of Rent which is percentage rent which, commencing from and including the date of this Order, shall be calculated and paid regarding

revenues incurred during the period from and including the date of this Order in accordance with the terms of such Lease.

9. **THIS COURT ORDERS** that, except as specifically permitted herein or to the extent included in the Cash Flow Forecast, 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 this date); (b) to grant no security interests, trusts, liens, charges or encumbrances upon or in respect of any of their Property; and (c) to not grant credit or incur liabilities except in the ordinary course of the Business.

RESTRUCTURING

10. **THIS COURT ORDERS** that the Applicants shall, subject to such requirements as are imposed by the CCAA or as otherwise ordered by this Court, have the right to:

(a) permanently or temporarily cease, downsize or shut down any of their business or operations, and to dispose of redundant or non-material assets not exceeding $150,000 in any one transaction or $500,000 in the aggregate;

(b) vacate, abandon or quit the whole but not part of any leased premises and/or disclaim any real property lease, including any Lease, and any ancillary agreements relating to any leased premises;

(c) without limiting paragraph 10(b), above, disclaim, with the prior consent of the Monitor, any of their arrangements or agreements of any nature whatsoever and with whomsoever, whether oral or written, as the Applicants deem appropriate, in accordance with section 32 of the CCAA;

(d) terminate the employment of such of their employees or temporarily lay off such of their employees as they deem appropriate;

(e) in consultation with, and with the oversight of the Monitor and in consultation with the Interim Lender, (i) engage in discussions with and solicit proposals and agreements from, third parties in respect of the liquidation of the inventory, furniture,

equipment and fixtures and other property located in and/or forming part of the Property, and return to Court for the approval of any such agreement (the "**Liquidation Selection Process**"), and (ii) with the assistance of any real estate advisor or other Assistants as may be desirable, pursue all avenues and offers for the sale, transfer or assignment of the Leases to third parties, in whole or in party and return to Court for approval of any such sale, transfer or assignment; and

(f) pursue all avenues of refinancing, restructuring, sale or reorganizing the Business or Property, in whole or part, subject to prior approval of this Court being obtained before any material refinancing, restructuring, sale or reorganizing,

all of the foregoing to permit the Applicants to proceed with an orderly restructuring of the Business (the "**Restructuring**").

11. **THIS COURT ORDERS** that the Applicants shall provide each of the relevant Landlords with notice of the Applicants' 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 such Landlord disputes the Applicants' entitlement to remove any such fixture under the provisions of the applicable Lease, such fixture shall remain on the premises and shall be dealt with as agreed between any applicable secured creditors, such Landlord and the Applicants, or by further Order of this Court upon application by the Applicants on at least two (2) days notice to such Landlord and any such secured creditors. If the Applicants disclaim the Lease governing such leased premises in accordance with Section 32 of the CCAA, the Applicants shall not be required to pay Rent under such Lease pending resolution of any such dispute (other than, subject to paragraph 8 hereof, Rent payable for the notice period provided for in Section 32(5) of the CCAA), and the disclaimer of such Lease shall be without prejudice to the Applicants' claim to the fixtures in dispute.

12. **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 Applicants 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 the Applicants 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.

NO PROCEEDINGS AGAINST THE APPLICANTS OR THE PROPERTY

13. **THIS COURT ORDERS** that until and including January 17, 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 the Applicants 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 prior written consent of the Applicants and the Monitor, or with leave of this Court, and any and all Proceedings currently under way against or in respect of the Applicants, or except as permitted by subsection 11.03(2) of the CCAA, their employees, directors, advisors, officers, or representatives acting in such capacities, or affecting the Business or the Property are hereby stayed and suspended pending further Order of this Court.

14. **THIS COURT ORDERS** that, to the extent any prescription, time or limitation period relating to any Proceeding against or in respect of any Applicant that is stayed pursuant to this Order may expire, the term of such prescription, time or limitation period shall hereby be deemed to be extended by a period equal to the Stay Period.

NO EXERCISE OF RIGHTS OR REMEDIES

15. **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 the Applicants or the Monitor, or their respective employees, directors, advisors, officers, and representatives acting in such capacities, or affecting the Business or the Property, are hereby stayed and suspended except with the prior written consent of the Applicants and the Monitor, or leave of this Court, provided that nothing in this Order shall (a) empower the Applicants 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

16. **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, lease, sublease, licence or permit in favour of or held by the Applicants, except with the prior written consent of the Applicants and the Monitor, or leave of this Court.

CONTINUATION OF SERVICES

17. **THIS COURT ORDERS** that during the Stay Period, all Persons having oral or written agreements or arrangements with any of the Applicants or statutory or regulatory mandates for the supply or license of goods, intellectual property, 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, importing services, customs clearing, warehouse and logistics services, security services, utility or other services to the Business or the Applicants, are hereby restrained until further Order of this Court from discontinuing, altering, suspending, interfering with or terminating the supply or license of such goods, intellectual property, or services as may be required by the Applicants, and that the Applicants shall be entitled to the continued use of their current premises, telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case, that the normal prices or charges for all such goods or services received after the date of this Order are paid by the Applicants in accordance with normal payment practices of the applicable Applicant or such other practices as may be agreed upon by the supplier or service provider and the applicable Applicant and the Monitor, or as may be ordered by this Court.

NO PRE-FILING VS POST-FILING SET-OFF

18. **THIS COURT ORDERS** that, no Person shall be entitled to set off any amounts that: (a) are or may become due to any Applicant in respect of obligations arising prior to the date hereof with any amounts that are or may become due from such Applicant in respect of obligations arising on or after the date of this Order; or (b) are or may become due from any Applicant in

respect of obligations arising prior to the date hereof with any amounts that are or may become due to such Applicant in respect of obligations arising on or after the date of this Order, in each case without the consent of the Applicants and the Monitor, or leave of this Court.

NON-DEROGATION OF RIGHTS

19. **THIS COURT ORDERS** that, notwithstanding anything else in this Order other than paragraph 8 of this Order, 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 this Order, nor shall any Person 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 Applicants. Nothing in this Order shall derogate from the rights conferred and obligations imposed by the CCAA.

PROCEEDINGS AGAINST DIRECTORS AND OFFICERS

20. **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 the Applicants with respect to any claim against the directors or officers that arose before the date hereof and that relates to any obligations of the Applicants 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

21. **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.

22. **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 $6,200,000, as security for the

indemnity provided in paragraph 21 of this Order. The Directors' Charge shall have the priority set out in paragraphs 38 and 40 hereof.

APPOINTMENT OF MONITOR

23. **THIS COURT ORDERS** that A&M is hereby 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 the Applicants and their shareholders, officers, directors, and Assistants shall advise the Monitor of all material steps taken by the Applicants 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 the Monitor, in addition to its prescribed rights and obligations under the CCAA, is hereby directed and empowered to:

(a) monitor and review the Applicants' receipts and disbursements;

(b) assist with the Restructuring and the operations of the Applicants;

(c) assist the Applicants in their dissemination to the Interim Lender and its counsel and financial advisor of financial and other information as agreed to between the Applicants and the Interim Lender, which may be used in these proceedings, including reporting on a basis to be agreed with the Interim Lender;

(d) liaise with Assistants, to the extent required, with respect to all matters relating to the Property, the Business, and such other matters as may be relevant to the proceedings herein;

(e) 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;

(f) advise the Applicants in their preparation of the Applicants' cash flow statements and other required reporting;

(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, wherever located and to the extent that is necessary to adequately assess the Applicants' business and financial affairs or to perform its duties arising under this Order;

(h) liaise and consult with any Assistants and any liquidator selected through the Liquidation Selection Process, to the extent required by the Applicants, with any matters relating to the Property, the Business and such other matters as may be relevant to the proceedings herein;

(i) be at liberty to engage independent legal counsel or such other persons, or utilize the services of employees of its affiliates, as the Monitor deems necessary or advisable respecting the exercise of its powers and performance of its obligations under this Order; and

(j) perform such other duties as are required by this Order or by this Court from time to time.

25. **THIS COURT ORDERS** that 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, be deemed to have taken or maintained possession or control of the Business or Property, or any part thereof.

26. **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 waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, *1999,* 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

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 the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

27. **THIS COURT ORDERS** that the Monitor shall provide any creditor of the Applicants 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.

28. **THIS COURT ORDERS** that, in addition to the rights and protections afforded the Monitor under the CCAA or as an officer of this Court, neither the Monitor nor any of its employees or representatives shall incur any liability or obligation as a result of the Monitor's appointment or the carrying out by it 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.

29. **THIS COURT ORDERS** that the Monitor, counsel to the Monitor and counsel to the Applicants**,** counsel to the Interim Lender and financial advisor thereto, shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges, whether incurred prior to, on or subsequent to the date of this 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 to the Monitor and counsel to the Applicants, counsel to the Interim Lender and financial advisor thereto, on a weekly basis or on such terms as such parties may agree and, in addition, the Applicants are hereby authorized to pay to the Monitor, counsel to the Monitor and counsel to the Applicants, retainers, *nunc pro tunc*, to be held by them as security for payment of their respective fees and disbursements outstanding from time to time.

30. **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.

ADMINISTRATION CHARGE

31. **THIS COURT ORDERS** that the Monitor, counsel to the Monitor and counsel to the Applicants, 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 $750,000 as security for their professional fees and disbursements incurred at their 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 set out in paragraphs 38 and 40 hereof.

INTERIM FINANCING

32. **THIS COURT ORDERS** that on or after the date of this Order and until January 17, 2025, Comark Holdings Inc. is hereby authorized and empowered to continue to borrow from the Interim Lender under the existing credit facilities (the "**Existing Credit Facilities**") pursuant to the Amended and Restated Credit Agreement dated as of September 9, 2024 (as amended, the "**Existing Credit Agreement**") between, among others, Comark Holdings Inc. and the Interim Lender (in its capacity as lender and agent under the Existing Credit Agreement, the "**Senior Lender**"), in order to finance the Applicants' working capital requirements and other general corporate purposes, capital expenditures, and costs of these proceedings during the Stay Period (each, an "**Interim Borrowing**" and collectively, the "**Interim Borrowings**"), provided that: (i) such Interim Borrowings are made in accordance with the Cash Flow Forecast or otherwise agreed by the Applicants and the Interim Lender, in each case subject to prior approval pursuant to a draw request in form and substance satisfactory to the Interim Lender, accompanied by such supporting documentation as the Interim Lender may request; (ii) such Interim Borrowings are secured by the Interim Lender's Charge (as defined below) with the priority set out in paragraphs 38 and 40 hereof; (iii) such Interim Borrowings under the Existing Credit Facility shall accrue interest at the default rates set out in the Existing Credit Agreement; (iv) (a) Bootlegger Clothing Inc., cleo fashions Inc., and Ricki's Fashions Inc. shall be deemed to guarantee and secure the Interim Borrowings, together with all interest accrued thereon and costs and expenses incurred in

connection therewith, in the same manner as the other Obligations (as defined in the Existing Credit Agreement) that they have guaranteed and secured in connection with the Existing Credit Agreement and under the loan and security documents provided by them in connection therewith, (b) the Pledged Collateral (as defined in the Limited Recourse Guarantee by 9383921 Canada Inc. in favour of Senior Lender dated August 7, 2020) shall secure the Interim Borrowings, and (c) Bootlegger Clothing Inc., cleo fashions Inc., Ricki's Fashions Inc. and 9383921 Canada Inc. shall be deemed to ratify and acknowledge the guarantees and security they have provided in connection with the Existing Credit Agreement and the loan and security documents provided by them in connection therewith, in the case of each of the foregoing (a) to (c), without the need for any further guarantee, security or documentation from Bootlegger Clothing Inc., cleo fashions Inc., Ricki's Fashions Inc. or 9383921 Canada Inc.

33. **THIS COURT ORDERS** that the Applicants are hereby authorized and empowered to execute and deliver such amendments to the Existing Credit Agreement or other documents, if any, as may be reasonably required by the Interim Lender to facilitate any Interim Borrowings, provided that failure to execute any such documentation does not invalidate any Interim Borrowings or the validity or priority of the Interim Lender's Charge.

34. **THIS COURT ORDERS** that the Interim Borrowings shall mature on January 17, 2025, and be payable in full by the Applicants on such date, together with all interest accrued thereon and costs or expenses incurred in connection therewith, and, for greater certainty, the Applicants shall be permitted to repay the Interim Borrowings with the proceeds of replacement interim financing approved by this Court on a subsequent motion.

35. **THIS COURT ORDERS** that the Interim Lender shall be entitled to the benefit of and is hereby granted a charge (the "**Interim Lender's Charge**") on the Property of each of the Applicants as security for the Interim Borrowings, which Interim Lender's Charge shall, for greater certainty, not secure any obligation that exists before this Order is made. The Interim Lender's Charge shall have the priority set out in paragraphs 38 and 40 hereof.

36. **THIS COURT ORDERS** in the event the Applicants fail to make the payment to the Interim Lender required by paragraph 34 herein, then upon three (3) business days' notice to the Applicants and the Monitor, the Interim Lender may exercise any and all of its rights and remedies against the Applicants or the Property under or pursuant to the Existing Credit

Agreement and the Interim Lender's Charge, including without limitation, to cease making advances to the Applicants and, subject to further Order of the Court, set off and/or consolidate any amounts owing by the Interim Lender to any of the Applicants against the obligations of the Applicants to the Interim Lender under the Existing Credit Agreement, this Order or the 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 Applicants or the Property and for the appointment of a trustee in bankruptcy of the Applicants.

37. **THIS COURT ORDERS** that the Interim Lender shall be treated as unaffected in any plan of arrangement or compromise filed by the Applicants under the CCAA, or any proposal filed by the Applicants under the *Bankruptcy and Insolvency Act* (Canada) (the "**BIA**") with respect to any Interim Borrowings.

VALIDITY AND PRIORITY OF CHARGES CREATED BY THIS ORDER

38. **THIS COURT ORDERS** that the priorities of the security interests granted by the Administration Charge, Interim Lender's Charge and the Directors' Charge (collectively, the "**Charges**"), and the Applicants to Senior Lender, as among them, shall be as follows:

(a) First – Administration Charge (to the maximum amount of $750,000);

(b) Second – (i) Interim Lender's Charge, and (ii) other security granted by the Applicants to the Senior Lender with respect to the Existing Credit Facilities (excluding the Interim Borrowings) in accordance with the Existing Credit Agreement, on a *pari pasu* basis; and

(c) Third – Directors' Charge (to the maximum amount of $6,200,000).

39. **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.

40. **THIS COURT ORDERS** that each of the Charges shall constitute a charge on the Property and such Charges 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, except for any Person who is a "secured creditor" as defined in the CCAA that has not been served with the Notice of Application for this Order. The Applicants shall be entitled, at the Comeback Hearing (as hereinafter defined) or as part of any subsequent motion, on notice to those Persons likely to be affected thereby, to seek priority of the Charges ahead of any Encumbrance over which the Charges may not have obtained priority pursuant to this Order.

41. **THIS COURT ORDERS** that except as otherwise expressly provided for herein, or as may be approved by this Court, 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 Interim Lender and the other beneficiaries of the Charges (collectively, the "**Chargees**"), or further Order of this Court.

42. **THIS COURT ORDERS** that the Charges shall not be rendered invalid or unenforceable and the rights and remedies of the Chargees 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 or receivership order(s) issued pursuant to the BIA or otherwise, or any bankruptcy or receivership 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 or provincial 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:

(i) neither the creation of the Charges nor the execution or delivery of any amendment or document pursuant to paragraph 33 hereof shall create or be deemed to constitute a breach by the Applicants of any Agreement to which any of them is a party,

(ii) 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 Interim Borrowings or the execution or

delivery of any amendment or document pursuant to paragraph 33 hereof; and

(iii) the payments made by the Applicants pursuant to this Order, including with respect to the Interim Borrowings, 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 Applicants' interests in such real property leases.

SERVICE AND NOTICE

44. **THIS COURT ORDERS** that the Monitor shall (a) without delay, publish in the Globe & Mail a notice containing the information prescribed under the CCAA; and (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, or cause to be sent, in the prescribed manner (including by electronic message to the e-mail addresses as last shown in the Applicants' books and records), a notice to all known creditors having a claim against the Applicants of more than $1,000, and (iii) prepare a list showing the names and addresses of such 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 individuals who are creditors publicly available, unless otherwise ordered by the Court.

45. **THIS COURT ORDERS** that any employee of any of the Applicants who is sent a notice of termination of employment or any other communication by the Applicants on or after the date hereof shall be deemed to have received such communication by no later than 8:00 a.m. prevailing Eastern Time on the fourth day following the date any such communication is sent, if such communication is sent by ordinary mail, expedited parcel or registered mail to the individual's address as reflected in the Applicants' books and records; provided, however, that any communication that is sent to an employee of the Applicants by electronic message to the individual's corporate email address and/or the individual's personal address as last shown in the Applicants' books and records shall, (a) if sent by electronic message at or prior to 5:00 p.m.

prevailing Eastern Time on a business day, be deemed to have been received by such employee on the date on which such electronic message was sent, or (b) if sent by electronic message after 5:00 p.m. prevailing Eastern Time on a business day or on a day that is not a business day, be deemed to have been received by such employee on the next business day following the date on which such electronic message was sent, notwithstanding that the mailing of any notices of termination of employment or other employee communication was sent pursuant to any other means.

46. **THIS COURT ORDERS** that the E-Service Guide 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 https://www.ontariocourts.ca/scj/practice/regional-practice-directions/eservice-commercial/) 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: 'www.alvarezandmarsal.com/ComarkRetail'.

47. **THIS COURT ORDERS** that if the service or distribution of documents in accordance with the Protocol or the CCAA and the regulations thereunder 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 copies thereof by prepaid ordinary mail, courier, personal delivery, facsimile transmission or electronic message to the Applicants' creditors or other interested parties at their respective addresses (including e-mail addresses) as last shown in the books and records of the Applicants and that any such service or distribution shall be deemed to be received on the earlier of (a) the date of forwarding thereof, if sent by electronic message at or prior to 5:00 p.m. prevailing Eastern Time (or on the next business day following the date of forwarding thereof if sent on a non-business day); (b) the next business day following the date of forwarding thereof, if sent by courier, personal delivery, facsimile transmission or electronic message sent after 5:00 p.m. prevailing Eastern Time; or (c) on the third business day following the date of forwarding thereof, if sent by ordinary mail.

48. **THIS COURT ORDERS** that the Applicants and the Monitor and their respective counsel are at liberty to serve or distribute this Order, any other materials and orders as may be reasonably required in these proceedings, including any notices, or other correspondence, by forwarding 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* (SOR/2013-221).

COMEBACK HEARING

49. **THIS COURT ORDERS** that the comeback motion in these CCAA proceedings shall be heard by a Commercial List Judge on January 17, 2025 (the "**Comeback Hearing**").

GENERAL

50. **THIS COURT ORDERS** that any interested party that wishes to amend or vary this Order shall be entitled to appear or bring a motion before this Court at the Comeback Hearing, and any such interested party shall give not less than two business days' notice to the Service List and any other party or parties likely to be affected by the Order sought in advance of the Comeback Hearing; provided, however, that the Chargees shall be entitled to rely on this Order as granted and on the Charges and priorities set forth in paragraphs 38 and 40 hereof with respect to any fees, expenses and disbursements incurred, as applicable, until the date this Order may be amended, varied or stayed.

51. **THIS COURT ORDERS** that, notwithstanding paragraph 50 of this Order, 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 respective powers and duties hereunder.

52. **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 the Applicants, the Business or the Property.

53. **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 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 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 agents in carrying out the terms of this Order.

54. **THIS COURT ORDERS** that each of the Applicants 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.

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

_____

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

Court File No.: CV-25-00734339-00CL

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF COMARK HOLDINGS INC., BOOTLEGGER CLOTHING INC., CLEO FASHIONS INC. AND RICKI'S FASHIONS INC.

Applicants

Ontario
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

Proceeding commenced at Toronto

INITIAL ORDER

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Sierra Farr (LSO# 87551D)
Tel: 416.862.6499
Email: sfarr@osler.com

Fax: 416.862.6666

Lawyers for the Applicants

This is Exhibit "B" referred to in the Affidavit of SHAMSH KASSAM sworn by SHAMSH KASSAM of the City of Vancouver, in the Province of British Columbia, before me at the City of Toronto, in the Province of Ontario, on January 16, 2025 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.

Commissioner for Taking Affidavits (or as may be)

SIERRA FARR

(LSO# 87551D)

ONTARIO SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

COUNSEL/ENDORSEMENT SLIP

COURT FILE NO.: CV-25-00734339-00CL **DATE: January 7, 2025**

NO. ON LIST: None

TITLE OF PROCEEDING: In the Matter of a Plan of Compromise or Arrangement of Comark Holdings Inc., Bootlegger Clothing Inc., Cleo Fashions Inc. and Ricki's Fashions Inc.

BEFORE: JUSTICE CAVANAGH

PARTICIPANT INFORMATION

For Plaintiff, Applicant, Moving Party:

Name of Person Appearing	Name of Party	Contact Info
Josh Sloan	Proposed Monitor	jsloan@goodmans.ca
Brendan O'Neill	Proposed Monitor	boneill@goodmans.ca
Bradley Wiffen	Proposed Monitor	bwiffen@goodmans.ca
Shawn Irving	Applicants	sirving@osler.com
Josh Nevsky	Proposed CCAA Monitor	jnevsky@alvarezandmarsal.com
Sean Stidwill	Applicants	sstidwill@osler.com
Sierra Farr	Applicants	sfarr@osler.com
Tracy Sandler	Applicants	tsandler@osler.com
Andrew Bull	Applicants	abull@mdslawyers.com

For Defendant, Respondent, Responding Party:

Name of Person Appearing	Name of Party	Contact Info

For Other, Self-Represented:

Name of Person Appearing	Name of Party	Contact Info
Milly Chow	CIBC	milly.chow@blakes.com
Caitlin McIntyre	Proposed Interim Lender	caitlin.mcintyre@blakes.com

---

ENDORSEMENT OF JUSTICE CAVANAGH:

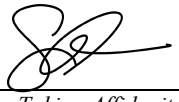
[1] The Applicants Comark Holdings Inc., Ricki's Fashions Inc., cleo fashions Inc. and Bootlegger Clothing Inc. have commenced this application under the *CCAA*. They seek an Initial Order to be in effect until the comeback hearing on January 17, 2025.

[2] I have reviewed the materials and heard submissions from counsel for the Applicants, counsel for the proposed Monitor, and counsel for CIBC, a secured lender and provider of interim financing.

[3] I am satisfied that the requested Initial Order should be made. I will release a further endorsement with reasons for this decision.

[4] Order to issue in form of Order signed by me today.

This is Exhibit "C" referred to in the Affidavit of SHAMSH KASSAM sworn by SHAMSH KASSAM of the City of Vancouver, in the Province of British Columbia, before me at the City of Toronto, in the Province of Ontario, on January 16, 2025 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



Commissioner for Taking Affidavits (or as may be)

SIERRA FARR

(LSO# 87551D)

ONTARIO SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

COUNSEL/ENDORSEMENT SLIP

COURT FILE NO.: CV-25-00734339-00CL **DATE: January 7, 2025**

NO. ON LIST: None

TITLE OF PROCEEDING: In the Matter of a Plan of Compromise or Arrangement of Comark Holdings Inc., Bootlegger Clothing Inc., Cleo Fashions Inc. and Ricki's Fashions Inc.

BEFORE: JUSTICE CAVANAGH

PARTICIPANT INFORMATION

For Plaintiff, Applicant, Moving Party:

Name of Person Appearing	Name of Party	Contact Info
Josh Sloan	Proposed Monitor	jsloan@goodmans.ca
Brendan O'Neill	Proposed Monitor	boneill@goodmans.ca
Bradley Wiffen	Proposed Monitor	bwiffen@goodmans.ca
Shawn Irving	Applicants	sirving@osler.com
Josh Nevsky	Proposed CCAA Monitor	jnevsky@alvarezandmarsal.com
Sean Stidwill	Applicants	sstidwill@osler.com
Sierra Farr	Applicants	sfarr@osler.com
Tracy Sandler	Applicants	tsandler@osler.com
Andrew Bull	Applicants	abull@mdslawyers.com

For Defendant, Respondent, Responding Party:

Name of Person Appearing	Name of Party	Contact Info

For Other, Self-Represented:

Name of Person Appearing	Name of Party	Contact Info
Milly Chow	CIBC	milly.chow@blakes.com
Caitlin McIntyre	Proposed Interim Lender	caitlin.mcintyre@blakes.com

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ENDORSEMENT OF JUSTICE CAVANAGH:

[1] The Applicants, Comark Holdings Inc. ("Comark"), Ricki's Fashions Inc. ("Ricki's"), cleo fashions Inc. ('cleo"), and Bootlegger Clothing Inc. ("Bootlegger"), (together, the "Applicants") have commenced this application under the *CCAA*. They seek an Initial Order to be in effect until the comeback hearing on January 17, 2025.

[2] At the conclusion of the hearing, I granted the requested relief, with reasons to follow. These are the reasons.

[3] The Applicants operate a fashion clothing retail and e-commerce business with a nationally recognized portfolio of banners and exclusive private label brands. The Applicants consist of Comark, a privately held corporation that has operated in Canada since 1976, and its three distinct subsidiaries, Ricki's, cleo, and Bootlegger, which have operated as retail clothing stores in Canada since 1939, 1994 and 1971, respectively.

[4] In June 2020, the Comark Group obtain *CCAA* protection due to, among other things, the effects of the COVID-19 pandemic on the Comark Group's business.

[5] Over the past several years, the Comark Group has experienced a series of further challenges which have negatively impacted profitability and severely strained liquidity. The effects of the COVID-9 pandemic continued. A 2021 cyber incident significantly disrupted business operations and created long-lasting inventory management issues. Certain ultra low-cost fashion retailers entered the market and attracted consumers. Additionally, supply chain and vendor issues caused material delays in the receipt of seasonal merchandise.

[6] The Applicants are now insolvent. Their cash flow and liquidity constraints have resulted in approximately $60 million in accounts payable and accrued liabilities, including approximately $44 million owed to vendors of merchandise and approximately $5 million owing to landlords. The Applicants do not have sufficient funds to pay these outstanding arrears, and certain vendors have commenced claims against them for outstanding amounts and damages.

[7] The Applicants are currently in breach of certain financial covenants under the credit agreement with their senior secured lender, CIBC. On January 5, 2025, the Applicants (and the parent company of Comark) receive demand and acceleration notices from CIBC's legal counsel declaring all amounts outstanding under the CIBC credit facilities immediately due and payable and demanding repayment. As a result of the CIBC demands, Comark is unable to obtain further advances under its credit agreement with CIBC.

[8] CIBC, as interim lender, has advised the Applicants that it is prepared to permit Comark to continue to borrow under the existing CIBC revolving loan facility during the Initial Stay Period (as defined in the materials) pursuant to the CIBC credit agreement. Such interim borrowings shall be in accordance with an agreed-upon two week cash flow forecast and each interim borrowing is subject to prior approval pursuant to a draw request in form and substance satisfactory to CIBC as interim lender, and subject to the requirements set out in the Initial Order. Without the interim borrowings, the Applicants are unable to fund payroll, pay rent and finance other critical operating expenses.

[9] The Applicants expect that, without *CCAA* protection, critical vendors may take potentially damaging enforcement steps, including the termination of agreements which are vital to the Applicants' continued operations. The Applicants have determined that commencing the *CCAA* proceeding is their best path forward to allow them to explore available options to address their current financial challenges.

[10] The Applicants intend to seek an Amended and Restated Initial Order at the comeback hearing, among other things, extending the stay of proceedings, approving a DIP facility, and granting other customary relief, including a charge to secure the DIP facility and increasing the maximum amount secured by the Administration Charge and the Directors' Charge. The Applicants also intend to move for additional relief including (i) approval to conduct a liquidation of inventory and an orderly wind-down of Ricki's business and cleo's business, (ii) approval to allow Bootlegger to disclaim leases for underperforming stores and the liquidation of some or all of the inventory of Bootlegger, and (iv) approval to conduct a potential sale of the remaining business or assets of the Applicants through a court supervised sale and investment solicitation process.

[11] The facts in support of this application are fully set out in the Affidavit of Shamsh Kassam sworn January 6, 2025. These facts are summarized in the Applicants' factum, at paragraphs 13-54.

Are the Applicants entitled to seek protection under the *CCAA*?

[12] I am satisfied that the Applicants are entitled to seek protection under the *CCAA*. In this respect, I accept the submissions made on behalf of the Applicants at paragraphs 56-57 of their factum.

Should an interim stay of proceedings granted?

[13] Section 11.02(1) of the *CCAA* permits the Court to grant an initial stay of up to 10 days on an application for an initial order, provided such a stay is appropriate and the Applicants have acted with due diligence and in good faith. Under s. 11.001, other relief granted pursuant to this Court's powers under section 11 of the *CCAA* at the same time as an order under section 11.02(1) must be limited to "relief that is reasonably necessary for the continued operation of the debtor company in the ordinary business during that period."

[14] I am satisfied that the stay will provide breathing space to allow the Applicants to attempt to restructure the Bootlegger business on a going concern basis, consistent with the accepted objectives of the *CCAA*. I accept that each aspect of the relief sought by the Applicants during the Initial Stay Period is interdependent, and collectively the relief is necessary to allow the Applicants to properly respond to the circumstances in which they find themselves.

Should the Interim Borrowings and the Interim Lender's Charge be approved?

[15] The Applicants have no further ability to draw under the CIBC credit facilities. In order to avoid an abrupt shutdown of the Applicants' business, CIBC in its capacity as interim lender (in such capacity, the "Interim Lender") has agreed to make interim borrowings available. Pursuant to section 11.2 of the *CCAA*, the Applicants seek an interim financing charge to secure the interim borrowings (the "Interim Lender's Charge"). The Interim Lender's Charge is secured by all of the present and future assets, property and undertaking of the Applicants, and to rank behind the Administration Charge, but ahead of the Directors' Charge and all other security interests, charges and liens.

[16] I have considered the factors in section 11.2(4) of the *CCAA* and I am satisfied that approval of the interim borrowings and the Interim Lender's Charge should be granted. The interim borrowings arrangement is the only available option for the Applicants to fund operations for a temporary period and preserve the Applicants' business while they consider next steps in these proceedings. I accept that the interim borrowings arrangement is designed to preserve value, to the benefit of the Applicants' stakeholders.

Should authority be granted to permit pre-filing payments to critical third parties?

[17] The Applicants are seeking authority to pay certain pre-filing amounts owing to keep participants in the Applicants' distribution network, and other critical suppliers, with the consent of the proposed Monitor and the Interim Lender, and in accordance with the Cash Flow Forecast or otherwise as may be agreed to with the Interim Lender.

[18] I am satisfied that the requested authorization should be granted.

Should the administration charge be granted?

[19] Pursuant to section 11.52 of the *CCAA*, the Applicants are requesting an Administration Charge in favour of the Proposed Monitor, its Canadian counsel, and Canadian counsel to the

Applicants, as security for their respective fees and disbursements up to a maximum of $750,000, which amount covers the time period until the Comeback Hearing. The amount of the Administration Charge was developed in consultation with the Proposed Monitor and is proposed to be secured by the Applicants' property and to have first priority over all charges and security interests.

[20] I am satisfied that the requested amount is fair and reasonable, and appropriate to the size and complexity of the business being restructured.

Should the Directors' charge be granted?

[21] The Applicants also seek a Directors and officers charge in the amount of $6.2 million during the Initial Stay Period (the "Directors' Charge"). The Directors' Charges proposed to be secured by the Applicants' property and ranked behind the Administration Charge, the Interim Lender's Charge and the existing security granted with respect to the CIBC credit facilities, and ahead of all other security interests, charges and liens.

[22] The Applicants' present and former directors and officers are not beneficiaries under liability insurance. Accordingly, there is no coverage for the potential liability that the directors and officers could include in relation to the *CCAA* proceedings. I accept that a successful restructuring of the Applicants will only be possible with the continued participation of its directors, officers, management, and employees. The requested Directors' Charge should be approved.

[23] For these reasons, the requested Interim Order was granted.

This is Exhibit "D" referred to in the Affidavit of SHAMSH KASSAM sworn by SHAMSH KASSAM of the City of Vancouver, in the Province of British Columbia, before me at the City of Toronto, in the Province of Ontario, on January 16, 2025 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.

Commissioner for Taking Affidavits (or as may be)

SIERRA FARR

(LSO# 87551D)

Court File No.

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 COMARK HOLDINGS INC., BOOTLEGGER CLOTHING INC., CLEO FASHIONS INC. AND RICKI'S FASHIONS INC.

APPLICANTS

AFFIDAVIT OF SHAMSH KASSAM
(Sworn January 6, 2025)

I, Shamsh Kassam, of the City of Vancouver, in the Province of British Columbia, MAKE OATH AND SAY:

1. This affidavit is made in support of an Application by Comark Holdings Inc. ("**Comark**"), Ricki's Fashions Inc. ("**Ricki's**"), cleo fashions Inc. ("**cleo**") and Bootlegger Clothing Inc. ("**Bootlegger**") (together, the "**Applicants**" or the "**Comark Group**") for relief under the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**").

2. I currently serve as Chief Executive Officer ("**CEO**") of Comark, Vice President of each of Ricki's, cleo and Bootlegger, and a director of each of the Applicants. I am also a director and/or officer of a number of affiliated companies in a broader corporate group, including ParentCo (defined below), Parian (defined below) and others. As such, I have personal knowledge of the matters deposed to in this Affidavit. Where I have relied on other sources of information, I have specifically referred to such sources and believe them to be true. In preparing this Affidavit, I have consulted with legal, financial and other advisors to the Applicants and other members of the senior

management teams of the Applicants. The Applicants do not waive or intend to waive any applicable privilege by any statement herein.

3. As described in greater detail below, the Applicants are seeking, among other relief, the following as part of the proposed Initial Order:

(a) a stay of proceedings against the Applicants, the Monitor (defined below), and the Applicants' respective employees, directors, advisors, officers and representatives acting in such capacities for an initial 10-day period (the "**Initial Stay Period**");

(b) authorization to borrow from the Interim Lender (defined below) under the CIBC Revolving Loan Facility (defined below) to fund the Applicants' working capital requirements and other general corporate purposes, capital expenditures, and costs of these proceedings during the Initial Stay Period, provided such (i) such Interim Borrowings (defined below) are made in accordance with the Cash Flow Forecast (defined below) and (ii) each Interim Borrowing is subject to prior approval pursuant to a draw request in form and substance satisfactory to the Interim Lender, accompanied by such supporting documentation as the Interim Lender may request, and subject to the requirements set out in the Initial Order;

(c) authorization (but not the requirement) to pay certain pre-filing amounts, with the consent of the Monitor and Interim Lender, consistent with the Cash Flow Forecast or otherwise agreed to with the Interim Lender, to key participants in the Applicants' distribution network, and to other critical suppliers, if required; and

(d) the granting of the following priority charges (collectively, the "**Charges**") over the Property (as defined in the Initial Order), listed in the following order of priority:

(i) an Administration Charge (defined below) in the maximum amount of $750,000;

(ii) an Interim Lender's Charge (defined below);[1]

(iii) security granted with respect to the CIBC Credit Facilities (defined below);[2] and

(iv) a Directors' Charge (defined below) in the maximum amount of $6.2 million;

4. If the proposed Initial Order is granted, the Applicants intend to bring a motion within 10 days of the granting of the Initial Order (the "**Comeback Hearing**") seeking an Amended and Restated Initial Order ("**ARIO**"), among other things, extending the stay of proceedings and

[1] The Interim Lender's Charge will rank *pari passu* with the security granted with respect to the CIBC Credit Facilities.

[2] The security granted with respect to the CIBC Credit Facilities will rank *pari passu* with the Interim Lender's Charge.

granting other customary Comeback Hearing relief, including increasing the maximum amount secured by the Administration Charge and the Directors' Charge.

5. In addition, while the Applicants and their shareholders continue to assess next steps, the Applicants currently intend to bring a motion or motions to be heard concurrently with the Comeback Hearing, or shortly thereafter, seeking this Court's approval of:

(a) a debtor-in-possession loan facility (the "**DIP Facility**") which will, among other things, be secured by a super-priority charge ranking in priority to all Charges and other encumbrances over the Property, other than the Administration Charge;

(b) a consulting agreement (the "**Consulting Agreement**") to be entered into between the Applicants and a liquidation consultant (the "**Consultant**");

(c) proposed sale guidelines (the "**Sale Guidelines**") for the orderly liquidation of the inventory and furniture, fixtures and equipment ("**FF&E**") located at or in transit to Ricki's store locations, cleo store locations, and some or all Bootlegger store locations, and inventory located at the Distribution Centre (defined below), through sales to be conducted in accordance with the terms of the Sale Guidelines, the Consulting Agreement and the proposed liquidation order; and

(d) an expedited sale and investment solicitation process ("**SISP**") for the remaining assets or business of the Applicants.

6. All references to monetary amounts in this affidavit are in Canadian dollars unless noted otherwise, and do not represent amounts or measures prepared in accordance with ASPE or US GAAP.

7. This affidavit is organized in the follow sections:

A. Introduction

8. The Applicants are large Canadian specialty apparel retailers with a nationally recognized portfolio of banners and exclusive private label brands. The Applicants consist of Comark, a privately-held corporation, and its three direct subsidiaries: Ricki's, cleo, and Bootlegger (together, the "**Retail Entities**"). As of the date of this affidavit, the Retail Entities have 221 store locations, comprised of: 75 Ricki's stores, 54 cleo stores, 53 Bootlegger stores, and 39 Combo Stores (defined below). All of these stores are located in Canada. Each of the Retail Entities also has an online store.

9. In June 2020, the Comark Group filed for and obtained CCAA protection due to, among other things, the effects of the COVID-19 pandemic on the Comark Group's businesses, including government mandated lockdowns for weeks and months at a time, and a need to right-size its balance sheet (the "**2020 CCAA Proceedings**"). Through the 2020 CCAA Proceedings, the Retail Entities closed approximately 30 of their underperforming stores and re-negotiated the remainder of their retail leases with landlords. The 2020 CCAA Proceedings also included an internal organizational restructuring, whereby Comark's corporate head office (previously located in Mississauga, Ontario) and Bootlegger's corporate head office (previously located in Richmond, British Columbia) were moved to Winnipeg, Manitoba, consolidating their office space and workforce with Ricki's corporate head office and the Distribution Centre. This organizational restructuring also included the consolidation and outsourcing of a number of corporate services to Parian Logistics Inc. ("**Parian**"), a related entity, to achieve cost-savings and improve efficiencies. Following such consolidation, Parian provides each of the Retail Entities with critical services, including warehousing logistics, finance and accounting support, IT services, HR support, and other services.

10. In July 2020, the reorganized Comark Group was sold to an entity controlled by its principal shareholder through a court-approved reverse vesting transaction and the Comark Group emerged from CCAA protection in August 2020 with approximately 280 go-forward stores.

11. Following the 2020 CCAA Proceedings, the Comark Group believed it was poised for success. However, as set out in greater detail below, the Comark Group has experienced a series of issues and challenges over the past four years which have negatively impacted profitability and strained liquidity, including (i) the long-lasting effects of the COVID-19 pandemic (in particular, the effect on the Comark Group's overseas vendor supply network) which issues continued after the Comark Group emerged from the 2020 CCAA Proceedings in August 2020, (ii) a 2021 Cyber Incident (defined below) which significantly disrupted business operations and created long-lasting inventory management issues, (iii) the introduction into the market and consumer uptake of certain ultra low-cost fashion retailers, and (iv) recent supply chain and vendor issues which caused material delays in the receipt of seasonal merchandise, resulting in lower than anticipated sales for each of the Retail Entities. As a result, the Applicants' businesses have not recovered to the level they were operating at prior to the COVID-19 pandemic and the post-restructuring success that the Comark Group had planned for has failed to materialize. For fiscal year-to-date 2025[3] (nine month period ending November 23, 2024), the Applicants have experienced negative EBITDA of approximately $16.1 million, a decline of approximately $5.7 million or 56% compared to the same period last year.

12. Since the 2020 CCAA Proceedings, Comark's parent company, ParentCo (defined below), and ParentCo's shareholders have supported the Comark Group's businesses, contributing

[3] The Comark Group's fiscal year-end is the last Saturday in February. Fiscal year 2025 runs from February 2024 to the last Saturday of February 2025.

approximately $35.5 million to the businesses through various secured intercompany loans from ParentCo, provided pursuant to the ParentCo Loan Facility (defined below). The Comark Group, with the support of ParentCo and its shareholders, have implemented various cost reduction and restructuring initiatives to preserve capital, streamline their business operations, and address their liquidity position. Unfortunately, despite the financial support from ParentCo and the expense reduction initiatives, the Comark Group's financial and operational performance has continued to struggle as a result of the supply delays and other issues noted above.

13. The negative cash flow and working capital issues have caused a significant strain on the Borrowing Base (as defined in the CIBC Credit Agreement) under Comark Group's existing senior secured revolving credit facility provided by Canadian Imperial Bank of Commerce ("**CIBC**"). As a result, the Applicants are currently in breach of certain financial covenants under the CIBC Credit Agreement. On January 5, 2025, the Applicants and ParentCo received demand and acceleration notices from CIBC's counsel (the "**CIBC Demands**"). The CIBC Demands declare the entire balance outstanding under the CIBC Credit Facilities immediately due and payable and demand repayment. As a result of the CIBC Demands, Comark is unable to obtain further advances under the CIBC Credit Agreement.

14. The Applicants' cash flow and liquidity constraints have also resulted in significant arrears owing to vendors. As at December 24, 2024, the Comark Group owed approximately $61 million in accounts payable and accrued liabilities, including: (i) approximately $44 million owing to merchandise vendors; (ii) approximately $2.2 million owing to landlords in respect of outstanding rent;[4] (iii) approximately $4.2 million owing to Parian, (iv) approximately $2.0 million owing in

[4] As of January 3, 2025, the Applicants owe approximately $4.7 million to landlords in respect of outstanding rent.

respect of duties and freight; and (v) approximately $8.6 million owing to other trade vendors. The Applicants also owe approximately $57 million to ParentCo. The Applicants do not have sufficient funds to pay these outstanding amounts. Certain vendors have stopped shipping new merchandise and have stated that they are not willing to commence production for summer and fall product merchandise. Certain other vendors have issued statements of claim in recent weeks against the Applicants in Ontario and Manitoba seeking payment of outstanding amounts and damages**.** While ParentCo is supportive of the Applicants' businesses and has provided over $35 million in secured funding since 2020, of which $15 million was advanced in the current fiscal year, it is unwilling to advance any further funding to the Applicants.

15. Due to its poor liquidity position, over the past several months, the Retail Entities have deferred rent payments to some landlords, making payments over the course of the month instead of on the first of the month. However, as the liquidity position of the Retail Entities continued to deteriorate, in November 2024, the Retail Entities did not pay percentage rent to certain landlords, and, to date, have not paid the majority of rent (fixed or percentage) to landlords for December 2024 and have not paid any rent to any landlords for the month of January 2025. Should the Initial Order be granted, the Applicants plan to make rent payments in the normal course in semi-monthly installments, in accordance with the Cash Flow Forecast (as defined below) and the proposed Initial Order.

16. In light of their current financial crisis, the Applicants urgently require a stay of proceedings granted under the CCAA and other related relief. The Applicants intend to use the breathing room afforded by the CCAA to engage with their principal stakeholders and to advance a process to address their current financial circumstances and maximize the value of their businesses. At present, this is likely to include (i) a liquidation of all inventory and FF&E owned

by Ricki's that is located at or in transit to all of the Ricki's retail stores or at the Distribution Centre (the "**Ricki's Liquidation**") and an orderly wind-down of the Ricki's business, (ii) a liquidation of all inventory and FF&E owned by cleo that is located at or in transit to all of the cleo retail stores or at the Distribution Centre (the "**cleo Liquidation**") and an orderly wind-down of the cleo business, (iii) a right-sizing of the Bootlegger retail store footprint by disclaiming leases for underperforming Bootlegger stores and a liquidation of some or all of the inventory and FF&E owned by Bootlegger that is located at or in transit to the Bootlegger retail stores or at the Distribution Centre (the "**Bootlegger Liquidation**"); and (iv) a potential sale of the remaining business or assets of the Applicants, including intellectual property, leases and other assets of the Applicants, through a court-supervised SISP**.**

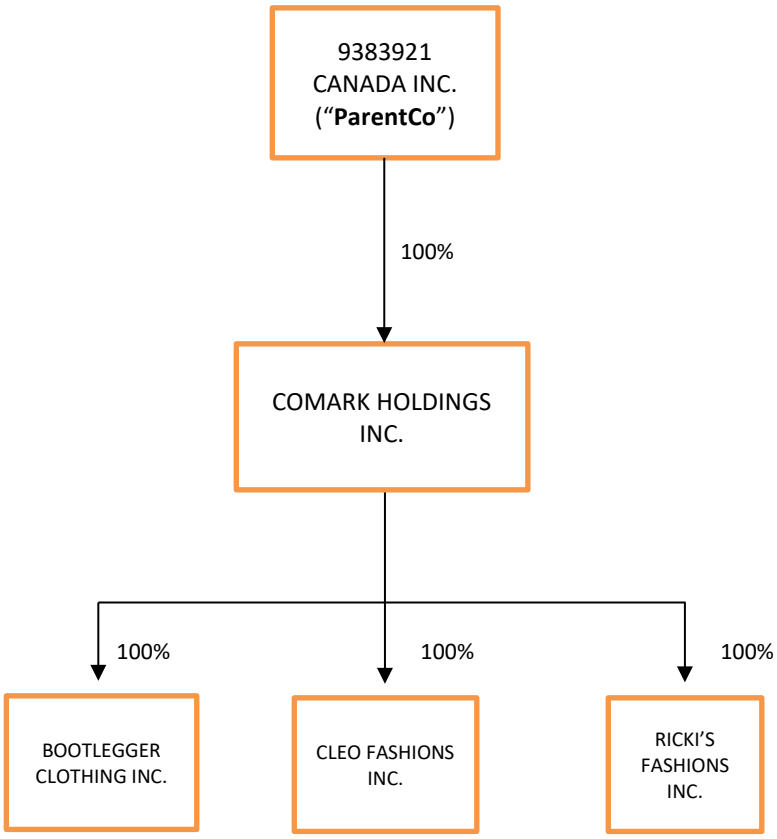
17. Discussions are underway between CIBC and the Applicants regarding the provision of debtor-in-possession ("**DIP**") financing on a super priority basis to the Applicants. The Applicants anticipate that they will seek approval of a DIP facility at or commensurate with the Comeback Hearing. In the interim, during the Initial Stay Period, CIBC has confirmed that it is prepared to act as Interim Lender and will permit the Applicants to continue to borrow under the existing CIBC Revolving Loan Facility provided (i) such Interim Borrowings are made in accordance with an agreed-upon two-week cash flow forecast (the "**Cash Flow Forecast**"), and (ii) each Interim Borrowing is subject to prior approval pursuant to a draw request in form and substance satisfactory to the Interim Lender, accompanied by such supporting documentation as the Interim Lender may request, and subject to the requirements set out in the Initial Order;

B. Corporate Structure of the Applicants

(a) The Comark Group

18. Comark is a privately-held corporation governed by the *Canada Business Corporations Act*, R.S.C. 1985, c. C-44 ("**CBCA**"). The Comark Group businesses have been in operation in Canada since 1976.

19. Comark operates three retail businesses through its three direct subsidiaries, Ricki's, cleo and Bootlegger. All of the Applicants are CBCA corporations with their registered head office in Vancouver, British Columbia. 9383921 Canada Inc. ("**ParentCo**") is the direct parent company of Comark and is not an Applicant in these CCAA proceedings. ParentCo's ultimate parent company has three shareholders. A chart showing the organizational structure of the Applicants is set out below.



20. As is common in privately-held companies that form part of a private-equity investment portfolio, Comark pays an affiliate of ParentCo a yearly management fee of $250,000 as payment for certain governance, finance, legal, tax, IT, insurance and benefits advice and support as well as other strategic support services. The management fee is paid on a quarterly basis.

(b) Comark Investments Limited Partnership

21. Prior to November 2024, the Retail Entities were each limited partners in a limited partnership, the Comark Investments Limited Partnership ("**Comark LP**"). Comark LP earned income by investing funds borrowed through an intercompany loan from an affiliate of ParentCo in interest-bearing investments and distributed this income to the Retail Entities through advances to the Retail Entities, which advances were subsequently repaid by way of distribution. The Retail

Entities used these funds to repay the intercompany loans owed to Comark, and, in turn, Comark used these funds to repay a portion of the loans owed to ParentCo.

22. In November 2024, the affiliate of ParentCo demanded repayment of the loaned amount. After the final distribution of interest to the Retail Entities, Comark LP was wound up in December 2024.

C. Chief Place of Business

23. The chief place of business of the Applicants is Ontario. The largest number of the Retail Entities' leased stores are in Ontario (86 of 221 stores), the largest number of the Retail Entities' Retail Employees (defined below) are in Ontario (approximately 40% of all employees), and cleo's head office is in Ontario. Moreover, the Retail Entities generate the largest number of sales in Ontario (approximately 30% of all sales are from Ontario, compared to 21% in Alberta, 11% in British Columbia and 38% in all other provinces).

D. The Businesses of the Applicants

(a) The Canadian Apparel Retail Industry

24. In Canada, clothing and accessories retail stores generated aggregate sales revenue of approximately $3.6 billion in September 2024.[5] The Canadian retail apparel industry is highly competitive. The Retail Entities' major competitors include *American Eagle*, *Shein*, *Temu*, *Amazon*, *Guess*, *The Bay*, *Northern Reflections*, *Laura*, and *Reitmans*.

[5] Statistics Canada, Retail sales, by industry – Seasonally adjusted. Online: https://www150.statcan.gc.ca/n1/daily-quotidien/241122/t002a-eng.htm.

25. The competitive retail and, in particular, retail apparel industry in Canada has undergone significant changes in the past decade. This includes the entry of new low-cost retail concepts and new advertising models, the significant growth of online shopping, and an increase in both the frequency and level of discounts offered by retailers through promotions delivered to customers in-store and online. As a result of these changes, many Canadian retailers, including apparel retailers, have experienced financial challenges and have filed for protection under the CCAA, including *Reitmans*, *Aldo*, *Aeropostale*, *American Apparel*, *Mexx*, *Forever XXI*, *Target Canada*, *Express*, *Sears Canada*, *Nordstrom Canada* and *Ted Baker Canada*, among others.

26. The unprecedented closure of brick and mortar stores for months due to COVID-19 and resulting production and global supply chain delays has also had extraordinary effects on the profitability and viability of apparel retailers across North America. The COVID-19 pandemic, and resulting supply chain issues experienced by apparel retailers, had lasting impacts on the retail apparel industry including the types of products purchased and the changing shopping habits of consumers.

(b) Ricki's, cleo and Bootlegger

27. The Retail Entities' stores sell predominantly exclusive private label merchandise. Their product mix includes work attire and casual clothing for Canadian men and women over the age of 25. The Retail Entities operate different brands under the operating companies Ricki's, cleo and Bootlegger, each of which has a distinctive brand identity, target market, and loyal customer base:

(a) **Ricki's** – Ricki's was founded in 1939 and acquired by Comark's predecessor company in 1982. Ricki's stores provide contemporary everyday work attire and casual clothing and accessories to Canadian women in their late twenties and early

thirties. Almost all of the products sold at Ricki's are company-branded and include a selection of tops, sweaters, pants, dresses, blouses, blazers, outerwear, denim and accessories. Ricki's merchandise consists of both core products (approximately 50%) and seasonal goods (approximately 50%).

(b) **cleo** – cleo's predecessor, Irene Hill, was founded in 1958 and acquired by Comark's predecessor company in 1979. In 1994, Irene Hill was rebranded to cleo. The cleo brand provides work wear and casual clothing for women over the age of 45. cleo is the largest retailer of women's petite merchandise in Canada, based on number of stores. Petite clothing currently accounts for approximately 45% of cleo's merchandise. Product lines are primarily sold under the cleo company brand, including tops, bottoms and dresses that can be worn casually or for work. cleo's merchandise consists of both core products (approximately 25%) and seasonal goods (approximately 75%).

(c) **Bootlegger** – Bootlegger was founded in 1971 and acquired by Comark's predecessor company in 1980. Bootlegger is a retailer of denim, other casual apparel, and accessories for men and women between the ages of 35 and 55. Approximately two-thirds of merchandise at Bootlegger is company-branded, while one-third is third-party branded, including brands such as Levi's, Silver Jeans and Kismet. Bootlegger's merchandise consists of both core product (approximately 60%) and seasonal goods (approximately 40%).

28. The Retail Entities also have a significant e-commerce presence in Canada for all three operating companies, discussed further below.

(c) Leases and Retail Stores

(i) Store Formats and Locations

29. The typical format for the Retail Entities' retail stores is a strategically located store in a mall or shopping centre. The average store size is approximately 3,800 square feet.

30. As of the date of this affidavit, the Applicants conduct business through 221 total store locations in British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, Nova Scotia, New Brunswick and Newfoundland and Labrador. All of the retail operations are conducted in leased premises. The Applicants do not own any real property. Generally, Ricki's stores are leased by Ricki's, cleo stores are leased by cleo and Bootlegger stores are leased by Bootlegger. However, in a number of instances the Retail Entities operate two or three stores under a single lease (the "**Combo Stores**").

31. The Retail Entities' 221 total stores consist of 75 Ricki's stores, 54 cleo stores, 53 Bootlegger stores, 20 Ricki's/cleo Combo Stores, 16 Ricki's/Bootlegger Combo Stores, and 3 Ricki/s/Bootlegger/cleo Combo Stores.

32. The following chart sets out the Retail Entities' current store locations by Province:

Province	Number of Ricki's Store Locations	Number of cleo Store Locations	Number of Bootlegger Store Locations	Number of Ricki's/ cleo Combo Store Locations	Number of Ricki's/ Bootlegger Combo Store Locations	Number of Ricki's/ cleo/ Bootlegger Combo Store Locations	Total
British Columbia	9	6	14	-	2	1	**32**
Alberta	18	10	13	2	5	1	**49**
Saskatchewan	6	4	6	1	4	-	**21**
Manitoba	5	4	3	1	-	-	**13**
Ontario	31	24	11	15	5	1	**87**
New Brunswick	2	2	2	1	-	-	**7**
Nova Scotia	2	-	2	-	-	-	**4**
Newfoundland	2	4	2	-	-	-	**8**
Total	**75**	**54**	**53**	**20**	**16**	**3**	**221**

33. The terms of the Retail Entities' retail leases vary. Some leases require payment of fixed rent, other leases require payment of rent based on a percentage of the retail location's sales, and some leases require a combination of both. The term remaining on each of the Retail Entities' retail leases varies from lease to lease. The Retail Entities have the right to extend the term of some leases on the terms and conditions provided in such leases. Some of the Retail Entities' extension rights provide for a fixed basic rent during the extension term and others provide that the basic rent shall be reset upon the commencement of the extension term to the current fair market rent.

(ii) Landlords for Retail Premises

34. A majority of the Retail Entities' leases are with large third-party landlords, whose subsidiaries own malls and shopping centres across Canada.

35. The 13 landlord groups that lease the largest number of stores to the Retail Entities are set out below, with such landlords accounting for 154 of the Retail Entities' 221 retail stores. The remaining 67 retail stores are leased from 40 different landlords, with each landlord leasing three or fewer retail stores to the Retail Entities. As noted above, some leases are for Combo Stores.

Landlord Group	**Number of Retail Store Locations**
Morguard	28
Primaris Retail REIT	28
BentallGreenOak (Canada) LP	14
Cadillac Fairview	13
Cushman & Wakefield Asset Services Inc.	13
SmartCentres	11
Primaris Management Inc.	10
RioCan	10
Oxford	7
Jones Lang LaSalle Real Estate Services, Inc.	6
Salthill Capital	5
QuadReal	5
Cushman & Wakefield Asset Services ULC	4
Other	67
Total	**221**

(iii) Retail Lease Provisions

36. Typical of retail store leases in Canada, the Retail Entities' leases generally contain provisions that impact store operations, including:

(a) *Going-Out-of-Business Sale Restrictions*: Most of the Retail Entities' retail leases contain restrictions that relate to going out of business sales in one form or another,

including in most cases blanket prohibitions on "bankruptcy sales", "going out of business sales", "liquidation sales", and other similar terms.

(b) *Operating Covenants*: Most of the Retail Entities' retail leases contain operating covenants that require the Applicants to continuously occupy and operate in the leased premises, with various levels of detail. Most leases require the Retail Entities to continue to operate the entire leased premises and operate at hours specified by the landlord.

(iv) Current Status of Retail Leases

37. Due to the Applicants' recent financial challenges, described in further detail below, the Retail Entities delayed rent payments to some of their landlords for the months of October and November 2024. In October 2024, all delayed rent payments were made within the month, such that there were no rental arrears outstanding past 30 days. However, as the financial situation of the Applicants continued to deteriorate, the Retail Entities did not pay percentage rent to certain of their landlords for the month of November 2024, did not pay the majority of rent (percentage or fixed) to their landlords for the month of December 2024, and did not make any rent payments that came due on January 1, 2025. At present, the Retail Entities currently owe approximately $4.7 million in arrears to their landlords. The proposed Initial Order provides that, until a lease is disclaimed or consensually terminated:

(a) all fixed rent will be paid (i) for rent incurred and relating to the Initial Stay Period, forthwith upon approval of the Initial Order, (ii) for rent incurred and relating to the remainder of January, forthwith upon approval of the DIP Facility, and (iii)

thereafter twice-monthly in equal payments on the first and fifteenth day of each month, in advance (but not in arrears).

(b) all percentage rent regarding revenues incurred during the period from and including the date of the Initial Order shall be calculated and paid in accordance with the terms of the applicable pre-existing arrangement.

(v) Office and Warehouse Space

38. In addition to the retail locations, the Applicants also lease two buildings which serve as the Applicants' corporate and banner headquarters and contain the warehouse space for the Comark Group businesses. The Applicants lease a portion of an approximately 400,000 square foot building in Winnipeg, Manitoba on a per square foot basis from Parian. Parian is 100% directly owned by ParentCo and provides warehousing, distribution and e-commerce fulfillment services to the Retail Entities and certain other related entities. The building leased from Parian serves as Comark's corporate headquarters, houses the head offices of Ricki's and Bootlegger and contains the distribution centre for the Applicants (the "**Distribution Centre**"), providing warehouse space to each of the Retail Entities. cleo also sub-sub-leases premises in an office building in Mississauga, Ontario, which houses cleo's head office.

(d) Merchandising and Sourcing

39. As set out above, the Applicants are a leading retailer of private label and branded specialty apparel. Bootlegger sells a variety of branded merchandise, including *Levi's*, *Silver Jeans* and *Kismet*. Ricki's and cleo also sell a small amount of branded merchandise, along with private label products.

40. The Retail Entities offer private label products under each of the Ricki's, cleo and Bootlegger banners. The private label products provide consumers with an enhanced value proposition, and thereby represent a significant percentage of the Applicants' total sales and gross profit.

41. The Retail Entities source private label products from factories primarily based in China and Bangladesh to take advantage of lower costs. As at November 23, 2024, approximately 82% of the Retail Entities' unit purchases were sourced from foreign manufacturers, and these purchases are typically made in U.S. dollars. The remaining 18% of purchases are sourced in North America.

42. Each of the Retail Entities enters purchase orders directly with third party vendors in order to purchase inventory. While certain vendors supply inventory to all three Retail Entities, the Retail Entities also have unique vendors. For overseas manufacturers, title to the inventory typically transfers when it is shipped from the port of origin overseas and papers are received by the Canadian Retail Shippers' Association ("**CRSA**"). The CRSA is a cooperative logistics venture of Canadian retailers and retail suppliers used by the Retail Entities to combine direct import volumes from Asia and procure ocean freight, manage purchase orders, consolidate and deconsolidate loads and deliver shipments to retailers. Use of the CRSA reduces the Retail Entities' shipping and logistics costs.

43. The Retail Entities typically pay vendors directly in accordance with the arrangement between the Retail Entity and the vendor. The Retail Entities' Bangladesh vendors are paid via a power of attorney ("**POA**") arrangement. Under the POA arrangements, upon presentation of an original endorsed Forwarder's Cargo Receipt ("**FCR**") the Retail Entities (or their third-party transportation provider) take possession of the goods at the destination port. These arrangements

have now been discontinued and any payments in respect of POAs for pre-filing goods will be stayed under the proposed Initial Order.

(e) Distribution and Shared Services

44. The flow of inventory from the Retail Entities' manufacturers to the Retail Entities' brick and mortar retail stores and the Retail Entities' ability to fulfill orders placed online is dependent on the services provided by Parian. Parian provides warehousing, distribution and e-commerce fulfillment services to each of Ricki's, cleo and Bootlegger from the Distribution Centre in Winnipeg, Manitoba.

45. Parian provides its distribution services to the Applicants pursuant to a master services agreement dated June 4, 2018 (the "**Master Services Agreement**") and Statements of Work ("**SOW**") for each Retail Entity dated June 4, 2018 (and amended November 1, 2020 and March 1, 2021). Pursuant to the SOWs, Parian agreed to provide the Retail Entities with a certain amount of storage space in the Distribution Centre as well as all services required for the warehousing and handlings of goods, including inbound shipping, storage, order picking and handling, order loading, coordination of customer service functions, and inventory management (together with the distribution services provided under the Master Services Agreement, the "**Parian Services**"). At no time does title to the Retail Entities' inventory transfer to Parian.

46. The Applicants share the Parian Services, including access to the Distribution Centre and the use of the Salesforce e-commerce platform, with certain other Parian customers, who are each an affiliate of the Applicants.

47. Each month, Parian invoices each of its customers for the Parian Services on a cash-settled basis (i.e., all invoices are settled in cash, as opposed to recorded as an intercompany

payable/receivable). Such invoices, unless disputed, must be paid in accordance with the terms of the invoice. The costs of the Parian Services are shared between its customers, with invoices generally including (i) a monthly fixed fee based on an average cost per square foot of storage space in the Distribution Centre, (ii) an operating cost fee based on a fixed share of all Parian's operating costs, including Parian employee wages, and (iii) a variable share of Parian's additional costs, including costs for store distribution and handling, e-commerce distribution and handling, depreciation, and corporate support (each determined per month based on the volume of Parian Services provided to the company during that month). In 2024, the Applicants paid Parian approximately $24.6 million in respect of the Parian Services. The amounts paid to Parian are consistent with or more favourable than prevailing market prices.

48. As of December 24, 2024, the Applicants owe Parian approximately $4.2 million in arrears. The Applicants' failure to pay these amounts to Parian has put significant financial strain on Parian, as Parian has already incurred these costs but has not been reimbursed. The significant arrears owing to Parian is imperiling Parian's ability to satisfy its own payroll obligations and limiting Parian's ability to provide services to its other customers which is, in turn, affecting their respective businesses. Any disruptions of Parian's services could jeopardize the continued operation of the Applicants' business during these CCAA proceedings.

49. It is therefore crucial for Parian's continued operations that Parian continue to be paid in respect of the Parian Services that it provides to the Applicants during these CCAA proceedings, which account for the majority of Parian's business. Moreover, continued services from Parian are essential to the Applicants' businesses and it is anticipated that payments for such services will continue throughout the CCAA proceeding.

50. The majority of products destined for sale at one of the Retail Entities' stores are transported to the Distribution Centre from either Canadian or foreign vendors.

51. The Retail Entities transport products to their stores and customers through third-party transportation companies. The Retail Entities do not have their own transportation capability. Purolator is the Retail Entities' primary third-party transportation provider that transports products from the Distribution Centre to retail stores. Canada Post is the Retail Entities' primary third-party transportation provider that transports products for online orders from the Distribution Centre to customers' homes. The Retail Entities are invoiced directly for their usage of Purolator or Canada Post services and pay those invoices directly in the ordinary course.

(f) Other Shared Services

52. Certain of the IT services used by the Applicants, including services provided by Microsoft, Salesforce, Telus, and Thales, are provided pursuant to agreements with an affiliate of ParentCo at preferred rates to the Applicants (the "**IT Services**"). The cost of the IT Services are passed on to the Applicants and other affiliated companies on a cash-settled basis**.** As at December 24, 2024, the Applicants owe approximately $53,000 in arrears in respect of the IT Services.

(g) E-Commerce Businesses

53. The Retail Entities each currently have an omni-channel retailing platform with e-commerce, mobile and programs such as "ship-to-store" in order to provide a seamless customer experience. Each banner operates a consumer direct website under the domain names www.rickis.com, www.bootlegger.com, and www.cleo.ca. The products offered online by each of the Retail Entities are typically the same as the products offered in store, with a small proportion of online-exclusive items, such as additional colours of products.

54. Customers shopping on the websites are able to access and purchase a variety of products for delivery or in-store pick-up at a store location. All orders placed online are fulfilled through the Distribution Centre.

55. The Retail Entities' e-commerce platforms are hosted through Salesforce.com, Inc. ("**Salesforce**"). Without the services provided by Salesforce, the Retail Entities would not be able to operate their e-commerce businesses.

56. As of October 31, 2024, online sales account for 17.8% of company-wide sales and 17.2% of company-wide gross profit for fiscal year-to-date 2025. The percentage of sales through e-commerce varies by Retail Entity. 7.3% of Bootlegger's sales occur through its website, whereas 24.8% of Ricki's sale occur through its website and 18.5% of cleo's sales occur through its website. It is anticipated that the Applicants will discontinue e-commerce sales for each of the Retail Entities shortly after the issuance of the proposed Initial Order.

(h) Employees

57. As of December 17, 2024, the Retail Entities had approximately 2056 hourly and salaried employees across Canada. Comark does not have any employees.

58. Each of the Retail Entities has its own leadership team which consists of a President and General Merchandising Manager and key senior management personnel responsible for banner-specific planning, online sales, in-store sales, marketing, store operations, and product development. Approximately 41, 29, and 22 of these employees work for the corporate headquarters of Ricki's, Bootlegger and cleo, respectively (collectively, the "**Head Office Employees**"), as follows:

Province	Number of cleo Head Office Employees	Number of Ricki's Head Office Employees	Number of Bootlegger Head Office Employees
British Columbia	-	1	2
Alberta	1	2	4
Saskatchewan	-	-	1
Manitoba	-	32	19
Ontario	21	5	3
New Brunswick	-	1	-
Total	**22**	**41**	**29**

59. Apart from the Head Office Employees, the vast majority of the Retail Entities' workforce consists of retail employees (the "**Retail Employees**"). None of the Retail Employees are unionized. As of December 17, 2024, the Retail Entities had approximately 1,964 Retail Employees (474 full-time and 1,490 part-time) distributed as follows:

Province	Number of cleo Store Employees	Number of Ricki's Store Employees	Number of Bootlegger Store Employees	Number of Combo Store Employees	Total Number of Retail Employees
British Columbia	41	82	109	27	**259**
Alberta	67	183	141	73	**464**
Saskatchewan	41	40	49	40	**170**
Manitoba	34	55	29	11	**129**
Ontario	239	248	91	186	**764**
New Brunswick	19	17	15	12	**63**
Nova Scotia	-	26	14	-	**40**
Newfoundland	30	27	18	-	**75**
Total	**471**	**678**	**466**	**349**	**1964**

60. A typical retail store is staffed with 5 to 10 hourly employees, with additional coverage during holidays and peak selling periods. The staff includes both full and part-time sales associates and a store manager.

(i) Employee Benefit Plans

61. All employees of the Applicants are compensated through base salary or hourly wages and company-paid benefits. In addition, some employees are eligible to receive bonuses. The Applicants also provide group health and dental benefits, as well as life and disability insurance benefits, to their employees through Canada Life.

(i) Loyalty Programs, Gift Cards and Return Policies

62. Each of the Retail Entities offers a unique loyalty program to customers (the "**Loyalty Programs**"), which can be obtained in any Ricki's, cleo or Bootlegger store, or through their websites. By signing up for a Loyalty Program, a customer can receive discounts and points for frequent purchases, which can be redeemed for merchandise credit. Membership in the Loyalty Programs is free.

63. Customers of the Retail Entities can purchase Retail Entity-specific gift cards ("**Gift Cards**") in-store or online, to be redeemed for merchandise. The Gift Cards are managed by a third party pursuant to the Stored Value Card Agreement with Valuelink LLC dated May 24, 2006, as amended. Collectively, as of November 23, 2024, there is approximately $2.6 million of net outstanding liability in respect of Gift Cards.

64. Each of the Retail Entities offer the same return policy. Returns of in-store purchases are accepted within 45 days of the purchase date, and returns of online orders are accepted within 45

days of the order ship date. Returns of in-store and online orders can be made at any Retail Entity's stores, and online orders can also be shipped back to the respective Retail Entity.

65. The Applicants are seeking in the proposed Initial Order that they be authorized, with the consent of the Proposed Monitor, to continue to offer the Loyalty Programs and honour credits obtained under the Loyalty Programs until January 17, 2025. The Applicants are also seeking to honour gift cards sold by the Retail Entities prior to the date of filing of these CCAA proceedings (the "**Filing Date**") until January 17, 2025. The Applicants will not be selling any further gift cards for the Retail Entities on or after the Filing Date and returns for any products purchased from any of the Retail Entities will not be honoured after January 17, 2025 (although exchanges will be accepted after this date for an additional period of time).

(j) Cash Management System

66. The Applicants maintain a centralized cash management system which is administered by Parian on behalf of Comark (the "**Comark Cash Management System**") to deal with cash management, collections, disbursements and intercompany payments for all of the Applicants. This allows Parian, on behalf of Comark, to facilitate cash forecasting and reporting and to monitor the collection and disbursement of funds. Parian reviews and monitors account activity on a daily basis, including the accounts payable systems and the weekly cash flow forecasts of each banner.

67. The Applicants have bank accounts with all the major Canadian banks: CIBC, Toronto Dominion Bank, Bank of Montreal, Royal Bank of Canada, and the Bank of Nova Scotia. CIBC is the Applicants' main collection and disbursement bank. All other bank accounts (the "**Local Store Accounts**") are utilized to facilitate store deposits, which are swept on a semi-weekly basis to a collections account held at CIBC (the "**Concentrator Account**").

68. The Applicants currently have thirteen bank accounts with CIBC of which nine are Canadian dollar bank accounts and four are U.S. dollar accounts (collectively, the "**Bank Accounts**"). An overview of the Applicants' Bank Accounts is as follows:

(a) one Canadian dollar Concentrator Account that receives store deposits from local CIBC store deposit accounts automatically and from the Local Store Accounts twice weekly by telephone transfer;

(b) one Canadian dollar payroll account used to facilitate payroll for all Bootlegger, Ricki's, and cleo employees;

(c) four Canadian dollar bank accounts used to facilitate payments relating to benefits programs for Bootlegger, Ricki's, cleo, and Comark;

(d) one Canadian dollar disbursement account to facilitate all non-payroll and non-benefits disbursements;

(e) two Canadian dollar operating accounts for Comark. Monthly interest and quarterly principal payments of the CIBC Term Loan Facility are automatically applied against the CIBC Revolving Loan Facility. One operating account is used to make draws on the CIBC Revolving Loan Facility. The other operating account is used for payment of USD currency purchases, remittance of garnishment cheques and depositing of sundry cheques; and

(f) four U.S. dollar disbursement accounts held by Comark for itself and for Ricki's, cleo, and Bootlegger. These accounts are used to facilitate U.S. dollar payments to vendors. The Applicants utilize the foreign exchange services of Corpay to

facilitate certain of these transactions by sending the Canadian dollar equivalent amounts of any U.S. dollar disbursements required to Corpay, who subsequently deposits the equivalent U.S. dollar amount in the Comark U.S. dollar disbursement account.

69. Cash activity in the Concentrator Account is reviewed and reconciled by Parian's sales audit and banking associates, under the supervision and oversight of the Comark Group. Parian's accounting department then reviews and reconciles all other CIBC bank accounts.

70. The Applicants are exposed to foreign exchange risk because a large portion of their disbursements (foreign product purchases) are made in U.S. dollars while all sales are received in Canadian dollars. As a result, the Applicants use forward and options contracts with Corpay to mitigate and hedge against exchange rate fluctuations between the Canadian and U.S. dollar.

71. The Applicants are seeking in the proposed Initial Order that they be permitted to continue to use the Comark Cash Management System.

(k) Outstanding Litigation

72. The Applicants are subject to ongoing litigation. The Applicants carry customary and appropriate insurance to mitigate the risk of litigation on its ongoing operations.

73. In December 2024, Statements of Claim were issued in Manitoba and Ontario against the Applicants by several of their overseas vendors. Such claims seek relief for breach of contract, payment of outstanding amounts and damages plus interest and costs.

E. The Financial Position of the Applicants

74. A copy of the Applicants' consolidated audited annual financial statements as of February 24, 2024 are attached as Exhibit "A" to this affidavit. These are the most recent set of annual audited financial statements prepared by the Applicants.

75. In addition, a copy of the Applicants' unaudited balance sheet and fiscal year-to-date income statement for the period ended November 23, 2024 is attached as Exhibit "B" to this affidavit. Certain information contained in this unaudited balance sheet is summarized below.

(a) Assets

76. As at November 23, 2024, the assets of the Applicants had a book value of approximately $83.5 million and consisted of the following (rounded to the nearest thousand Canadian dollar):

Current Assets: $66,305,000	
Cash and Cash Equivalent	$3,522,000
Accounts Receivable	$494,000
Derivative Asset	$417,000
Inventories	$58,091,000
Prepaid Expenses and Deposits	$3,781,000
Non-Current Assets: $17,576,000	
Property and Equipment	$17,576,000
Total Assets	**$83,464,000**

(b) Liabilities

77. As at November 23, 2024, the liabilities of the Applicants had a book value of approximately $168.5 million and consisted of the following (rounded to the nearest thousand Canadian dollar):

Current Liabilities: $69,030,000	
Trade Accounts Payable	$44,100,000
Other Accounts Payable and Accrued Liabilities	$22,243,000
Deferred Revenue	$2,585,000
Deferred Inducements	$519,000
Other Current Liabilities	($416,900)
Non-Current Liabilities: $99,091,000	
Bank Indebtedness	$39,879,000
Long-term Debt	$2,622,000
Due to Shareholders	$56,590,000
Total Liabilities	**$168,121,000**

(c) Revenue

78. The Applicants revenue, cash flows, adjusted EBITDA and net earnings have each experienced a decline in fiscal year-to-date 2025 as compared to the same period in fiscal year 2024. In fiscal year-to-date 2025 (period ending November 23, 2024), the Applicants' total net sales were $130.7 million (a decline of $19 million or 13% compared to the same period last year); adjusted EBITDA was negative $16.1 million (a decline of $5.7 million or 56% compared to the

same period last year); and net earnings was negative $21.0 million (a decline of $6.5 million or 45% compared with the same period last year).

79. Ricki's has historically been the most profitable of the three Retail Entities and has made up the majority of the Comark Group's net earnings. However, all three of the Retail Entities have experienced a general decline in sales in fiscal year-to-date 2025. As compared to the same period last year, Bootlegger experienced a decline in sales of $5.6 million or 15.0%, Ricki's experienced a decline in sales of $9.5 million or 14.2%, and cleo experienced a decline in sales of $3.8 million or 8.4%.

80. For fiscal year-to-date 2025, the Applicants have also experienced an overall decline in store level cash flow of $7.1 million or 50%, compared to prior years.

81. The continued strengthening of the U.S. dollar relative to the Canadian dollar has added significant strain on the Applicants' businesses. Most of the Retail Entities' merchandise is purchased in U.S. dollars, with merchandise necessarily being priced in stores and online competitively in Canadian dollars. Accordingly, given the weakness of the Canadian dollar relative to the U.S. dollar, the Retail Entities pay relatively more for their inventory purchased in U.S. dollars, negatively impacting their profit margin.

(d) Debt and Credit Facilities

(i) Summary of the Applicants' Secured Debt and Credit Facilities

Borrower	*Lender*	*Type*	*Amount Outstanding*	*Guarantors*
Comark	CIBC	CIBC Credit Agreement	Term Loan Facility- $2.4M Revolving Loan Facility –$23.7M BCAP Loan Facility - $6.25M	Ricki's cleo Bootlegger ParentCo[6] Export Development Canada ("**EDC**")[7]
Comark	ParentCo	Secured Intercompany Debt	$57M	Ricki's cleo Bootlegger
Ricki's	Comark	Secured Intercompany Debt	$49.4M	None
cleo	Comark	Secured Intercompany Debt	$37.8M	None
Bootlegger	Comark	Secured Intercompany Debt	$29.5M	None

(ii) Secured Debt and Credit Facilities

(A) CIBC Amended and Restated Credit Agreement

82. CIBC is the main operating lender to the Comark Group pursuant to an amended and restated credit agreement between CIBC and Comark dated as of September 9, 2024 (the "**CIBC**

[6] ParentCo is only a guarantor of the CIBC Term Loan Facility (defined below).

[7] EDC is only a guarantor of the BCAP Loan Facility (defined below) for the lesser of (i) 80% of the BCAP Loan Facility, and (ii) CAD $5 million, plus, in either case, accrued and unpaid interest for a maximum of 120 days.

Credit Agreement"). A copy of the CIBC Credit Agreement is attached to this affidavit as Exhibit "C".

83. Pursuant to the CIBC Credit Agreement, CIBC committed three facilities to Comark (together, the "**CIBC Credit Facilities**"):

(a) a term loan facility in the principal amount of $3.4 million (the "**CIBC Term Loan Facility**");

(b) a revolving loan facility in an amount of up to $30 million (the "**CIBC Revolving Loan Facility**"), which was temporarily increased to $35 million during the period commencing on September 9, 2024 and ending on December 31, 2024, and which includes a $3 million sublimit for letters of credit; and

(c) a Business Credit Availability Program ("**BCAP**") facility in an amount of up to $6.25 million (the "**BCAP Loan Facility**").

84. The CIBC Revolving Loan Facility is used for working capital and other general corporate purposes. The CIBC Term Loan Facility in the original principal amount of $6.4 million was fully advanced on the original date of the CIBC Credit Agreement in August 2020 and the proceeds were used to repay a portion of a separate credit agreement between CIBC and a predecessor of Comark. The BCAP Loan Facility provided additional liquidity to the Comark Group to finance its operations in accordance with the EDC BCAP Guarantee Program, which was established for the purpose of assisting businesses affected by the economic impacts of the COVID-19 pandemic. The BCAP Loan Facility was established by CIBC pursuant to the CIBC Credit Agreement (and CIBC is the lender in respect thereof), though EDC has guaranteed the lesser of (i) 80% of the BCAP Loan Facility, and (ii) CAD $5 million (plus, in either case, accrued and unpaid interest for

a maximum of 120 days) in favour of CIBC, subject to and in accordance with the terms of a separate guarantee agreement between EDC and CIBC.

85. The maximum amount available for borrowing under the CIBC Revolving Loan Facility is subject to a borrowing base formula linked to, among other things, the value of certain of the Comark Group's accounts receivable, inventory on hand and inventory in-transit (subject to certain reserves that CIBC may establish from time to time) established pursuant to the terms of the CIBC Credit Agreement. Accordingly, borrowing availability under the CIBC Revolving Loan Facility fluctuates from month to month, with a maximum availability cap of $30 million (which was temporarily increased to $35 million during the period commencing on September 9, 2024 and ending on December 31, 2024).

86. Under the CIBC Term Loan Facility and the CIBC Revolving Loan Facility, Comark is permitted to elect to borrow funds as a Canadian Prime Rate Loan, Base Rate Loan, SOFR Loan or CORRA Loan (each as defined in the CIBC Credit Agreement), subject, in some cases, to CIBC's approval. Comark may elect to borrow funds under the BCAP Loan Facility as a Canadian Prime Rate loan or a CORRA Loan. Comark has elected to borrow funds as a Canadian Prime Rate Loan.

87. Loans under the CIBC Credit Agreement bear interest at the applicable interest rate plus an applicable margin determined in accordance with the following table:

	CORRA Loan or SOFR Loan Applicable Margin	Canadian Prime Loan or Base Rate Loan Applicable Margin
Revolving Loan	3.00%	1.50%
Term Loan	4.50%	3.00%

BCAP Loan	3.5% (CORRA Loan only)	2.00% (Canadian Prime Loan only)

88. The default rate of interest is an additional 2.00% on each facility.

89. The obligations under the CIBC Credit Facilities are secured by all present and after-acquired undertaking, property and assets of Comark pursuant to a general security agreement dated August 7, 2020 (the "**CIBC GSA**"). A copy of the CIBC GSA is attached to this affidavit as Exhibit "D".

90. The CIBC Credit Facilities are also guaranteed on a secured basis by Ricki's, cleo and Bootlegger. ParentCo provided a guarantee of the CIBC Term Loan Facility obligations under the CIBC Credit Agreement limited in recourse solely to and secured by the shares of Comark held by ParentCo and $2.5 million in cash collateral. The relevant guarantee documents, all dated August 7, 2020, are attached to this affidavit as Exhibits "E", "F", "G" and "H". As noted above, the BCAP Loan Facility is also guaranteed by EDC pursuant to a separate guarantee agreement between CIBC and EDC.

91. The CIBC Credit Agreement includes certain financial covenants, including an obligation to maintain a minimum, cumulative consolidated net income, subject to certain adjustments over specified periods of time.

92. Comark was in breach of the Minimum EBITDA covenant in August, September**,** October and November 2024 and will be in breach in December 2024.

93. As of January 2, 2025, the amount outstanding under the CIBC Revolving Loan Facility is approximately $23.7 million, which amount fluctuates daily. As of January 2, 2025, the amount

outstanding under the CIBC Term Loan Facility is $2.4 million. The CIBC Term Loan Facility has been cash collateralized with $2.5 million from ParentCo, which currently exceeds the CIBC Term Loan Facility balance. The amount outstanding under the BCAP Loan Facility is approximately $6.25 million.

94. As set out above, CIBC issued the CIBC Demands on January 5**,** 2025, thereby accelerating amounts outstanding under the CIBC Credit Agreement, declaring such amounts immediately due and payable and demanding payment. As a result of the CIBC Demands, the Applicants have no further access to funding under the CIBC Credit Agreement, absent the granting of the relief requested herein in respect of Interim Borrowings. Copies of the CIBC Demands are attached to this affidavit as Exhibit "I", "J", "K", "L", and "M".

(B) Secured Intercompany Debt

a. ParentCo Loan Facility

95. ParentCo, as lender, is party to a Sponsor Loan Agreement with Comark, as borrower, dated as of August 7, 2020 (the "**ParentCo Loan Facility**"). A copy of the loan agreement for the ParentCo Loan Facility is attached to this affidavit as Exhibit "N". Pursuant to the ParentCo Loan Facility, ParentCo agreed to make loan advances to Comark, with the initial loan advance being in the principal amount of $25.4 million. Pursuant to a Subordination, Postponement, and Standstill Agreement dated August 7, 2020, ParentCo's security interest is subordinated and postponed in favour of CIBC.

96. As of January 3, 2025, approximately $57 million is outstanding under the ParentCo Loan Facility. The ParentCo Loan Facility provides for a fixed interest rate of 1% per year plus a non-

compounding participating interest at a rate of up to the lesser of 11% and the amount of free cash (subject to certain reserves and restrictions) generated by Comark.

97. The obligations under the ParentCo Loan Facility are secured by the property and assets of Comark pursuant to a general security agreement dated August 7, 2020 (the "**ParentCo GSA**"). A copy of the ParentCo GSA is attached to this affidavit as Exhibit "O". The ParentCo Loan Facility is also guaranteed on a secured basis by Ricki's, cleo and Bootlegger, which guarantees are attached to this affidavit as Exhibits "P", "Q" and "R", respectively.

98. The ParentCo Loan Facility requires Comark to comply with the terms of the CIBC Credit Agreement. As a result, a default under the CIBC Credit Agreement also constitutes an event of default under the ParentCo Loan Facility.

b. Retail Entity Facilities

99. Comark, as lender, is also party to individual secured intercompany loan agreements with each of Ricki's, cleo and Bootlegger dated January 30, 2021, February 1, 2021, and February 1, 2021, respectively (the "**Retail Entity Facilities**"). The Retail Entity Facilities are all substantially in the same form and subordinated and postponed in favour of the CIBC Credit Facilities and ParentCo Loan Facility. Copies of the Retail Entity Facility loan agreements are attached to this affidavit as Exhibits "S", "T" and "U".

100. The Retail Entity Facilities are revolving facilities under which Comark may, in its discretion, make advances. As of November 23, 2024, $49.4 million is outstanding under the Ricki's Retail Entity Facility, $37.8 million is outstanding under the cleo Retail Entity Facility, and $29.5 million is outstanding under the Bootlegger Retail Entity Facility.

101. The interest rates for the Retail Entity Facilities provide for an interest rate equal to the CDOR rate (as defined in the Retail Entity Facilities).

102. Each of Ricki's, cleo and Bootlegger has provided Comark with a general security agreement (collectively, the "**Retail Entity GSAs**") securing the obligations under its respective Retail Entity Facility. Copies of these Retail Entity GSAs are attached to this affidavit as Exhibit "V", "W" and "X".

103. The Retail Entity Facilities require the Retail Entities to comply with the financial covenants under the CIBC Credit Agreement. As a result, a default in respect of such covenants under the CIBC Credit Agreement also constitutes an event of default under the Retail Entity Facilities.

(e) Trade Creditors

104. As at December 24, 2024, the Applicants had approximately $61 million in outstanding accounts payable and accrued liabilities. Of this amount, approximately $44 million is owing to merchandise vendors ($36 million of which is owing to trade creditors located outside of North America).

105. In order to the preserve capital, the Applicants have taken steps to reduce expenditures and preserve liquidity, including pausing payments to trade creditors or cancelling orders for future inventory. In order to ensure the continuity of the Retail Entities' supply chain during these CCAA proceedings, the Applicants are seeking in the proposed Initial Order to be authorized, but not required, to pay certain pre-filing amounts owing to key participants in the Applicants' distribution network, and to other critical suppliers with the consent of the Monitor and the Interim Lender and in accordance with the Cash Flow Forecast or otherwise as may be agreed with the Interim Lender.

(f) PPSA Registrations

106. In addition to registrations made in respect of the secured indebtedness described above, and as set out in the personal property registration searches against the Applicants for Alberta, British Columbia, Manitoba, New Brunswick, Nova Scotia, Newfoundland and Labrador, Ontario, and Saskatchewan attached as Exhibits "Y", "Z", "AA", "BB", "CC", "DD", "EE" and "FF", respectively:

(a) there are legacy registrations under the *Personal Property Security Act* (British Columbia) against each of the Retail Entities in favour of 6879900 Canada Inc., which relate to the now wound-up Comark LP structure referenced above;

(b) there are legacy registrations against some of the Applicants by predecessor entities of the Applicants in connection with intercompany arrangements that are no longer relevant; and

(c) There are registrations under the *Personal Property Security Act* (Alberta) and *Personal Property Security Act* (Ontario) against Comark in favour of Leggat National Leasing. The Alberta registration indicates a collateral classification of serial goods with a serial number of 4T1S11BK7NU063845 (2022 Toyota Camry; MV – Motor Vehicle). The Ontario registration indicates collateral classifications of Consumer Goods and Motor Vehicle with a VIN number of 4T1S11BK7NU065739 (2022 Toyota Camry), amount secured of $41,767 and no general collateral description.

F. The Urgent Need for Relief under the CCAA

(a) Lasting Impacts of COVID-19

107. The Retail Entities were hard hit by the closure of their stores during the COVID-19 pandemic. Brick and mortar stores shut entirely, and the Retail Entities struggled to pivot to online sales, in part because all of the Retail Entities' inventory was trapped in their stores.

108. As a result of these challenges, the Comark Group filed for CCAA protection in June 2020 in order to inject working capital into and restructure their businesses.[8] In July 2020, the Comark Group was sold to an entity controlled by its principal shareholder through a reverse vesting transaction (structured in this manner primarily to preserve significant tax attributes). The Comark Group emerged from CCAA protection in August 2020.

109. Even after emerging from the 2020 CCAA Proceedings, the COVID-19 pandemic continued to place significant strain on the Applicants' businesses. In November 2020, the Retail Entities' brick and mortar stores in Manitoba and Ontario closed for the second time due to COVID-19 related shutdowns and remained closed into 2021. During this period, the Retail Entities lost out on Black Friday and Christmas sales and did not gain those sales back at the same level through e-commerce. Further, COVID-19 outbreaks at the Distribution Centre and at vendor sites in 2020 and 2021 caused product and shipment delays contributing to missed seasonal windows, as discussed in further detail below.

[8] The predecessor corporation of Comark (Comark Inc.) also applied for and was granted CCAA protection in March 2015, pursuant to which an affiliate of ParentCo purchased the Comark business by way of an Asset Purchase Agreement in July 2015.

(b) 2021 Cyber Incident

110. On November 23, 2021, the Applicants were the victim of a sophisticated ransomware cyber attack (the "**Cyber Incident**"). For approximately two days, the Retail Entities' retail stores and e-commerce platform were closed in their entirety. For a few days after this, the retail stores were able to open but accepted only cash payments. For three weeks, until December 13, 2021, internal systems, including all inventory, were entirely unavailable. The businesses were unable to move any inventory into sellable locations until such inventory could be accounted for, significantly disrupting the operations of the Applicants.

111. During this period, the Distribution Centre was unable to ship inventory to the retail stores. Inventory shipments in late November and early December of each year contain a substantial portion of seasonal items which are targeted for sale during the critical holiday season. Because of the delayed arrival of inventory, heavy promotional activity was required in order to sell seasonal items beyond their ideal or targeted window. Markdowns were significantly higher in the post-Cyber Incident period as compared to the previous year, resulting in a reduced profit margin for the Retail Entities. It is estimated that brick and mortar stores lost approximately $8.2 million in revenue due to the Cyber Incident alone.

112. For e-commerce sales, shipments to the Retail Entities' customers were unable to be processed for several weeks. Inventory was also unable to be updated online and made available for purchase. When systems were available and inventory count complete, e-commerce orders were prioritized.

113. While customers received notification of the Cyber Incident on each of the Retail Entities' websites and social media accounts, the centralized customer service function was without system

access and order visibility during this period, significantly hampering the ability to service customer needs. This complicated both channels' ability to sell and impacted consumer confidence.

114. The Retail Entities regained full capability to sell products by December 13, 2021. However, the effects of the Cyber Incident extended far beyond this time period. All of the companies' internal processes and systems, including the Applicants' history and critical path, were lost or compromised through the Cyber Incident and, as these systems were not recovered, they had to be rebuilt.

(c) Supplier Issues and Delays

115. As a result of the COVID-19 pandemic and the Cyber Incident, as well as industry-wide supply-chain disruptions, delays to certain production orders occurred. From 2020 to 2022, most products received from the Retail Entities' suppliers were significantly delayed and arrived outside of the targeted seasonal time periods.

116. As discussed above, a large portion of the Retail Entities' businesses are comprised of seasonal clothing items. Consumers usually only purchase these items during a specific time period each year, and seasonal items sold outside of this time period typically must be marked down significantly to drive sales and clear inventory.

117. As a result, when orders for seasonal items arrive outside of their targeted time frame, markdowns are applied to the products, negatively impacting profitability. Alternatively, if it is clear that the seasonal items will not arrive in time for the required period, the production order may need to be cancelled, and any profit from those seasonal items will be lost entirely.

118. Even after some products began to arrive on time in 2022, other items were still delayed and collections were out of sequence, such that seasonal goods from different periods began to collide, creating a peak of inventory and forcing markdowns.

119. In an effort to limit production issues and reduce the continued stain on the Applicants' balance sheet, in 2023 the Applicants re-evaluated all future collections and cancelled production orders that were not expected to drive profitability. Where vendor payments had been missed, these vendors were placed on payment plans and the Applicants engaged in daily or weekly meetings with these vendors to encourage continued production.

120. Unfortunately, international conflict in the Red Sea, protests at certain of the vendors' factories in Bangladesh, and rail and port strikes in 2024 all caused additional delays and resulted in further strained vendor relationships and lost sales. This, in turn, placed increased financial pressure on the Applicants' businesses. Where the Applicants were unable to make payments, certain vendors have refused to order fabrics, held items at port or refused to transfer titles to the items until such payment had been made. This has compounded the Applicants' issues with seasonal delays, in turn affecting the Applicants' financial position.

121. As noted above, in December 2024, several of the Applicants' vendors served the Applicants with Statements of Claim in Ontario and Manitoba, seeking payment of outstanding amounts and damages.

(d) Industry Impacts

122. In addition to the above-noted issues, the Applicants have faced certain retail industry challenges over the past four years that have contributed to the financial strain on the businesses. Namely, a difficult economic environment combined with the introduction and consumer uptake

of certain ultra low-cost fashion retailers, including Shein and Temu, have placed significant financial pressure on traditional fashion retailers. Consumer needs have also changed as the COVID-19 pandemic led to increased remote work and a decreased need for workwear clothing, which previously made up a sizeable portion of the Applicants' businesses.

(e) Poor Sales Performance

123. Each of the above issues and challenges have contributed to the Applicants' businesses experiencing poor sales performance over the past several years. In fiscal year 2024 (ending February 24, 2024), the Applicants significantly underperformed expectations, generating sales and EBITDA of $200 million and negative $21.2 million, respectively.

124. In fiscal year-to-date 2025, the Applicants have experienced a decline in cash flows of $7.1 million or 50% compared to the same period last year and have a net loss of over $21.0 million due to a combination of poor sales performance (trending 10% below last year) and the vendor delays and other issues described above.

(f) Decreased Borrowing Base

125. In addition to the negative cash flow and working capital issues, a recent third-party inventory appraisal (completed pursuant to the CIBC Credit Agreement) resulted in a 4% reduction of the maximum amount available to be borrowed under the CIBC Revolving Loan Facility, further reducing the Applicants' liquidity over the last few months.

126. The Applicants are also in breach of certain financial covenants under the CIBC Credit Agreement and CIBC has demanded payment and accelerated the amounts owing under the CIBC Credit Agreement.

127. The Applicants' liquidity constraints and reduced availability under the CIBC Credit Agreement have resulted in significant amounts owing to vendors, including: (i) approximately $4.2 million owing to Parian, the Applicants' warehouse distribution and shared service provider, as of December 24, 2024, pursuant to the Master Services Agreement; (ii) in excess of $8 million owing to domestic merchandise vendors; (iii) in excess of $36 million owing to foreign merchandise vendors; (iv) approximately $57 million owing to ParentCo; (v) in excess of $1.8 million owing to the Canadian Border Services Agency; and (vi) approximately $8.6 million owing to other trade vendors. As noted above, the Retail Entities also delayed rent payments to some landlords for the months of October 2024, did not make percentage rent payments to certain of their landlords for November 2024, did not pay the majority of their rent (percentage or fixed) to their landlords in December 2024, and did not pay any rent to any landlords in January 2025.

(g) 2024 Internal Restructuring

128. In early 2024, the Applicants executed an internal restructuring initiative in an effort to save costs and improve their liquidity position. The Applicants reduced full time employee headcount, terminated or renegotiated technology contracts and reduced the marketing budget as part of these restructuring initiatives.

129. The Applicants also realized efficiencies by automating certain aspects of their warehouse through the use of a Bombay Sorter, a flat sorter used for high-speed automated sortation of small lightweight items.

130. Through these cost saving initiatives, the Applicants have saved the businesses approximately $6 million. However, this has not been enough to right-size the businesses and stabilize relationships with vendors.

G. Relief Sought

131. Notwithstanding their best efforts to reduce expenses, preserve capital and improve profitability, the Applicants' liquidity position continues to rapidly deteriorate, particularly during the traditionally slower post Christmas retail seasons. Overall, the Applicants' negative cash flow and working capital issues have caused a strain on the Borrowing Base. As described above, the Applicants received the CIBC Demands from CIBC's counsel on January 5, 2025 declaring all amounts outstanding under the CIBC Credit Facilities immediately due and payable and demanding repayment. Without access to additional funding, the Applicants cannot pay their obligations (including payroll) in the ordinary course. While ParentCo has been supportive of the Applicants' businesses, including by providing over $35 million in secured loans to the Comark Group since 2020 (of which $15 million was advanced in the current fiscal year), it is unwilling to advance any further funding to the Applicants. The Applicants are unable to meet their liabilities as they become due and are therefore insolvent.

132. Following a review of the Applicants' performance described above, the evaluation of the impact on the Applicants, and the careful consideration of all options and alternatives, the board of directors of Comark has determined that, in its business judgement, and based on advice of its professional advisors, it is in the best interest of the Applicants' businesses and their stakeholders to file for CCAA protection.

(a) Stay of Proceedings

133. The Applicants are insolvent and urgently require a broad stay of proceedings and other CCAA protections to obtain the breathing space and emergency funding required to determine next steps. At the present time, the next steps will likely consist of, among other things, (i)

conducting the Ricki's Liquidation and an orderly wind-down of the Ricki's business, (ii) conducting the cleo Liquidation and an orderly wind-down of the cleo business, (iii) right-sizing the Bootlegger retail store footprint by disclaiming leases for underperforming Bootlegger stores and conducting the Bootlegger Liquidation, and (iv) a potential sale of the remaining business or assets of a the Applicants, including intellectual property, leases and other assets of the Applicants, though a court-supervised sale process. The Applicants are concerned that certain of their landlords may attempt to exercise self-help remedies as a result of the missed or delayed payments, including locking out the Retail Entities from their retail stores. It would be detrimental to the Applicants and their stakeholders if proceedings were commenced, or rights or remedies executed against the Applicants.

(b) Interim Financing

134. Interim financing is needed on an urgent basis during the Initial Stay Period to provide stability and fund operations for a limited period of time and preserve the Applicants' businesses while they consider next steps in these proceedings. This interim financing is necessary and designed explicitly to preserve value to the benefit of the Applicants' stakeholders.

135. As set out above, as a result of the CIBC Demands, the Applicants no longer have access to funds under the CIBC Credit Agreement. In order to avoid an abrupt shutdown of their businesses, CIBC, as interim lender (the "**Interim Lender**") has advised the Applicants that it is prepared to permit Comark to continue to borrow under the existing CIBC Revolving Loan Facility during the Initial Stay Period pursuant to the CIBC Credit Agreement (each, an "**Interim Borrowing**" and collectively, the "**Interim Borrowings**"), provided (i) such Interim Borrowings are made in accordance with an agreed-upon Cash Flow Forecast, and (ii) each Interim Borrowing is subject to prior approval pursuant to a draw request in form and substance satisfactory to the

Interim Lender, accompanied by such supporting documentation as the Interim Lender may request, and subject to the requirements set out in the Initial Order;

136. Based on the Cash Flow Forecast, this Interim Borrowing arrangement is expected to provide the Applicants with sufficient liquidity to continue their business operations during the Initial Stay Period.

137. This Interim Borrowing arrangement is proposed to be secured by a Court-ordered charge (the "**Interim Lender's Charge**") on all of the present and future assets, property and undertaking of the Applicants (the "**Property**"). The Interim Lender's Charge will not secure any obligation that exists before the Initial Order is made. The Interim Lender's Charge will have priority over all other security interests, charges and liens, except the Administration Charge. Given the current financial circumstances of the Applicants, the Interim Lender has indicated that it is not prepared to advance funds without the security of the Interim Lender's Charge, including the proposed priority thereof.

(c) Monitor

138. It is proposed that Alvarez & Marsal Canada Inc. ("**A&M**") will act as Monitor (the "**Proposed Monitor**") in the CCAA proceedings if the proposed Initial Order is issued. A&M has consented to act as the Monitor of the Applicants. A copy of the Proposed Monitor's consent is attached as Exhibit "GG".

139. The Applicants, with the assistance of A&M, have prepared the Cash Flow Forecast, as required by the CCAA, which will be appended to the Proposed Monitor's pre-filing report, which shows that the Applicants can continue operations during the proposed Initial Stay Period with access to the Interim Borrowings.

140. I understand that A&M will file an initial pre-filing report with the Court as Proposed Monitor in conjunction with the Applicants' request for relief under the CCAA.

(d) Administration Charge

141. In connection with its appointment, it is proposed that the Monitor, along with its counsel and counsel to the Applicants, will be granted a Court-ordered charge on all of the Property as security for their respective fees and disbursements relating to services rendered in connection with this CCAA proceeding up to a maximum amount of $750,000 (the "**Administration Charge**"). The Administration Charge is proposed to have priority over all other charges and security interests.

142. The Applicants will propose that the Administration Charge be increased to $1 million at the Comeback Hearing.

(e) Directors' and Officers' Protection

143. A successful restructuring of the Applicants will only be possible with the continued participation of their respective directors (the "**Directors**"), management and employees. These personnel are essential to the viability of the Applicants' continuing business and the preservation of enterprise value.

144. I am advised by Tracy Sandler of Osler, Hoskin Harcourt LLP, the Applicants' counsel, and believe that, in certain circumstances, directors can be held liable for certain obligations of a company owing to employees and government entities, which may include unpaid accrued wages; unpaid accrued vacation pay; termination and severance obligations; and unremitted sales, goods and services, and harmonized sales taxes. The Applicants estimate, with the assistance of the

Proposed Monitor, that these obligations may amount to as much as approximately $6.2 million during the Initial Stay Period.

145. It is my understanding that the Applicants' present and former directors and officers are not beneficiaries under any liability insurance policies and, as such, I believe that there is no coverage against the potential liability that the directors and officers could incur in relation to this CCAA proceeding.

146. In light of the complexity and scope of the overall enterprise and the potential liabilities, the directors and officers have indicated to the Applicants that their continued service and involvement in this proceeding is conditional upon: (i) the granting of an Order under the CCAA which grants a charge in favour of the directors and officers of the Applicants in the initial amount of $6.2 million on the Property (the "**Directors' Charge**"); and (ii) the subsequent increase of the Directors' Charge to $7.4 million at the Comeback Hearing. The Directors' Charge would act as security for indemnification obligations for the Directors' and officers' potential liabilities as set out above. The Directors' Charge is proposed to be subordinate to the proposed Administration Charge, the Interim Lender's Charge, and the existing security granted with respect to the CIBC Credit Facilities. The Directors' Charge is necessary so that the Applicants may benefit from their directors' and officers' experience with the businesses and the retail apparel industry and so that its directors and officers can guide the Applicants' restructuring efforts during these CCAA proceedings.

(f) Payments During this CCAA Proceeding

147. During the course of these CCAA proceedings, the Applicants intend to make payments for goods and services supplied post-filing in the ordinary course as set out in the Cash Flow Forecast and as permitted by the proposed Initial Order.

148. The Applicants expect third parties with contractual arrangements with the Applicants to continue to provide goods and services in accordance with the proposed Initial Order. However, in order to ensure uninterrupted business operations during these CCAA proceedings, the Applicants are proposing in the Initial Order that they be authorized, but not required, with the consent of the Monitor and the Interim Lender and in accordance with the Cash Flow Forecast or otherwise as may be agreed to with the Interim Lender, to make certain payments, including payments owing in arrears, to certain critical third parties that provide services that are integral to the Applicants' ability to operate during these proceedings. These third parties include key logistics or supply chain providers, customs brokers and clearing houses, and providers of credit and debit processing services.

149. Similarly, the Applicants are proposing that they be authorized, with the consent of the Monitor and the Interim Lender, in accordance with the Cash Flow Forecast or otherwise agreed to with the Interim Lender, to continue to make certain payments in respect of the critical Parian Services provided by Parian to the Applicants and in respect of certain IT Services.

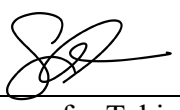
H. Relief to be Sought at the Comeback Hearing

150. As noted above, if the Initial Order is granted, the Applicants intend to seek the ARIO and various other relief at the Comeback Hearing. The Applicants intend to deliver a supplementary affidavit in advance of the Comeback Hearing.

I. Conclusion

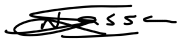
151. I am confident that granting the proposed Initial Order sought by the Applicants is in the best interests of the Applicants and their stakeholders. Without the relief requested, including the stay of proceedings discussed above, the Applicants will experience a sudden and abrupt shutdown of their businesses and other enforcement action taken by creditors, which would significantly harm the Applicants' businesses and significantly impair the realizable value of their assets. Granting the requested stay of proceedings will give the Applicants the breathing space and emergency funding required to determine and pursue next steps, including the Ricki's Liquidation, the cleo Liquidation, the Bootlegger Liquidation and a potential sale of the remaining assets or business of the Applicants.

SWORN BEFORE ME over videoconference this 6 day of January, 2025 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely. The affiant is located in the City of Vancouver, in the Province of British Columbia, while the commissioner is located in the City of Toronto, in the Province of Ontario.



Commissioner for Taking Affidavits
(or as may be)

Sierra Farr (LSO#87551D)



Shamsh Kassam

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

Court File No:

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF COMARK HOLDINGS INC., BOOTLEGGER CLOTHING INC., CLEO FASHIONS INC. AND RICKI'S FASHIONS INC.

Ontario
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

Proceeding commenced at Toronto

AFFIDAVIT OF SHAMSH KASSAM

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Fax: 416.862.6666

Lawyers for the Applicants

This is Exhibit "E" referred to in the Affidavit of SHAMSH KASSAM sworn by SHAMSH KASSAM of the City of Vancouver, in the Province of British Columbia, before me at the City of Toronto, in the Province of Ontario, on January 16, 2025 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.

Commissioner for Taking Affidavits (or as may be)

SIERRA FARR

(LSO# 87551D)

THIS AGREEMENT (the "**Agreement**") is made as of January __, 2025 (the "**Effective Date**")

AMONG:

RICKI'S FASHIONS INC., CLEO FASHIONS INC. AND BOOTLEGGER CLOTHING INC.
(the "Company")

– and –

[NAME OF VENDOR]
(the "Vendor")

WHEREAS the Company and certain of its affiliates obtained protection pursuant to proceedings under the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA Proceedings**") pursuant to an Initial Order (as it may be amended and restated from time to time, the "**Initial Order**") of the Ontario Superior Court of Justice (Commercial List) (the "**Court**") dated January 7, 2025 (the "**Filing Date**");

AND WHEREAS pursuant to the Initial Order, Alvarez & Marsal Canada Inc. was appointed as the monitor of the Company in the CCAA Proceedings (the "**Monitor**");

AND WHEREAS prior to the Filing Date, the Company ordered certain merchandise from the Vendor, as more fully described on Schedule "A" hereto (the "**Merchandise**");

AND WHEREAS the purchase price of the Merchandise contemplated in the purchase order or other agreement or documentation entered into or delivered by or between the Company and the Vendor (each a "**Party**" and collectively the "**Parties**") prior to the Filing Date is set forth on Schedule "A" hereto (the "**Contract Price**");

AND WHEREAS as a result of the CCAA Proceedings, the Contract Price has not been paid by the Company;

AND WHEREAS the Parties have agreed that it is in their mutual best interests to transfer to the Company possession and, to the extent not previously transferred to the Company, title to the Merchandise on the terms set forth in this Agreement;

NOW THEREFORE in consideration of the covenants and mutual promises set forth in this Agreement (including the recitals hereof) and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. Delivery of Transfer Documentation to Monitor

Within two (2) Business Days of the Effective Date, the Vendor shall transfer, deliver or transmit to the Monitor, as applicable: (a) the original Forwarder's Cargo Receipt in respect of the Merchandise with such endorsements as may be necessary to enable the Company to take possession of the Merchandise; and (b) such other documentation, if any, as may be necessary to

enable the Company to take possession of and, to the extent not previously transferred to the Company, title to the Merchandise (collectively, the "**Transfer Documentation**"). Promptly following receipt of the Transfer Documentation, the Monitor shall provide written notice to the Parties (which may be by e-mail) confirming that it has received the Transfer Documentation (the "**Documentation Notice**"). The Monitor shall hold the Transfer Documentation in escrow pending its release in accordance with this Agreement. For purposes of this Agreement, a "**Business Day**" shall mean any day other than a Saturday, Sunday or statutory holiday in the Province of Ontario, Canada.

2. Release Payment

(a) Promptly, and no later than two (2) Business Days following delivery of the Documentation Notice by the Monitor, the Company shall make a cash payment to the Vendor in the amount set forth on Schedule "A" hereto (the "**Release Payment**"), in immediately available funds, using the Vendor's wire instructions set forth on Schedule "B" hereto.

(b) Promptly, and no later than one (1) Business Day following receipt of the Release Payment, the Vendor shall provide written notice to the Company and the Monitor (which may be by e-mail) confirming that it has received the Release Payment (the "**Payment Notice**").

3. Release of Transfer Documentation

(a) Promptly following receipt of the Payment Notice, the Monitor shall release the Transfer Documentation to the Company or as the Company may direct.

(b) In the event that the Company does not effectuate the Release Payment as required pursuant to this Agreement, the Monitor shall release the Transfer Documentation to the Vendor or as the Vendor may direct.

(c) In the event that the Vendor does not issue the Payment Notice as required pursuant to this Agreement, the Company or the Monitor shall be entitled to seek relief from the Court on an urgent basis, on notice to the Vendor, which relief may include, without limitation, an order of the Court authorizing and directing the Monitor to release the Transfer Documentation to the Company.

(d) Without limiting section 3(c), in the event of any dispute or issue between the Parties with respect to this Agreement or the performance of the obligations of a Party or the Monitor hereunder, either Party shall be entitled to bring a motion before the Court in the CCAA Proceedings, on not less than three (3) days' notice to other Party and the Monitor, seeking relief with respect to such matter.

4. Monitor Protections with Respect to the Escrow Funds

(a) If at any time (i) there is any dispute as to the entitlement to the Transfer Documentation or the Monitor's obligations with respect thereto; (ii) any action is

threatened or commenced against the Monitor in relation to this Agreement; or (iii) the Monitor is uncertain as to its obligations under this Agreement, then the Monitor may, in its sole and unfettered discretion (A) seek directions from the Court; and (B) hold the Transfer Documentation in escrow until the release of the Transfer Documentation is directed by order of the Court or by joint written direction to the Monitor by the Company and the Vendor.

(b) The Monitor shall incur no liability or obligation of any nature with respect to the Transfer Documentation, the Release Payment, the Merchandise or this Agreement, save and except for any gross negligence or wilful misconduct on its part. In carrying out its duties pursuant to this Agreement, the Monitor shall have all of the rights and protections afforded the Monitor under the CCAA and the Initial Order and as an officer of the Court.

5. Pre-Filing Claim

Neither this Agreement nor the receipt of the Release Payment by the Vendor shall preclude the Vendor from asserting a claim against the Company in respect of the Merchandise relating to the period prior to the Filing Date (a "**Pre-Filing Claim**") in any claims process that may be conducted in the CCAA Proceedings, provided that the quantum of any such Pre-Filing Claim shall be reduced by the quantum of the Release Payment.

6. Miscellaneous

(a) This Agreement shall be binding upon and enure to the benefit of the Parties and their respective successors and permitted assigns. No assignment of this Agreement or any rights or obligations hereunder may be made by any Party without the prior written consent of the other Party.

(b) This Agreement may be amended only by an instrument in writing duly executed by each of the Parties, with the consent of the Monitor.

(c) Each Party shall, from time to time at the request of the other Party, furnish the other party such further information or assurances, execute and deliver such additional documents, instruments and conveyances, and take such other actions and do such things as may be reasonably necessary to carry out the provisions of this Agreement and to give effect to the transactions contemplated hereby. Without limiting the foregoing, if the Transfer Documentation is transferred by the Monitor to the Company in accordance with this Agreement, the Vendor shall, if requested by the Company or the Monitor, take such other actions and execute such other documents as may be necessary to enable the Company to take possession of and, to the extent not previously transferred to the Company, title to the Merchandise.

(d) This Agreement may be executed in counterparts and each of such counterparts shall constitute an original document and such counterparts, taken together, shall

constitute one and the same instrument. Execution of this Agreement may be made by email, PDF or other electronic format or transmission which, for all purposes, shall be deemed to be an original signature.

(e) The division of this Agreement into sections and the insertion of headings are for the convenience of reference only and shall not affect the construction or interpretation of this Agreement.

(f) This Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein. Any action or proceedings arising out of or relating to this Agreement and the matters contemplated herein shall be heard by the Court in the CCAA Proceedings and each Party irrevocably submits to the exclusive jurisdiction of the Court in any such action or proceeding.

[*Signature page follows*]

IN WITNESS WHEREOF, each of the undersigned has caused this Agreement to be duly executed and delivered as of the Effective Date.

RICKI'S FASHIONS INC., CLEO FASHIONS INC. AND BOOTLEGGER CLOTHING INC.

Per: _____
Name: Shamsh Kassam
Title: Chief Executive Officer

I have the authority to bind the Corporation.

[VENDOR NAME]

Per: _____
Name:
Title:

I have the authority to bind the Corporation.

ACKNOWLEDGED AND AGREED TO as of the Effective Date.

ALVAREZ & MARSAL CANADA INC., solely in its capacity as Monitor of the Company and not in its personal or corporate capacity.

Per: _____
Name: Joshua Nevsky
Title: Senior Vice President

SCHEDULE "A"

See attached.

SCHEDULE "B"
VENDOR WIRE INSTRUCTIONS

[To be completed]

This is Exhibit "F" referred to in the Affidavit of SHAMSH KASSAM sworn by SHAMSH KASSAM of the City of Vancouver, in the Province of British Columbia, before me at the City of Toronto, in the Province of Ontario, on January 16, 2025 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.

Commissioner for Taking Affidavits (or as may be)

SIERRA FARR

(LSO# 87551D)

CONSULTING AGREEMENT

This Consulting Agreement (the "**Agreement**"), dated as of January 14, 2025, is made by and between Comark Holdings Inc. ("**Comark**"), Bootlegger Clothing Inc., cleo fashions Inc., and Ricki's Fashions Inc. (collectively, the "**Merchants**" and each, a "**Merchant**") and Tiger Asset Solutions Canada, ULC (the "**Consultant**", and together with the Merchants, the "**Parties**"), under which the Consultant shall act as the exclusive consultant for the purpose of conducting a sale of Merchandise and FF&E (each as defined below) at the Merchant stores set forth on Exhibit "A-1" (each, a "**Store**", and collectively, the "**Stores**"), as such Exhibit may be amended by the Merchants on notice to Consultant to add or remove Stores in accordance with Section 2(d) (as amended, the "**Updated Store List**") and as located at the Warehouse(s) set forth on Exhibit "A-2" annexed hereto (the "**Warehouses**") through sales (the "**Sale**") in accordance with the terms of the sale guidelines for the Stores substantially in the form attached hereto as Exhibit "B" (the "**Sale Guidelines**"). Only Merchant-approved Sale terminology, as set out in the Sale Guidelines, will be utilized at each Store.

R E C I T A L S:

WHEREAS:

A. On January 7, 2025, the Merchants commenced proceedings (the "**CCAA Proceedings**") pursuant to the *Companies' Creditors Arrangement Act* and obtained an initial order (as may be amended and restated from time to time, the "**Initial Order**") from the Ontario Superior Court of Justice (Commercial List) (the "**Court**").

B. Pursuant to the Initial Order, Alvarez & Marsal Canada Inc. was appointed as monitor (in such capacity, the "**Monitor**") in the CCAA Proceedings.

C. The Merchants intend to seek an order in the CCAA Proceedings approving, among other things, this Agreement and the conduct of the Sale, in accordance with the terms hereof and the Sale Guidelines (the "**Realization Process Approval Order**"), in form and substance acceptable to the Consultant, that, among other things: (i) provides that the payment of all fees and reimbursement of expenses hereunder to Consultant is approved without further order of the Court, free and clear of all liens, claims and encumbrances, and (ii) authorizes the Sale in accordance with the terms hereof and the applicable Sale Guidelines.

D. The Merchants intend to seek an Amended and Restated Initial Order in the CCAA Proceedings approving, among other things, a debtor-in-possession facility pursuant to a DIP Financing Term Sheet ("**DIP Term Sheet**") among, *inter alia*, Comark, as borrower and Canadian Imperial Bank of Commerce, as lender (upon approval of such facility and in such capacity, the "**DIP Lender**").

E. The Consultant is willing to serve as the Merchants' exclusive consultant for the purpose of providing such consulting services, upon the terms and conditions and in the manner set forth in this Agreement.

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

1. Merchandise

(a) For purposes hereof, "**Merchandise**" shall mean all inventory that is owned by any Merchant and actually sold in the Stores during the Sale Term (as defined below), the aggregate amount of which shall be determined using the gross rings inventory taking method, which includes goods saleable in the ordinary course, located at or in transit to the Stores on the Sale Commencement Date (as defined below) and/or located in or in transit to the Warehouses on the Sale Commencement Date or subsequently ordered and made available, and thereafter delivered to the Stores, as mutually agreed by the Merchants and the Consultant.

(b) Notwithstanding Section 1(a), "Merchandise" does not mean and shall not include:

(i) goods that belong to sublessees, licensees or concessionaires of any Merchant;

(ii) goods, furnishings, trade fixtures, equipment and/or improvements to real property that are located in the Stores (collectively, "**FF&E**") but owned by third parties;

(iii) damaged or defective goods that cannot be sold, including those without a Universal Product Code, and non-saleable goods, including promotional materials;

(iv) goods held by any Merchant on memo or on consignment with third parties, unless otherwise agreed by the Merchants, the Consultant and the applicable third party (which, for certainty, shall, with such agreement, constitute "Merchandise" hereunder);

(v) any goods excluded from the definition of Merchandise in accordance with Section 10(b); and

(vi) gift cards (third-party and Merchant branded) or gift certificates issued by any Merchant.

2. Sale Term

(a) For each Store, the Sale shall commence on a date agreed to by the Merchants and the Consultant following the granting of the Realization Process Approval Order (each, a "**Sale Commencement Date**"), and conclude no later than 16 weeks following such Sale Commencement Date (the "**Sale Termination Date**"); provided, however, that the Parties may, in consultation with the Monitor and the DIP Lender, mutually agree in writing to extend the Sale Termination Date or to terminate the Sale at any Store prior to the Sale Termination Date. The period

between the Sale Commencement Date and the Sale Termination Date shall be referred to as the "**Sale Term**".

(b) At the conclusion of the Sale Term, the Consultant shall surrender the premises for each Store to the applicable Merchant: (i) in "broom swept" and clean condition subject to the Consultant's right pursuant to Section 6(e) below to abandon in a neat and orderly manner all unsold FF&E; and (ii) if requested by the applicable Merchant, in accordance with the lease[1]; provided, however, that, if such Merchant requests that the Consultant surrender any premises in accordance with the lease requirements, except for costs in respect of damage caused by the Consultant (including by its employees, agents or representatives) for which the Consultant is in law responsible, the Merchants shall bear all other costs and expenses associated with surrendering the premises in accordance with the lease requirements for such premises to the extent such expenses were incurred by the Consultant in accordance with a budget mutually agreed to in writing between the Consultant and the Merchants prior to surrender of the premises. At the conclusion of the Sale at each Store, the Consultant shall assist the applicable Merchant's employees with photographically documenting the condition of such Store, which photographs shall reference with specificity such Store by number, name and/or location.

(c) At the conclusion of the Sale Term, to the extent there is any Merchandise remaining on the Sale Termination Date (the "**Remaining Merchandise**"), if requested by the Merchants, such Remaining Merchandise shall, subject to the terms hereof, be sold on behalf of the Merchants or be otherwise disposed of by the Consultant as directed by the Merchants, in consultation with the Monitor. The costs and expenses of removing and disposing of the Remaining Merchandise shall be incurred pursuant to a written budget or budgets (in addition to the Expense Budget (as defined below)), to be established from time to time by mutual agreement of the Parties with the consent of the Monitor (the "**Remaining Merchandise Costs**"). Any associated expenses shall be paid by the Merchants as Remaining Merchandise Costs and in accordance with the budget referred to herein, and the gross receipts thereof (excluding sales taxes) shall be included in the calculation of the Merchandise Fee (as defined below) due to the Consultant. To the extent any proceeds from any sale or disposition of any Remaining Merchandise are received by the Consultant after the Sale Termination Date, such proceeds shall be treated in accordance with Section 5. For certainty, in the event of the sale of any Remaining Merchandise subsequent to the Sale Termination Date, the Merchandise Fee shall apply.

(d) Merchants may, in their discretion, (i) at any time on or prior to January 31, 2025, or (ii) at any time after January 31, 2025 upon giving no less than 14 days' written notice, provide a revised Exhibit "A-1" to the Consultant, which revised Exhibit may remove any one or more of the locations identified from such list, and Exhibit "A-1" will be deemed amended for all purposes hereunder. For clarity, a location that has been removed from Exhibit "A-1" in accordance with this provision

[1] Merchants shall be responsible for directing Consultant with respect to any applicable lease requirements.

(a) shall not, after its removal from Exhibit "A-1", constitute a Store for purposes of the Sale, and no further Sale of Merchandise or FF&E at such location shall be undertaken pursuant to this Agreement; and (b) may be re-added to Exhibit "A-1" upon delivery of a further revised Exhibit "A-1" to the Consultant in accordance with this provision.

3. Project Management

(a) Consulting Services

The Merchants will seek the Realization Process Approval Order from the Court. Subject to the entry of and the terms of the Realization Process Approval Order, the Merchants hereby retain the Consultant, and the Consultant hereby agrees to serve as an independent consultant to the Merchants, in connection with the conduct of the Sale as set forth herein. With respect to the Sale, the Consultant shall serve as the exclusive consultant to the Merchants relative thereto throughout the Sale Term and may not be compensated by any other party, except as provided for herein.

(b) Consultant's Undertakings

During the Sale Term, the Consultant shall, in collaboration with the Merchants, (i) develop marketing strategies, including optimal advertising channels for retail sales; (ii) provide qualified supervisors, which may include an on-site Sale management team, including an operational lead, a financial lead, and a distribution centre lead (the "**Supervisors**"), engaged by the Consultant to oversee the management of the Stores and the Sale; (iii) recommend appropriate point-of-sale and external advertising (including signage) for the Stores, approved in advance by the Merchants; (iv) recommend appropriate discounts of Merchandise; (v) recommend staffing levels for the Stores, and appropriate incentive programs, if any, for the Stores' employees, in each case approved in advance by the Merchants in consultation with the Monitor and the DIP Lender (any such program established by the Merchants, an "**Incentive Program**"), provided, for clarity, that payments under any Incentive Program will be the Merchants' responsibility; (vi) maintain focused and ongoing communication with Store-level employees and corporate and supply chain management teams to keep them abreast of strategy and timing; (vii) oversee display of Merchandise for the Stores, subject to the terms hereof; (viii) maintain the confidentiality of all proprietary or non-public information regarding any Merchant or their affiliates, the Stores and underlying leases agreements in accordance with the provisions of any confidentiality agreements signed by the Parties (the "**Confidentiality Agreements**"); (ix) to the extent that information is available, evaluate sales of Merchandise by category and sales reporting and monitor expenses; (x) assist the Merchants in connection with managing and controlling loss prevention and employee relations matters; (xi) to the extent necessary, assist the Merchants in obtaining all required permits and governmental consents required to conduct the Sale, except as otherwise provided in the Realization Process Approval Order; (xii) provide recommendations regarding the need for transfers of inventory between the Stores and between warehouses and the Stores; (xiii) provide recommendations regarding whether to vacate any Store location on or prior to the Sale Termination Date, provided that 30 days' written notice of the proposed earlier departure is provided (unless the Consultant recommends an earlier date and such date is agreed by the Merchants); (xiv) provide recommendations and methodology regarding the use of electronic communications related to the Sale to any customers, including members of loyalty clubs or programs of Merchant; and (xv)

provide such other related services deemed necessary or appropriate by the Merchants and the Consultant, in consultation with the Monitor and the DIP Lender.

The Consultant shall provide qualified supervision to oversee the conduct of the Sale in the Stores as may be required to maximize sales, the expense for which is included in the Expense Budget (as defined below). In connection with the Sale, the Consultant shall indirectly retain and engage the Supervisors. The Supervisors shall not be deemed to be employees or consultants of any Merchant in any manner whatsoever; nor do the Supervisors have any relationship with the Merchants by virtue of this Agreement or otherwise which creates any liability or responsibility on behalf of the Merchants for the Supervisors. During the Sale Term, the Supervisors shall perform the services provided for herein during normal Store operating hours and for the period of time prior to the Stores opening and subsequent to the Stores closing, as required in connection with the Sale, in the Consultant's discretion and at the Consultant's direction. In consideration of the Consultant's engagement of the Supervisors, the Merchants agree to pay the Consultant, as a Sale Cost (as defined below), the amount of the reasonable and documented Supervisor-related wages, fees paid to arm's length third parties, travel, expenses, deferred compensation and third-party payroll costs and expenses, in accordance with and subject to the Expense Budget (collectively, the "**Supervisor Costs**"). The Supervisor Costs set forth in the Expense Budget include, among other things, industry standard deferred compensation. The Merchants shall reimburse the Consultant for all Supervisor Costs weekly, based upon invoices or other documentation reasonably satisfactory to Merchants and the Monitor.

All right, title and interest of any Merchant in and to its Merchandise, FF&E and Remaining FF&E (as defined below) shall remain with the applicable Merchant at all times during the Sale Term until such Merchandise, FF&E and Remaining FF&E, as applicable, is sold. For the avoidance of doubt, Consultant shall not have any right, title or interest in the Merchandise, FF&E or Remaining FF&E at any time during or after the Sale Term. Although the Consultant shall undertake its obligations under this Agreement in a manner designed to achieve the desired results of the Sale and to maximize the benefits to the Merchants, the Merchants expressly acknowledge that the Consultant is not guaranteeing the results of the Sale. All sales of Merchandise and FF&E in the Stores shall be made in the name and on behalf of the applicable Merchant, and all sales during the Sale Term shall be "as is, where is" and final with no returns or exchanges accepted or allowed following the Sale Commencement Date (including with respect to any items purchased prior to the commencement of the Sale).

Without limiting the generality of the foregoing or the terms of the Confidentiality Agreements, all information of a business nature relating to the pricing, sales, promotions, marketing, assets, liabilities or other business affairs of the Merchants, their customers, employees, or affiliated entities constitutes the Merchants' confidential, trade secret information (the "**Merchant's Confidential Information**"), which is and shall remain the exclusive intellectual property of the Merchants and shall be treated as strictly confidential by the Consultant in accordance with and subject to the Confidentiality Agreements. The Consultant agrees to maintain strict confidentiality in accordance with the Confidentiality Agreements and agrees that it may use the Merchants' Confidential Information only as reasonably necessary to perform its obligations related to the Sale. If and to the extent the use or other handling of any Personal Information (as defined below) is necessary for the Consultant to perform its obligations hereunder, the Consultant shall comply with all Data Security Requirements (as defined below) and such other reasonable restrictions requested by the Merchants. For purposes of this Agreement, "**Personal Information**" means any

natural person's name, street address, telephone number, e-mail address, social insurance number, driver's license number, passport number, credit card number, or user or account number, or any other piece of information that, individually or when combined with other information, allows the identification of a natural person or is otherwise considered personally identifiable information or personal data protected under any applicable Data Security Requirement. For purposes of this Agreement, "**Data Security Requirements**" means, collectively, all of the following to the extent relating to privacy, security, or security breach notification requirements: (i) each Merchant's own rules, policies and procedures; (ii) all applicable statutes and regulations; (iii) industry standards applicable to the industry in which any Merchant's business is conducted; and (iv) contracts into which any Merchant has entered or by which it is otherwise bound, provided such contracts (or the requirements of such contracts) are provided to the Consultant.

The Parties expressly acknowledge and agree that the Merchants shall have no liability to the Supervisors for debts, wages, bonuses, benefits, severance pay, termination pay, vacation pay, pay in lieu of notice of termination or any other liability arising from the hiring or engagement of the Supervisors, which for avoidance of doubt, does not absolve the Merchants' obligations to pay the Sale Costs which include the Supervisor Costs. The Supervisors shall not be considered employees of any Merchant.

(c) Merchant Undertakings

During the Sale Term, each Merchant shall, as applicable: (i) be the employer of the Stores' employees, which for greater certainty does not include the Supervisors; (ii) be responsible for all taxes, costs, expenses, accounts payable, and other liabilities relating to the Stores, the Stores' employees and other representatives of the Merchants, including Merchants' district managers utilized in the Sale; (iii) prepare and process all tax forms and other documentation with respect thereto; (iv) collect all sales taxes and other applicable taxes assessed on the sale of the Merchandise and FF&E and pay them to the appropriate taxing authorities for the Stores; (v) use reasonable efforts to cause the Merchants' employees to cooperate with the Consultant and the Supervisors; (vi) execute all agreements mutually determined by the Merchants and the Consultant, in consultation with the Monitor, to be necessary or desirable for the operation of the Stores during the Sale; (vii) arrange for the ordinary maintenance of all point-of-sale equipment required for the Stores; (viii) use commercially reasonable efforts to ensure that the Consultant may access and use the Stores and Warehouse for the Sale Term in order to perform its obligations under this Agreement; (ix) maintain its customs number active throughout the Sale Term and provide resources necessary to remove Merchandise from the "foreign trade zone" for distribution to the Stores or for sale to third parties from the Warehouses; (x) provide Consultant with such information or assistance as Consultant may reasonably request in connection with providing services hereunder relating to the Sale, including but not limited to: (A) processing electronic communications related to the Sale to any customers, including members of loyalty clubs or programs of Merchant; and (B) information related to the Merchandise, including any goods in-transit; and (xi) provide, or cause to be provided by Parian Logistics Inc., such warehousing, distribution, e-commerce fulfilment, and other administrative services (including (without limitation) customary point-of-sale administration, sales audit, cash reconciliation, accounting, and payroll processing) as are currently provided to the Merchants and in accordance with the DIP Term Sheet and DIP Budget (as defined in the DIP Term Sheet).

The Parties expressly acknowledge and agree that the Consultant shall have no liability to the Merchants' employees for wages, bonuses, benefits, severance pay, termination pay, vacation pay, pay in lieu of notice of termination or any other liability arising from a Merchant's employment, hiring or retention of its employees, and such employees shall not be considered employees of the Consultant, nor shall the Consultant be or be deemed to be a successor employer in respect of the Merchants' employees.

4. The Sale

All sales of Merchandise shall be made on behalf of the Merchants. The Consultant does not have, nor shall it have, any right, title or interest in the Merchandise. All sales of Merchandise shall be by cash, credit or debit card, in accordance with the Merchants' policies, and shall be "final" with no returns accepted or allowed following January 17, 2025, unless otherwise directed by the Merchants. The Merchants and the Consultant shall not sell gift cards or gift certificates during the Sale Term and the Merchants shall have caused all third-party vendors of gift cards, if any, to cease the sale of gift cards or gift certificates prior to execution of this Agreement.

5. Consultant Fee and Expenses in Connection with the Sale

In consideration of its services hereunder, subject to Section 10(a)(iii), the Consultant shall earn a fee with respect to Merchandise sold at the Stores during the Sale Term of 2.0% of the Gross Proceeds (as defined below) of such Merchandise (the "**Merchandise Fee**"). For purposes of this Agreement, "**Gross Proceeds**" means gross receipts from sales of Merchandise during the Sale Term (excluding sales taxes).

The Merchants shall be responsible for all expenses of the Sale, including, without limitation, all Store operating expenses and all of the Consultant's reasonable and documented out-of-pocket expenses incurred pursuant to the Expense Budget (the "**Sale Costs**"). To control Sale Costs, the Merchants and the Consultant, in consultation with the Monitor and the DIP Lender, have established an aggregate budget in connection with the transactions contemplated hereunder (as may be amended only in accordance with this Agreement, the "**Expense Budget**") of certain delineated expenses, including, without limitation, payment of the costs of supervision (including Supervisor Costs), advertising and signage costs, and other miscellaneous expenses expected to be incurred by the Consultant, including reasonable legal fees. The Expense Budget for the Sale is attached hereto as Exhibit "C". Without the written consent of the Merchants, in consultation with the Monitor and the DIP Lender, the Expense Budget shall not exceed $3,842,223, including legal costs of the Consultant. The Expense Budget may only be modified by mutual written (including email) agreement of the Consultant and the Merchants with the prior written consent of the DIP Lender and in consultation with the Monitor. Notwithstanding anything to the contrary herein, unless otherwise agreed to by the Merchants in writing with the consent of the Monitor, the Merchants shall not be obligated to pay any Sale Costs that are not included or provided for in the Expense Budget. The Merchants shall reimburse the Consultant for all Sale Costs actually incurred by the Consultant up to the aggregate budgeted amount set forth in the Expense Budget.

Concurrently with the execution of, and as a condition to the Consultant's obligations under, this Agreement, the Merchants shall fund to the Consultant $475,000 (the "**Special Purpose Payment**"), which shall be held by the Consultant on account of any final amounts owing to the

Consultant hereunder until the Final Reconciliation (as defined below), and the Merchants shall not apply the Special Purpose Payment to, or otherwise offset any portion of the Special Purpose Payment against, any weekly reimbursement, payment of fees, or other amount owing to the Consultant under this Agreement prior to the Final Reconciliation, or upon further order of the Court; provided, however, in the event the Realization Process Approval Order is not granted by the Court on or before January 17, 2025, the Consultant shall be entitled to apply the Special Purpose Payment to the payment of any Sale Costs incurred on or before such date.

Without limiting any of the Consultant's other rights, the Consultant may apply the Special Purpose Payment to any unpaid obligation owing by the Merchants to the Consultant under this Agreement following the completion of the Final Reconciliation on prior written notice to the Monitor or upon the Court's failure to grant the Realization Process Approval Order by January 17, 2025. Any portion of the Special Purpose Payment not so applied shall be returned to the Merchants within five (5) business days following: (i) the Final Reconciliation or, (ii) in the event that the Court does not grant the Realization Process Approval Order, January 17, 2025.

The Realization Process Approval Order shall approve payment of the Special Purpose Payment *nunc pro tunc* and shall order and declare that the Special Purpose Payment shall be and remain free of all claims and encumbrances (including Court ordered charges and deemed trusts) of creditors and other stakeholders of Merchants.

6. Furniture, Fixtures and Equipment

(a) The Consultant shall also undertake to sell during the Sale Term, on an "as is where is" basis, the FF&E located at the Stores. The Consultant shall advertise in the context of advertising for the Sale that such FF&E is available for sale, and shall contact and solicit known purchasers and dealers of furniture, fixtures and equipment. The Consultant shall have the right to abandon at the Stores any unsold FF&E on the expiry of the Sale Term.

(b) The Merchants shall be responsible for all reasonable and documented costs and expenses incurred by the Consultant in connection with the sale of FF&E, which costs and expenses shall be incurred pursuant to a written budget or budgets (in addition to the Expense Budget) to be established from time to time by mutual agreement of the Parties with the consent of the Monitor (such costs and expenses, not including the Sale Costs, shall be referred to as the "**FF&E Costs**").

(c) In consideration for providing the services set forth in this Section 6, subject to Section 10(a)(iii), the Consultant shall be entitled to a commission from the sale of all of such FF&E equal to 15% of the gross proceeds of the sale of such FF&E, net of applicable sales taxes (the "**FF&E Fee**").

(d) During the Sale Term, the Merchants shall, at each Store, provide the Consultant and its invitees with access to such Store for purposes of selling, disposing, and/or removing the FF&E.

(e) Any FF&E that is owned, in whole or in part, by the Merchants that is not sold by the Consultant at each Store by the Sale Termination Date (the "**Remaining**

FF&E") shall not be removed but such Remaining FF&E shall be abandoned by the Consultant in place, in a neat and orderly manner and title thereto shall remain with the Merchants.

(f) Notwithstanding anything in this Agreement to the contrary, the Consultant shall not have any obligation whatsoever to cap any electrical or plumbing outlets or purchase, sell, make, store, handle, treat, dispose, or remove any hazardous materials from the Stores or otherwise. The Consultant shall have no liability to any party for any environmental action brought: (i) that is related to the storage, handling, treatment, disposition, generation, or transportation of hazardous materials, or (ii) in connection with any remedial actions associated therewith or the Stores each case, save and except for any gross negligence or wilful misconduct on its part.

7. Payments & Accounting

All proceeds of sales of Merchandise and FF&E through the Sale shall be collected by Merchants' Store management personnel and deposited into existing Merchant deposit accounts. During the Sale Term, all accounting matters (including, without limitation, the determination of the Merchandise Fee, Sale Costs, Supervisor Costs, FF&E Fee, FF&E Costs and all other fees, expenses, or other amounts reimbursable or payable hereunder) shall be reconciled by the Parties, in consultation with the Monitor, on every Wednesday for the prior calendar week and the amounts determined to be owing for such prior calendar week pursuant to such reconciliation shall be paid as soon as reasonably practicable in accordance with the DIP Budget (as defined in the DIP Term Sheet) but in all cases not more than 10 days following completion of such reconciliation.

The Parties shall, in consultation with the Monitor and the DIP Lender, complete a final reconciliation and settlement of all amounts payable pursuant to this Agreement, including, without limitation, the determination of the Merchandise Fee, Sale Costs, Supervisor Costs, FF&E Fee, FF&E Costs and all other fees, expenses, or other amounts reimbursable or payable hereunder (the "**Final Reconciliation**"), no later than twenty (20) days following the earlier of: (a) the Sale Termination Date for the last Store; or (b) the date upon which this Agreement is terminated in accordance with its terms. Within three (3) days after the completion of the Final Reconciliation, (i) any amounts that are determined to be owing by the Merchants to the Consultant shall be paid by the Merchants to the Consultant pursuant to this Agreement, and (ii) any amounts that are determined to be owing by the Consultant to the Merchants pursuant to this Agreement (including any full or partial refund of the Special Purpose Payment) shall be paid by the Consultant to the Merchants.

8. Indemnification

(a) Merchants' Indemnification

The Merchants shall indemnify, defend, and hold the Consultant and its consultants, members, managers, partners, officers, directors, employees, attorneys, advisors, representatives, principals, affiliates, and Supervisors (collectively, "**Consultant Indemnified Parties**" and each a "**Consultant Indemnified Party**") harmless from and against all liabilities, claims, demands, damages, costs and expenses (including reasonable attorneys' fees) arising from or related to: (i)

the willful or negligent acts or omissions of the Merchant Indemnified Parties (as defined below); (ii) the material breach of any provision of this Agreement by a Merchant, or the failure to perform any obligation under, this Agreement by a Merchant; (iii) any liability or other claims, including, without limitation, product liability claims, asserted by customers, any employee of any Merchant (under a collective bargaining agreement or otherwise), any lessor of a Store, or any other person (excluding the Consultant Indemnified Parties) against the Consultant or a Consultant Indemnified Party, except claims arising from the negligence, willful misconduct, gross negligence, or unlawful behavior of the Consultant or the Consultant Indemnified Party; (iv) any harassment, discrimination or violation of any laws or regulations or any other unlawful, tortious or otherwise actionable treatment of the Consultant Indemnified Parties or the Merchants' customers by the Merchant Indemnified Parties; and (v) any Merchant's failure to pay over to the appropriate taxing authority any taxes required to be paid by such Merchant during the Sale Term in accordance with applicable law.

(b) Consultant's Indemnification

The Consultant shall indemnify, defend and hold the Merchants and its consultants, members, managers, partners, officers, directors, employees, attorneys, advisors, representatives, principals, and affiliates (other than the Consultant or the Consultant Indemnified Parties) (collectively, "**Merchant Indemnified Parties**" and each a "**Merchant Indemnified Party**") harmless from and against all liabilities, claims, demands, damages, costs and expenses (including reasonable attorneys' fees) arising from or related to: (i) the willful or negligent acts or omissions of the Consultant Indemnified Parties; (ii) the material breach of any provision of, or the failure to perform any obligation under, this Agreement by the Consultant; (iii) any harassment, discrimination or violation of any laws or regulations or any other unlawful, tortious or otherwise actionable treatment of Merchant Indemnified Parties, or Merchants' customers by the Consultant or any of the Consultant Indemnified Parties; and (iv) any claims made by any party engaged by the Consultant as an employee, agent, representative or independent contractor arising out of such engagement, including, without limitation, the Supervisors.

9. Insurance

(a) Merchants' Insurance Obligations

The Merchants shall maintain throughout the Sale Term all liability insurance policies covering injuries to persons and property in or in connection with the Stores that are maintained by the Merchants and in effect as of the date of this Agreement, and shall cause the Consultant to be named an additional insured with respect to all such policies, and such policies shall be primary and non-contributory with waiver of subrogation in favor of the Consultant. At the Consultant's request, the Merchants shall provide the Consultant with a certificate or certificates evidencing the insurance coverage required hereunder. In addition, the Merchants shall maintain throughout the Sale Term, in such amounts as they currently have in effect, workers compensation insurance in compliance with all statutory requirements.

(b) Consultant's Insurance Obligations

The Consultant shall maintain (at its sole cost and expense) throughout the Sale Term, commercial general liability insurance, in such amounts as are reasonable and consistent with its

ordinary practices, covering injuries to persons and property in connection with the Consultant's provision of services hereunder, and shall cause the Merchants to be named as additional insureds with respect to all such policies. At the Merchants' request, the Consultant shall provide the Merchants with a certificate evidencing the insurance coverage required hereunder. In addition, the Consultant shall maintain throughout the Sale Term, workers' compensation insurance in compliance with all statutory requirements. Further, should the Consultant employ or engage third parties to perform any of the Consultant's undertakings with regard to this Agreement, the Consultant will ensure that such third parties are covered by the Consultant's insurance or maintain all of the same insurance as the Consultant is required to maintain pursuant to this paragraph and name the Merchants as additional insureds under the policy for each such insurance.

10. Going Concern Sale and Website Sales

(a) The Parties acknowledge and agree that in the event of one or more going concern transactions, including to any related party, for any Merchant's business or any portion thereof, Merchant is entitled to remove any Stores from the Sale in accordance with Section 2(d) and:

(i) the Parties shall work cooperatively and in good faith to modify the transaction contemplated hereunder appropriately and the Parties shall:

(A) agree to a revised Expense Budget to reflect the costs of running the Sale at the Stores included on the Updated Store List; and

(B) agree on appropriate advertising regarding the Sale to be included on the Websites (as defined below), including, without limitation, with respect to store locator and a headline banner promoting the Sale;

(ii) Merchants shall not, and shall use commercially reasonable efforts to ensure that any going concern buyer does not, offer for sale through the Websites or other e-commerce platform, any goods included among the Merchandise at an effective price, determined on an item-by-item and SKU basis (after accounting for all applicable discounts, promotions, coupons, programs), less than the then-current price offered in the Stores for such items as part of the Sale; and

(iii) notwithstanding anything contained herein, the Merchandise Fee and FF&E Fee will not apply to any Merchandise or FF&E included in the applicable going concern transaction(s), and no other fees, expenses, or other amounts arising following the date on which the applicable Stores are removed from the Sale in accordance with Section 2(d) will be payable to the Consultant hereunder in connection with such Merchandise and FF&E.

(b) The Merchants intend to continue the sale of goods via their webstores or e-commerce websites (collectively, the "**Websites**"). Any goods sold by the Merchants via any Websites during the Sale Term until and including January 31, 2025, shall be deemed excluded from the definition of Merchandise herein and not subject to the Merchandise Fee herein. In the event that the Merchants determine

to continue the Sale of Merchandise via any Websites for the period from and after February 1, 2025, the Merchandise Fee shall apply to such sales.

11. Representations, Warranties, Covenants and Agreements

(a) Representations and Covenants of Merchants

Each Merchant represents, warrants, covenants and agrees that, subject to the issuance of the Realization Process Approval Order: (i) it is duly organized, validly existing and in good standing under the local laws of organization, with full power and authority to execute and deliver this Agreement and to perform its obligations hereunder; (ii) the execution, delivery and performance of this Agreement has been duly authorized by all necessary actions of it and this Agreement constitutes a valid and binding obligation of it enforceable against it in accordance with its terms and conditions, and the consent of no other entity or person is required for it to fully perform all of its obligations herein; (iii) all ticketing of Merchandise at the Stores has been and will be done in accordance with such Merchant's customary ticketing practices; (iv) all normal course hard markdowns on the Merchandise have been, and will be, taken consistent with such Merchant's customary practices; and (v) subject to the Initial Order, the Realization Process Approval Order, any other Order of the Court, the Sale Guidelines and this Agreement, the Stores will be operated in the ordinary course of business in all respects, except as otherwise expressly agreed to by the Merchants and the Consultant, in consultation with the Monitor.

(b) Representations and Covenants of the Consultant

The Consultant represents, warrants, covenants and agrees that: (i) the Consultant is an unlimited liability company duly organized, validly existing and in good standing under the laws of its jurisdiction of organization, with full power and authority to execute and deliver this Agreement and to perform the Consultant's obligations hereunder; (ii) the execution, delivery and performance of this Agreement has been duly authorized by all necessary actions of the Consultant and this Agreement constitutes a valid and binding obligation of the Consultant enforceable against the Consultant in accordance with its terms and conditions, and the consent of no other entity or person is required for the Consultant to fully perform all of its obligations herein; (iii) the Consultant shall comply with and act in accordance with any and all applicable federal, provincial and local laws, rules, and regulations, and other legal obligations of all governmental authorities; (iv) no non-emergency repairs or maintenance in the Stores will be conducted without the Merchants' prior written consent; (v) the Consultant will not take any disciplinary action against any employee of any Merchant; and (vi) the Consultant is not a non-resident of Canada pursuant to the *Income Tax Act* (Canada) and shall provide Merchants with its relevant sales tax numbers prior to the Sale.

(c) Confirmations of the Parties

(i) Except as may be provided otherwise in the Realization Process Approval Order or any order of the Court, the Consultant shall assist the Merchants with respect to the legal requirements of effecting the Sale as a "store closing", "everything must go", "everything on sale", "going out of business" or other mutually agreed upon theme in compliance, if required with applicable provincial and local "going out of business" laws and assist

in obtaining all permits and governmental consents required in order to conduct the Sale under such laws.

(ii) Merchants shall seek Court approval of this Agreement and the Sale Guidelines pursuant to the Realization Process Approval Order. The Parties expressly acknowledge and agree that the entering into of this Agreement by the Merchants is subject to the issuance of the Realization Process Approval Order approving, among other things, this Agreement, the Sale Guidelines and the conduct of the Sale and that, should the Realization Process Approval Order not be obtained, this Agreement shall be deemed terminated as of the date the Court denies the request for entry of the Realization Process Approval Order.

(iii) The Consultant shall conduct the Sale in accordance with the terms of this Agreement, the Realization Process Approval Order, and the Sale Guidelines.

12. Termination

The following shall constitute "**Termination Events**" hereunder:

(a) A Merchant's or the Consultant's failure to perform any of their respective material obligations hereunder, which failure shall continue uncured seven (7) days after receipt of written notice thereof to the defaulting Party;

(b) Any representation or warranty made by a Merchant or the Consultant is untrue in any material respect as of the date made or at any time and throughout the Sale Term; or

(c) The Sale is terminated or materially interrupted or impaired for any reason, including but not limited to an order of the Court, other than as a result of an Event of Default (as defined below) by the Consultant or the Merchants.

If a Termination Event occurs, (i) the non-defaulting Party in the event of a Termination Event arising under subparagraphs (a) or (b) above (an "**Event of Default**"), or (ii) either Party in the event of a Termination Event arising under subparagraph (c) above, may, in its discretion, elect to terminate this Agreement by providing seven (7) business days' written notice thereof to the other Party and, in the case of an Event of Default, in addition to terminating this Agreement, pursue any and all rights and remedies and damages resulting from such Event of Default.

Merchants shall have the right to terminate this Agreement in the event that they remove all Stores from the Sale in pursuant to Section 2(d) (which, for greater certainty, requires no less than 14 days' written notice if Stores are removed from the Sale at any time after January 31, 2025, during which notice period, Consultant shall continue to earn the Merchandise Fee on the Sale of Merchandise from such Stores).

If this Agreement is terminated, the Merchants shall be obligated to pay the Consultant all amounts due and owing by the Merchants to the Consultant under this Agreement through and

including the termination date of the Agreement, subject to the rights of the Merchants in the event of an Event of Default by the Consultant. For greater certainty, Consultant shall be entitled to apply the Special Purpose Payment in accordance with the terms of this Agreement if this Agreement is terminated pursuant to this Section.

13. Notices

All notices, certificates, approvals, and payments provided for herein shall be sent by electronic mail or by recognized overnight delivery service as follows: (a) to any Merchant, c/o Osler, Hoskin and Harcourt LLP, 100 King Street West, 1 First Canadian Place, Suite 6200, Toronto, ON M5X 1B8, Attn: Tracy C. Sandler, Email: tsandler@osler.com and Sean Stidwill, Email: sstidwill@osler.com; (b) to the Consultant: c/o Tiger Capital Group, LLC, 60 State Street, 11th Floor, Boston, MA 02109 attn. Mark Naughton, General Counsel, Email: MNaughton@TigerGroup.com and Bradley Snyder, Email bsnyder@tigergroup.com, with a copy to Stikeman Elliott LLP, 199 Bay Street, 5300 Commerce Court West, Toronto, ON M5L 1B9, Attn: Elizabeth Pillon, Email: epillon@stikeman.com and Philip Yang, Email: pyang@stikeman.com; or (c) such other address as may be designated in writing by the Merchants or the Consultant, and in each case, with a copy to the Monitor at: Alvarez & Marsal Canada Inc., Royal Bank Plaza, South Tower, Suite 3500 – 200 Bay Street, Toronto, ON M5J 2J1, Attn: Joshua Nevsky, Email: jnevsky@alvarezandmarsal.com with a further copy to Goodmans LLP, Bay Adelaide Centre - West Tower, 333 Bay Street, Suite 3400, Toronto, ON M5H 2S7, Attn: Brendan O'Neill, Email: boneill@goodmans.ca and Bradley Wiffen, Email: bwiffen@goodmans.ca.

14. Independent Consultant

The Consultant's relationship to the Merchants is that of an independent contractor without the capacity to bind the Merchants in any respect. No employer/employee, principal/agent, joint venture or other such relationship is created by this Agreement. The Merchants shall have no control over the hours that the Consultant or its employees or assistants or the Supervisors work or the means or manner in which the services that will be provided are performed and the Consultant is not authorized to enter into any contracts or agreements on behalf of the Merchant or to otherwise create any obligations of the Merchants to third parties, unless authorized in writing to do so by the Merchants. Nothing herein constitutes any form of landlord and tenant relationship between the Merchants and the Consultant or grants the Consultant any interest in the Stores or the underlying lease agreements.

15. Non-Assignment

Subject to Section 16 below, neither this Agreement nor any of the rights hereunder may be transferred or assigned by any Party without the prior written consent of the other Parties and the Monitor. No modification, amendment or waiver of any of the provisions contained in this Agreement, or any future representation, promise or condition in connection with the subject matter of this Agreement, shall be binding upon any Party to this Agreement unless made in writing and signed by a duly authorized representative or agent of such Party. This Agreement shall be binding upon and inure to the benefit of the Parties and their respective legal representatives, successors and permitted assigns.

16. Syndication of Transaction

Consultant shall have the right, but not the obligation, to syndicate the transaction contemplated by this Agreement subject to the prior written consent of Merchants and the Monitor, and if syndicated, this Agreement shall be deemed amended and restated to expressly name such parties as parties hereto and such parties shall thereafter be deemed to be included in references to "Consultant" hereunder for all purposes.

17. Severability

If any term or provision of this Agreement, as applied to either Party or any circumstance, for any reason shall be declared by a court of competent jurisdiction to be invalid, illegal, unenforceable, inoperative or otherwise ineffective, that provision shall be limited or eliminated to the minimum extent necessary so that this Agreement shall otherwise remain in full force and effect and enforceable. If the surviving portions of the Agreement fail to retain the essential understanding of the Parties, the Agreement may be terminated by mutual consent of the Parties.

18. Governing Law, Venue, Jurisdiction and Jury Waiver

This Agreement, and its validity, construction and effect, shall be governed by and enforced in accordance with the laws of the Province of Ontario (without reference to the conflicts of laws provisions therein) and the laws of Canada applicable therein. The Merchants and the Consultant waive their respective rights to trial by jury of any cause of action, claim, counterclaim or cross-complaint in any action, proceeding and/or hearing brought by either the Consultant against the Merchants or the Merchants against the Consultant on any matter whatsoever arising out of, or in any way connected with, this Agreement, the relationship between the Merchants and the Consultant, any claim of injury or damage or the enforcement of any remedy under any law, statute or regulation, emergency or otherwise, now or hereafter in effect (an "**Agreement Related Dispute**"). The Parties hereby attorn to the exclusive jurisdiction of the Court to determine any Agreement Related Dispute.

19. Entire Agreement

Other than with respect to the Confidentiality Agreements, this Agreement, together with all additional schedules and exhibits attached hereto, constitutes a single, integrated written contract expressing the entire agreement of the Parties concerning the subject matter hereof. No covenants, agreements, representations or warranties of any kind whatsoever have been made by any Party except as specifically set forth in this Agreement. All prior agreements, discussions and negotiations are entirely superseded by this Agreement.

20. Execution

This Agreement may be executed simultaneously in counterparts (including by means of electronic mail or portable document format (pdf) signature pages), any one of which need not contain the signatures of more than one Party, but all such counterparts taken together shall constitute one and the same instrument. This Agreement, and any amendments hereto, to the extent signed and delivered by means of electronic mail or electronic transmission in portable document format (pdf), shall be treated in all manner and respects as an original thereof and shall be

considered to have the same binding legal effects as if it were the original signed version thereof delivered in person.

21. Dollars

The Expense Budget expresses amounts in Canadian dollars. All references to monetary amounts in this Agreement are in Canadian dollars.

[Remainder of page intentionally left blank. Signature page follows.]

IN WITNESS WHEREOF, the undersigned have duly executed this Agreement as of the date first written above.

COMARK HOLDINGS INC.

By: _____
Name: Shamsh Kassam
Title: Director

BOOTLEGGER CLOTHING INC.

By: _____
Name: Shamsh Kassam
Title: Director

CLEO FASHIONS INC.

By: _____
Name: Shamsh Kassam
Title: Director

RICKI'S FASHIONS INC.

By: _____
Name: Shamsh Kassam
Title: Director

TIGER ASSET SOLUTIONS CANADA, ULC

By: _____
Name: Bradley W. Snyder
Title: Executive Managing Director

IN WITNESS WHEREOF, the undersigned have duly executed this Agreement as of the date first written above.

COMARK HOLDINGS INC.

By: _____
Name:
Title:

BOOTLEGGER CLOTHING INC.

By: _____
Name:
Title:

CLEO FASHIONS INC.

By: _____
Name:
Title:

RICKI'S FASHIONS INC.

By: _____
Name:
Title:

TIGER ASSET SOLUTIONS CANADA, ULC

By: _____
Name: Mark Naughton
Title: Senior General Counsel

Exhibit "A-1"

Stores

Loc ID	Loc No	Location Name	Location Banner	Location Concept
20045	45	B REGENT MALL	Bootlegger	SA
30050	50	REGENT	Rickis	SA
40051	51	REGENT	cleo	SA
20052	52	B MICMAC MALL	Bootlegger	SA
30274	274	AURORA-RC	Rickis	RC
40274	274	AURORA-RC	cleo	RC
30058	58	MIC MAC	Rickis	SA
40062	62	ST. JOHNS EAST	cleo	SA
40078	78	CHAMPLAIN	cleo	SA
30080	80	AVALON	Rickis	SA
30082	82	CORNERBRK	Rickis	SA
40084	84	CORNERBRK	cleo	SA
30087	87	CHAMPLAIN	Rickis	SA
40088	88	AVALON	cleo	SA
20090	90	B CHAMPLAIN PLACE	Bootlegger	SA
20092	92	B AVALON MALL	Bootlegger	SA
20094	94	B CORNER BROOK PLAZA	Bootlegger	SA
40096	96	THE VILLAGE	cleo	SA
30097	97	MAYFLOWER	Rickis	SA
20099	99	B MAYFLOWER MALL	Bootlegger	SA
30254	254	LANSDOWNE	Rickis	SA
40256	256	LANDDOWNE	cleo	SA
30258	258	BILLINGS BR	Rickis	SA
30355	355	BARRIE-RC	Rickis	RC
40355	355	BARRIE-RC	cleo	RC
30260	260	BAYSHORE	Rickis	SA
40267	267	ST. LAURENT	cleo	SA
30270	270	GEORGIAN	Rickis	SA
30271	271	OSHAWA	Rickis	SA
30281	281	BURINGTON-RC	Rickis	RC
40281	281	BURINGTON-RC	cleo	RC
40275	275	NEW SUDBURY	cleo	SA
30332	332	COBOURG-RB	Rickis	RB
30590	590	CORNWALL-RC	Rickis	RC
30283	283	PEN CENTRE	Rickis	SA
30285	285	GREEN LANE	Rickis	SA
40590	590	CORNWALL-RC	cleo	RC
30739	739	DUGGAN-RB	Rickis	RB
20287	287	RBC OAKVILLE	Bootlegger	RBC
30287	287	OAKVILLE-RBC	Rickis	RBC
40287	287	OAKVILLE-RBC	cleo	RBC
30288	288	QUINTE	Rickis	SA

30289	289	DURHAM	Rickis	SA
30291	291	CARLINGWOOD	Rickis	SA
30298	298	VAUGHN	Rickis	SA
30335	335	EASTGATE-RC	Rickis	RC
40335	335	EASTGATE-RC	cleo	RC
30768	768	EDM.NE-RC	Rickis	RC
40768	768	EDM.NE-RC	cleo	RC
20307	307	B WHITEOAKS MALL	Bootlegger	SA
30311	311	KINGS CROSS	Rickis	SA
30313	313	CATARAQUI	Rickis	SA
30259	259	ETOBICOKE-RC	Rickis	RC
40259	259	ETOBICOKE-RC	cleo	RC
30320	320	INTERCITY	Rickis	SA
30635	635	FRONTIER-RB	Rickis	RB
30286	286	GUELPH-RC	Rickis	RC
40286	286	GUELPH-RC	cleo	RC
30483	483	HAMILTON-RC	Rickis	RC
40483	483	HAMILTON-RC	cleo	RC
30302	302	IRA NEEDLES-RC	Rickis	RC
40302	302	IRA NEEDLES-RC	cleo	RC
30536	536	KENASTON-RC	Rickis	RC
40536	536	KENASTON-RC	cleo	RC
30389	389	LAMBTON-RC	Rickis	RC
40338	338	BURLINGTON	cleo	SA
40389	389	LAMBTON-RC	cleo	RC
30339	339	LINDSAY-RB	Rickis	RB
20345	345	B NEW SUDBURY SHOPPING CENTRE	Bootlegger	SA
20346	346	B INTERCITY MALL	Bootlegger	SA
30351	351	BRAMALEA	Rickis	SA
40352	352	CARLINGWOOD	cleo	SA
40353	353	QUINTE	cleo	SA
30755	755	LONDNDERRY-RB	Rickis	RB
30396	396	LONDON N.-RC	Rickis	RC
40396	396	LONDON N.-RC	cleo	RC
30368	368	LMERIDGE	Rickis	SA
30371	371	MILTON	Rickis	SA
40384	384	MILTON	cleo	SA
20385	385	B QUINTE MALL	Bootlegger	SA
30388	388	WHITEOAKS	Rickis	SA
20755	755	LONDONDERRY MALL	Bootlegger	RB
30676	676	MEDICINE HAT-RC	Rickis	RC
40676	676	MEDICINE HAT-RC	cleo	RC
30300	300	OSHAWA-RC	Rickis	RC
40403	403	GEORGETOWN	cleo	SA

20406	406	B GEORGIAN MALL	Bootlegger	SA
40407	407	UPPER CANADA	cleo	SA
40410	410	WHITEOAKS	cleo	SA
40417	417	CORNWALL SQ.	cleo	SA
30426	426	LYNDEN PARK	Rickis	SA
20430	430	B CAMBRIDGE CENTRE	Bootlegger	SA
40435	435	STONE ROAD	cleo	SA
40436	436	BRAMALEA	cleo	SA
30439	439	STONE ROAD	Rickis	SA
40442	442	CAMBRIDGE	cleo	SA
40444	444	ERIN MILLS	cleo	SA
40445	445	KINGS CROSSING	cleo	SA
40300	300	OSHAWA-RC	cleo	RC
30735	735	PARKLAND-RB	Rickis	RB
20456	456	B PEN CENTRE	Bootlegger	SA
30461	461	STATION MALL	Rickis	SA
30462	462	CAMBRIDGE	Rickis	SA
30464	464	CONESTOGA	Rickis	SA
40466	466	TD CENTRE	cleo	SA
30470	470	ST. LAURENT	Rickis	SA
40474	474	PEN CENTRE	cleo	SA
40476	476	CATARAQUI	cleo	SA
20481	481	EASTGATE MALL	Bootlegger	SA
30448	448	PEMBROKE-RB	Rickis	RB
30333	333	PL.D'ORLEANS-RC	Rickis	RC
30486	486	NEW SUDBURY	Rickis	SA
20487	487	WINDSOR CROSSING	Bootlegger	SA
40488	488	OSHAWA	cleo	SA
30489	489	OTTAWA TRNYRD	Rickis	SA
40490	490	OTTAWA TRNYRD	cleo	SA
40491	491	DEVONSHIRE	cleo	SA
40333	333	PL.D'ORLEANS-RC	cleo	RC
20909	909	RB TAMARACK SHOPPING CENTRE	Bootlegger	RB
40493	493	STATION MALL	cleo	SA
30494	494	TECUMSEH	Rickis	SA
20495	495	B STATION MALL	Bootlegger	SA
30496	496	DEVONSHIRE	Rickis	SA
30498	498	ARTHUR ST	Rickis	SA
30504	504	POLO PARK	Rickis	SA
40505	505	POLO PARK	cleo	SA
20510	510	B POLO PARK SHOPPING CENTRE	Bootlegger	SA
20511	511	B ST. VITAL CENTRE	Bootlegger	SA
30515	515	BRANDON	Rickis	SA
30519	519	KILDONAN	Rickis	SA

40521	521	BRANDON	cleo	SA
30522	522	GARDEN CITY	Rickis	SA
30524	524	ST. VITAL	Rickis	SA
40525	525	KILDONAN	cleo	SA
20533	533	B BRANDON SHOPPERS MALL	Bootlegger	SA
20615	615	RB CENTRE AT CIRCLE & EIGHTH	Bootlegger	RB
20739	739	RB DUGGAN MALL	Bootlegger	RB
40539	539	ST. VITAL	cleo	SA
40559	559	LAWSON	cleo	SA
20581	581	B SOUTHLAND MALL	Bootlegger	SA
30585	585	NORTHGATE	Rickis	SA
30587	587	Grasslands	Rickis	SA
20588	588	B NORTHGATE MALL	Bootlegger	SA
20635	635	RB FRONTIER MALL	Bootlegger	RB
20339	339	RB LINDSAY SQUARE	Bootlegger	RB
30592	592	PARKLAND	Rickis	SA
20593	593	B LAWSON HEIGHTS	Bootlegger	SA
20596	596	B GATEWAY MALL	Bootlegger	SA
20599	599	B MIDTOWN PLAZA	Bootlegger	SA
30601	601	MIDTOWN	Rickis	SA
30602	602	LAWSON	Rickis	SA
20606	606	B PARKLAND MALL SHOPPING CENTRE	Bootlegger	SA
30612	612	SOUTHLAND	Rickis	SA
40614	614	NORTHGATE	cleo	SA
20332	332	RB NORTHUMBERLAND MALL	Bootlegger	RB
20735	735	RB PARKLAND MALL	Bootlegger	RB
40618	618	SOUTHLAND	cleo	SA
20448	448	RB PEMBROKE MALL	Bootlegger	RB
20858	858	RB PICCADILLY MALL	Bootlegger	RB
20359	359	RB PICKERING TOWN CENTRE	Bootlegger	RB
20634	634	RB SWIFT CURRENT MALL	Bootlegger	RB
20336	336	RB TIMMINS SQUARE	Bootlegger	RB
20730	730	RB TRICITY MALL	Bootlegger	RB
40639	639	MARKET MALL	cleo	SA
30651	651	EMERALD HILLS	Rickis	SA
20656	656	B SOUTHCENTRE MALL	Bootlegger	SA
30661	661	SOUTH TRAIL	Rickis	SA
30665	665	MAYFIELD	Rickis	SA
20668	668	B LLOYD MALL	Bootlegger	SA
40670	670	WESTLAND	cleo	SA
40671	671	SOUTHCENTRE	cleo	SA
30672	672	ED.CITY CENTRE	Rickis	SA
30674	674	CROSS IRON	Rickis	SA
20637	637	RB VICTORIA SQUARE	Bootlegger	RB

20747	747	RB WESTLAND MARKET MALL	Bootlegger	RB
20677	677	B CROSSIRON MILLS	Bootlegger	SA
30678	678	LLOYDMALL	Rickis	SA
20679	679	B BOWER PLACE	Bootlegger	SA
30680	680	SOUTHCENTRE	Rickis	SA
30681	681	S.EDM.COMM.	Rickis	SA
20683	683	B CALGARY MARKET MALL	Bootlegger	SA
20689	689	B WEST EDMONTON MALL	Bootlegger	SA
40690	690	SUNRIDGE	cleo	SA
40691	691	PARKLAND	cleo	SA
30692	692	THE CORE	Rickis	SA
20694	694	B MEDICINE HAT MALL	Bootlegger	SA
40695	695	PARK PLACE	cleo	SA
30696	696	KINGSWAY	Rickis	SA
20700	700	B SHERWOOD PARK MALL	Bootlegger	SA
30701	701	SUNRIDGE	Rickis	SA
30703	703	WEST EDMONTON	Rickis	SA
40704	704	CROSS IRON	cleo	SA
20706	706	B KINGSWAY MALL	Bootlegger	SA
40708	708	SHERWOOD	cleo	SA
40710	710	KINGSWAY	cleo	SA
30715	715	BOWER PLACE	Rickis	SA
30720	720	SHERWOOD	Rickis	SA
30858	858	SALMON ARM-RB	Rickis	RB
30337	337	SEAWAY-RC	Rickis	RC
20732	732	B PARK PLACE	Bootlegger	SA
40337	337	SEAWAY-RC	cleo	RC
30315	315	SUNRISE-RC	Rickis	RC
20736	736	B PRAIRIE MALL	Bootlegger	SA
40315	315	SUNRISE-RC	cleo	RC
30634	634	SWIFT CRRNT-RB	Rickis	RB
40740	740	WEST EDMONTON	cleo	SA
30741	741	PRAIRIE MALL	Rickis	SA
20744	744	RBC ST ALBERT CENTRE	Bootlegger	RBC
30744	744	ST. ALBERT-RBC	Rickis	RBC
40744	744	ST. ALBERT-RBC	cleo	RBC
30909	909	TAMARACK-RB	Rickis	RB
30615	615	THE CIRCLE-RB	Rickis	RB
20748	748	B PETER POND SHOPPING CENTRE	Bootlegger	SA
40750	750	THE CORE	cleo	SA
30336	336	TIMMINS-RB	Rickis	RB
30730	730	TRICITY-RB	Rickis	RB
30760	760	PETER POND	Rickis	SA
30765	765	PARK PLACE	Rickis	SA

30767	767	CALG.MARKT MLL	Rickis	SA
30637	637	VICTORIA-RB	Rickis	RB
30747	747	WESTLAND-RB	Rickis	RB
40834	834	HILLSIDE	cleo	SA
40836	836	COQUITLAM	cleo	SA
20841	841	B TOTEM MALL	Bootlegger	SA
20842	842	RBC HANEY PLACE	Bootlegger	RBC
30842	842	HANEY PLACE-RBC	Rickis	RBC
40842	842	HANEY PLACE-RBC	cleo	RBC
30844	844	COQUITLAM	Rickis	SA
20847	847	B WANETA PLAZA	Bootlegger	SA
30848	848	PINE CENTRE	Rickis	SA
30053	53	WHEELER-RC	Rickis	RC
40053	53	WHEELER-RC	cleo	RC
20859	859	B DRIFTWOOD MALL	Bootlegger	SA
30860	860	HILLSIDE	Rickis	SA
20869	869	B GUILDFORD TOWN CENTRE	Bootlegger	SA
20874	874	B PINE CENTRE MALL	Bootlegger	SA
30878	878	WILLOWBROOK	Rickis	SA
30880	880	WOODGROVE	Rickis	SA
20881	881	B SEVEN OAKS SHOPPING CENTRE	Bootlegger	SA
30882	882	SEVEN OAKS	Rickis	SA
40886	886	WOODGROVE	cleo	SA
40890	890	ABERDEEN	cleo	SA
20900	900	B WOODGROVE CENTRE	Bootlegger	SA
20901	901	B COQUITLAM CENTRE	Bootlegger	SA
30902	902	COTTONWOOD	Rickis	SA
20905	905	B ORCHARD PARK SHOPPING CENTRE	Bootlegger	SA
30906	906	ORCHARD PARK	Rickis	SA
30492	492	WINDSOR-RC	Rickis	RC
40492	492	WINDSOR-RC	cleo	RC
40912	912	ORCHARD PARK	cleo	SA
20913	913	B VILLAGE GREEN MALL	Bootlegger	SA
20916	916	B WILLOWBROOK MALL	Bootlegger	SA
20917	917	B COTTONWOOD MALL	Bootlegger	SA
20920	920	B COUNTRY CLUB MALL	Bootlegger	SA
40923	923	SEVEN OAKS	cleo	SA
30925	925	ABERDEEN	Rickis	SA
20928	928	B ABERDEEN MALL	Bootlegger	SA

Exhibit "A-2"

Warehouse(s)

Loc Number	Address	City	Province	Postal Code
8000	1530 Gamble Pl	Winnipeg	Manitoba	R3T 1N6

Exhibit "B"

Sale Guidelines

[see attached]

SALE GUIDELINES

Capitalized terms used but not defined in these sale guidelines ("**Sale Guidelines**") shall have the meanings ascribed to them in the Amended and Restated Initial Order of the Ontario Superior Court of Justice (Commercial List) (the "**Court**") dated January 17, 2025 (as further amended and/or restated from time to time, the "**ARIO**") made in the proceedings in respect of Comark Holdings Inc., Bootlegger Clothing Inc., cleo fashions Inc., and Ricki's Fashions Inc.(each, a "**Merchant**" and collectively, the "**Merchants**") under the *Companies' Creditors Arrangement Act* ("**CCAA**") and the Realization Process Approval Order (as defined below), as applicable.

The following procedures shall apply to the sale (the "**Sale**") of merchandise, inventory, furniture, fixtures and equipment at the Merchants' retail store locations as set forth in the Updated Store List attached as Exhibit "A-1" to the Consulting Agreement (as defined below), as may be amended from time to time in accordance with the Consulting Agreement (individually, a "**Store**" and, collectively, the "**Stores**").

1. Except as otherwise expressly set out herein, and subject to: (i) the Order of the Court dated January 17, 2025, (the "**Realization Process Approval Order**") approving, *inter alia*, the consulting agreement between the Merchants and Tiger Asset Solutions Canada, ULC (the "**Consultant**") dated as of January 14, 2025 (as amended and restated from time to time in accordance with the Realization Process Approval Order, the "**Consulting Agreement**") and the transactions contemplated thereunder; (ii) any further Order of the Court; and/or (iii) any subsequent written agreement between a Merchant and its applicable Landlord(s) and approved by the Consultant, the Sale shall be conducted in accordance with the terms of the applicable Leases. However, nothing contained herein shall be construed so as to create or impose upon the Merchants or the Consultant any additional restrictions not contained in the applicable Lease.

2. The Sale shall be conducted so that each Store remains open during its normal hours of operation provided for in its respective Lease, until the earlier of (i) the applicable Sale Termination Date (as defined below) and (ii) the date on which such Lease is disclaimed in accordance with the ARIO and CCAA or otherwise consensually terminated by the applicable Merchant(s) and Landlord. The Sale at the Stores shall end on the Sale Termination Date determined pursuant to the Consulting Agreement, which shall be no later than April 30, 2025 (such date, or such other date as determined in accordance with the Realization Process Approval Order, the "**Sale Termination Date**"). Rent payable under the Leases shall be paid by the applicable Merchant(s) up to and including the effective date of an applicable lease disclaimer or mutual termination as provided in the ARIO, which, for greater certainty, may be up to seven (7) days following the applicable Sale Termination Date (the "**FF&E Removal Period**").

3. The Sale shall be conducted in accordance with applicable federal, provincial and municipal laws and regulations, unless otherwise authorized under the CCAA, the ARIO, the Realization Process Approval Order, or otherwise ordered by the Court.

4. All display and hanging signs used by the Consultant in connection with the Sale shall be professionally produced and all hanging signs shall be hung in a professional manner. Notwithstanding anything to the contrary contained in the Leases, the Consultant may advertise the Sale at the Stores as a "everything on sale", "everything must go", "store closing" and/or similar theme sale at the Stores (provided, however, that no signs shall advertise the Sale as a "bankruptcy", a "liquidation" or a "going out of business" sale, unless otherwise agreed between the Consultant and applicable Landlord, it being understood that the French equivalent of "clearance" is "liquidation" and is permitted to be used). Forthwith upon request from a Landlord, the Landlord's counsel, the Merchants or the Monitor, the Consultant shall provide the proposed signage packages

along with proposed dimensions by e-mail to the applicable Landlord(s) or to their counsel of record and the applicable Landlord shall notify the Consultant of any requirement for such signage to otherwise comply with the terms of the Lease and/or these Sale Guidelines and where the provisions of the Lease conflict with these Sale Guidelines, these Sale Guidelines shall govern. The Consultant shall not use neon or day-glow signs or any handwritten signage (save that handwritten "you pay" or "topper" signs may be used). If a Landlord is concerned with "store closing" signs being placed in the front window of a Store or with the number or size of the signs in the front window, the applicable Merchant, the Consultant and such Landlord will work together to resolve the dispute. Furthermore, with respect to enclosed mall Store locations without a separate entrance from the exterior of the enclosed mall, no exterior signs or signs in common areas of a mall shall be used unless explicitly permitted by the applicable Lease and shall otherwise be subject to all applicable laws. In addition, the Consultant shall be permitted to utilize exterior banners/signs at stand alone, strip mall or enclosed mall Store locations with a separate entrance from the exterior of the enclosed mall; provided, however, that: (i) no signage in any other common areas of a mall shall be used unless explicitly permitted by the applicable Lease and shall otherwise be subject to all applicable laws; and (ii) where such banners are not explicitly permitted by the applicable Lease and the applicable Landlord requests in writing that banners are not to be used, no banners shall be used absent further Order of the Court, which may be sought on an expedited basis on notice to the recipients listed in the service list in respect of these CCAA proceedings (the "**Service List**"). Any banners used shall be located or hung so as to make clear that the Sale is being conducted only at the affected Store and shall not be wider than the premises occupied by the affected Store. All exterior banners shall be professionally hung and to the extent that there is any damage to the façade of the premises of a Store as a result of the hanging or removal of the exterior banner, such damage shall be professionally repaired at the expense of the Consultant.

5. The Consultant shall be permitted to utilize sign-walkers and street signage; provided, however, that such sign-walkers and street signage shall not be located on the shopping centre or mall premises.

6. The Consultant shall be entitled to include additional merchandise in the Sale; provided that: (i) the additional merchandise is owned by a Merchant, is currently in the possession of, or in the control of, a Merchant (including in any Warehouse (as defined in the Consulting Agreement) used by a Merchant), or is ordered from an existing supplier in respect of Merchants' existing SKUs by or on behalf of a Merchant, including merchandise currently in transit to a Merchant (including any Warehouse used by a Merchant) or a Store; and (ii) the additional merchandise is of the type and quality typically sold in the Stores and is consistent with any restriction on the usage of the Stores as set out in the applicable Leases.

7. Conspicuous signs shall be posted in the cash register areas of each of the Stores to the effect that all sales are "final".

8. The Consultant shall not distribute handbills, leaflets or other written materials to customers outside of any of the Stores on a Landlord's property, unless explicitly permitted by the applicable Lease or if distribution is customary in the shopping centre in which the Store is located. Otherwise, the Consultant may solicit customers in the Stores themselves. The Consultant shall not use any giant balloons, flashing lights or amplified sound to advertise the Sale or solicit customers, except as explicitly permitted under the applicable Lease or agreed to by the applicable Landlord, and no advertising trucks shall be used on Landlord property or mall ring roads, except as explicitly permitted under the applicable Lease or as otherwise agreed to by such Landlord.

9. At the conclusion of the Sale and the FF&E Removal Period in each Store, the Consultant shall arrange that the premises for each Store are in "broom-swept" and clean condition and shall arrange that the Stores are in the same condition as on the commencement of the Sale, ordinary wear and tear excepted. No property of any Landlord of a Store shall be removed or sold during the Sale. No permanent fixtures (other than the FF&E (as defined below)) may be removed without the applicable Landlord's written consent unless otherwise provided by the applicable Lease and in accordance with the ARIO and the Realization Process Approval Order. Unless otherwise agreed with the applicable Landlord, any trade fixtures or personal property left in a Store after the applicable FF&E Removal Period, in respect of which the applicable Lease has been disclaimed by a Merchant, shall be deemed abandoned. The applicable Landlord shall have the right to dispose of any goods left in the Store as the Landlord chooses, without any liability whatsoever on the part of such Landlord. Nothing in this paragraph shall derogate from or expand upon the Consultant's obligations under the Consulting Agreement.

10. Subject to the terms of paragraph 9 above, the Consultant may also sell existing goods, furniture, trade fixtures, equipment and/or improvements to real property that are located in the Stores during the Sale and the FF&E Removal Period (collectively, the "**FF&E**"). For greater certainty, FF&E does not include any portion of a Store's mechanical, electrical, plumbing, security, HVAC, sprinkler, fire suppression, or fire alarm systems (including related fixtures and affixed equipment). The Merchants and the Consultant may advertise the sale of the FF&E consistent with these Sale Guidelines on the understanding that the applicable Landlord may require such signs to be placed in discreet locations within the Stores reasonably acceptable to such Landlord. Additionally, the purchasers of any FF&E sold during the Sale shall only be permitted to remove such FF&E either through the back shipping areas designated by the applicable Landlord or through other areas after regular Store business hours or through the front door of the Store during Store business hours if the FF&E can fit in a shopping bag, with the applicable Landlord's supervision if required by such Landlord and in accordance with the ARIO and the Realization Process Approval Order. The Consultant or Merchants, as applicable, shall repair any damage to the Stores resulting from the removal of any FF&E or personal property of a Merchant by the Consultant or by third party purchasers of FF&E or personal property from the Consultant.

11. The Consultant shall not make any alterations to interior or exterior Store lighting, except as authorized pursuant to the affected Lease. The hanging of exterior banners or other signage, where permitted in accordance with the terms of these Sale Guidelines, shall not constitute an alteration to a Store.

12. The Merchants hereby provides notice, including for purposes of the ARIO, to the Landlords of the Merchants' and the Consultant's intention to sell and remove FF&E from the Stores. The Consultant shall make commercially reasonable efforts to arrange with each Landlord represented by counsel on the Service List and with any other Landlord that so requests, a walk-through with the Consultant to identify any FF&E that is subject to the Sale. The relevant Landlord shall be entitled to have a representative present in the applicable Stores to observe such removal. If the relevant Landlord disputes the Consultant's entitlement to sell or remove any FF&E under the provisions of the applicable Lease, such FF&E shall remain on the premises and shall be dealt with as agreed between the applicable Merchant, the Consultant and such Landlord, or by further Order of the Court upon motion by the Merchants on at least two (2) business days' notice to such Landlord and the Monitor. If the applicable Merchant has disclaimed or resiliated the Lease governing such Store in accordance with the CCAA and the ARIO, 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 the CCAA and the ARIO), and the disclaimer or resiliation of the Lease shall be without prejudice to the applicable Merchant's or the Consultant's claim to the FF&E in dispute.

13. If a notice of disclaimer or resiliation of Lease is delivered pursuant to the CCAA and the ARIO to a Landlord while the Sale is ongoing and the Store in question has not yet been vacated, then: (i) during the notice period prior to the effective date of the disclaimer or resiliation, such Landlord may show the affected Store to prospective tenants during normal business hours, on giving the Merchants, the Monitor and the Consultant at least twenty-four (24) hours' prior written notice; and (ii) at the effective date of the disclaimer or resiliation, the relevant Landlord shall be entitled to take possession of any such Store without waiver of or prejudice to any claims or rights such Landlord may have against the applicable Merchant or any of its affiliates in respect of such Lease or Store; provided that, nothing herein shall relieve such Landlord of any obligation to mitigate any damages claimed in connection therewith.

14. The Consultant and its agents and representatives shall have the same access rights to each Store as the applicable Merchant under the terms of the applicable Lease, and the Landlords shall have access rights to the applicable Store as provided for in the applicable Lease (subject, for greater certainty, to any applicable stay of proceedings and the terms of the ARIO).

15. The Merchants and the Consultant shall not conduct any auctions of Merchandise or FF&E at any of the Stores.

16. The Consultant shall designate a party to be contacted by the Landlords should a dispute arise concerning the conduct of the Sale. The initial contact person(s) for the Consultant shall be Mark Naughton who may be reached by phone at (847) 372-8794 or email at mnaughton@tigergroup.com. If the parties are unable to resolve the dispute between themselves, the applicable Landlord or the Merchants shall have the right to schedule a "status hearing" before the Court on no less than two (2) days' written notice to the other party or parties and the Monitor, during which time the Consultant shall suspend all activity in dispute other than activities expressly permitted herein, pending determination of the matter by the Court; provided, however, subject to paragraph 4 of these Sale Guidelines, if a banner has been hung in accordance with these Sale Guidelines and is the subject of a dispute, the Consultant shall not be required to take any such banner down pending determination of any dispute.

17. Nothing herein or in the Consulting Agreement is, or shall be deemed to be, a sale, assignment, or transfer of any Lease to the Consultant nor a consent by any Landlord to the sale, assignment or transfer of any Lease, or shall, or shall be deemed to, or grant to any Landlord any greater rights in relation to the sale, assignment or transfer of any Lease than already exist under the terms of any such Lease.

18. These Sale Guidelines may be amended on a Store-by-Store basis, by written agreement between the applicable Merchant, the Consultant, and the applicable Landlord, with the consent of the Monitor; provided, however, that such amended Sale Guidelines shall not affect or bind any other Landlord not privy thereto without further Order of the Court approving such amended Sale Guidelines.

19. If there is a conflict between the Realization Process Approval Order, the Consulting Agreement and these Sale Guidelines, the order of priority of documents to resolve such conflicts is as follows: (1) the Realization Process Approval Order; (2) these Sale Guidelines; and (3) the Consulting Agreement.

Exhibit "C"

Expense Budget

[see attached]

Comark Holdings, Inc. Budget

Consultant Expenses:

Advertisement	$1,403,362
Supervision	2,353,862
Miscellaneous / Legal	85,000
Total Consultant Exp.	**$3,842,223**

Note(s):

(1) Assumes a 14.4-week Sale from Fri, 01/17 - Sun, 04/27.

This is Exhibit "G" referred to in the Affidavit of SHAMSH KASSAM sworn by SHAMSH KASSAM of the City of Vancouver, in the Province of British Columbia, before me at the City of Toronto, in the Province of Ontario, on January 16, 2025 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.

Commissioner for Taking Affidavits (or as may be)

SIERRA FARR

(LSO# 87551D)

DIP FINANCING TERM SHEET

Dated as of January 15, 2025

WHEREAS the Borrower (as defined below) is party to an amended and restated credit agreement dated as of September 9, 2024 (the "**Pre-Filing Credit Agreement**") among, *inter alia*, the Borrower, as borrower, other credit parties from time to time party thereto as guarantors, and Canadian Imperial Bank of Commerce, as lender (in such capacity, the "**Pre-Filing Lender**").

AND WHEREAS on January 7, 2025 (the "**Filing Date**"), the Borrower and the Guarantors (other than 9383921 Canada Inc.) commenced proceedings before the Ontario Superior Court of Justice (Commercial List) (the "**Court**"), an Initial Order (the "**Initial Order**") was issued pursuant to the *Companies' Creditors Arrangement Act* (Canada) (the "**CCAA**" and such proceedings being the "**CCAA Proceedings**") and Alvarez & Marsal Canada Inc. was appointed monitor (the "**Monitor**").

AND WHEREAS, pursuant to the Initial Order, the CCAA Court, among other things, (i) authorized the Applicants (as defined in the Initial Order) to continue their existing cash management arrangements, (ii) authorized and empowered the Borrower to continue to borrow from Canadian Imperial Bank of Commerce (the "**Interim Lender**") under the Revolving Credit under the Pre-Filing Credit Agreement in order to finance the DIP Parties' (defined below) working capital requirements and other general corporate purposes and costs of the CCAA Proceedings (each, an "**Interim Borrowing**" and collectively, the "**Interim Borrowings**"), provided that, among other things (a) such Interim Borrowings accrue interest at the default rates set out in the Pre-Filing Credit Agreement, and (b) the Interim Lender was granted a super priority charge on the Collateral (as defined below) as security for all such Interim Borrowings (the "**Interim Lender's Charge**").

AND WHEREAS, the Borrower requires additional funding to, among other things, fund the repayment of the Interim Borrowings, working capital requirements and other general corporate purposes, including the costs of the CCAA Proceedings during the pendency of the CCAA Proceedings, and the DIP Parties have concluded that the DIP Lender (as defined below) is the most cost effective and timely source of such funding that is available to the Borrower and appropriate in the circumstances.

AND WHEREAS, the DIP Lender has agreed to provide additional funding to the Borrower during the CCAA Proceedings on the terms and conditions set out in this term sheet (this "**Term Sheet**").

NOW THEREFORE, the parties, in consideration of the foregoing and the mutual agreements contained herein (the receipt and sufficiency of which are hereby acknowledged), agree as follows:

1.	**BORROWER:**	Comark Holdings Inc.
2.	**GUARANTORS:**	cleo fashions Inc. Ricki's Fashions Inc.

Bootlegger Clothing Inc.
9383921 Canada Inc.

(the Borrower, cleo fashions Inc., Ricki's Fashions Inc. and Bootlegger Clothing Inc. are collectively the "**DIP Parties**" and individually, a "**DIP Party**").

3. **DIP LENDER:** Canadian Imperial Bank of Commerce (in such capacity, the "**DIP Lender**").

4. **DEFINED TERMS** Unless otherwise defined herein, capitalized words and phrases used in this Term Sheet have the meanings given thereto in **Schedule "A"**.

5. **CURRENCY** Unless otherwise stated, all currency is in Canadian Dollars.

6. **DIP FACILITY:** $18 million (such amount, the "**Maximum Amount**") senior secured, super priority, debtor-in-possession, revolving credit facility (the "**DIP Facility**").

The DIP Facility shall be made available to the Borrower by way of advances in Canadian Dollars (Cdn.$) or U.S. Dollars (U.S.$), (each, a "**DIP Advance**") which in aggregate (after taking into consideration the Currency Exchange Rate for DIP Advances denominated in U.S. Dollars) shall not exceed the Maximum Amount. Each DIP Advance, other than in connection with the repayment of the Interim Borrowing Obligations (as defined below), shall be made upon the Borrower's written request to the DIP Lender (a "**DIP Advance Request**") executed by the Borrower. Notwithstanding the foregoing, the First Advance, at a minimum, shall be in Canadian Dollars in an amount sufficient to repay in full the Interim Borrowing Obligations.

Each DIP Advance Request shall (i) be in the form of **Schedule "B"**, (ii) specify the aggregate amount of the requested DIP Advance (which shall be a minimum of $25,000 in the applicable currency), and the date such DIP Advance is requested to be made by the DIP Lender (which shall be a Business Day and any such DIP Advance Request shall be received by the DIP Lender no later than 11:00 a.m. (Toronto time) on the day of the requested DIP Advance), (iii) contain the confirmations from the Borrower as set out in the notice of borrowing attached to this Term Sheet as **Schedule "B"**.

Each DIP Advance Request shall be deemed to be acceptable and shall be honoured by the DIP Lender unless the DIP Lender has objected thereto in writing setting out why the DIP Advance Request is not in compliance with this Term Sheet and/or the DIP Budget, by no later than 3:00 p.m. (Toronto time) on the date such DIP Advance

is requested to be made by the DIP Lender.

A copy of each DIP Advance Request shall be concurrently provided by the Borrower to the DIP Lender and the Monitor.

From the proceeds of the first DIP Advance under the DIP Facility (the "**First Advance**"), the Borrower shall indefeasibly pay, in full the (i) Interim Borrowings (such Interim Borrowings, together with (A) all interest accrued thereon, and (B) all Lender Expenses in connection with the Interim Borrowings, the "**Interim Borrowing Obligations**"), and (ii) the Commitment Fee (as defined below), in each case in accordance with the DIP Budget and, in the case of the Commitment Fee, in accordance with Section 19.

7. **PRE-FILING CREDIT AGREEMENT:** Except as expressly provided for herein, nothing in this Term Sheet shall amend or affect the rights, remedies and entitlements of the Interim Lender and Pre-Filing Lender, including the right to payment of interest, under or in respect of and in accordance with the Pre-Filing Credit Agreement, the Loan Documents, the Obligations, the Interim Borrowing Obligations or, subject to the Court Orders, restrict the enforcement by the Pre-Filing Lender of any such rights, remedies or entitlements.

8. **PURPOSE AND PERMITTED PAYMENTS** To provide for (i) the repayment of the Interim Borrowing Obligations, (ii) the payment of interest on the Obligations under the Credits and for greater certainty, including interest on the Interim Borrowings (in each case in accordance with the terms of the Pre-Filing Credit Agreement), (iii) payment of Lender Expenses, (iv) payment of the Commitment Fee, and (v) the liquidity needs of the DIP Parties pursuant to the DIP Budget (as defined below), in each case during the pendency of the CCAA Proceedings.

For greater certainty, except to pay (i) the Interim Borrowing Obligations, (ii) Obligations under the Pre-Filing Credit Agreement (as provided for in this Term Sheet), (iii) amounts in respect of accrued and unpaid vacation pay up to a maximum amount of $140,500 as provided for in the DIP Budget, and (iv) amounts consented to in writing by the DIP Lender, the DIP Parties may not use the proceeds of the DIP Facility to pay any Pre-Filing Obligation unless all of the following requirements are satisfied: (a) the Monitor has approved such payment; (b) such Pre-Filing Obligations are included in the DIP Budget, (c) the DIP Lender has provided its prior written consent (which may be provided by email), in its sole and absolute discretion, and (d) the payment of such Pre-Filing Obligation is authorized pursuant to the ARIO or any subsequent Court Order.

Notwithstanding anything else in this Term Sheet (including clause (b) above) or the DIP Budget (including amounts set out in the DIP Budget), unless and until (i) all Obligations are Repaid in Full under the Pre-Filing Credit Agreement (including, without limitation, all obligations under the Revolving Credit, Term Credit and the BCAP Facility, all accrued and unpaid interest relating to such facilities and the Lender Expenses), and (ii) all DIP Financing Obligations under the DIP Facility are Repaid in Full, payments of any (A) Sales Taxes or (B) vacation pay in excess of $140,500, in each case accrued prior to the Filing Date (whether or not due or payable after the Filing Date), are not permitted to be paid by the DIP Parties without the prior written consent of the DIP Lender.

9. **DIP CREDIT AGREEMENT**

If required by the DIP Lender, the Borrower and the Guarantors shall enter into a definitive DIP credit agreement (the "**DIP Credit Agreement**"), definitive guarantees and such other loan documents as requested by the DIP Lender, in each case, on terms and conditions that reflect the commercial terms of this Term Sheet and as otherwise agreed to by the DIP Lender (the "**DIP Financing Credit Documents)**".

10. **CONDITIONS PRECEDENT TO DIP ADVANCES**

The DIP Lender's agreement to make the Maximum Amount available to the Borrower and to make any DIP Advance to the Borrower is subject to the satisfaction, as determined by the DIP Lender, in its sole and absolute discretion, of each of the following conditions precedent (collectively, each of which is for the benefit of the DIP Lender and may be waived by the DIP Lender in its sole and absolute discretion):

(a) Each DIP Party shall have executed and delivered this Term Sheet and such other DIP Financing Credit Documents as the DIP Lender may request, in its sole and absolute discretion;

(b) All representations and warranties of the DIP Parties under this Term Sheet shall be true and correct in all respects;

(c) The Court shall have issued an amended and restated Initial Order (the "**ARIO**") and the Realization Process Approval Order, in each case, in form and substance satisfactory to the DIP Lender, no later than 5:00 p.m. (Toronto time) on January 17, 2025, and such order**s** shall not have been stayed, vacated or otherwise caused to be ineffective or amended, restated or modified in a manner that materially adversely impacts the rights and interests of the DIP Lender without the consent of the DIP Lender. The ARIO shall include provisions:

(i) approving this Term Sheet;

(ii) granting a super-priority DIP Financing Charge, subject only to Permitted Priority Liens, against all of the Collateral to secure the DIP Advances in favour of the DIP Lender in an amount to be determined by the DIP Parties, the DIP Lender and the Monitor;

(iii) authorizing the DIP Lender to effect registrations, filings and recordings wherever it deems appropriate regarding the DIP Financing Charge;

(iv) providing that the DIP Financing Charge shall be valid and effective to secure all of the obligations of the DIP Parties to the DIP Lender hereunder without the necessity of the making of any registrations or filings and whether or not any other documents have been executed by the DIP Parties;

(v) declaring that the granting of the DIP Financing Charge and all other documents executed and delivered to the DIP Lender as contemplated herein, including, without limitation, all actions taken to perfect, record and register the DIP Financing Charge, do not constitute conduct meriting oppression remedy, fraudulent preference, fraudulent conveyance or other challengeable or reviewable transactions under any applicable or federal legislation; and

(vi) provisions restricting the granting of additional liens or encumbrances on the assets of the DIP Parties other than as permitted herein and the DIP Financing Charge.

(d) No Default or Event of Default shall have occurred or shall occur as a result of the requested DIP Advance or otherwise;

(e) Such DIP Advance shall not cause the aggregate amount of all outstanding DIP Advances to (i) exceed the Maximum Amount or (ii) be greater than the amount shown for the total aggregate DIP Advances in the DIP Budget for the applicable time period;

(f) After making such DIP Advance the aggregate DIP Exposure, plus the outstanding principal obligations under the Revolving Credit, will not exceed an amount equal to the Borrowing Base as set out in the Borrowing Base Report;

(g) The continuation of the DIP Parties' cash management

arrangement shall have been approved by the ARIO;

(h) The DIP Parties shall have made all necessary or advisable registrations and taken all other steps in applicable jurisdictions to evidence and give effect to the DIP Financing Charge, as reasonably requested by the DIP Lender;

(i) There shall be no Liens ranking *pari passu* with or in priority to the DIP Financing Charge over the Collateral other than the Permitted Priority Liens;

(j) There shall be no order of the Court in the CCAA Proceedings that contravenes the DIP Term Sheet, DIP Credit Agreement (if any) or any of the DIP Financing Credit Documents so as to materially adversely impact the rights or interests of the DIP Lender, as determined by the DIP Lender;

(k) The DIP Lender shall have received from 9383921, the 9383921 Guarantee Amendment Documents, each in form and substance satisfactory to the DIP Lender, in its sole discretion;

(l) The Borrower shall have delivered (a) a DIP Advance Request in respect of such DIP Advance, and (b) all applicable Variance Reports in accordance with section 15 hereof, in each case, in accordance with this Term Sheet;

(m) Beginning in the week commencing January 19, 2025: (i) for the period commencing on January 12, 2025 and ending the week prior to such DIP Advance Request, the Actual Cumulative Receipts shall be equal to or greater than the Minimum Cumulative Receipts for such week as set out in **Schedule** "**G**", and (ii) the Actual Cumulative Disbursements of the DIP Parties for the period commencing January 12, 2025 and ending the week prior to such DIP Advance Request shall be equal to or less than the Maximum Cumulative Disbursements for such week as set out in **Schedule** "**G**";

(n) The sum of (y) the aggregate principal amount outstanding under the Revolving Credit (after giving effect to any repayment of the Interim Borrowings from the proceeds of such DIP Advance) less any repayment of the principal amount of the Pre-Filing Credit Agreement from sources other than DIP Advances, plus (z) the aggregate principal amount outstanding under the DIP Facility (after giving effect to the making of such DIP Advance) shall not exceed $24,000,000.

For greater certainty, no DIP Lender shall be obligated to make a further DIP Advance or otherwise make available funds pursuant to

this Term Sheet or the DIP Credit Agreement (if any) unless and until all the foregoing conditions have been satisfied.

11. **COSTS AND EXPENSES:** The Borrower shall reimburse the Pre-Filing Lender, Interim Lender and the DIP Lender for all reasonable and documented costs and expenses incurred by the Pre-Filing Lender, the Interim Lender and the DIP Lender, as applicable (including the reasonable and documented fees and expenses of its counsel and financial advisor thereto) (collectively, the "**Lender Expenses**") in connection with the negotiation, development, and implementation of the Interim Borrowings and the DIP Facility (including the administration of the DIP Facility and the Interim Borrowings). The Lender Expenses shall form part of the DIP Financing Obligations (as defined below), secured by the DIP Lender's Charge.

12. **DIP FACILITY SECURITY** The obligations of the Borrower and the Guarantors (the "**DIP Financing Obligations**") under this Term Sheet and the DIP Financing Credit Documents (if any) shall be secured against the Collateral by a super-priority "**DIP Financing Charge**" (subject only to Permitted Priority Liens (as defined below)) granted pursuant to the ARIO.

13. **PERMITTED LIENS AND PRIORITY:** All of the Collateral will be free and clear of all Liens except for Permitted Liens.

The DIP Lender's Charge shall rank in priority to any and all Liens on the Collateral other than Permitted Priority Liens. As among the DIP Lender's Charge, the Interim Lender's Charge, the Administration Charge, the Directors' Charge and the security interests granted by the DIP Parties to the Pre-Filing Lender with respect to the Obligations under the Pre-Filing Credit Agreement, the relative priority shall be as follows:

(a) the Administration Charge up to $1,000,000;

(b) the DIP Financing Charge;

(c) the Interim Lender's Charge (which will terminate upon repayment of the Interim Borrowing Obligations from the First Advance in accordance with the ARIO) and security granted by the DIP Parties with respect to the Obligations under the Pre-Filing Credit Agreement (other than the Interim Borrowing Obligations); and

(d) the Directors' Charge up to $7,400,000.

14. **REPAYMENT:** The DIP Facility shall mature and the DIP Financing Obligations shall be due and repayable in full on the earlier of: (i) the occurrence

of any Event of Default; (ii) the implementation of any CCAA plan of compromise and arrangement which is proposed and filed with the Court in the CCAA Proceedings (a "**Plan**"); (iii) closing of one or more sales, leases or other type of transfer transaction of any nature or kind in respect of all or substantially all of the Property of all of the Guarantors (other than 9383921) outside the ordinary course of business, and (iv) the Outside Date (the earliest of such dates being the "**Maturity Date**"). The Maturity Date may be extended from time to time at the request of the Borrower and with the prior written consent of the DIP Lender for such period and on such terms and conditions as the DIP Lender may agree, in its sole and absolute discretion.

Without the prior written consent of the DIP Lender, in its sole and absolute discretion, no Court Order sanctioning a Plan shall discharge or otherwise affect in any way the DIP Financing Obligations other than after the permanent and indefeasible full repayment of the DIP Financing Obligations on or before the date such Plan is implemented.

15. **DIP BUDGET AND VARIANCE REPORTING:**

By no later than January 17, 2025, the DIP Parties, in consultation with the Monitor, shall deliver a DIP Budget, in the form of **Schedule "C"**, which shall cover the Stay Period (as defined in the ARIO) and be in form and substance satisfactory to the DIP Lender, in its sole and absolute discretion (the "**DIP Budget**"). Such DIP Budget shall be the DIP Budget referenced in this Term Sheet unless and until such time as an Updated DIP Budget (as defined below) has been approved by the DIP Lender in accordance with this Section 15.

(i) At the written request of the DIP Lender (including by email), or (ii) upon a material change, or a material change reasonably anticipated by the Parties, to any item set forth in the DIP Budget, the DIP Parties shall update and propose a revised DIP Budget to the DIP Lender (the "**Updated DIP Budget**"). The DIP Lender may make such request at any time and from time to time, and if such request is made, the DIP Parties shall submit the Updated DIP Budget no later than three (3) Business Days following receipt of the request. Such Updated DIP Budget shall have been reviewed and approved by the Monitor, prior to submission to the DIP Lender. If the DIP Lender, in its sole and absolute discretion, determines that the Updated DIP Budget is not acceptable, it shall, within two (2) Business Days of receipt thereof, provide written notice (which may be provided by email) to the DIP Parties and the Monitor stating that the Updated DIP Budget is not acceptable and setting out the reasons why such Updated DIP Budget is not acceptable, and until the DIP Parties have delivered a revised Updated DIP Budget

acceptable to the DIP Lender, in its sole and absolute discretion, the prior DIP Budget shall remain in effect and be the DIP Budget for the purpose of this Term Sheet.

Upon an Updated DIP Budget being accepted by the DIP Lender, such Updated DIP Budget shall be the DIP Budget for the purpose of this Term Sheet.

Commencing in the week beginning January 19, 2025, no later than 5:00 p.m. on the Tuesday of every week (provided that such day is a Business Day and, if not, on the next Business Day), the DIP Parties shall deliver to the Monitor and the DIP Lender and its legal and financial advisors an updated borrowing base report, which includes, without limitation, the Credit Card Accounts, Accounts, and Inventory, as at the last Saturday of the preceding week's collections, together with a report of Priority Payables as at such date, in form and substance satisfactory to the DIP Lender, in its sole and absolute discretion (the "**Borrowing Base Report**"),

Commencing in the week beginning January 19, 2025, no later than 5:00 p.m. on the Wednesday of every week (provided that such day is a Business Day and, if not, on the next Business day) the DIP Parties shall deliver to the Monitor and the DIP Lender and its legal and financial advisors a variance calculation (the "**Variance Report**") setting forth actual receipts and disbursements of the DIP Parties for (a) the preceding week (commencing with the week beginning January 12, 2025) for such line item and net cash flow in the DIP Budget and comparing the foregoing amounts with the budgeted cash receipts and budgeted disbursements and net cash flow, respectively, set forth in the DIP Budget for such line items during such one week period, and (b) actual cumulative receipts (the "**Actual Cumulative Receipts**") and actual cumulative disbursements (the "**Actual Cumulative Disbursements**") for each line item in the DIP Budget since January 12, 2025 (the preceding week and cumulative period are each, a "**Variance Period**"), in each case, comparing the actual receipts and disbursements and comparing the foregoing amounts with the budgeted cumulative receipts (the "**Budgeted Cumulative Receipts**") and budgeted cumulative disbursements (the "**Budgeted Cumulative Disbursements**") as against the DIP Budget, and setting forth all the variances, on a line-item basis in comparison to the amounts set forth in respect thereof for such Variance Period in the DIP Budget; each such Variance Report to be promptly discussed with the DIP Lender and its advisors, if so requested. Each Variance Report shall include reasonably detailed explanations for any variance in excess of 5% as against the DIP Budget during the relevant Variance Period. For greater certainty, regardless of any variance, no DIP

Advance is permitted under the DIP Facility that is not in compliance with Section 10, including, without limitation, Section 10(f).

The DIP Lender, the DIP Lender's financial advisor and the Monitor shall hold weekly calls to review and discuss the most recent Variance Report.

16. **REPORTING:** Commencing in the week beginning January 19, 2025, no later than Tuesday of every week (provided that such day is a Business Day and, if not, on the next Business day), the DIP Parties shall deliver a report on the Realization Process, setting out the progress of the Realization Process, (including details on sell-thru rates and gross margins on a store by store basis) for the period ending Saturday of the preceding week (the "**Realization Process Report**")

The DIP Parties shall hold weekly calls between the Monitor, the Consultant, the DIP Lender and the DIP Lender's financial advisor to review and discuss the progress of the Realization Process (including details on sell-thru rates and gross margins on a store by store basis and the Consultant's recommendations for store closures and cost reductions).

17. **EVIDENCE OF INDEBTEDNESS:** The DIP Lender's accounts and records constitute, in the absence of manifest error, *prima facie* evidence of the DIP Financing Obligations.

18. **MANDATORY PAYMENTS:** The DIP Parties shall use all proceeds received by a DIP Party in respect of Accounts, and any cheques, cash, credit card sales and receipts, notes or other instruments or Property received by a DIP Party with respect to any Collateral, less $100,000, **(**the foregoing, excluding $100,000, being, the "**Proceeds**") to indefeasibly pay the DIP Financing Obligations and Obligations in the following order: (A) first, the Obligations in respect of the Revolving Credit including the Interim Borrowings, until Repaid in Full (B) second, the DIP Financing Obligations, until Repaid in Full, (C) third, to the Obligations in respect of the Term Credit until Repaid in Full, and (D) fourth, to the Obligations in respect of the BCAP Credit, to be applied in accordance with the waterfall under section 7.2(d) of the Pre-Filing Credit Agreement, until Repaid in Full.

The Proceeds shall be promptly turned over to the DIP Lender with proper assignments or endorsements by deposit to the Blocked Accounts, to be applied in the manner set out in section 2.16 of the Pre-Filing Credit Agreement, *mutatis mutandis*.

If at any time the total amount of DIP Advances exceeds the

Maximum Amount (any such excess being referred to in this Section 18 as a "**Currency Excess Amount**"), then the Borrower shall immediately pay the DIP Lender an amount equal to the Currency Excess Amount, and, for greater certainty, the obligation to make such payment shall form part of the DIP Financing Obligations secured by the DIP Financing Charge.

If at any time, any account of the DIP Parties is in an overdraft position (any such amount in overdraft being the "**Overdraft Amount**"), then the Borrower shall immediately pay the DIP Lender an amount equal to the Overdraft Amount and, for greater certainty, the obligation to make such payment shall form part of the DIP Financing Obligations secured by the DIP Financing Charge.

19. **COMMITMENT FEE** The Borrower shall pay a Commitment Fee to the DIP Lender in the aggregate amount of 1.5% of the Maximum Amount (collectively the "**Commitment Fee**), which Commitment Fee is fully earned on execution of this Term Sheet and shall be due and payable in two instalments, as follows:

(a) 0.25% of the Maximum Amount (being an amount equal to $45,000), shall be due and payable on the date of the First Advance; and

(b) 1.25% of the Maximum Amount (being an amount equal to $225,000), shall be immediately due and payable on May 2, 2025.

20. **INTEREST RATE:** Interest shall be payable on the aggregate outstanding amount of the DIP Facility that has been advanced to the Borrower from the date of the funding thereof at a rate equal to 10% *per annum* for DIP Advances denominated in Canadian Dollars or U.S. Dollars, compounded monthly and payable monthly in arrears in cash on the first Business Day of each month, with the first such payment being made on February 1, 2025.

Upon the occurrence and during the continuation of an Event of Default, all overdue amounts shall bear interest at the applicable interest rate plus 2% *per annum* payable on demand in arrears in cash. All interest shall be computed on the basis of a 360-day year of twelve 30-day months, provided that, whenever any interest is calculated on the basis of a period of time other than a calendar year, the annual rate of interest to which each rate of interest determined pursuant to such calculation is equivalent for the purposes of the *Interest Act* (Canada) is such rate as so determined multiplied by the actual number of days in the calendar year in which the same is to be ascertained and divided by the number of days used in the basis for

such determination.

The parties shall comply with the following provisions to ensure that the receipt by the DIP Lender of any payments under this Term Sheet does not result in a breach of section 347 of the *Criminal Code* (Canada):

If any provision of this Term Sheet would obligate the Borrower to make any payment to the DIP Lender of an amount that constitutes "interest", as such term is defined in the *Criminal Code* (Canada) and referred to in this section as "**Criminal Code Interest**", during any one-year period after the date of the funding of the Maximum Amount in an amount or calculated at a rate which would result in the receipt by the DIP Lender of Criminal Code Interest at a criminal rate (as defined in the *Criminal Code* (Canada) and referred to in this section as a "**Criminal Rate**"), then, notwithstanding such provision, that amount or rate during such one-year period shall be deemed to have been adjusted with retroactive effect to the maximum amount or rate of interest, as the case may be, as would not result in the receipt by the DIP Lender during such one-year period of Criminal Code Interest at a Criminal Rate, and the adjustment shall be effected, to the extent necessary, as follows:

first, by reducing the amount or rate of interest required to be paid to the DIP Lender during such one-year period; and

thereafter, by reducing any other amounts (other than costs and expenses) (if any) required to be paid to the DIP Lender during such one-year period which would constitute Criminal Code Interest.

Any amount or rate of Criminal Code Interest referred to in this section shall be calculated and determined in accordance with generally accepted actuarial practices and principles as an effective annual rate of interest over the term that any portion of the DIP Facility remains outstanding on the assumption that any charges, fees or expenses that constitute Criminal Code Interest shall be *pro-rated* over the period commencing on the date of the advance of the Maximum Amount and ending on the relevant Maturity Date (as may be extended by the DIP Lender from time to time under this Term Sheet) and, in the event of a dispute, a certificate of a Fellow of the Canadian Institute of Actuaries appointed by the DIP Lender shall be conclusive for the purposes of such calculation and determination.

21. **JUDGEMENT CURRENCY:**

If for the purposes of obtaining judgment in any court it is necessary to convert a sum due hereunder in any currency (the "**Original Currency**") into another currency (the "**Other Currency**"), the

parties hereby agree, to the fullest extent permitted by Applicable Law, that the rate of exchange used shall be the rate at which the DIP Lender is able to purchase the Original Currency with the Other Currency after any premium and costs of exchange on the Business Day preceding that on which such payment is made or final judgment is given.

22. **REPRESENTATIONS AND WARRANTIES:** Each DIP Party represents and warrants to the DIP Lender upon which the DIP Lender is relying in entering into this Term Sheet and the other DIP Financing Credit Documents, that:

(a) Upon the granting of the ARIO the transactions contemplated by this Term Sheet and the other DIP Financing Credit Documents:

(i) are within the powers of the DIP Parties;

(ii) have been duly executed and delivered by or on behalf of the DIP Parties;

(iii) constitute legal, valid and binding obligations of the DIP Parties, enforceable against the DIP Parties in accordance with their terms;

(iv) do not require any authorization from, the consent or approval of, registration or filing with, or any other action by, any governmental authority or any third party; and

(v) will not violate the charter documents, articles by-laws or other constating documents of any DIP Party or any Applicable Law relating to any DIP Party;

(b) The business operations of each DIP Party have been and will continue to be conducted in material compliance with all laws of each jurisdiction in which the business has been or is carried out;

(c) The DIP Parties own their respective assets and undertaking free and clear of all Liens other than the Permitted Liens, Liens permitted by the Pre-Filing Credit Agreement and related security documents and the DIP Lender's Charge.

(d) Each DIP Party has been duly formed and is validly existing under the laws of its jurisdiction of incorporation;

(e) All Material Contracts are in full force and effect and are valid, binding and enforceable in accordance with their terms and the

DIP Parties have no knowledge of any material default that has occurred and is continuing thereunder, other than (i) those defaults arising as a result of the commencement of the CCAA Proceedings, or (ii) otherwise disclosed to the DIP Lender in writing prior to the date hereof, in each case of foregoing clause (i) and (ii), which are stayed by Court Orders, and no proceedings have been commenced or threatened to revoke or amend any Material Contracts; and

(f) No Default or Event of Default has occurred and is continuing, other than the Existing Events of Default.

23. **AFFIRMATIVE COVENANTS:** Each DIP Party agrees to do, or cause to be done, the following:

(a) Allow representatives or advisors of the DIP Lender reasonable access to the books, records, financial information and electronic data rooms of or maintained by the DIP Parties, and (ii) cause management, any financial advisor and/or legal counsel of the DIP Parties to cooperate with reasonable requests for information by the DIP Lender and its advisors, in each case subject to solicitor-client privilege, all Court Orders and applicable privacy laws, in connection with matters reasonably related to the DIP Facility, the Collateral, the Realization Process, the CCAA Proceedings and/or compliance of the DIP Parties with their obligations pursuant to this Term Sheet;

(b) Use reasonable commercial efforts to achieve the Milestones at the prescribed times;

(c) Deliver to the DIP Lender the reporting and other information from time to time as reasonably requested by it and as set out in this Term Sheet, including, without limitation, updated DIP Budgets, Borrowing Base Reports, Variance Reports and Realization Process Reports at the times set out herein;

(d) Use the proceeds of the DIP Facility only in accordance with the restrictions set out in this Term Sheet and pursuant to the DIP Budget and Court Orders;

(e) Comply with the provisions of the ARIO, the Realization Process Approval Order and all other Court Orders;

(f) Preserve, renew and keep in full force their corporate existence;

(g) Preserve, renew and keep in full force and effect all licenses and

permits necessary to carry on their businesses;

(h) Conduct their business in accordance with and otherwise comply with the DIP Budget, subject to the Court Orders;

(i) Promptly notify the DIP Lender of the occurrence of any Default or Event of Default or any event or circumstance that may materially affect the DIP Budget or the Collateral or the Realization Process, including, without limitation, any material changes in their contractual arrangements or relationships with third parties;

(j) Provide the DIP Lender and its counsel draft copies of all motions, applications, pleadings, proposed Court Orders and other materials or documents that the DIP Parties or the Monitor intend to file in the CCAA Proceedings at least two (2) Business Days prior to any such filing or, where it is not practically possible to do so within such time, as soon as possible and in any event not less than one (1) day prior to the date on which such petition, motion, application, proposed order or other materials or documents are served on the service list in respect of the CCAA Proceedings, and any motion, petition and/or application materials and similar pleadings that affect the DIP Lender or the Collateral shall be reasonably satisfactory to the DIP Lender;

(k) Take all actions necessary or available to defend the Court Orders that affect the DIP Lender and the Collateral, from any appeal, reversal, modifications, amendment, stay or vacating, unless expressly agreed to in writing in advance by the DIP Lender, in its sole and absolute discretion;

(l) Promptly provide notice to the DIP Lender and its counsel, and keep them otherwise apprised, of any material developments in respect of any Material Contract or the Collateral, and of any material notices, orders, decisions, letters, or other documents, materials, information or correspondence received from any regulatory authority having jurisdiction over any of the DIP Parties;

(m) Provide the DIP Lender and its counsel with draft copies of all material letters, submissions, notices, or other materials or correspondence that any DIP Party intends to file with or submit to any regulatory authority having jurisdiction over such DIP Party (other than in each case, routine or administrative materials or correspondence), at least two (2) Business Days prior to such submission or filing or, where it is not practically

possible to do so within such time, as soon as possible;

(n) Execute and deliver collateral security documentation including, without limitation, such security agreements, financing statements, discharges, opinions or other documents and information, in form and substance satisfactory to the DIP Lender and its counsel, in its sole and absolute discretion;

(o) At all times maintain adequate insurance coverage of such kind and in such amounts and against such risks as is customary for the business of the DIP Parties, including in respect of the Collateral, with financially sound and reputable insurers in coverage and scope acceptable to the DIP Lender, in its sole and absolute discretion, and cause the DIP Lender to be listed as the loss payee or additional insured (as applicable) on such insurance policies;

(p) Pay all Lender Expenses in accordance with the DIP Budget;

(q) At the end of each Business Day, cause any and all funds in any account of the DIP Parties that is not with the DIP Lender (excluding any payroll and cash collateral accounts) to be remitted to an account with the DIP Lender and applied in accordance with Section 18, in the order set out therein;

(r) Consult with the DIP Lender with respect to any proposed termination or disclaimer of any Real Property Lease;

(s) Promptly upon becoming aware thereof, provide details of the following to the DIP Lender:

(i) any pending, or threatened claims, potential claims, litigation, actions, suits, arbitrations, other proceedings or notices received in respect of same, against any DIP Party, by or before any court, tribunal, Governmental Authority or regulatory body, which are not stayed by Court Orders and would be reasonably likely to result, (i) individually or in the aggregate, in a judgment in excess of $250,000, and/or (ii) the termination of any Material Contract;

(ii) any existing (or threatened in writing) default or dispute with respect to any of the Material Contracts which are not stayed by Court Orders; and

(iii) any indications of interest, proposals or offers for any of the Business or Property received by any DIP Party or

the Monitor, and copies of any of the foregoing received in writing; and

(t) Maintain the cash management structure as in existence on the Filing Date, unless otherwise permitted in writing by the DIP Lender.

24. **NEGATIVE COVENANTS:** Each DIP Party covenants and agrees not to do, or cause not to be done, the following, other than with the prior written consent of the DIP Lender, in its sole and absolute discretion:

(a) Transfer, lease or otherwise dispose of all or any part of the Collateral outside of the ordinary course of business, except in accordance with the Realization Process Approval Order with respect to the inventory, or otherwise with the prior written consent of the DIP Lender, in its sole and absolute discretion;

(b) Transfer any cash or receipts of the DIP Parties into any account held by any Person other than the DIP Lender;

(c) Transfer, distribute, lend or otherwise provide funds (whether arising from DIP Advances or otherwise) to an Affiliate, other than Guarantors (excluding 9383921);

(d) Other than the Administration Charge and Directors' Charge, seek or support an application by another party to provide to a third party a charge upon any Property (including, without limitation, a critical supplier's charge) without the prior consent of the DIP Lender;

(e) Amend or seek to amend the ARIO except with the prior written consent of the DIP Lender;

(f) Seek or obtain an order from the Court that materially adversely affects the DIP Lender except with the prior written consent of the DIP Lender acting in its sole and absolute discretion;

(g) Except as expressly set forth in this Term Sheet, make any payment with respect to pre Filing Date trade or unsecured liabilities of the DIP Parties, other than with the prior written consent of the DIP Lender, in is sole and absolute discretion, and in accordance with the ARIO or any subsequent Court Order;

(h) (i) Create or permit to exist any indebtedness other than (A) the indebtedness existing as of the Filing Date, (B) the Interim Borrowing Obligations and DIP Financing Obligations, (C) post Filing Date trade payables or other unsecured obligations

incurred in the ordinary course of business on or following the Filing Date in accordance with the DIP Budget and the ARIO, and (D) amounts owing to the Consultant in connection with the Realization Process and any prepayment to the Consultant approved under the Realization Process Approval Order, in each case, pursuant to the consultant agreement to be approved by the Court, and (ii) other than exists as at the Filing Date, make or give any financial assurances, in the form of bonds, letter of credit, financial guarantees or otherwise to any Person or Governmental Authority other than with the prior written consent of the DIP Lender, in its sole and absolute discretion;

(i) Make (i) any distribution, dividend, return of capital or other distribution in respect of equity securities (in cash, securities or other property or otherwise); or (ii) a retirement, redemption, purchase or repayment or other acquisition of equity securities or indebtedness (including any payment of principal, interest, fees or any other payments thereon), other than with the prior written consent of the DIP Lender, in its sole and absolute discretion;

(j) Make any investments or acquisitions of any kind, direct or indirect, in any business or otherwise other than in accordance with the DIP Budget or with the prior written consent of the DIP Lender, in its sole and absolute discretion;

(k) Pay, incur any obligation to pay, or establish any retainer with respect to the fees, expenses or disbursements of a legal, financial or other advisor of any party, other than (i) the Monitor and its legal counsel, (ii) the respective legal and financial advisors of the DIP Parties and the DIP Lender, in each case engaged as of the Filing Date, and (iii) the prepayment to the Consultant and its legal counsel in connection with the Realization Process, unless such fees, expenses, disbursements or retainers are reviewed and approved in writing advance by the DIP Lender, in its sole and absolute discretion;

(l) Create or permit to exist any Liens on any of the Collateral other than the Permitted Liens;

(m) Challenge or fail to support the Liens and claims of the DIP Lender;

(n) Create or establish any employee retention plan, employee incentive plan or similar benefit plan for any employees of the DIP Parties after the Filing Date other than as included in the

DIP Budget, except with the prior written consent of the DIP Lender, in its sole and absolute discretion;

(o) Make any payments or expenditures (including capital expenditures) other than in accordance with the DIP Budget or otherwise with the prior written consent of the DIP Lender;

(p) Terminate or disclaim any Material Contract (other than a Real Property Lease provided that any such termination or disclaimer complies with Section 23(r)) or amend any Material Contract in any material manner, except with the prior consent of the DIP Lender, in its sole and absolute discretion;

(q) Amalgamate, consolidate with or merge into or sell all or substantially all of its assets to another entity, or change its corporate or capital structure (including its organizational documents) or enter into any agreement committing to such actions except pursuant to the Realization Process Approval Order or with the prior written consent of the DIP Lender, in its sole and absolute discretion;

(r) Make an announcement in respect of, enter into any agreement or letter of intent with respect to, or attempt to consummate, or support an attempt to consummate by another party, any transaction or agreement outside the ordinary course of business, except pursuant to the Realization Process Approval Order or with the prior written consent of the DIP Lender, in its sole and absolute discretion;

(s) Seek, obtain, support, make or permit to be made any Court Order or any change, amendment or modification to any Court Order in respect of any amendment relating to the DIP Facility, the Realization Process Approval Order or any other matter that affects the DIP Lender, except with the prior written consent of the DIP Lender, in its sole and absolute discretion;

(t) Enter into any settlement agreement or agree to any settlement arrangements with any Governmental Authority or regulatory authority in connection with any claims, liabilities, litigation, arbitration, other investigations, proceedings or disputes or other similar proceedings which are threatened or pending against any one of them without the prior written consent of the DIP Lender, in its sole and absolute discretion;

(u) Without the approval of the Court or the prior written consent of the DIP Lender, in its sole and absolute discretion, cease to carry on its business or activities or any component thereof as

currently being conducted or modify or alter in any manner the nature and type of its operations or business except pursuant to the Realization Process Approval Order;

(v) Seek, or consent to the appointment of an interim receiver, receiver, receiver manager, licensed insolvency trustee or any similar official in any jurisdiction; or

(w) Enter into any merchandise transfer agreement, settlement agreement or agree to any settlement arrangements with any overseas vendor or supplier of the DIP Parties without the prior written consent of the DIP Lender, in its sole and absolute discretion.

25. **EVENTS OF DEFAULT:** The occurrence of any one or more of the following events shall constitute an event of default (each an "**Event of Default**") under this Term Sheet:

(a) Failure of the Borrower to pay principal, interest or other amounts when due pursuant to this Term Sheet or any other DIP Financing Credit Document;

(b) Failure of the Borrower to deliver, by no later than January 17, 2025, the DIP Budget, in form and substance satisfactory to the DIP Lender, in its sole and absolute discretion;

(c) Failure of the DIP Parties to perform or comply with any term, condition, covenant or obligation pursuant to this Term Sheet or any other DIP Financing Credit Document;

(d) Any representation or warranty by the DIP Parties made or deemed to be made in this Term Sheet or any other DIP Financing Credit Document is or proves to be incorrect or misleading in any material respect as of the date made or deemed to be made;

(e) Issuance of any Court Order (i) dismissing or terminating the CCAA Proceedings (ii) lifting the stay of proceedings in the CCAA Proceedings to permit the enforcement of any security against any DIP Party or in respect of the Collateral (including, without limitation, any Material Contract), the appointment of an interim receiver, receiver, receiver and manager, licensed insolvency trustee or similar official, an assignment in bankruptcy, or the making of a bankruptcy order or receivership order against or in respect of any DIP Party, in each case which order is not stayed pending appeal thereof; (iii) terminating the Realization Process prior to its completion, (iv) granting any other Lien in respect of the Collateral that is in priority to or

pari passu with the DIP Lender's Charge other than as expressly permitted pursuant to this Term Sheet, (v) modifying this Term Sheet or any other Credit Document without the prior written consent of the DIP Lender, in its sole and absolute discretion; or (vi) staying, reversing, vacating or otherwise modifying any Court Order relating to the DIP Facility, the Realization Process or any other matter that affects the DIP Lender without the prior written consent of the DIP Lender, in its sole and absolute discretion;

(f) Unless consented to in writing by the DIP Lender, in its sole and absolute discretion, the expiry without further extension of the stay of proceedings provided for in the ARIO;

(g) Unless consented to in writing by the DIP Lender in its sole and absolute discretion, the termination of the Realization Process prior to its completion;

(h) (i) a Borrowing Base Report, Variance Report, Realization Process Report or Updated DIP Budget is not delivered when due under this Term Sheet, (ii) Actual Cumulative Receipts of the DIP Parties for the period commencing January 19, 2025 and ending at the end of any week are less than the Minimum Cumulative Receipts for such week as set out in **Schedule** "**G**", or (iii) the Actual Cumulative Disbursements of the DIP Parties for the period commencing January 19, 2025 and ending at the end of any week are more than the Maximum Cumulative Disbursements for such week as set out in **Schedule** "**G**";

(i) Unless the DIP Lender has consented thereto in writing, in its sole and absolute discretion the filing by any DIP Party of any motion or proceeding that (i) is not consistent with any provision of this Term Sheet or any other DIP Financing Credit Document, or the ARIO or the Realization Process Approval Order, as applicable, (ii) could otherwise be expected to have a material adverse effect on the interests of the DIP Lender or the Collateral (including, without limitation, any Material Contract), or (iii) seeks to continue any of the CCAA Proceedings under the jurisdiction of a court other than the Court with respect to the CCAA Proceedings;

(j) The making by the DIP Parties of a payment of any kind that is not permitted by this Term Sheet or any other DIP Financing Credit Document or is not in accordance with the DIP Budget;

(k) Except as stayed by Court Orders or consented to by the DIP Lender in writing, in its sole and absolute discretion, a default

under or a revocation, termination or cancellation of, any Material Contract (other than in connection with a termination or disclaimer or resiliation of a Real Property Lease by a DIP Party);

(l) The denial or repudiation by the DIP Parties of the legality, validity, binding nature or enforceability of this Term Sheet or any other DIP Financing Credit Documents;

(m) Any creditor, encumbrancer or other Person seizes or levies upon any Collateral or exercises any right of distress, execution, foreclosure or similar enforcement process against any Collateral;

(n) The entry of one or more final judgements, writs of execution, garnishment or attachment representing a claim in excess of $500,000 in the aggregate, against any Collateral, or the DIP Parties;

(o) The principal amount of outstanding DIP Advances at any time exceeds the Maximum Amount, unless with the prior written consent of the DIP Lender, in its sole and absolute discretion;

(p) The occurrence of any "Default" or "Event of Default" as defined in the Pre-Filing Credit Agreement, other than the Existing Events of Default and the events of default set out in the Demand and Acceleration Letter delivered by the Pre-Filing Lender to the Borrower on January 5, 2025; or

(q) Any Milestone set forth on **Schedule "D"** is not satisfied as determined by the DIP Lender, in its sole and absolute discretion.

26. **UNAFFECTED CREDITOR STATUS:** The DIP Lender shall at all times be treated as an "unaffected creditor" and "unimpaired" in the CCAA Proceedings, including in any plan of compromise or arrangement filed pursuant thereto and/or in any other insolvency, restructuring, reorganization and/or arrangement proceeding with respect to any DIP Party thereafter, including, without limitation, proceedings under the CCAA, the *Bankruptcy and Insolvency Act* (Canada) or any other legislation of any jurisdiction pertaining to insolvency or creditors' rights.

27. **REMEDIES:** Upon the occurrence of an Event of Default, the DIP Lender may, in its sole and absolute discretion:

(a) elect to terminate the commitments hereunder and declare the DIP Financing Obligations to be immediately due and payable and refuse to permit further Advances. In addition, upon the

occurrence of an Event of Default, the DIP Lender may, in its sole and absolute discretion, subject to the Court Orders apply to a court for the appointment of a receiver, an interim receiver or a receiver and manager over the DIP Parties or the Collateral, or for the appointment of a trustee in bankruptcy of the DIP Parties;

(b) on application to Court, set-off or combine any amounts then owing by the DIP Lender to the DIP Parties against the DIP Financing Obligations;

(c) upon application to Court, exercise the powers and rights of a secured party under the *Personal Property Security Act* (Ontario) or any other federal, provincial, state or territorial legislation of similar effect; and

(d) exercise all such other rights and remedies under this Term Sheet, any other DIP Financing Credit Document, the Court Orders and Applicable Law.

28. **DIP LENDER APPROVALS**

All consents of the DIP Lender hereunder shall be in its sole and absolute discretion and shall be in writing. Any consent, approval, instruction or other expression of the DIP Lender to be delivered in writing may be delivered by a written instrument, including by way of electronic mail.

29. **INDEMNITY AND RELEASE:**

The DIP Parties agree to indemnify and hold harmless the DIP Lender and its respective directors, officers, employees, agents, advisors, attorneys, counsel and their respective advisors (all such Persons and entities being referred to hereafter as "**Indemnified Persons**") from and against any and all actions, suits, proceedings, claims, losses, damages, liabilities or expenses of any kind or nature whatsoever (excluding indirect or consequential damages and claims for lost profits) which may be incurred by or asserted against any Indemnified Person (collectively, "**Claims**") as a result of or arising out of or in any way related to the Interim Borrowings, the Pre-Filing Credit Agreement, the DIP Facility, this Term Sheet and any other DIP Financing Credit Document and, upon demand, to pay and reimburse any Indemnified Person for any reasonable legal or other expenses incurred in connection with investigating, defending or preparing to defend any such action, suit, proceeding or claim, which payment or reimbursement obligation shall form part of the DIP Financing Obligations; *provided*, *however*, the DIP Parties shall not be obligated to indemnify pursuant to this paragraph any Indemnified Person against any loss, claim, damage, expense or liability (x) to the extent it resulted from the gross negligence or wilful misconduct of any Indemnified Person as finally determined

by a court of competent jurisdiction, or (y) to the extent arising from any dispute solely among Indemnified Persons other than any Claims arising out of any act or omission on the part of the DIP Parties.

Notwithstanding anything to the contrary herein, the indemnities granted under this Term Sheet shall survive any termination of the DIP Facility.

30. **TAXES:** All payments by the DIP Parties to the DIP Lender, including the payment of any Obligations under the DIP Financing Obligations and any payments required to be made from and after the exercise of any remedies available to the DIP Lender upon an Event of Default, shall be made free and clear of, and without reduction for or on account of, any present or future taxes, levies, imposts, duties, charges, fees, deductions or withholdings of any kind or nature whatsoever or any interest or penalties payable with respect thereto now or in the future imposed, levied, collected, withheld or assessed by any Governmental Authority country or any political subdivision of any country (collectively "**Taxes**"); provided, however, that if any Taxes are required by Applicable Law to be withheld ("**Withholding Taxes**") from any amount payable to the DIP Lender under this Term Sheet, the amount so payable to such DIP Lender shall be increased by an amount necessary to yield to such DIP Lender on a net basis after payment of all Withholding Taxes, the amount payable under this Term Sheet at the rate or in the amount specified herein and the Borrower shall provide evidence satisfactory to such DIP Lender that the Taxes have been so withheld and remitted.

If any DIP Party pays an additional amount to the DIP Lender to account for any deduction or withholding, the DIP Lender shall, at the sole cost and expense of the applicable DIP Party, reasonably cooperate with such DIP Party to obtain a refund of the amounts so withheld and paid to the DIP Lender. Any refund of an additional amount so received by the DIP Lender, without interest (other than any interest paid by the relevant Governmental Authority with respect to such refund which the DIP Lender determines, in its sole and absolute discretion, will leave it, after such payment, in no better or worse position than it would have been if no additional amounts had been paid to it), net of all out of pocket expenses of the DIP Lender, shall be paid over by the DIP Lender to the applicable DIP Party promptly. If reasonably requested by such DIP Party, the DIP Lender shall apply to the relevant Governmental Authority to obtain a waiver from such withholding requirement, and the DIP Lender shall reasonably cooperate, at the sole cost and expense of the applicable DIP Party, with the applicable DIP Party and assist such

DIP Party to minimize the amount of deductions or withholdings required. The applicable DIP Party, upon the request of the DIP Lender, shall repay any portion of the amount repaid by the DIP Lender pursuant to this Section 30 (plus any penalties, interest or other charges imposed by the relevant Governmental Authority) in the event that the DIP Lender is required to repay such portion of the refund to such Governmental Authority. This Section 30 shall not be construed to require the DIP Lender to make available its tax returns (or any other information relating to its Taxes that it deems confidential) to the Borrower or any other Person. The DIP Lender shall not by virtue of anything in this Term Sheet or any other Credit Document be under any obligation to arrange its tax affairs in any particular manner so as to claim any refund on behalf of the DIP Parties.

31. **FURTHER ASSURANCES:** The DIP Parties shall, at their expense, from time to time do, execute and deliver, or will cause to be done, executed and delivered, all such further acts, documents (including, without limitation, certificates, declarations, affidavits, reports and opinions) and things as the DIP Lender may request, in its sole and absolute discretion, for the purpose of giving effect to this Term Sheet.

32. **ENTIRE AGREEMENT; CONFLICT:** This Term Sheet, including the schedules hereto and any other DIP Financing Credit Documents delivered in connection with this Term Sheet, constitute the entire agreement between the parties relating to the subject matter hereof.

33. **AMENDMENTS, WAIVERS, ETC.:** No waiver or delay on the part of the DIP Lender in exercising any right or privilege hereunder will operate as a waiver hereof or thereof unless made in writing (including by e-mail) by the DIP Lender and delivered in accordance with the terms of this Term Sheet, and then such waiver shall be effective only in the specific instance and for the specific purpose given.

34. **ASSIGNMENT:** The DIP Lender may assign this Term Sheet and its rights and obligations hereunder, in whole or in part, subject in all cases to (i) providing the Monitor with reasonable evidence that such assignee has the financial capacity to fulfill the obligations of the DIP Lender hereunder, and (ii) the assignee providing written notice to the DIP Parties to confirm such assignment. Neither this Term Sheet nor any right or obligation hereunder may be assigned by any of the DIP Parties.

35. **NO THIRD-PARTY BENEFICIARY:** No Person, other than the DIP Parties, the DIP Lender, the Indemnified Persons or the Monitor, is entitled to rely upon this Term Sheet and the parties expressly agree that this Term Sheet does not confer rights upon any other party.

36. **NOTICES:** Any notice, request or other communication hereunder to any of the parties shall be in writing and be well and sufficiently given if delivered by email to such Person at its email address as set out below in this Section 36. Any such notice, request or other communication hereunder shall be concurrently sent to the Monitor and its counsel.

(a) If to the DIP Lender, to: Canadian Imperial Bank of Commerce, c/o Milly Chow (milly.chow@blakes.com) and Aryo Shalviri (aryo.shalviri@blakes.com)

(b) If to the DIP Parties, to: Comark Holdings Inc. c/o Tracy C Sandler (tsandler@osler.com),

and in each case, with a copy to the Monitor c/o Josh Nevsky (jnevsky@alvarezandmarsal.com) and its counsel c/o Brendan O'Neill (boneill@goodmans.ca) and Bradley Wiffen (bwiffen@goodmans.ca).

Any such notice shall be deemed to be given and received when received, unless received after 5:00 p.m. (Toronto time) or on a day other than a Business Day, in which case the notice shall be deemed to be received the next Business Day.

37. **ENGLISH LANGUAGE:** The parties hereto confirm that this Term Sheet and all related documents have been drawn up in the English language at their request. *Les parties aux présentes confirment que le présent acte et tous les documents y relatifs furent rédigés en anglais à leur demande.*

38. **GOVERNING LAW AND JURISDICTION:** This Term Sheet shall be governed by, and construed in accordance with, the laws of the Province of Ontario and the federal laws of Canada applicable therein. Without prejudice to the ability of the DIP Lender to enforce this Term Sheet in any other proper jurisdiction, each of the DIP Parties irrevocably submits and attorns to the exclusive jurisdiction of the Court.

39. **COUNTERPARTS AND SIGNATURES:** This Term Sheet may be executed in any number of counterparts and delivered by electronic transmission including "pdf email", each of which when executed and delivered shall be deemed to be an original, and all of which when taken together shall constitute one and the same instrument.

IN WITNESS HEREOF, the parties hereby execute this Term Sheet as at the date first above mentioned.

CANADIAN IMPERIAL BANK OF COMMERCE

Per:  

Name: Farhad Foroughi Anthony Tsuen

Title: Authorized Signatory Authorized Signatory

COMARK HOLDINGS INC.

Per: _____

Name:

Title:

CLEO FASHIONS INC.

Per: _____

Name:

Title:

RICKI'S FASHIONS INC.

Per: _____

Name:

Title:

BOOTLEGGER CLOTHING INC.

Per: _____

Name:

Title:

IN WITNESS HEREOF, the parties hereby execute this Term Sheet as at the date first above mentioned.

CANADIAN IMPERIAL BANK OF COMMERCE

Per: _____

Name:

Title:

COMARK HOLDINGS INC.

Per: _____

Name: Shamsh Kassam

Title: Authorized Signatory

CLEO FASHIONS INC.

Per: _____

Name: Shamsh Kassam

Title: Authorized Signatory

RICKI'S FASHIONS INC.

Per: _____

Name: Shamsh Kassam

Title: Authorized Signatory

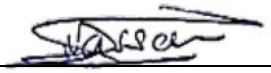
BOOTLEGGER CLOTHING INC.

Per: _____

Name: Shamsh Kassam

Title: Authorized Signatory

9383921 CANADA INC.

Per: 

Name: Shamsh Kassam

Title: Authorized Signatory

SCHEDULE "A"
DEFINED TERMS

"**9383921**" has the meaning given to it in Section 2.

"**Accounts**" means, in respect of each DIP Party, all of such DIP Party's now existing and future: (a) accounts (as defined in the PPSA), all "claims" for purposes of the Civil Code of Quebec, and any and all other receivables (whether or not specifically listed on schedules furnished to the DIP Lender), including all accounts created by, or arising from, all of such DIP Party's sales, leases, loans, rentals of goods or renditions of services to its customers, including those accounts arising under any of such DIP Party's trade names or styles, or through any of such DIP Party's divisions; (b) any and all instruments, documents, bills of exchange, notes or any other writing that evidences a monetary obligation and chattel paper (including electronic chattel paper) (all as defined in the PPSA); (c) unpaid seller's or lessor's rights (including rescission, replevin, reclamation, repossession and stoppage in transit) relating to the foregoing or arising therefrom; (d) rights to any goods represented by any of the foregoing, including rights to returned, reclaimed or repossessed goods; (e) reserves and credit balances arising in connection with or pursuant hereto; (f) guarantees, indemnification rights, supporting obligations, payment intangibles, tax refunds and letter of credit rights; (g) insurance policies or rights relating to any of the foregoing; (h) intangibles pertaining to any and all of the foregoing (including all rights to payment, including those arising in connection with bank and non-bank credit cards), and including books and records and any electronic media and software relating thereto; (i) notes, deposits or property of borrowers or other account debtors securing the obligations of any such borrowers or other account debtors to such DIP Party; (j) cash and non cash proceeds (as defined in the PPSA) of any and all of the foregoing; and (k) all monies and claims for monies now or hereafter due and payable in connection with any and all of the foregoing or otherwise

"**Actual Cumulative Disbursements**" has the meaning given thereto in Section 15.

"**Actual Cumulative Receipts**" has the meaning given thereto in Section 15.

"**Administration Charge**" means a priority charge over the Collateral granted by the Court pursuant to the ARIO with the priority and the amount as set out in Section 12, to secure the fees and expenses of (i) the legal and financial advisors of the DIP Parties, and (ii) the Monitor and its counsel, in each case, in connection with the CCAA Proceedings.

"**Affiliate**" means, in respect of any Person at any date, (a) any corporation, company, limited liability company, associate, joint venture or other business entity of which securities, membership interests or other ownership interests representing fifty percent (50%) or more of the voting power of all equity interests are owned or held, directly or indirectly, by such Person, (b) any partnership, limited liability company or joint venture wherein the general partner, managing partner or operator is, directly or indirectly, such Person, or (c) any other Person that is otherwise directly or indirectly controlled by such Person.

"**Applicable Law**" means, in respect of any Person, property, transaction or event, all applicable laws, statutes, rules, by-laws and regulations and all applicable official directives, orders, judgments and decrees of any Governmental Authority having the force of law.

"**ARIO**" means an Amended and Restated Initial Order to be issued by the Court in the CCAA Proceedings, which shall be in the form set out at **Schedule "E"**, with such changes as the DIP Lender may approve, in its sole and absolute discretion.

"**BCAP Facility**" has the meaning given thereto in the Pre-Filing Credit Agreement.

"**Blocked Account**" means the deposit accounts and lock boxes established or maintained by a DIP Party with such banks as are acceptable to the DIP Lender which are subject to three-party agreements, in form and substance satisfactory to the DIP Lender.

"**Borrower**" has the meanings given thereto in Section 1.

"**Borrowing Base**" has the meaning given to it in **Schedule "A1"** of this Term Sheet.

"**Borrowing Base Report**" has the meaning thereto in Section 15.

"**Budgeted Cumulative Disbursements**" has the meaning given thereto in Section 15.

"**Budgeted Cumulative Receipts**" has the meaning given thereto in Section 15.

"**Business Day**" means any day other than a Saturday, Sunday or any other day on which banks in Toronto, Ontario are not open for business.

"**Canadian Dollars**" and "**Cdn.$"** refer to the lawful money of Canada.

"**Canadian MEPP**" means any registered pension plan to which a DIP Party contributes (or to which there is or may be an obligation to contribute by a DIP Party) or has made contributions on behalf of its employees or former employees and which is required to be registered under Canadian provincial or federal pension benefits standards legislation and that meets the definition of multi-employer pension plan (or equivalent term) as defined under such legislation.

"**Canadian Pension Plan**" means any pension plan to which a DIP Party contributes (or to which there is or may be an obligation to contribute by a DIP Party) or has made contributions on behalf of its employees and which is required to be registered under Canadian provincial or federal pension benefits standards legislation, other than a Canadian MEPP.

"**CCAA**" has the meaning given thereto in the Recitals.

"**CCAA Proceedings**" has the meaning given thereto in the Recitals.

"**Claims**" has the meaning given thereto in Section 29.

"**Collateral**" means all present and future assets, undertakings and properties, of any kind, of the DIP Parties, real and personal, tangible or intangible, including all proceeds thereof, wherever situated, provided that with respect to 9383921, "Collateral" shall mean the Pledged Collateral.

"**Commitment Fee**" has the meaning given thereto in Section 19.

"**Consultant**" means the liquidation consultant assisting with the conduct of the Realization Process as approved by the Court pursuant to the Realization Process Approval Order.

"**Court**" means the Ontario Superior Court of Justice (Commercial List).

"**Court Orders**" means the orders, judgments, directions, endorsements or opinions issued by the Court in the CCAA Proceedings and "**Court Order**" means any one of them.

"**Credit Card Account**" means any Account constituting an amount owing to a DIP Party by a Credit Card Issuer or a Credit Payment Processor.

"**Credit Card Issuer**" means any Person (other than a DIP Party) who issues or whose members issue MasterCard or VISA bank credit or debit cards or other bank credit or debit cards issued through MasterCard International, Inc., Visa, U.S.A., Inc. or Visa International, American Express and Interac, and other non-bank credit or debit cards, including, without limitation, credit or debit cards issued by or through American Express Travel Related Services Company, Inc. (with respect to private label credit cards) and other issuers with respect to bank credit or debit cards approved by the DIP Lender in its Permitted Discretion.

"**Credit Payment Processor**" means any servicing or processing agent or any factor or financial intermediary which facilitates, services, processes or manages the credit authorization, billing transfer and/or payment procedures with respect to a DIP Party's sales transactions involving credit card or debit card purchases by customers using credit cards or debit cards issued by any Credit Card Issuer and includes non-card based "e-pay" service providers such as PayPal.

"**Credits**" means, collectively, the Revolving Credit, the Term Credit and the revolving credit facility established by Canadian Imperial Bank of Commerce for the Borrower in the maximum aggregate principal amount of not greater than the $6,250,000 under and in connection with the "EDC BCAP Guarantee Program" established by Export Development Canada (and its successors and assigns) for the purposes of assisting Canadian businesses affected by the unexpected economic impacts of the novel coronavirus disease known as "Covid-19".

"**Criminal Code Interest**" has meaning given thereto in Section 20 .

"**Criminal Rate**" has meaning given thereto in Section 20.

"**Currency Exchange Rate**" means the U.S.$/Cdn.$ exchange rate applicable on the Business Day immediately prior to the date of an Advance denominated in Canadian Dollars, as such rate is determined by the Bank of Canada Noon Foreign Exchange Rate.

"**Default**" means an event or circumstance which, after the giving of notice or the passage of time, or both, will result in an Event of Default.

"**DIP Advance**" has the meaning given to it in Section 6.

"**DIP Advance Request**" has the meaning given thereto in Section 6.

"**DIP Credit Agreement**" has the meaning given thereto in Section 9 .

"**DIP Budget**" means the weekly financial projections prepared by the Borrower covering the period commencing on the week ended January 25, 2025, and ending on the week ending April 25, 2025, on a weekly basis, which shall be in form and substance acceptable to the DIP Lender, in its sole and absolute discretion, which financial projections may be amended from time to time in accordance with Section 15. For greater certainty, for purposes of this Term Sheet, the DIP Budget shall include all supporting documentation provided in respect thereof to the DIP Lender.

"**DIP Exposure**" means, at any time, the sum of the outstanding principal amount under the DIP Facility.

"**DIP Facility**" has the meaning given thereto in Section 6.

"**DIP Financing Credit Documents**" has the meaning given thereto in Section 9.

"**DIP Financing Obligations**" means, collectively, all obligations owing by the DIP Parties pursuant to this Term Sheet and the other DIP Financing Credit Documents, including, without limitation, all principal, interest, fees, costs, expenses, disbursements and Lender Expenses.

"**DIP Lender**" has the meaning given thereto in Section 3.

"**DIP Lender's Charge**" means super priority charge on the Collateral as security for all DIP Financing Obligations, which shall have priority over all Liens on the Collateral other than the Permitted Priority Liens.

"**DIP Parties**" has the meaning given thereto in Section 2.

"**Directors' Charge**" means a priority charge over the Collateral granted by the Court pursuant to the ARIO in favour of the directors and officers of the DIP Parties, with the priority and the amount as set out in Section 13.

"**ETA**" means Part IX of the *Excise Tax Act* (Canada) as amended from time to time (or any successor statute).

"**Event of Default**" has the meaning given thereto in Section 25.

"**Existing Events of Default**" means the Events of Default that to the knowledge of the DIP Lender existed as of the date of Filing Date, with "knowledge" for the purposes of this definition to mean the knowledge of the DIP Lender, without having conducted any diligence.

"**First Advance**" has the meaning given thereto in Section 6.

"**Governmental Authority**" means any federal, provincial, state, municipal, local or other government, governmental or public department, commission, board, bureau, agency or instrumentality, domestic or foreign and any subdivision, agent, commission, board or authority of any of the foregoing.

"**Guarantee Amendment Documents**" means the following documents from 9383921: (i) an amended and restated limited recourse guarantee, (ii) an amended and restated cash collateral agreement, (iii) an amendment to the equity pledge agreement, and (iv) such other documents

that CIBC requires from 9383921 to provide that the Pledged Collateral secures (A) all Obligations under the Revolving Credit and the Term Credit under the Pre-Filing Credit Agreement and (B) the DIP Financing Obligations.

"**Guarantor**" and "**Guarantors**" have the meaning given thereto in Section 2.

"**Indemnified Persons**" has the meaning given thereto in Section 29.

"**Initial Order**" has the meaning given thereto in the Recitals.

"**Interim Borrowing**" and "**Interim Borrowings**" have the meaning given thereto in the Recitals.

"**Interim Borrowing Obligations**" has the meaning given to it in Section 6.

"**Interim Lender**" has the meaning given thereto in the Recitals.

"**Interim Lender's Charge**" has the meaning given thereto in the Recitals.

"**Inventory**" means, in respect of each DIP Party, all of such DIP Party's present and hereafter acquired inventory (as defined in the PPSA) and including all merchandise, inventory and goods, and all additions, substitutions and replacements thereof, wherever located, together with all goods and materials used or usable in manufacturing, processing, packaging or shipping same in all stages of production from raw materials through work in process to finished goods, and all "stores" inventory or "operating and maintenance supplies" inventory, and all proceeds of any thereof (of whatever sort).

"**ITA**" means the *Income Tax Act* (Canada) as amended from time to time (or any successor statute).
"**Lender Expenses**" has the meaning given thereto in Section 11.

"**Liens**" means (i) all liens, hypothecs, charges, mortgages, deeds of trusts, trusts, deemed trusts (statutory or otherwise), constructive trusts, encumbrances, security interests, and statutory preferences of every kind and nature whatsoever, (ii) the interest of a vendor or a lessor under any conditional sale agreement, capital lease or title retention agreement (or any financing lease having substantially the same economic effect as any of the foregoing) relating to such asset, and (iii) in the case of securities, any purchase option, call or similar right of a third party with respect to such securities.

"**Loan Documents**" has the meaning given thereto in the Pre-Filing Credit Agreement.

"**Material Contract**" means any contract, license or agreement: (i) to which a DIP Party is a party or is bound; (ii) which is material to, or necessary in, the operation of the business of the DIP Parties; and (iii) which a DIP Party cannot within a commercially reasonable timeframe replace by an alternative and comparable contract with comparable commercial terms.

"**Maturity Date**" has the meaning given thereto in Section 14.

"**Maximum Amount**" has the meaning given thereto in Section 6.

"**Monitor**" has the meaning given thereto in the recitals.

"**Obligations**" has the meaning given thereto in the Pre-Filing Credit Agreement and includes, without limitation and for the avoidance of doubt, all obligations in relation to the Revolving Credit, Term Credit, BCAP Facility and the Interim Borrowing Obligations.

"**Original Currency**" has the meaning given thereto in Section 21.

"**Other Currency**" has the meaning given thereto in Section 21.

"**Outside Date**" means May 30, 2025.

"**Overdraft Amount**" has the meaning given thereto in Section 18.

"**Pension Plan**" means any pension plan (including any plan subject to registration under the ITA, the *Pension Benefits Standards Act* (British Columbia) or any other applicable pension standards legislation, as amended from time to time (or any successor statute)) (i) which is sponsored, administered or maintained by any DIP Party, (ii) in respect of which any DIP Party makes, has made (at any time during the five (5) calendar years preceding the date of this Agreement) or is required to make contributions or (iii) in respect of which any DIP Party has incurred or may incur any liability, including contingent liability either to such Pension Plan or to any Person, administrator or Governmental Authority.

"**Permitted Discretion**" means a determination made by the DIP Lender in good faith and in the exercise of reasonable (from the perspective of a secured asset-based lender) business judgment taking in account relevant and material facts, including, among other things, the further due diligence and field audit to be conducted by the DIP Lender and any claims which would reasonably be expected to rank, in accordance with Applicable Laws, in priority to or pari passu with the Liens granted to the DIP Lender in connection with the DIP Financing Charge.

"**Permitted Liens**" means (i) the DIP Lender's Charge; (ii) the Administration Charge, (iii) the Directors' Charge, (iv) any other charges created under the Initial Order, ARIO, or other Court Order which ranks behind the DIP Lender's Charge and is approved in writing by the DIP Lender, in its sole and absolute discretion; (v) validly perfected Liens existing prior to the Filing Date; (vi) inchoate statutory Liens arising after the Filing Date in respect of any accounts payable arising after the Filing Date in the ordinary course of business, subject to the obligation to pay all such amounts as and when due; and (vii) the Permitted Priority Liens.

"**Permitted Priority Liens**" means (a) a Court ordered Administration Charge to secure obligations owing to certain professionals in the CCAA proceeding in an amount not to exceed $1,000,000; (b) liens in respect of wages, employee deductions, sales tax, excise tax, a tax payable pursuant to Part IX of the *Excise Tax Act* (Canada) (net of input credits), income tax and workers compensation claims, in each case solely to the extent such amounts are (i) accrued or collected by the Borrower after the Filing Date, and (ii) given priority by Applicable Law, and in each case only to the extent that the priority of such amounts has not been primed by the DIP Lender's Charge; and (c) such other Liens (including any Court-ordered charges) as may be

agreed to in writing by the DIP Lender. For greater certainty, except as expressly set forth in this Term Sheet, Liens arising from the construction, repair, maintenance and/or improvement of real or personal property shall not be "Permitted Priority Liens."

"**Person**" means an individual, partnership, corporation, business trust, joint stock company, limited liability company, trust, unincorporated association, joint venture, Governmental Authority or other entity of whatever nature.

"**Plan**" has the meaning given thereto in Section 14.

"**Pledged Collateral**" has the meaning given to it in the limited recourse guarantee from 9383921 dated August 7, 2020, as amended, restated, supplemented or otherwise modified from time to time.

"**PPSA**" means the *Personal Property Security Act* (British Columbia), as amended from time to time (or any successor statute) or similar legislation of any other jurisdiction, including without limitation, the *Civil Code of Quebec*, the laws of which are required by such legislation to be applied in connection with the issue, perfection, enforcement, validity or effect of security interests.

"**Pre-Filing Credit Agreement**" has the meaning given to it in the Recitals.

"**Pre-Filing Lender**" has the meaning given thereto in the Recitals.

"**Pre-Filing Obligations**" means any obligation of the DIP Parties arising or relating to the period prior to the Filing Date, including, without limitation, all accrued and unpaid sales taxes to the Filing Date (irrespective of when due and payable), including taxes payable pursuant to Part IX of the *Excise Tax Act* (Canada), and any vacation pay arising or relating to the period prior to the Filing Date.

"**Priority Payables**" means, with respect to any Person, any amount payable by such Person which is secured by a Lien which ranks or is capable of ranking prior to or *pari passu* with the Liens created by the DIP Financing Charge in respect of any Eligible Credit Card Accounts or Eligible Inventory (as such terms are defined in **Schedule "A1"** of this Term Sheet) of any DIP Party included in the Borrowing Base, choate or inchoate, which rank or are capable of ranking in priority to, or *pari passu* with, the Liens of the DIP Lender on such Collateral under the DIP Financing Charge including, without limitation, (i) any such amounts due and owing by any DIP Party and not paid for wages (including any amounts protected by the *Wage Earner Protection Program Act* (Canada)), (ii) amounts due and owing by any DIP Party and not paid for vacation pay, (iii) amounts due and owing by any DIP Party and not paid under any legislation relating to workers' compensation, employment standards, or to employment insurance, (iv) all amounts deducted or withheld and not paid and remitted when due under applicable sales tax and excise tax including those payable under the ETA (net of GST input credits), (v) all amounts deducted or withheld and not paid and remitted when due under the ITA, (vi) amounts currently due or past due and owing by any DIP Party and not paid for realty, municipal or similar Taxes (to the extent impacting personal or movable property), (vii) claims made pursuant to or referencing Section 224(1.2) or 224(1.3) of the ITA including claims for the collection of a contribution (as defined in the Canada Pension Plan), or employee's premium or employer's premium (as defined

in the *Employment Insurance Act* (Canada)), or a premium under Part VII.1 of that Act, and of any related interest, penalties or other amounts, (viii) all amounts currently due and past due and owing by a DIP Party in respect of any Pension Plan, and (ix) claims pursuant to any provision of provincial legislation that has a similar purpose to subsection 224(1.2) of the ITA, or that refers to that subsection, to the extent that it provides for the collection of a sum, and of any related interest, penalties or other amounts, where the sum has been withheld or deducted by a person from a payment to another person and is in respect of a tax similar in nature to the income tax imposed on individuals under the ITA or is of the same nature as a contribution under the Canada Pension Plan if the province is a "province providing a comprehensive pension plan" as defined in subsection 3(1) of the Canada Pension Plan and the provincial legislation establishes a "provincial pension plan" as defined in that subsection.

"**Property**" means any and all of present and after-acquired undertaking, property or assets of the DIP Parties.

"**Proceeds**" has the meaning given thereto in Section 18.

"**Real Property Lease**" means a lease of real property of any DIP Party.

"Realization Process" means an orderly process for the liquidation of the inventory forming part of the Collateral, including a liquidation consulting agreement and liquidation Consultant, in form and substance satisfactory to the DIP Lender, in its sole and absolute discretion.

"**Realization Process Approval Order**" means an order of the Court approving the Realization Process.

"**Realization Process Report**" has the meaning given thereto in Section 16.

"**Repaid in Full**" means the final indefeasible payment in full of such obligations in cash or immediately available funds.

"**Revolving Credit**" has the meaning given thereto in the Pre-Filing Credit Agreement and, for greater certainty, includes the Interim Borrowings.

"**Sales Taxes**" means all goods and services taxes, harmonized sales taxes and other applicable sales taxes.

"**Taxes**" has the meaning given thereto in Section 30.

"**Term Credit**" has the meaning given thereto in the Pre-Filing Credit Agreement.

"**Updated DIP Budget**" has the meaning given thereto in Section 15.

"**Variance Period**" has the meaning given thereto in Section 15.

"**Variance Report**" has the meaning given thereto in Section 15.

"**Withholding Taxes**" has the meaning given thereto in Section 30.

SCHEDULE "A1"

BORROWING BASE DEFINITIONS

"**Borrowing Base**" means, at any time, the lesser of (A) $24,000,000, and (B) an amount (which may not be less than zero) equal to the sum of:

(i) 90% of the aggregate amount of all Eligible Credit Card Accounts,

(ii) plus, the lesser of (A) 85% of the lower of cost or fair market value of all Eligible Inventory, and (B) 90% of the appraised Net Orderly Liquidation Value of all Eligible Inventory, provided that in each case, the maximum aggregate amount attributed to Eligible In-Transit Inventory shall not exceed $ $10,000,000, other than during the fiscal months of August, September and October of any such Fiscal Year, during which the Eligible In-Transit Inventory shall not exceed $17,500,000,

(iii) plus,

(A) during the period from the date hereof until and including February 16, 2025, 100% of the aggregate amount of all cash collateral held in bank account No. 00010-9207716 maintained by Canadian Imperial Bank of Commerce and held on account of 9383921 which is subject to the amended and restated cash collateral agreement dated as of January 15, 2025 granted by 938291, up to a maximum amount of $2,500,000;

(B) at all times following (and including) February 17, 2025, $0.

(iv) minus,

(A) until January 20, 2025, the Borrowing Base Availability Block; and

(B) from and after March 9, 2025, the Borrowing Base Availability Block, and

(v) minus, an amount equal to all Availability Reserves.

For the avoidance of doubt, the Borrowing Base Availability Block shall not apply during the period from and including January 21, 2025 to and including March 10, 2025.

Associated Definitions:

"**Acceptable Bailee Letter**" means, in respect of each bailee, a bailee letter substantially in the form of Exhibit D of the Pre-Filing Credit Agreement or otherwise satisfactory to the DIP Lender in its Permitted Discretion executed by the relevant bailee.

"**Acceptable Landlord Waiver**" means, in respect of any given premises, a landlord waiver substantially in the form of Exhibit C of the Pre-Filing Credit Agreement or otherwise satisfactory to the DIP Lender in its Permitted Discretion executed by the landlord of the relevant premises.

"Affiliated Warehouse Locations" means, collectively, each of the warehouse or distribution centres leased by any of the DIP Parties from a landlord who is an Affiliate of any DIP Party and for which an Acceptable Landlord Waiver has been delivered.

"**Availability Reserves**" means, as of any date of determination and without duplication of any other Availability Reserves or risks, matters or items that are otherwise addressed or excluded through eligibility criteria, and without duplication of any of the factors taken into account in determining the value of any item or items of inventory or Accounts for purposes of determining the Borrowing Base, such amounts or reserves as the DIP Lender may from time to time establish and revise in its Permitted Discretion (in accordance with and subject to the limitations of Section 2.20 of the Pre-Filing Credit Agreement) reducing the Borrowing Base which would otherwise be available to the DIP Parties under the lending formulas provided for herein (a) to reflect criteria, events, conditions, contingencies or risks which, as determined by the DIP Lender in its Permitted Discretion (in accordance with and subject to the limitations of Section 2.20 of the Pre-Filing Credit Agreement), adversely affect (i) any component of the Borrowing Base or its value, (ii) the assets, business, or operations of the DIP Parties, or (iii) the security interests and other rights of the DIP Agent in the Collateral (including the enforceability, perfection and priority thereof, or the realization thereon), or (b) to reflect the DIP Lender's belief established in its Permitted Discretion and on reasonable and identified grounds that any collateral report or financial information furnished by or on behalf of the Borrower to the DIP Lender is reasonably thought to be incomplete, inaccurate or misleading, or (c) in respect of any state of facts which the DIP Lender determines constitutes a Default or an Event of Default. Without limiting, but subject to, the foregoing, the DIP Lender, in its Permitted Discretion, may establish and/or increase Availability Reserves (but without duplication as aforesaid) in respect of:

(a)

(i) rental payments or similar charges for any of the leased premises of any DIP Party or other locations at which Inventory having a fair market value in excess of $50,000 is located and which are not owned in fee simple by a DIP Party and for which the relevant DIP Party has not delivered to the DIP Lender a landlord's waiver or bailee's letter substantially in the form attached as Exhibits C and D to the Pre-Filing Credit Agreement, respectively; plus

(ii) Rent Reserves for each leased premises at which Collateral is located, unless an Acceptable Landlord Waiver has been obtained for the relevant leased premises; plus

(iii) any other fees or charges owing by any DIP Party to any applicable warehousemen or third party processor (all as determined by the DIP Lender in its reasonable business judgement),

all provided that, notwithstanding the foregoing,

(iv) none of items (i) through (iii) of this clause (a) shall apply in respect of and no Availability Reserve shall be imposed on account thereof in respect of any Third Party Retail Location or Affiliated Warehouse Location; and

(v) any Availability Reserve (which is by its nature, premises-specific or location-specific) established in accordance herewith for any such premises which is not a Third Party Retail Location or an Affiliated Warehouse Location shall not exceed the amount advanced against Collateral consisting of Inventory located at such premises;

(b) any reserve established by the DIP Lender in its Permitted Discretion on account of statutory claims, deemed trusts, or inventory subject to rights of suppliers under Section 81.1 of the *Bankruptcy and Insolvency Act* (Canada) (the "**BIA**") (generally known as the "30-day goods" rule) or similar rights of reclamation under Section 81.2 of the BIA, or under any other Applicable Law, in each case, where such claims, trusts or rights would rank or be reasonably expected to rank *pari passu* with or in priority to the Liens in favour of the DIP Lender under the DIP Financing Charge;

(c) liabilities of any DIP Party to the applicable account financial institution under any Blocked Account Agreement;

(d) Priority Payable Reserves;

(e) Cash Management Reserves;

(f) Bank Product Reserves;

(g) royalties payable to Persons who are not DIP Parties in respect of licensed merchandise forming part of the Collateral;

(h) Gift Card Reserves;

(i) such other reserves as the DIP Lender may at any time or times deem necessary in its Permitted Discretion (in accordance with and subject to the limitations of Section 2.20 of the Pre-Filing Credit Agreement).

"**Bank Product Reserves**" means such reserves as the DIP Lender may from time to time determine in its Permitted Discretion as being appropriate to reflect and commensurate in amount to the liabilities and obligations of the DIP Parties with respect to Bank Products then provided or outstanding; provided that in the event that any counterparty to a Swap Transaction requires that the DIP Parties provide cash collateral to secure such Swap Transaction, the amount of the Bank Product Reserve imposed by the DIP Lender with respect to such Swap Transaction shall take into consideration the amount of such cash collateral.

"**Bank Products**" means any services or facilities provided to any DIP Party by any Lender (as such term is defined under the Pre-Filing Credit Agreement) or any of its Affiliates on account of (a) each Swap Transaction that is entered into after the date hereof with any counterparty that is a DIP Party at the time such Swap Transaction is entered into, (b) leasing (but only to the extent that the Borrower and the DIP Party furnishing such lease notify the DIP

Lender in writing that such leases are to be deemed Bank Products hereunder), and (c) factoring arrangements, but excluding Cash Management Services.

"**Borrowing Base Availability Block**" means an amount equal to the lesser of (i) 10% of the Borrowing Base (calculated without application of paragraph (iii) of the definition thereof) and (ii) 10% of the maximum aggregate principal amount of the Revolving Credit and the Maximum Amount.

"**Cash Management Reserves**" means such reserves as the DIP Lender, from time to time, determines in its Permitted Discretion as being appropriate to reflect the reasonably anticipated liabilities and obligations of the DIP Parties with respect to Cash Management Services then provided or outstanding.

"**Cash Management Services**" means any one or more of the following types of services or facilities provided to any DIP Party by a Lender (as such term is defined in the Pre-Filing Credit Agreement) or any of its Affiliates: (a) ACH transactions, (b) cash management services, including controlled disbursement services, treasury, depository, overdraft, and electronic funds transfer services, (c) foreign exchange facilities, (d) credit card processing services, (e) credit or debit cards, and (f) purchase cards (but only to the extent that, prior to the occurrence and continuance of any Default or Event of Default, the Borrower and the DIP Party issuing such purchase cards notify the DIP Lender in writing that such purchase cards are to be deemed Cash Management Services hereunder).

"**Eligible Credit Card Account**" means at the time of any determination thereof, each Credit Card Account that satisfies the following criteria at the time of creation and continues to meet the same at the time of such determination: such Credit Card Account (i) has been earned by performance and represents the bona fide amounts due to a DIP Party from a Credit Card Issuer or a Credit Payment Processor, and in each case is originated in the ordinary course of business of such DIP Party, and (ii) in each case is not ineligible for inclusion in the calculation of the Borrowing Base pursuant to any of clauses (1) through (13) below. Without limiting the foregoing, to qualify as an Eligible Credit Card Account, such Credit Card Account shall indicate no Person other than a DIP Party as payee or remittance party. In determining the amount to be so included, the face amount of a Credit Card Account shall be reduced by, without duplication, to the extent not reflected in such face amount, (i) the amount of all accrued and actual fees and charges due to the Credit Card Issuer or Credit Payment Processor, discounts, claims, credits or credits pending, promotional program allowances, price adjustments, finance charges or other allowances (including any amount that a DIP Party is obligated to rebate to a customer, a Credit Card Issuer or a Credit Payment Processor pursuant to the terms of any agreement or understanding) and (ii) the aggregate amount of all cash received in respect of such Credit Card Account but not yet applied by a DIP Party to reduce the amount of such Credit Card Account. Except as otherwise agreed by the DIP Lender in its Permitted Discretion, any Credit Card Account included within any of the following categories shall not constitute an Eligible Credit Card Account:

(1) Any Credit Card Account that has been outstanding for more than five (5) Business Days from the date of sale (or for such longer period(s) as may be approved by the DIP Lender in its Permitted Discretion);

(2) Any Credit Card Account (i) that is not subject to a perfected first-priority Lien in favour of the DIP Lender (other than Permitted Priority Liens), or (ii) with respect to which the applicable DIP Party does not have good and valid title thereto, free and clear of any Lien (other than Permitted Priority Liens);

(3) Any Credit Card Account to the extent the same is disputed in writing (or by electronic means) or with respect to which a claim, counterclaim, offset or chargeback has been asserted in writing (or by electronic means, and to the extent of such claim, counterclaim, offset or chargeback);

(4) Any Credit Card Account as to which a Credit Card Issuer or a Credit Payment Processor has the right under certain circumstances to require the applicable DIP Party to repurchase such Credit Card Account from such Credit Card Issuer or Credit Payment Processor (but only to the extent of the repurchase right);

(5) Any Credit Card Account due from a Credit Card Issuer or a Credit Payment Processor of the applicable credit or debit card which is the subject of any bankruptcy or insolvency proceedings;

(6) Any Credit Card Account which is not a valid, legally enforceable obligation of the applicable Credit Card Issuer or a Credit Payment Processor with respect thereto;

(7) Any Credit Card Account which does not conform in all material respects to all representations, warranties or other provisions in the Loan Documents or, if applicable, the DIP Financing Credit Documents, which specifically and expressly relate to Credit Card Accounts;

(8) Any Credit Card Account that is owed by a Credit Card Issuer or a Credit Payment Processor not located in the United States or Canada (unless otherwise agreed to by the DIP Lender in its Permitted Discretion);

(9) Any Credit Card Account that (i) does not arise, directly or indirectly, from the sale of goods or the performance of services by the applicable DIP Party in the ordinary course of its business, and (ii) as to which the applicable DIP Party is not able to bring suit or otherwise enforce its remedies against the Credit Card Issuer or Credit Payment Processor through judicial process;

(10) Any Credit Card Account in respect of which the applicable DIP Party's right to receive payment is (i) not absolute or (ii) is contingent upon the fulfillment of any condition beyond the control of the applicable DIP Party;

(11) Any Credit Card Account that is payable in any currency other than U.S. Dollars or Canadian Dollars;

(12) Any Credit Card Account that is not subject to a Credit Card Notification; or

(13) Any Credit Card Account (other than those owing by VISA, MasterCard, American Express or PayPal) which the DIP Lender determines in its Permitted Discretion to be uncertain of collection.

"**Eligible In-Transit Inventory**" means any In-Transit Inventory owned by a DIP Party constituting finished goods and either (a) such Inventory is covered by a letter of credit issued by a financial institution acceptable to the Agent and otherwise on terms acceptable to the DIP Lender, acting reasonably, or (b) such Inventory is not covered by a letter of credit but (i) such In-Transit Inventory has been purchased by such DIP Party and such DIP Party has acquired valid title to such In-Transit Inventory pursuant to an English language purchase and sale contract between such DIP Party, as buyer, and the vendor or supplier, as seller, (ii) risk of loss has passed to such DIP Party, (iii) such In-Transit Inventory has been shipped and is in transit for receipt by such DIP Party or on behalf of such DIP Party within 60 days of the date of determination at a location in Canada or the United States of America where the DIP Lender's Liens have been perfected, but which has not yet been received by such DIP Party, (iv) such In-Transit Inventory is insured with reputable insurers against such types of loss, damage, hazards and risks, and in such amounts as are consistent with Prudent Business Practice (and in any case, covering the replacement cost of such In-Transit Inventory and otherwise satisfactory to the DIP Lender, acting reasonably) and the DIP Lender shall have been named as lender loss payee with respect to such insurance, (v) the bill of lading, waybill, airway bill document of title or other shipping documents (which may be in electronic format) (collectively, "**Shipping Documents**") with respect to such In-Transit Inventory shall be issued in the name of such DIP Party, as consignee (or, if so requested by the DIP Lender, consigned to the order of the DIP Lender), and if so requested by the DIP Lender, shall be in negotiable form, (vi) the DIP Lender shall have received confirmation that such DIP Party or the applicable freight forwarder or customs broker (in accordance with (x) below) has possession of the original Shipping Documents (or such in electronic format) issued in the name of such DIP Party, as consignee (or, if so requested by the DIP Lender, consigned to the order of the DIP Lender), (vii) the vendor or supplier has no claim upon, interest in, or rights of reclamation, repudiation, stoppage in transit or otherwise with respect to such Inventory (other than the claim to receive payment from such DIP Party for such In-Transit Inventory and rights and remedies associated therewith if payment is not received), (viii) the DIP Lender has a first priority Lien (subject to Permitted Priority Liens) on such In-Transit Inventory under Applicable Law in the jurisdiction in which such In-Transit Inventory is to be received by or on behalf of the DIP Party as contemplated in clause (iii) of this definition, (x) the applicable freight forwarder or customs broker shall have executed an agreement substantially in the form attached as Exhibit I attached to the Pre-Filing Credit Agreement or otherwise in form and substance acceptable to the DIP Lender in its Permitted Discretion;

"**Eligible Inventory**" means, at any time with respect to a DIP Party, (i) Eligible In-Transit Inventory, and (ii) items of Inventory of a DIP Party (other than Eligible In-Transit Inventory) that in each case, except as otherwise agreed by the DIP Lender, (x) comply in all material respects with each of the representations and warranties respecting Inventory made by a DIP Party in the Loan Documents or, if applicable, the DIP Financing Credit Documents, and (y) are not excluded as ineligible by virtue of their failure to satisfy one or more of the criteria set forth in clauses (1) through (13) below (without duplication of any Availability Reserves established by the DIP Lender), all valued in Canadian Dollars on a lower of Standard Cost or market basis in accordance with GAAP, with calculations in reasonable detail of lower of cost or market to occur on at least a monthly basis; No Inventory shall be deemed Eligible Inventory unless each of the following statements is accurate and complete (and by including such Inventory in any computation of the applicable Borrowing Base, the Borrower shall be deemed to represent and warrant to the DIP Lender the accuracy and completeness of such statements):

(1) Such Inventory is in either currently usable or merchantable and saleable condition in the ordinary course of business of the applicable DIP Party, meets all standards imposed by any Governmental Authority having regulatory authority over it or its use and/or sale and is not obsolete;

(2) Such Inventory is

(a) in the possession of such DIP Party or of a third party on behalf of a credit party and located on premises (i) owned by a DIP Party, which premises are subject to a first priority perfected Lien (subject to Permitted Priority Liens) in favour of the DIP Lender, or (ii) leased by a DIP Party where (x) the lessor has delivered to the DIP Lender an Acceptable Landlord Waiver or (y) a Rent Reserve with respect to such leased premises has been established by the DIP Lender, provided that no Acceptable Landlord Waiver shall be required for Third Party Retail Locations or nor shall any Rent Reserve be required to be established therefor, or

(b) in the possession of a bailee within Canada and such bailee shall have executed and delivered to the DIP Lender, an Acceptable Bailee Letter, or the DIP Lender shall have been advised that such Inventory is in the possession of a bailee and been given the opportunity to establish Availability Reserves in respect thereof, or

(3) The DIP Lender, has a first-priority perfected Lien (subject to Permitted Priority Liens) covering such Inventory, and such Inventory is, and at all times will be, free and clear of all Liens other than Permitted Liens;

(4) Such Inventory does not include goods (i) that are not owned by such DIP Party, (ii) that are held by such DIP Party pursuant to a consignment agreement, (iii) that are discontinued goods, or (iv) that are work-in-process or work-in-progress;

(5) Such Inventory does not consist of store room materials, supplies, parts, samples, prototypes, or packing and shipping materials;

(6) Such Inventory does not consist of goods that are or returned, rejected or repossessed or used goods taken in trade;

(7) Such Inventory is not evidenced by negotiable documents of title unless delivered to the DIP Lender with endorsements and insurance, as applicable, on all terms and conditions satisfactory to the DIP Lender;

(8) Such Inventory does not constitute Hazardous Materials;

(9) Such Inventory is covered by property insurance in accordance with Section 5.9 of the Pre-Filing Credit Agreement, subject to applicable deductibles;

(10) Such Inventory is located on real or immoveable property where there is Inventory of such DIP Party in the aggregate amount of at least Cdn.$50,000;

(11) Such Inventory is not Inventory which the DIP Lender has determined in the exercise of its reasonable discretion that the DIP Lender may not sell or otherwise dispose of in

accordance with the terms of the DIP Financing Charge without infringing upon the rights of another Person or violating any contract with any other Person (including, for greater certainty, licencing agreements);

(12) Such Inventory is located in the United States of America or Canada; or

(13) Such Inventory is not Inventory which the DIP Lender has otherwise determined in the exercise of its Permitted Discretion are to be excluded from the Borrowing Base.

"**FCCR Implementation Date**" means such date, as determined by the DIP Lender, in its sole discretion, on which the DIP Parties have been able to maintain a Fixed Charge Coverage Ratio (as defined in the Pre-Filing Credit Agreement) of not less than 1.00 to 1.00 for three (3) consecutive months.

"**GAAP**" means at any particular time with respect to any DIP Party, generally accepted accounting principles as in effect at such time in Canada, consistently applied; provided, however, that, if employment of more than one principle shall be permissible at such time in respect of a particular accounting matter, "GAAP" shall refer to the principle which is then employed by the applicable DIP Party with the concurrence of its independent public or chartered accountants, who are acceptable to the DIP Lender provided further that, for the purposes of determining compliance with the financial covenants herein, "GAAP" means GAAP as at the date hereof.

"**Gift Card Reserves**" means (i) from May 1, 2024 until January 16, 2025, 25% of the aggregate value of all Gift Cards issued under the banner of any DIP Party (excluding the Borrower) which are outstanding and unredeemed, and (ii) on and after January 17, 2025, zero.

"**Gift Cards**" means the banner-specific gift cards purchased by customers of the DIP Parties (excluding the Borrower) which can be redeemed for merchandise in the applicable retail stores or online purchase websites of the DIP Party (excluding the Borrower) or issued to customers of the DIP Party (excluding the Borrower) upon the return of any merchandise which can be redeemed for merchandise in the applicable retail stores or online purchase websites of the DIP Party (excluding the Borrower).

"**Net Orderly Liquidation Value**" means, with respect to Eligible Inventory and Eligible In-Transit Inventory the net appraised liquidation value thereof (expressed as a percentage of the cost of such inventory) as determined from time to time by an appraiser acceptable to the DIP Lender.

"**Priority Payable Reserves**" shall mean, without duplication of any other Availability Reserves with respect to the DIP Parties, such reserves as the DIP Lender from time to time determines in its Permitted Discretion (in accordance with and subject to the limitations of Section 2.20 of the Pre-Filing Credit Agreement) as being appropriate to reflect any amount constituting Priority Payables.

"**Prudent Business Practice**" means, at any given time, any of the practices, methods and acts that, in the exercise of reasonable judgment in light of the facts known at the time the decision was made, would have been expected to achieve the desired result at a commercially

reasonable cost consistent with requirements of Applicable Law and prudent business practice in the retail apparel trade, all with respect to the conduct and operation of a business or businesses of similar in nature, size and scope as the businesses carried on by the DIP Parties.

"**Rent Reserve**" means a reserve up to a maximum of three (3) months of rental payments or similar charges payable under the lease (but which shall in no event exceed for any premises the maximum amount for which the landlord of such premises may have a Lien or a right of distraint for unpaid rent under Applicable Law in the event that rent is not paid when due) for the applicable leased premises of any DIP Party where Collateral is located and for which the relevant DIP Party has not delivered to the DIP Lender an Acceptable Landlord Waiver.

"**Standard Cost**" means the standard cost of Inventory determined in accordance with the applicable DIP Party's published GAAP compliant inventory policy, consistently applied.

"**Third Party Retail Locations**" means, collectively, retail locations operated by any of the DIP Parties (other than the Borrower) that are leased from arm's length third party landlords which, for greater certainty, are not Affiliates of any of the DIP Parties.

SCHEDULE "B"
FORM OF DIP ADVANCE REQUEST

NOTICE OF BORROWING

CANADIAN IMPERIAL BANK OF COMMERCE
CIBC Square, 81 Bay Street, 10th Floor
Toronto, ON M5J 0E7

Attention: Senior Director, Portfolio Management

BORROWING NOTICE

Gentlemen:

We refer to the DIP Financing Term Sheet dated as of January 15, 2025 (as amended, restated, supplemented, replaced or otherwise modified from time to time the "**DIP Term Sheet**"; capitalized terms used herein but not otherwise defined shall have the meanings set forth in the DIP Term Sheet), among Comark Holdings Inc., as borrower (the "**Borrower**"), Canadian Imperial Bank of Commerce, as lender (the "**DIP Lender**") and the Guarantors.

We hereby instruct and authorize the DIP Lender to make advances to our disbursement account(s), subject to and in accordance with the terms and provisions of the DIP Term Sheet to the account numbers specified below and to charge the Borrower's loan account as DIP Advances with each such advance(s).

The Borrower hereby requests an advance (the "**DIP Advance**") be made under the DIP Term Sheet as follows:

A. the Borrowing Amount under the DIP Facility:

Canadian Dollars (Cdn$): _____

U.S. Dollars (US$) _____

B. the Drawdown Date: _[DATE]_____

Notice requirements as stated in the DIP Term Sheet are:

- 10:00 AM (Toronto time) on the requested Drawdown Date for Canadian Dollar Loans or U.S. Dollar Loans,

Proceeds of the DIP Advance are to be directed as follows:

Bank Name: _____

Account Name: _____

Branch #: _____

Account Number: CAD# _____

USD# _____

The Borrower hereby acknowledges that the DIP Lender will make payments strictly on the basis of the account number furnished herein even if such account number identifies a party other than the name of the account listed above. In the event the above account number is incorrect, we hereby agree to be fully liable for any and all losses, costs, and expenses arising therefrom.

C. Supporting Documentation:

The Borrower hereby confirms that the proceeds of the DIP Advance will be used for the following purposes: _____

As per the attached supporting documentation:

- Attach a description of the proposed uses and purposes of the DIP Advance
- Attach copies of any and all invoices which will be paid, in full or in part, with the proceeds of the DIP Advance (excluding any invoices for regularly scheduled rent payments).
- To the extent applicable, attach a list of all locations and related rental payments which will be paid, in full or in part, with the proceeds of the DIP Advance.

The Borrower hereby confirms as follows:

(a) Each of the representations and warranties made by the Borrower in or pursuant to the DIP Term Sheet and the other DIP Financing Credit Documents are true and correct on and as of the date hereof as if made on and as of the date hereof, except (i) where such representation and warranty refers to a different date;

(b) No Default or Event of Default has occurred and is continuing on the date hereof or will occur after the making of the DIP Advance(s) requested hereunder;

(c) Except as may have been otherwise agreed to from time to time by the DIP Lender and the Borrower in writing, after making the DIP Advance(s) requested to be made by the Borrower hereunder, (i) the aggregate DIP Exposure will not exceed the Maximum Amount; and (ii) the aggregate DIP Exposure, plus the outstanding principal obligations under the Revolving Credit will not exceed an amount equal to the Borrowing Base; and

(d) Except as may have been otherwise agreed to from time to time by the DIP Lender, in writing, all DIP Advance(s) requested to be made to the Borrower shall comply with the DIP Budget.

DATED this day of _____, 2025.

Yours truly,

Comark Holdings Inc.

By: _____
Name:
Title:

SCHEDULE "C"
FORM OF DIP BUDGET

Comark Group

DIP Budget

figures in CAD $ thousands	*Week 1*	*Week 2*	*Week 3*	*Week 4*	*Week 5*	*Week 6*	*Week 7*	*Week 8*	*Week 9*	*Week 10*	*Week 11*	*Week 12*	*Week 13*	*Week 14*	*Week 15*	*Week 16*	*Week 17*	*Week 18*	**18-Wk**
	18-Jan-25	**25-Jan-25**	**01-Feb-25**	**08-Feb-25**	**15-Feb-25**	**22-Feb-25**	**01-Mar-25**	**08-Mar-25**	**15-Mar-25**	**22-Mar-25**	**29-Mar-25**	**05-Apr-25**	**12-Apr-25**	**19-Apr-25**	**26-Apr-25**	**03-May-25**	**10-May-25**	**17-May-25**	**TOTAL**
Total Receipts	**4,439**	**3,030**	**3,878**	**5,294**	**5,869**	**6,607**	**6,178**	**5,725**	**6,837**	**7,431**	**7,184**	**6,785**	**4,878**	**2,031**	**1,022**	**-**	**-**	**-**	**80,621**
Disbursements																			
Rent	-	1,129	1,250	357	1,250	335	1,250	291	1,250	382	-	1,113	-	749	-	33	-	-	**10,270**
Payroll	1,583	498	1,286	426	1,321	426	1,245	440	1,246	424	1,145	429	1,180	475	1,861	-	-	-	**14,486**
Store Retention	-	-	-	-	-	-	-	-	-	-	-	-	-	-	1,000	-	-	-	**1,000**
Merchandise	1,000	500	500	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	**2,000**
Duties	-	-	606	-	-	-	645	-	-	-	53	-	-	-	-	-	-	-	**1,304**
Freight & Shipping	238	271	166	161	297	120	120	116	105	105	105	105	105	105	-	-	-	-	**2,119**
Customer Delivery	350	342	250	250	150	100	-	-	-	-	-	-	-	-	-	-	-	-	**1,442**
Warehouse & Corporate	-	850	-	900	425	425	425	425	425	200	200	200	200	200	200	-	-	-	**5,075**
Utilities, Maintenance & Other	130	280	180	80	130	130	65	165	65	65	65	116	40	40	40	-	-	-	**1,673**
IT Service Costs	-	-	-	-	-	391	-	-	-	-	-	-	-	-	-	-	-	-	**391**
Sales Tax Payable	-	-	-	-	-	-	1,027	-	-	-	1,921	-	-	-	2,232	-	-	1,123	**6,303**
Professional Fees	-	500	-	600	-	600	-	500	-	500	-	500	-	-	372	-	-	-	**4,223**
Credit Card Fees	-	-	377	-	-	-	281	-	-	-	-	434	-	-	178	13	-	-	**1,283**
Interest & Fees	-	45	-	229	-	42	-	193	-	-	-	117	-	-	-	281	-	-	**907**
Shared Services	-	-	-	50	50	50	50	50	50	50	-	-	-	-	-	-	-	-	**455**
Liquidation Fees	475	346	-	753	287	536	287	525	287	572	287	561	287	287	154	-	-	-	**5,644**
Contingency	647	300	-	-	-	-	-	-	-	-	(260)	-	-	-	-	(500)	200	-	**387**
Total Disbursements	**4,423**	**5,060**	**4,615**	**3,806**	**3,910**	**3,155**	**5,395**	**2,705**	**3,428**	**2,298**	**3,515**	**3,574**	**1,812**	**1,855**	**6,035**	**(172)**	**200**	**1,123**	**58,962**
Net Cash Flow	**16**	**(2,030)**	**(737)**	**1,487**	**1,959**	**3,452**	**783**	**3,020**	**3,409**	**5,134**	**3,668**	**3,211**	**3,066**	**175**	**(5,013)**	**172**	**(200)**	**(1,123)**	**21,658**

Cash & Borrowings

Cash on hand	100	100	100	100	100	100	100	100	100	100	100	2,118	5,184	5,359	346	519	319	-	
Pre-Filing Revolver Balance	21,337	17,707	13,829	8,535	2,666	-	-	-	-	-	-	-	-	-	-	-	-	-	
DIP Facility	-	5,660	10,275	14,082	17,992	17,206	16,424	13,404	9,995	4,861	1,193	-	-	-	-	-	-	804	
Net Debt Balance	**21,237**	**23,267**	**24,004**	**22,517**	**20,558**	**17,106**	**16,324**	**13,304**	**9,895**	**4,761**	**1,093**	**(2,118)**	**(5,184)**	**(5,359)**	**(346)**	**(519)**	**(319)**	**804**	

SCHEDULE "D"
MILESTONES

Milestone Date*	**Event/Item****
January 17, 2025	Issuance and Entry of the Amended and Restated Initial Order
January 17, 2025	Execution and delivery of all applicable DIP Financing Credit Documents by the DIP Parties
January 18, 2025	Commencement of the Realization Process
March 1, 2025	Repayment in full of all outstanding Obligations, including Interim Borrowings, under the Revolving Credit
April 27, 2025	Completion of the Realization Process

* Notwithstanding the above, a specific Milestone may be extended or waived with the express prior written consent of the DIP Lender, in its sole and absolute discretion.

** Each to be in form and substance satisfactory to the DIP Lender, in its sole and absolute discretion.

SCHEDULE "E"
FORM OF AMENDED AND RESTATED INITIAL ORDER

Court File No. CV-25-00734339-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

THE HONOURABLE MR.	)	FRIDAY, THE 17TH
	)	
JUSTICE CAVANAGH	)	DAY OF JANUARY, 2025

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 COMARK HOLDINGS INC., BOOTLEGGER CLOTHING INC., CLEO FASHIONS INC. AND RICKI'S FASHIONS INC. (collectively, the "**Applicants**")

AMENDED AND RESTATED INITIAL ORDER
(amending the Initial Order dated January 7, 2025)

THIS APPLICATION, made by the Applicants, pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**") was heard this day via videoconference.

ON READING the Notice of Motion of the Applicants, the affidavit of Shamsh Kassam sworn January 6, 2025, and the Exhibits thereto (the "**Initial Kassam Affidavit**"), the affidavit of Shamsh Kassam sworn January 15, 2025, and the Exhibits thereto (the "**Second Kassam Affidavit**"), the consent of Alvarez & Marsal Canada Inc. ("**A&M**") to act as monitor (in such capacity, the "**Monitor**"), the Pre-Filing Report dated January 6, 2025, of A&M in its capacity as proposed Monitor, the First Report of the Monitor dated January **[●]**, 2025, and 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, the Monitor, Canadian Imperial Bank of Commerce, in its capacity as Senior Lender, Interim Lender and DIP Lender (as defined below), and such other counsel present,

SERVICE

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

DEFINITIONS

2. **THIS COURT ORDERS** that unless otherwise indicated or defined herein, capitalized terms have the meanings given to them in the Initial Kassam Affidavit and the Second Kassam Affidavit, as applicable.

APPLICATION

3. **THIS COURT ORDERS AND DECLARES** that the Applicants are companies to which the CCAA applies.

PLAN OF ARRANGEMENT

4. T**HIS COURT ORDERS** that the Applicants 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

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**"). 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 are each authorized and empowered to continue to retain and employ the employees, independent contractors, advisors, consultants, agents, experts, appraisers, valuators, 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 the Applicants shall be entitled to continue to use the central cash management system currently in place as described in the Initial Kassam Affidavit or, with the prior consent of the Monitor and the DIP Lender, 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 Applicants 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 Applicants, 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, subject to and in accordance with the DIP Term Sheet (defined below), the Applicants shall be entitled but not required to pay the following expenses whether incurred prior to, on or after January 7, 2025 (the "**Filing Date**"):

(a) all outstanding and future wages, salaries, employee benefits (including, without limitation, employee medical, dental and similar benefit plans or arrangements), vacation pay and expenses, 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 expenses;

(b) all outstanding and future amounts invoiced to any of the Applicants from any independent contractors retained by any of the Applicants, in each case incurred in the ordinary course of business and consistent with existing payment arrangements;

(c) to and including January 16, 2025, or such other later date as the Applicants determine in consultation with the DIP Lender, all outstanding or future amounts owing in respect of existing customer pre-payments, deposits, return policies, refunds, discounts or other amounts on account of similar customer programs or obligations,

including loyalty programs, and further the Applicants shall be entitled, but not required, to honour existing exchange policies until such date;

(d) to and including January 16, 2025, all outstanding or future amounts related to honouring gift cards;

(e) to the extent included in the Cash Flow Forecast or DIP Budget and approved by the Monitor and the DIP Lender, amounts owing for (I) any Parian Services or IT Services (each as defined in the Initial Kassam Affidavit) supplied to the Applicants prior to the Filing Date, or (II) goods or services ordered by or supplied to the Applicants prior to the Filing Date by any:

(i) providers of credit, debit and gift card processing related services;

(ii) logistics, warehouse or supply chain providers, including transportation providers, clearing houses, customs brokers, freight forwarders and security and armoured truck carriers, and including amounts payable in respect of customs and duties for goods;

(iii) providers of information, internet, telecommunications, and other technology, including e-commerce providers and related services; and

(iv) other suppliers or service providers if, in the opinion of the Applicants following consultation with the Monitor, such payment is necessary to maintain the uninterrupted operations of the Business, including, for clarity, pursuant to any Merchandise Transfer Agreement;

(f) the fees and disbursements of any Assistants retained or employed by the Applicants in respect of these proceedings, at their standard rates and charges; and

(g) any other amounts to the extent included in the Cash Flow Forecast or DIP Budget and approved by the Monitor and DIP Lender.

8. **THIS COURT ORDERS** that, except as otherwise provided to the contrary herein, and consistent with the Cash Flow Forecast or DIP Budget, the Applicants shall be entitled but not required to pay all reasonable expenses incurred by them in carrying on the Business in the ordinary course after the Filing Date, and in carrying out the provisions of this Order and any other Order of this Court, 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, maintenance and security services; and

(b) payment for goods or services actually supplied to the Applicants following the Filing Date.

9. **THIS COURT ORDERS** that the Applicants shall remit, in accordance with legal requirements, 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, and (iv) income taxes, and all other amounts related to such deductions or employee wages payable for periods following the Filing Date pursuant to the *Income Tax Act*, Canada Pension Plan, *Employment Insurance Act*, and similar provincial statutes;

(b) all goods and services taxes, harmonized sales taxes or other applicable sales taxes (collectively, "**Sales Taxes**") due and 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 Filing Date;

(c) all Sales Taxes accrued or collected prior to the Filing Date but not remitted until on or after the Filing Date, provided that, unless otherwise agreed by the Applicants and the DIP Lender (i) all Obligations have been Repaid in Full under the Pre-Filing Credit Agreement (including, without limitation, all obligations under the Revolving Credit, Term Credit and the BCAP Facility, all accrued and unpaid interest relating to such facilities and the Lender Expenses) (in each case as defined in the DIP Term Sheet), and (ii) all DIP Financing Obligations under the DIP Facility have been Repaid in Full (in each case as defined in the DIP Term Sheet);

(d) 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, until a real property lease (each, a "**Lease**") to which any Applicant is a party is disclaimed in accordance with the CCAA, or otherwise consensually terminated, the applicable Applicant that is party to such Lease shall pay, without duplication, all amounts constituting rent or payable as rent under such Lease (including, for greater certainty, common area maintenance charges, utilities and realty taxes and any other amounts payable to the applicable landlord (each, a "**Landlord**") under such Lease, but for greater certainty, excluding amounts owing in respect of the period prior to the Filing Date (including percentage rent), accelerated rent or penalties, fees or other charges arising as a result of any default that is stayed by this Order, the insolvency of the Applicants, the commencement of these CCAA proceedings, or the making of this Order) or as otherwise may be negotiated between such Applicant and the Landlord from time to time ("**Rent**"), (a) incurred and relating solely to the period commencing from and including the Filing Date until and including January 17, 2025, as a single payment made on the Filing Date, (b) incurred and relating solely to the period commencing from and including January 18, 2025, until and including January 31, 2025, as a single payment made on January 17, 2025, or within two (2) business days thereafter, and (c) thereafter, twice-monthly in equal payments on the first and fifteenth day of each month, in advance (but not in arrears), in each case save and except for any component of Rent which is percentage rent which, commencing from and including the Filing Date, shall be calculated every two weeks and paid one week thereafter regarding revenues incurred during the period from and including the Filing Date.

11. **THIS COURT ORDERS** that, except as specifically permitted herein or to the extent included in the Cash Flow Forecast, the DIP Budget or otherwise permitted under the DIP Term Sheet, 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 this date); (b) to grant no security interests, trusts,

liens, charges or encumbrances upon or in respect of any of their Property; and (c) to not grant credit or incur liabilities except in the ordinary course of the Business.

RESTRUCTURING

12. **THIS COURT ORDERS** that the Applicants shall, subject to such requirements as are imposed by the CCAA, such covenants as may be contained in the Definitive Documents (as hereinafter defined), or as otherwise ordered by this Court, have the right to:

(a) permanently or temporarily cease, downsize or shut down any of their business or operations, and to dispose of redundant or non-material assets not exceeding $150,000 in any one transaction or $500,000 in the aggregate;

(b) vacate, abandon or quit the whole but not part of any leased premises and/or disclaim any real property lease, including any Lease, and any ancillary agreements relating to any leased premises;

(c) without limiting paragraph 12(b), above, disclaim, with the prior consent of the Monitor, and after consultation with the DIP Lender, any of their arrangements or agreements of any nature whatsoever and with whomsoever, whether oral or written, as the Applicants deem appropriate, in accordance with section 32 of the CCAA;

(d) terminate the employment of such of their employees or temporarily lay off such of their employees as they deem appropriate;

(e) in consultation with, and with the oversight of the Monitor and in consultation with the DIP Lender, (i) engage in discussions with and solicit proposals and agreements from, third parties in respect of the liquidation of the inventory, furniture, equipment and fixtures and other property located in and/or forming part of the Property, and return to Court for the approval of any such agreement (the "**Realization Selection Process**"), and (ii) with the assistance of any real estate advisor or other Assistants as may be desirable, pursue all avenues and offers for the sale, transfer or assignment of the Leases to third parties, in whole or in party and return to Court for approval of any such sale, transfer or assignment; and

(f) pursue all offers for or avenues of refinancing, restructuring, sale or reorganizing the Business or Property, in whole or part, including pursuant to any solicitation process letter establishing bid procedures (including minimum proposal requirements, key milestones, and successful bid selection criteria) as may be determined by the Applicants and Monitor in consultation with the DIP Lender, for circulation to potentially interested parties identified by the Applicants and the Monitor; provided, however, that completion of any such refinancing, restructuring, sale or reorganization transaction will be subject to (i) prior approval of this Court (except as permitted by paragraph 12(a) above in respect of redundant or non-material assets or the Realization Process Approval Order granted by this Court on January 17, 2025) and (ii) prior approval of the DIP Lender.

all of the foregoing to permit the Applicants to proceed with an orderly restructuring of the Business (the "**Restructuring**").

13. **THIS COURT ORDERS** that the Applicants shall provide each of the relevant Landlords with notice of the Applicants' 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 such Landlord disputes the Applicants' entitlement to remove any such fixture under the provisions of the applicable Lease, such fixture shall remain on the premises and shall be dealt with as agreed between any applicable secured creditors, such Landlord and the Applicants, or by further Order of this Court upon application by the Applicants on at least two (2) days notice to such Landlord and any such secured creditors. If the Applicants disclaim the Lease governing such leased premises in accordance with Section 32 of the CCAA, the Applicants 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 such Lease shall be without prejudice to the Applicants' claim to the fixtures in dispute.

14. **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 Applicants 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 the Applicants 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.

NO PROCEEDINGS AGAINST THE APPLICANTS OR THE PROPERTY

15. **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 the Applicants 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 prior written consent of the Applicants and the Monitor, or with leave of this Court, and any and all Proceedings currently under way against or in respect of the Applicants, or except as permitted by subsection 11.03(2) of the CCAA, their employees, directors, advisors, officers, or representatives acting in such capacities, or affecting the Business or the Property are hereby stayed and suspended pending further Order of this Court.

16. **THIS COURT ORDERS** that, to the extent any prescription, time or limitation period relating to any Proceeding against or in respect of any Applicant that is stayed pursuant to this Order may expire, the term of such prescription, time or limitation period shall hereby be deemed to be extended by a period equal to the Stay Period.

NO EXERCISE OF RIGHTS OR REMEDIES

17. **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 the Applicants or the Monitor, or their respective employees, directors, advisors, officers, and representatives acting in such capacities, or affecting the Business or the Property, are hereby stayed and suspended except with the prior written consent of the Applicants and the Monitor, or leave of this Court, provided that nothing in this Order shall (a) empower the Applicants 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

18. **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, lease, sublease, licence or permit in favour of or held by the Applicants, except with the prior written consent of the Applicants and the Monitor, or leave of this Court.

CONTINUATION OF SERVICES

19. **THIS COURT ORDERS** that during the Stay Period, all Persons having oral or written agreements or arrangements with any of the Applicants or statutory or regulatory mandates for the supply or license of goods, intellectual property, 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, importing services, customs clearing, warehouse and logistics services, security services, utility or other services to the Business or the Applicants, are hereby restrained until further Order of this Court from discontinuing, altering, suspending, interfering with or terminating the supply or license of such goods, intellectual property, or services as may be required by the Applicants, and that the Applicants shall be entitled to the continued use of their current premises, telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case, that the normal prices or charges for all such goods or services received after the Filing Date are paid by the Applicants in accordance with normal payment practices of the applicable Applicant or such other practices as may be agreed upon by the supplier or service provider and the applicable Applicant and the Monitor, or as may be ordered by this Court.

NO PRE-FILING VS POST-FILING SET-OFF

20. **THIS COURT ORDERS** that, no Person shall be entitled to set off any amounts that: (a) are or may become due to any Applicant in respect of obligations arising prior to the Filing Date

with any amounts that are or may become due from such Applicant in respect of obligations arising on or after the Filing Date; or (b) are or may become due from any Applicant in respect of obligations arising prior to the Filing Date with any amounts that are or may become due to such Applicant in respect of obligations arising on or after the Filing Date, in each case without the consent of the Applicants and the Monitor, or leave of this Court.

NON-DEROGATION OF RIGHTS

21. **THIS COURT ORDERS** that, notwithstanding anything else in this Order other than paragraph 10 of this Order, 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 Filing Date, nor shall any Person be under any obligation on or after the Filing Date to advance or re-advance any monies or otherwise extend any credit to the Applicants. Nothing in this Order shall derogate from the rights conferred and obligations imposed by the CCAA.

PROCEEDINGS AGAINST DIRECTORS AND OFFICERS

22. **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 the Applicants with respect to any claim against the directors or officers that arose before the Filing Date and that relates to any obligations of the Applicants 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 Plan in respect of the Applicants, if one is filed, is sanctioned by this Court or is refused by the creditors of the Applicants or this Court.

DIRECTORS' AND OFFICERS' INDEMNIFICATION AND CHARGE

23. **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.

24. **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 $7,400,000, as security for the indemnity provided in paragraph 23 of this Order. The Directors' Charge shall have the priority set out in paragraphs 47 and 49 hereof.

APPOINTMENT OF MONITOR

25. **THIS COURT ORDERS** that A&M is hereby 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 the Applicants and their shareholders, officers, directors, and Assistants shall advise the Monitor of all material steps taken by the Applicants 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.

26. **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 and review the Applicants' receipts and disbursements;

(b) assist with the Restructuring and the operations of the Applicants;

(c) assist the Applicants in their dissemination to the DIP Lender and its counsel and financial advisor of financial and other information as agreed to between the Applicants and the DIP Lender, which may be used in these proceedings, including reporting on a basis to be agreed with the DIP Lender;

(d) liaise with Assistants, to the extent required, with respect to all matters relating to the Property, the Business, and such other matters as may be relevant to the proceedings herein;

(e) 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;

(f) advise the Applicants in their preparation of the Applicants' cash flow statements and other required reporting, including under the DIP Term Sheet;

(g) advise the Applicants in their development of any Plan and any amendments to any such Plan and, to the extent required by the Applicants, assist with the holding and administering of creditors' or shareholders' meetings for voting on any Plan;

(h) 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, wherever located and to the extent that is necessary to adequately assess the Applicants' business and financial affairs or to perform its duties arising under this Order;

(i) liaise and consult with any Assistants and any liquidator selected through the Realization Selection Process, to the extent required by the Applicants, with any matters relating to the Property, the Business and such other matters as may be relevant to the proceedings herein;

(j) be at liberty to engage independent legal counsel or such other persons, or utilize the services of employees of its affiliates, as the Monitor deems necessary or advisable respecting the exercise of its powers and performance of its obligations under this Order;

(k) perform its obligations under any Merchandise Transfer Agreements**;** and

(l) perform such other duties as are required by this Order or by this Court from time to time.

27. **THIS COURT ORDERS** that 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, be deemed to have taken or maintained possession or control of the Business or Property, or any part thereof.

28. **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 waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, *1999,* 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 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 the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

29. **THIS COURT ORDERS** that the Monitor shall provide any creditor of the Applicants 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.

30. **THIS COURT ORDERS** that, in addition to the rights and protections afforded the Monitor under the CCAA or as an officer of this Court, neither the Monitor nor any of its employees or representatives shall incur any liability or obligation as a result of the Monitor's appointment or the carrying out by it of the provisions of this Order (including in carrying out its duties under any Merchandise Transfer Agreement**)**, 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.

31. **THIS COURT ORDERS** that the Monitor, counsel to the Monitor and counsel to the Applicants**,** counsel to the Interim Lender and the DIP Lender and financial advisor thereto, shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges, whether incurred prior to, on or subsequent to the Filing Date, 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 to the Monitor and counsel to the Applicants, counsel to the Interim Lender and the DIP Lender and financial advisor thereto, in each case, on a weekly basis or on such terms as such parties may agree and, in addition, the Applicants are hereby authorized to pay to the Monitor, counsel to the Monitor and counsel to the Applicants, retainers, *nunc pro tunc*, to be held by them as security for payment of their respective fees and disbursements outstanding from time to time.

32. **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.

MERCHANDISE TRANSFER AGREEMENTS

33. **THIS COURT ORDERS** that the form of Merchandise Transfer Agreement attached as Exhibit "E" to the Second Kassam Affidavit (the "**Template MTA**") is approved, and the Applicants and Monitor are hereby authorized and empowered to execute Merchandise Transfer Agreements substantially in the form of the Template MTA with the Overseas Vendors and to perform their respective obligations thereunder, and any Merchandise Transfer Agreements executed by the Monitor and Applicants prior to the making of this Order are hereby authorized and approved *nunc pro tunc*.

ADMINISTRATION CHARGE

34. **THIS COURT ORDERS** that the Monitor, counsel to the Monitor and counsel to the Applicants, 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 $1,000,000 as security for their professional fees and disbursements incurred at their 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 set out in paragraphs 47 and 49 hereof.

INTERIM FINANCING

35. **THIS COURT ORDERS** that on or after the Filing Date and until January 17, 2025, Comark Holdings Inc. is hereby authorized and empowered to continue to borrow from the Canadian Imperial Bank of Commerce (in such capacity, the "**Interim Lender**") under the existing credit facilities (the "**Existing Credit Facilities**") pursuant to the Amended and Restated Credit Agreement dated as of September 9, 2024 (as amended, the "**Existing Credit Agreement**") between, among others, Comark Holdings Inc. and the Interim Lender (in its capacity as lender and agent under the Existing Credit Agreement, the "**Senior Lender**"), in order to finance the Applicants' working capital requirements and other general corporate purposes, capital expenditures, and costs of these proceedings during the Stay Period (each, an "**Interim Borrowing**" and collectively, the "**Interim Borrowings**"), provided that: (i) such Interim Borrowings are made in accordance with the Cash Flow Forecast or otherwise agreed by the Applicants and the Interim Lender, in each case subject to prior approval pursuant to a draw request in form and substance satisfactory to the Interim Lender, accompanied by such supporting documentation as the Interim Lender may request; (ii) such Interim Borrowings are secured by the Interim Lender's Charge (as defined below) with the priority set out in paragraphs 47 and 49 hereof; (iii) such Interim Borrowings under the Existing Credit Facility shall accrue interest at the default rates set out in the Existing Credit Agreement; (iv) (a) Bootlegger Clothing Inc., cleo fashions Inc., and Ricki's Fashions Inc. shall be deemed to guarantee and secure the Interim Borrowings, together with all interest accrued thereon and costs and expenses incurred in connection therewith (collectively, the "**Interim Borrowing Obligations**"), in the same manner as the other Obligations (as defined in the Existing Credit Agreement) that they have guaranteed and secured in connection with the Existing Credit Agreement and under the loan and security documents provided by them in connection therewith, (b) the Pledged Collateral (as defined in the Limited Recourse Guarantee by 9383921 Canada Inc. in favour of Senior Lender dated August 7, 2020) shall secure the Interim Borrowings, and (c) Bootlegger Clothing Inc., cleo fashions Inc., Ricki's Fashions Inc. and 9383921 Canada Inc. shall be deemed to ratify and

acknowledge the guarantees and security they have provided in connection with the Existing Credit Agreement and the loan and security documents provided by them in connection therewith, in the case of each of the foregoing (a) to (c), without the need for any further guarantee, security or documentation from Bootlegger Clothing Inc., cleo fashions Inc., Ricki's Fashions Inc. or 9383921 Canada Inc.

36. **THIS COURT ORDERS** that the Applicants are hereby authorized and empowered to execute and deliver such amendments to the Existing Credit Agreement or other documents, if any, as may be reasonably required by the Interim Lender to facilitate any Interim Borrowings, provided that failure to execute any such documentation does not invalidate any Interim Borrowings or the validity or priority of the Interim Lender's Charge.

37. **THIS COURT ORDERS** that the Interim Borrowings shall mature on January 17, 2025, and the Interim Borrowings shall be payable in full by the Applicants on such date.

38. **THIS COURT ORDERS** that (i) the Interim Lender shall be entitled to the benefit of and is hereby granted a charge (the "**Interim Lender's Charge**") on the Property of each of the Applicants as security for the Interim Borrowings, which Interim Lender's Charge shall, for greater certainty, not secure any obligation that exists before the Filing Date, (ii) the Interim Lender's Charge shall have the priority set out in paragraphs 47 and 49 hereof, (iii) the Interim Lender's Charge shall be terminated, released and discharged upon the Interim Borrowing Obligations being Repaid in Full from the proceeds of the First Advance (each as defined in the DIP Term Sheet), without any other act or formality; and (iv) until the Interim Borrowings Obligations are Repaid in Full, all consents required of the DIP Lender in this Order and all rights afforded to the DIP Lender under paragraph 26(c), 45, and 46 of this Order shall also apply to the Interim Lender *mutatis mutandis*.

39. **THIS COURT ORDERS** in the event the Applicants fail to make the payment to the Interim Lender required by paragraph 37 herein, then upon three (3) business days' notice to the Applicants and the Monitor, the Interim Lender may exercise any and all of its rights and remedies against the Applicants or the Property under or pursuant to the Existing Credit Agreement and the Interim Lender's Charge, including without limitation, to cease making advances to the Applicants and, subject to further Order of the Court, set off and/or consolidate any amounts owing by the Interim Lender to any of the Applicants against the obligations of the

Applicants to the Interim Lender under the Existing Credit Agreement, this Order or the 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 Applicants or the Property and for the appointment of a trustee in bankruptcy of the Applicants.

40. **THIS COURT ORDERS** that the Interim Lender shall be treated as unaffected in any Plan filed by the Applicants under the CCAA, or any proposal filed by the Applicants under the *Bankruptcy and Insolvency Act* (Canada) (the "**BIA**") with respect to any Interim Borrowings.

DIP FINANCING

41. **THIS COURT ORDERS** that Comark Holdings Inc. is hereby authorized and empowered to obtain and borrow under a credit facility from the Canadian Imperial Bank of Commerce (in such capacity, the "**DIP Lender**") in order to finance the Applicants' working capital requirements and other general corporate purposes and costs of these proceedings (each, a "**DIP Borrowing**" and collectively, the "**DIP Borrowings**").

42. **THIS COURT ORDERS** that such credit facility shall be on the terms and subject to the conditions set forth in the term sheet between the Applicants and the DIP Lender dated as of January 15, 2025 (the "**DIP Term Sheet**"), filed.

43. **THIS COURT ORDERS** that the Applicants are 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 DIP Term Sheet or as may be required by the DIP Lender, and the Applicants are hereby authorized and directed to pay and perform all of their indebtedness, interest, fees, liabilities and obligations to the DIP Lender under and pursuant to the DIP Term Sheet and the Definitive Documents 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 Lender shall be entitled to the benefit of and is hereby granted a charge (the "**DIP Lender's Charge**") on the Property of each of the Applicants as security for the DIP Borrowings, which DIP Lender's Charge shall not secure an obligation

that exists before this Order is made. The DIP Lender's Charge shall have the priority set out in paragraphs 47 and 49 hereof.

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

(a) the DIP Lender may take such steps from time to time as it may deem necessary or appropriate to file, register, record or perfect the DIP Lender's Charge, the DIP Term Sheet or any of the Definitive Documents;

(b) upon the occurrence of an event of default under the DIP Term Sheet or the Definitive Documents, the DIP Lender may cease making advances to Comark Holdings Inc. pursuant to the DIP Term Sheet and, upon approval of the Court, may exercise any and all of its rights and remedies against the Applicants or the Property under or pursuant to the DIP Term Sheet, Definitive Documents and the DIP Lender's Charge, including without limitation, to set off and/or consolidate any amounts owing by the DIP Lender to the Applicants against the obligations of the Applicants to the DIP Lender under the DIP Term Sheet, the Definitive Documents or the DIP 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 Applicants or the Property and for the appointment of a trustee in bankruptcy of the Applicants; and

(c) the foregoing rights and remedies of the DIP Lender shall be enforceable against any trustee in bankruptcy, interim receiver, receiver or receiver and manager of the Applicants or the Property.

46. **THIS COURT ORDERS** that the DIP Lender shall be treated as unaffected in any Plan filed by the Applicants under the CCAA, or any proposal filed by the Applicants under the BIA with respect to any advances made under the DIP Term Sheet or the Definitive Documents.

VALIDITY AND PRIORITY OF CHARGES CREATED BY THIS ORDER

47. **THIS COURT ORDERS** that the priorities of the security interests granted by the Administration Charge, Interim Lender's Charge, the DIP Lender's Charge, and the Directors'

Charge (collectively, the "**Charges**"), and the Applicants to Senior Lender, as among them, shall be as follows:

(a) First – Administration Charge (to the maximum amount of $1,000,000);

(b) Second – the DIP Lender's Charge;

(c) Third – the Interim Lender's Charge, until such Interim Lender's Charge is terminated pursuant to paragraph 38, and the other security granted by the Applicants to the Senior Lender with respect to the Existing Credit Facilities (excluding the Interim Borrowings) in accordance with the Existing Credit Agreement, on a *pari pasu* basis; and

(c) Fourth – Directors' Charge (to the maximum amount of $7,400,000).

48. **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.

49. **THIS COURT ORDERS** that each of the Charges shall constitute a charge on the Property and such Charges 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.

50. **THIS COURT ORDERS** that except as otherwise expressly provided for herein, or as may be approved by this Court, 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 Lender, and the other beneficiaries of the Charges (collectively, the "**Chargees**"), or further Order of this Court.

51. **THIS COURT ORDERS** that the Charges shall not be rendered invalid or unenforceable and the rights and remedies of the Chargees 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 or receivership order(s) issued pursuant to the BIA or otherwise, or any bankruptcy or receivership 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 or provincial 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:

(i) neither the creation of the Charges nor the execution, delivery, perfection, registration or performance of the Interim Borrowings or any amendment or document pursuant to paragraph 36 hereof, the DIP Term Sheet, or the Definitive Documents shall create or be deemed to constitute a breach by the Applicants of any Agreement to which any of them is a party,

(ii) 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 execution of the DIP Term Sheet, the DIP Financing Obligations, the Interim Borrowings, creation of the Charges, the Interim Borrowings or the execution, delivery or performance of any amendment or document pursuant to paragraph 36 hereof, the DIP Term Sheet, or the Definitive Documents; and

(iii) the payments made by the Applicants pursuant to this Order, including with respect to the Interim Borrowings, the DIP Term Sheet, 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.

52. **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' interests in such real property leases.

SERVICE AND NOTICE

53. **THIS COURT ORDERS** that the Monitor shall (a) without delay, publish in the Globe & Mail a notice containing the information prescribed under the CCAA; and (b) within five days after the Filing Date, (i) make this Order publicly available in the manner prescribed under the CCAA, (ii) send, or cause to be sent, in the prescribed manner (including by electronic message

to the e-mail addresses as last shown in the Applicants' books and records), a notice to all known creditors having a claim against the Applicants of more than $1,000, and (iii) prepare a list showing the names and addresses of such 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 individuals who are creditors publicly available, unless otherwise ordered by the Court.

54. **THIS COURT ORDERS** that any employee of any of the Applicants who is sent a notice of termination of employment or any other communication by the Applicants on or after the Filing Date shall be deemed to have received such communication by no later than 8:00 a.m. prevailing Eastern Time on the fourth day following the date any such communication is sent, if such communication is sent by ordinary mail, expedited parcel or registered mail to the individual's address as reflected in the Applicants' books and records; provided, however, that any communication that is sent to an employee of the Applicants by electronic message to the individual's corporate email address and/or the individual's personal address as last shown in the Applicants' books and records shall, (a) if sent by electronic message at or prior to 5:00 p.m. prevailing Eastern Time on a business day, be deemed to have been received by such employee on the date on which such electronic message was sent, or (b) if sent by electronic message after 5:00 p.m. prevailing Eastern Time on a business day or on a day that is not a business day, be deemed to have been received by such employee on the next business day following the date on which such electronic message was sent, notwithstanding that the mailing of any notices of termination of employment or other employee communication was sent pursuant to any other means.

55. **THIS COURT ORDERS** that the E-Service Guide 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 https://www.ontariocourts.ca/scj/practice/regional-practice-directions/eservice-commercial/) 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: 'www.alvarezandmarsal.com/ComarkRetail'.

56. **THIS COURT ORDERS** that if the service or distribution of documents in accordance with the Protocol or the CCAA and the regulations thereunder 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 copies thereof by prepaid ordinary mail, courier, personal delivery, facsimile transmission or electronic message to the Applicants' creditors or other interested parties at their respective addresses (including e-mail addresses) as last shown in the books and records of the Applicants and that any such service or distribution shall be deemed to be received on the earlier of (a) the date of forwarding thereof, if sent by electronic message at or prior to 5:00 p.m. prevailing Eastern Time (or on the next business day following the date of forwarding thereof if sent on a non-business day); (b) the next business day following the date of forwarding thereof, if sent by courier, personal delivery, facsimile transmission or electronic message sent after 5:00 p.m. prevailing Eastern Time; or (c) on the third business day following the date of forwarding thereof, if sent by ordinary mail.

57. **THIS COURT ORDERS** that the Applicants and the Monitor and their respective counsel are at liberty to serve or distribute this Order, any other materials and orders as may be reasonably required in these proceedings, including any notices, or other correspondence, by forwarding 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* (SOR/2013-221).

GENERAL

58. **THIS COURT ORDERS** that any interested party that wishes to amend or vary this Order shall be entitled to appear or bring a motion before this Court, and any such interested party shall give not less than five business days' notice to the Service List and any other party or parties likely to be affected by the Order sought; provided, however, that the Chargees shall be entitled to rely on this Order as granted and on the Charges and priorities set forth in paragraphs 47 and 49 hereof with respect to any fees, expenses and disbursements incurred, as applicable, until the date this Order may be amended, varied or stayed.

59. **THIS COURT ORDERS** that, notwithstanding paragraph 58 of this Order, 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 respective powers and duties hereunder.

60. **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 the Applicants, the Business or the Property.

61. **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 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 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 agents in carrying out the terms of this Order.

62. **THIS COURT ORDERS** that each of the Applicants 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.

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

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

Court File No:

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF COMARK HOLDINGS INC., BOOTLEGGER CLOTHING INC., CLEO FASHIONS INC. AND RICKI'S FASHIONS INC.

Applicants

Ontario
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

Proceeding commenced at Toronto

AMENDED AND RESTATED INITIAL ORDER

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SCHEDULE "F"
FORM OF REALIZATION PROCESS APPROVAL ORDER

Court File No. CV-25-00734339-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

THE HONOURABLE MR.	)	FRIDAY, THE 17th
	)	
JUSTICE CAVANAGH	)	DAY OF JANUARY, 2025

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 COMARK HOLDINGS INC., BOOTLEGGER CLOTHING INC., CLEO FASHIONS INC. AND RICKI'S FASHIONS INC.

REALIZATION PROCESS APPROVAL ORDER

THIS MOTION, made by Comark Holdings Inc., Bootlegger Clothing Inc., cleo fashions Inc. and Ricki's Fashions Inc. (collectively, the "**Applicants**"), pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**"), for an order, among other things, (i) approving the consulting agreement between the Applicants and Tiger Asset Solutions Canada, ULC (the "**Consultant**") dated as of January 14, 2025 (as may be amended and/or restated in accordance with the terms of this Order, the "**Consulting Agreement**") and the transactions contemplated thereby, and (ii) granting certain related relief, was heard this day via videoconference.

ON READING the Notice of Motion of the Applicants, the affidavit of Shamsh Kassam sworn January 6, 2025, and the Exhibits thereto (the "**Initial Kassam Affidavit**"), the affidavit of Shamsh Kassam sworn January 15, 2025, and the Exhibits thereto (the "**Second Kassam Affidavit**"), the Pre-Filing Report dated January 6, 2025, of Alvarez & Marsal Canada Inc. ("**A&M**") in its capacity as proposed monitor, and the First Report of A&M, in its capacity as monitor of the Applicants (in such capacity, the "**Monitor**") dated January [●], 2025 (the "**First Report**"), and on hearing the submissions of counsel to the Applicants, the Monitor, and such

other counsel as were present, no one else appearing although duly served as appears from the Affidavit of Service of [●] sworn January [●], 2025, filed:

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 any capitalized term used and not defined herein shall have the meaning ascribed thereto in the Amended and Restated Initial Order in these proceedings dated January 17, 2025 (the "**Amended and Restated Initial Order**"), the Sales Guidelines (as defined below), or the Consulting Agreement (attached as Exhibit "F" to the Second Kassam Affidavit), as applicable.

THE CONSULTING AGREEMENT

3. **THIS COURT ORDERS** that the Consulting Agreement, including the sale guidelines attached as Schedule "A" hereto (the "**Sale Guidelines**"), and the transactions contemplated thereunder are hereby approved, authorized and ratified and that the execution of the Consulting Agreement by the Applicants is hereby approved, authorized, and ratified, *nunc pro tunc*, with such minor amendments to the Consulting Agreement (but not the Sale Guidelines) as the Merchants (with the consent of the Monitor) and the Consultant may agree to in writing. Subject to the provisions of this Order and the Amended and Restated Initial Order, the Merchants are hereby authorized and directed to take any and all actions as may be necessary or desirable to implement the Consulting Agreement and the transactions contemplated therein. Without limiting the foregoing, the Merchants are authorized to execute any other agreement, contract, deed or document, or take any other action, that is necessary or desirable to give full and complete effect to the Consulting Agreement.

THE SALE

4. **THIS COURT ORDERS** that the Merchants, with the assistance of the Consultant, are authorized to conduct the Sale in accordance with this Order, the Consulting Agreement and the Sale Guidelines and to advertise and promote the Sale within the Stores in accordance with the

Sale Guidelines. If there is a conflict between this Order, the Consulting Agreement and the Sale Guidelines, the order of priority of documents to resolve such conflicts is as follows: (1) this Order; (2) the Sale Guidelines; and (3) the Consulting Agreement.

5. **THIS COURT ORDERS** that, subject to paragraph 13 of the Amended and Restated Initial Order, the Merchants, with the assistance of the Consultant, are authorized to market and sell, or otherwise dispose of, the Merchandise and FF&E on a "final sale" and/or "as is" basis and in accordance with the Sale Guidelines and the Consulting Agreement, free and clear of all liens, claims, encumbrances, security interests, mortgages, charges, trusts, deemed trusts, executions, levies, and financial, monetary or other claims, whether or not such claims have attached or been perfected, registered or filed and whether secured, unsecured, quantified or unquantified, contingent or otherwise, whensoever and howsoever arising, and whether such claims arose or came into existence prior to or following the date of this Order (in each case, whether contractual, statutory, arising by operation of law, in equity or otherwise) (all of the foregoing, collectively "**Claims**"), including, without limitation, (a) the Administration Charge, the Interim Lender's Charge, the Directors' Charge, the DIP Lender's Charge, and any other charges hereafter granted by this Court in these proceedings (collectively, the "**CCAA Charges**"); and (b) all Claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario), *Personal Property Security Act* (Alberta), *Personal Property Security Act* (British Columbia), *Personal Property Security Act* (Manitoba), the *Personal Property Security Act* (New Brunswick), *Personal Property Security Act, 1993* (Saskatchewan), *Personal Property Security Act* (Nova Scotia), *Personal Property Security Act* (Newfoundland and Labrador) or any other personal or movable property registration system (all of such Claims (including the CCAA Charges) collectively referred to herein as the "**Encumbrances**"), which Encumbrances will attach instead to the proceeds of the Sale (other than amounts specified in paragraph 16 of this Order) in the same order and priority as they existed immediately prior to the Sale.

6. **THIS COURT ORDERS** that subject to the terms of this Order, the Amended and Restated Initial Order and the Sale Guidelines, the Consultant shall have the right to enter and use the Stores and Warehouses and all related store services and all facilities and all furniture, trade fixtures and equipment, including the FF&E, located at the Stores and Warehouses for the purpose of conducting the Sale in accordance with the terms of the Consulting Agreement, the Sale Guidelines, and this Order, and for such purposes, the Consultant shall be entitled to the benefit of

the stay of proceedings granted in favour of the Applicants under the Amended and Restated Initial Order, as such stay of proceedings may be extended by further Order of the Court.

7. **THIS COURT ORDERS** that until the end of the FF&E Removal Period for each Store (which shall in no event be later than May 7, 2025, or such later date as may be ordered by this Court), the Consultant shall have access to (a) the Stores in accordance with the applicable Leases and (b) the Warehouses in accordance with the applicable contractual agreements between the applicable Applicant or Applicants and the third party operator of the applicable Warehouse, in each case in accordance with the Sale Guidelines, as applicable, and on the basis that the Consultant is assisting the Merchants, and the Merchants have granted their right of access to the Stores and Warehouses to the Consultant, in accordance with the terms of the Consulting Agreement, the Sale Guidelines, and this Order. To the extent that the terms of the applicable Leases are in conflict with any term of this Order or the Sale Guidelines, the terms of this Order and the Sale Guidelines shall govern. With respect to the Warehouse, the Consultants shall be deemed to be authorized representatives of the Merchants.

8. **THIS COURT ORDERS** that nothing in this Order shall amend or vary, or be deemed to amend or vary, the terms of the Leases. Nothing contained in this Order or the Sale Guidelines shall be construed to create or impose upon the Merchants or the Consultant any additional restrictions not contained in the applicable Lease.

9. **THIS COURT ORDERS** that, subject to and in accordance with the Consulting Agreement, the Sale Guidelines and this Order, the Consultant is authorized to advertise and promote the Sale, without further consent of any Person other than (a) the Merchants and the Monitor as provided under the Consulting Agreement; or (b) a Landlord as provided under the Sale Guidelines.

10. **THIS COURT ORDERS** that until the Sale Termination Date, the Consultant shall have the right to use, without interference by any Person (including any licensor), all licenses and rights granted to the Merchants to use trade names, trademarks, logos, copyrights or other intellectual property of any Person, solely for the purpose of advertising and conducting the Sale of the Merchandise and FF&E in accordance with the terms of the Consulting Agreement, the Sale Guidelines, and this Order. Any Person with access to such information, shall cooperate and provide access to such information to the Consultant to facilitate the Sale.

CONSULTANT LIABILITY

11. **THIS COURT ORDERS** that the Consultant shall act solely as an independent consultant to the Merchants and that it shall not be liable for any claims against the Merchants other than as expressly provided in the Consulting Agreement (including the Consultant's indemnity obligations thereunder) or the Sale Guidelines and, for greater certainty:

(a) the Consultant shall not be deemed to be an owner or in possession, care, control or management of the Stores or the Warehouses, of the assets located therein or associated therewith or of the Merchants' employees located at the Stores, or the Warehouses or of any other property of the Merchants;

(b) the Consultant shall not be deemed to be an employer, or a joint or successor employer, related or common employer or payor within the meaning of any legislation, statute or regulation or rule of law or equity governing employment, labour standards, pension benefits or health and safety for any purpose whatsoever in relation to the Merchants' employees, and shall not incur any successorship liabilities whatsoever (including without limitation, losses, costs, damages, fines or awards); and

(c) subject to and without limiting the Consultant's indemnification of the Merchant Indemnified Parties pursuant to the Consulting Agreement, the Consultant shall bear no responsibility for any liability whatsoever (including without limitation, losses, costs, damages, fines or awards) relating to Claims of customers, the Merchants' employees and any other Persons arising from events occurring at the Stores during and after the term of the Sale or at the Warehouses, or otherwise in connection with the Sale, except to the extent that such Claims are the result of events or circumstances caused or contributed to by the gross negligence or wilful misconduct of the Consultant, its employees, Supervisors, independent contractors, agents or other representatives, or otherwise in accordance with the Consulting Agreement.

12. **THIS COURT ORDERS** that, to the extent (a) any Landlord has a claim against a Merchant arising solely out of the conduct of the Consultant in conducting the Sale; and (b) such Merchant has a claim against the Consultant under the Consulting Agreement arising from such conduct, such Merchant shall be deemed to have assigned such claim against the Consultant under

the Consulting Agreement free and clear to the applicable Landlord (the "**Assigned Landlord Rights**"); provided that, each such Landlord shall only be permitted to advance the Assigned Landlord Rights against the Consultant if written notice, including the reasonable details of such claim, is provided by such Landlord to the Consultant, the Merchants and the Monitor during the period commencing on the Sale Commencement Date and ending on the date that is thirty (30) days following the FF&E Removal Period for the applicable Store(s); provided, however, that, the Landlords shall be provided with access to the Stores to inspect the Stores within fifteen (15) days following the FF&E Removal Period for the applicable Store(s).

CONSULTANT AN UNAFFECTED CREDITOR

13. **THIS COURT ORDERS** that the Consulting Agreement shall not be repudiated, resiliated or disclaimed by the Merchants nor shall the claims of the Consultant pursuant to the Consulting Agreement be compromised or arranged pursuant to any plan of arrangement or compromise among the Merchants and their creditors (a "**Plan**"), or any other transaction involving the sale of the Merchants' assets and business, including without limitation, a sale of the Merchants' assets or the Merchants' shares, however implemented (each, a "**Transaction**"). For greater certainty, the Consultant shall be treated as an unaffected creditor in these proceedings, under any Plan or Transaction.

14. **THIS COURT ORDERS** that the Merchants are hereby authorized and directed, in accordance with the Consulting Agreement, to remit all amounts that become due to the Consultant thereunder.

15. **THIS COURT ORDERS** that without limiting the generality of paragraph 3, the payment by the Merchants of the Special Purpose Payment to the Consultant is approved, authorized, and ratified, *nunc pro tunc*.

16. **THIS COURT ORDERS** that no Encumbrances shall attach to any amounts payable or to be credited or reimbursed to, or retained by, the Consultant pursuant to the Consulting Agreement, including without limitation, the payment by the Merchants of the Special Purpose Payment to the Consultant, and any amounts to be reimbursed by any Merchant to the Consultant pursuant to the Consulting Agreement and at all times the Consultant will retain such amounts,

free and clear of all Encumbrances, notwithstanding any enforcement or other process or Claims, all in accordance with the Consulting Agreement.

17. **THIS COURT ORDERS** that notwithstanding:

(a) the pendency of these proceedings;

(b) any application for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) ("**BIA**") in respect of any Applicant, or any bankruptcy order made pursuant to any such applications;

(c) any assignment in bankruptcy made in respect of any Applicant;

(d) the provisions of any federal, or provincial statute; 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, mortgage, security agreement, debenture, sublease, offer to lease or other document or agreement to which any Applicant is a party;

the Consulting Agreement and the transactions and actions provided for and contemplated therein, including without limitation, the payment of amounts due to the Consultant and the Assigned Landlord Rights shall be binding on any trustee in bankruptcy that may be appointed in respect of the Applicants and shall not be void or voidable by any Person, including any creditor of the Applicants, nor shall they, or any of them, constitute or be deemed to be a preference, fraudulent conveyance, transfer at undervalue or other challengeable or reviewable transaction, under the CCAA or BIA or any applicable law, nor shall they constitute oppressive or unfairly prejudicial conduct under any applicable law.

PIPEDA

18. **THIS COURT ORDERS** that the Merchants are authorized and permitted to transfer to the Consultant personal information in the Merchants' custody and control solely for the purposes of assisting with and conducting the Sale and only to the extent necessary for such purposes and the Consultant is hereby authorized to make use of such personal information solely for the purposes as if it were a Merchant, subject to and in accordance with the Consulting Agreement.

GENERAL

19. **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 respective powers and duties hereunder.

20. **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 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 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 agents in carrying out the terms of this Order.

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

_____

SCHEDULE "A"

Sale Guidelines

SALE GUIDELINES

Capitalized terms used but not defined in these sale guidelines ("**Sale Guidelines**") shall have the meanings ascribed to them in the Amended and Restated Initial Order of the Ontario Superior Court of Justice (Commercial List) (the "**Court**") dated January 17, 2025 (as further amended and/or restated from time to time, the "**ARIO**") made in the proceedings in respect of Comark Holdings Inc., Bootlegger Clothing Inc., cleo fashions Inc., and Ricki's Fashions Inc.(each, a "**Merchant**" and collectively, the "**Merchants**") under the *Companies' Creditors Arrangement Act* ("**CCAA**") and the Realization Process Approval Order (as defined below), as applicable.

The following procedures shall apply to the sale (the "**Sale**") of merchandise, inventory, furniture, fixtures and equipment at the Merchants' retail store locations as set forth in the Updated Store List attached as Exhibit "A-1" to the Consulting Agreement (as defined below), as may be amended from time to time in accordance with the Consulting Agreement (individually, a "**Store**" and, collectively, the "**Stores**").

1. Except as otherwise expressly set out herein, and subject to: (i) the Order of the Court dated January 17, 2025, (the "**Realization Process Approval Order**") approving, *inter alia*, the consulting agreement between the Merchants and Tiger Asset Solutions Canada, ULC (the "**Consultant**") dated as of January 14, 2025 (as amended and restated from time to time in accordance with the Realization Process Approval Order, the "**Consulting Agreement**") and the transactions contemplated thereunder; (ii) any further Order of the Court; and/or (iii) any subsequent written agreement between a Merchant and its applicable Landlord(s) and approved by the Consultant, the Sale shall be conducted in accordance with the terms of the applicable Leases. However, nothing contained herein shall be construed so as to create or impose upon the Merchants or the Consultant any additional restrictions not contained in the applicable Lease.

2. The Sale shall be conducted so that each Store remains open during its normal hours of operation provided for in its respective Lease, until the earlier of (i) the applicable Sale Termination Date (as defined below) and (ii) the date on which such Lease is disclaimed in accordance with the ARIO and CCAA or otherwise consensually terminated by the applicable Merchant(s) and Landlord. The Sale at the Stores shall end on the Sale Termination Date determined pursuant to the Consulting Agreement, which shall be no later than April 30, 2025 (such date, or such other date as determined in accordance with the Realization Process Approval Order, the "**Sale Termination Date**"). Rent payable under the Leases shall be paid by the applicable Merchant(s) up to and including the effective date of an applicable lease disclaimer or mutual termination as provided in the ARIO, which, for greater certainty, may be up to seven (7) days following the applicable Sale Termination Date (the "**FF&E Removal Period**").

3. The Sale shall be conducted in accordance with applicable federal, provincial and municipal laws and regulations, unless otherwise authorized under the CCAA, the ARIO, the Realization Process Approval Order, or otherwise ordered by the Court.

4. All display and hanging signs used by the Consultant in connection with the Sale shall be professionally produced and all hanging signs shall be hung in a professional manner. Notwithstanding anything to the contrary contained in the Leases, the Consultant may advertise the Sale at the Stores as a "everything on sale", "everything must go", "store closing" and/or similar theme sale at the Stores (provided, however, that no signs shall advertise the Sale as a "bankruptcy", a "liquidation" or a "going out of business" sale, unless otherwise agreed between the Consultant and applicable Landlord, it being understood that the French equivalent of "clearance" is "liquidation" and is permitted to be used). Forthwith upon request from a Landlord, the Landlord's counsel, the Merchants or the Monitor, the Consultant shall provide the proposed signage packages

along with proposed dimensions by e-mail to the applicable Landlord(s) or to their counsel of record and the applicable Landlord shall notify the Consultant of any requirement for such signage to otherwise comply with the terms of the Lease and/or these Sale Guidelines and where the provisions of the Lease conflict with these Sale Guidelines, these Sale Guidelines shall govern. The Consultant shall not use neon or day-glow signs or any handwritten signage (save that handwritten "you pay" or "topper" signs may be used). If a Landlord is concerned with "store closing" signs being placed in the front window of a Store or with the number or size of the signs in the front window, the applicable Merchant, the Consultant and such Landlord will work together to resolve the dispute. Furthermore, with respect to enclosed mall Store locations without a separate entrance from the exterior of the enclosed mall, no exterior signs or signs in common areas of a mall shall be used unless explicitly permitted by the applicable Lease and shall otherwise be subject to all applicable laws. In addition, the Consultant shall be permitted to utilize exterior banners/signs at stand alone, strip mall or enclosed mall Store locations with a separate entrance from the exterior of the enclosed mall; provided, however, that: (i) no signage in any other common areas of a mall shall be used unless explicitly permitted by the applicable Lease and shall otherwise be subject to all applicable laws; and (ii) where such banners are not explicitly permitted by the applicable Lease and the applicable Landlord requests in writing that banners are not to be used, no banners shall be used absent further Order of the Court, which may be sought on an expedited basis on notice to the recipients listed in the service list in respect of these CCAA proceedings (the "**Service List**"). Any banners used shall be located or hung so as to make clear that the Sale is being conducted only at the affected Store and shall not be wider than the premises occupied by the affected Store. All exterior banners shall be professionally hung and to the extent that there is any damage to the façade of the premises of a Store as a result of the hanging or removal of the exterior banner, such damage shall be professionally repaired at the expense of the Consultant.

5. The Consultant shall be permitted to utilize sign-walkers and street signage; provided, however, that such sign-walkers and street signage shall not be located on the shopping centre or mall premises.

6. The Consultant shall be entitled to include additional merchandise in the Sale; provided that: (i) the additional merchandise is owned by a Merchant, is currently in the possession of, or in the control of, a Merchant (including in any Warehouse (as defined in the Consulting Agreement) used by a Merchant), or is ordered from an existing supplier in respect of Merchants' existing SKUs by or on behalf of a Merchant, including merchandise currently in transit to a Merchant (including any Warehouse used by a Merchant) or a Store; and (ii) the additional merchandise is of the type and quality typically sold in the Stores and is consistent with any restriction on the usage of the Stores as set out in the applicable Leases.

7. Conspicuous signs shall be posted in the cash register areas of each of the Stores to the effect that all sales are "final".

8. The Consultant shall not distribute handbills, leaflets or other written materials to customers outside of any of the Stores on a Landlord's property, unless explicitly permitted by the applicable Lease or if distribution is customary in the shopping centre in which the Store is located. Otherwise, the Consultant may solicit customers in the Stores themselves. The Consultant shall not use any giant balloons, flashing lights or amplified sound to advertise the Sale or solicit customers, except as explicitly permitted under the applicable Lease or agreed to by the applicable Landlord, and no advertising trucks shall be used on Landlord property or mall ring roads, except as explicitly permitted under the applicable Lease or as otherwise agreed to by such Landlord.

9. At the conclusion of the Sale and the FF&E Removal Period in each Store, the Consultant shall arrange that the premises for each Store are in "broom-swept" and clean condition and shall arrange that the Stores are in the same condition as on the commencement of the Sale, ordinary wear and tear excepted. No property of any Landlord of a Store shall be removed or sold during the Sale. No permanent fixtures (other than the FF&E (as defined below)) may be removed without the applicable Landlord's written consent unless otherwise provided by the applicable Lease and in accordance with the ARIO and the Realization Process Approval Order. Unless otherwise agreed with the applicable Landlord, any trade fixtures or personal property left in a Store after the applicable FF&E Removal Period, in respect of which the applicable Lease has been disclaimed by a Merchant, shall be deemed abandoned. The applicable Landlord shall have the right to dispose of any goods left in the Store as the Landlord chooses, without any liability whatsoever on the part of such Landlord. Nothing in this paragraph shall derogate from or expand upon the Consultant's obligations under the Consulting Agreement.

10. Subject to the terms of paragraph 9 above, the Consultant may also sell existing goods, furniture, trade fixtures, equipment and/or improvements to real property that are located in the Stores during the Sale and the FF&E Removal Period (collectively, the "**FF&E**"). For greater certainty, FF&E does not include any portion of a Store's mechanical, electrical, plumbing, security, HVAC, sprinkler, fire suppression, or fire alarm systems (including related fixtures and affixed equipment). The Merchants and the Consultant may advertise the sale of the FF&E consistent with these Sale Guidelines on the understanding that the applicable Landlord may require such signs to be placed in discreet locations within the Stores reasonably acceptable to such Landlord. Additionally, the purchasers of any FF&E sold during the Sale shall only be permitted to remove such FF&E either through the back shipping areas designated by the applicable Landlord or through other areas after regular Store business hours or through the front door of the Store during Store business hours if the FF&E can fit in a shopping bag, with the applicable Landlord's supervision if required by such Landlord and in accordance with the ARIO and the Realization Process Approval Order. The Consultant or Merchants, as applicable, shall repair any damage to the Stores resulting from the removal of any FF&E or personal property of a Merchant by the Consultant or by third party purchasers of FF&E or personal property from the Consultant.

11. The Consultant shall not make any alterations to interior or exterior Store lighting, except as authorized pursuant to the affected Lease. The hanging of exterior banners or other signage, where permitted in accordance with the terms of these Sale Guidelines, shall not constitute an alteration to a Store.

12. The Merchants hereby provides notice, including for purposes of the ARIO, to the Landlords of the Merchants' and the Consultant's intention to sell and remove FF&E from the Stores. The Consultant shall make commercially reasonable efforts to arrange with each Landlord represented by counsel on the Service List and with any other Landlord that so requests, a walk-through with the Consultant to identify any FF&E that is subject to the Sale. The relevant Landlord shall be entitled to have a representative present in the applicable Stores to observe such removal. If the relevant Landlord disputes the Consultant's entitlement to sell or remove any FF&E under the provisions of the applicable Lease, such FF&E shall remain on the premises and shall be dealt with as agreed between the applicable Merchant, the Consultant and such Landlord, or by further Order of the Court upon motion by the Merchants on at least two (2) business days' notice to such Landlord and the Monitor. If the applicable Merchant has disclaimed or resiliated the Lease governing such Store in accordance with the CCAA and the ARIO, 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 the CCAA and the ARIO), and the disclaimer or resiliation of the Lease shall be without prejudice to the applicable Merchant's or the Consultant's claim to the FF&E in dispute.

13. If a notice of disclaimer or resiliation of Lease is delivered pursuant to the CCAA and the ARIO to a Landlord while the Sale is ongoing and the Store in question has not yet been vacated, then: (i) during the notice period prior to the effective date of the disclaimer or resiliation, such Landlord may show the affected Store to prospective tenants during normal business hours, on giving the Merchants, the Monitor and the Consultant at least twenty-four (24) hours' prior written notice; and (ii) at the effective date of the disclaimer or resiliation, the relevant Landlord shall be entitled to take possession of any such Store without waiver of or prejudice to any claims or rights such Landlord may have against the applicable Merchant or any of its affiliates in respect of such Lease or Store; provided that, nothing herein shall relieve such Landlord of any obligation to mitigate any damages claimed in connection therewith.

14. The Consultant and its agents and representatives shall have the same access rights to each Store as the applicable Merchant under the terms of the applicable Lease, and the Landlords shall have access rights to the applicable Store as provided for in the applicable Lease (subject, for greater certainty, to any applicable stay of proceedings and the terms of the ARIO).

15. The Merchants and the Consultant shall not conduct any auctions of Merchandise or FF&E at any of the Stores.

16. The Consultant shall designate a party to be contacted by the Landlords should a dispute arise concerning the conduct of the Sale. The initial contact person(s) for the Consultant shall be Mark Naughton who may be reached by phone at (847) 372-8794 or email at mnaughton@tigergroup.com. If the parties are unable to resolve the dispute between themselves, the applicable Landlord or the Merchants shall have the right to schedule a "status hearing" before the Court on no less than two (2) days' written notice to the other party or parties and the Monitor, during which time the Consultant shall suspend all activity in dispute other than activities expressly permitted herein, pending determination of the matter by the Court; provided, however, subject to paragraph 4 of these Sale Guidelines, if a banner has been hung in accordance with these Sale Guidelines and is the subject of a dispute, the Consultant shall not be required to take any such banner down pending determination of any dispute.

17. Nothing herein or in the Consulting Agreement is, or shall be deemed to be, a sale, assignment, or transfer of any Lease to the Consultant nor a consent by any Landlord to the sale, assignment or transfer of any Lease, or shall, or shall be deemed to, or grant to any Landlord any greater rights in relation to the sale, assignment or transfer of any Lease than already exist under the terms of any such Lease.

18. These Sale Guidelines may be amended on a Store-by-Store basis, by written agreement between the applicable Merchant, the Consultant, and the applicable Landlord, with the consent of the Monitor; provided, however, that such amended Sale Guidelines shall not affect or bind any other Landlord not privy thereto without further Order of the Court approving such amended Sale Guidelines.

19. If there is a conflict between the Realization Process Approval Order, the Consulting Agreement and these Sale Guidelines, the order of priority of documents to resolve such conflicts is as follows: (1) the Realization Process Approval Order; (2) these Sale Guidelines; and (3) the Consulting Agreement.

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

Court File No: CV-25-00734339-00CL

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF COMARK HOLDINGS INC., BOOTLEGGER CLOTHING INC., CLEO FASHIONS INC. and RICKI'S FASHIONS INC.

Applicants

Ontario
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

Proceeding commenced at Toronto

REALIZATION PROCESS APPROVAL ORDER

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Lawyers for the Applicants

SCHEDULE "G"
COVENANT CALCULATIONS

Minimum Cumulative Receipts ($000s)

	Week 2	Week 3	Week 4	Week 5	Week 6	Week 7	Week 8	Week 9	Week 10	Week 11	Week 12	Week 13	Week 14	Week 15	Week 16	Week 17	Week 18	Week 19
Week ended	18-Jan-25	25-Jan-25	1-Feb-25	8-Feb-25	15-Feb-25	22-Feb-25	1-Mar-25	8-Mar-25	15-Mar-25	22-Mar-25	29-Mar-25	5-Apr-25	12-Apr-25	19-Apr-25	26-Apr-25	3-May-25	10-May-25	17-May-25
	4,000	6,800	10,300	15,300	21,000	27,300	33,300	39,000	45,500	52,800	60,000	66,700	71,600	73,600	74,500	74,500	74,500	74,500

Maximum Cumulative Disbursements ($000s)

	Week 2	Week 3	Week 4	Week 5	Week 6	Week 7	Week 8	Week 9	Week 10	Week 11	Week 12	Week 13	Week 14	Week 15	Week 16	Week 17	Week 18	Week 19
Week ended	18-Jan-25	25-Jan-25	1-Feb-25	8-Feb-25	15-Feb-25	22-Feb-25	1-Mar-25	8-Mar-25	15-Mar-25	22-Mar-25	29-Mar-25	5-Apr-25	12-Apr-25	19-Apr-25	26-Apr-25	3-May-25	10-May-25	17-May-25
	4,600	9,985	14,735	18,660	22,610	25,810	31,205	33,905	37,332	39,637	43,152	46,727	48,577	50,452	56,502	56,502	56,540	57,738

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

Court File No: CV-20-00642013-00CL

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF COMARK HOLDINGS INC., BOOTLEGGER CLOTHING INC., CLEO FASHIONS INC. AND RICKI'S FASHIONS INC.

Ontario
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

Proceeding commenced at Toronto

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Lawyers for the Applicants

TAB 3

Court File No. CV-25-00734339-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

THE HONOURABLE MR.	)	FRIDAY, THE 17th
	)	
JUSTICE CAVANAGH	)	DAY OF JANUARY, 2025

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 COMARK HOLDINGS INC., BOOTLEGGER CLOTHING INC., CLEO FASHIONS INC. AND RICKI'S FASHIONS INC.

REALIZATION PROCESS APPROVAL ORDER

THIS MOTION, made by Comark Holdings Inc., Bootlegger Clothing Inc., cleo fashions Inc. and Ricki's Fashions Inc. (collectively, the "**Applicants**"), pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**"), for an order, among other things, (i) approving the consulting agreement between the Applicants and Tiger Asset Solutions Canada, ULC (the "**Consultant**") dated as of January 14, 2025 (as may be amended and/or restated in accordance with the terms of this Order, the "**Consulting Agreement**") and the transactions contemplated thereby, and (ii) granting certain related relief, was heard this day via videoconference.

ON READING the Notice of Motion of the Applicants, the affidavit of Shamsh Kassam sworn January 6, 2025, and the Exhibits thereto (the "**Initial Kassam Affidavit**"), the affidavit of Shamsh Kassam sworn January 16, 2025, and the Exhibits thereto (the "**Second Kassam Affidavit**"), the Pre-Filing Report dated January 6, 2025, of Alvarez & Marsal Canada Inc. ("**A&M**") in its capacity as proposed monitor, and the First Report of A&M, in its capacity as monitor of the Applicants (in such capacity, the "**Monitor**") dated January 16, 2025 (the "**First Report**"), and on hearing the submissions of counsel to the Applicants, the Monitor, and such

other counsel as were present, no one else appearing although duly served as appears from the Affidavit of Service of [●] sworn January [●], 2025, filed:

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 any capitalized term used and not defined herein shall have the meaning ascribed thereto in the Amended and Restated Initial Order in these proceedings dated January 17, 2025 (the "**Amended and Restated Initial Order**"), the Sales Guidelines (as defined below), or the Consulting Agreement (attached as Exhibit "F" to the Second Kassam Affidavit), as applicable.

THE CONSULTING AGREEMENT

3. **THIS COURT ORDERS** that the Consulting Agreement, including the sale guidelines attached as Schedule "A" hereto (the "**Sale Guidelines**"), and the transactions contemplated thereunder are hereby approved, authorized and ratified and that the execution of the Consulting Agreement by the Applicants is hereby approved, authorized, and ratified, *nunc pro tunc*, with such minor amendments to the Consulting Agreement (but not the Sale Guidelines) as the Merchants (with the consent of the Monitor) and the Consultant may agree to in writing. Subject to the provisions of this Order and the Amended and Restated Initial Order, the Merchants are hereby authorized and directed to take any and all actions as may be necessary or desirable to implement the Consulting Agreement and the transactions contemplated therein. Without limiting the foregoing, the Merchants are authorized to execute any other agreement, contract, deed or document, or take any other action, that is necessary or desirable to give full and complete effect to the Consulting Agreement.

THE SALE

4. **THIS COURT ORDERS** that the Merchants, with the assistance of the Consultant, are authorized to conduct the Sale in accordance with this Order, the Consulting Agreement and the Sale Guidelines and to advertise and promote the Sale within the Stores in accordance with the

Sale Guidelines. If there is a conflict between this Order, the Consulting Agreement and the Sale Guidelines, the order of priority of documents to resolve such conflicts is as follows: (1) this Order; (2) the Sale Guidelines; and (3) the Consulting Agreement.

5. **THIS COURT ORDERS** that, subject to paragraph 13 of the Amended and Restated Initial Order, the Merchants, with the assistance of the Consultant, are authorized to market and sell, or otherwise dispose of, the Merchandise and FF&E on a "final sale" and/or "as is" basis and in accordance with the Sale Guidelines and the Consulting Agreement, free and clear of all liens, claims, encumbrances, security interests, mortgages, charges, trusts, deemed trusts, executions, levies, and financial, monetary or other claims, whether or not such claims have attached or been perfected, registered or filed and whether secured, unsecured, quantified or unquantified, contingent or otherwise, whensoever and howsoever arising, and whether such claims arose or came into existence prior to or following the date of this Order (in each case, whether contractual, statutory, arising by operation of law, in equity or otherwise) (all of the foregoing, collectively "**Claims**"), including, without limitation, (a) the Administration Charge, the Interim Lender's Charge, the Directors' Charge, the DIP Lender's Charge, and any other charges hereafter granted by this Court in these proceedings (collectively, the "**CCAA Charges**"); and (b) all Claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario), *Personal Property Security Act* (Alberta), *Personal Property Security Act* (British Columbia), *Personal Property Security Act* (Manitoba), the *Personal Property Security Act* (New Brunswick), *Personal Property Security Act, 1993* (Saskatchewan), *Personal Property Security Act* (Nova Scotia), *Personal Property Security Act* (Newfoundland and Labrador) or any other personal or movable property registration system (all of such Claims (including the CCAA Charges) collectively referred to herein as the "**Encumbrances**"), which Encumbrances will attach instead to the proceeds of the Sale (other than amounts specified in paragraph 16 of this Order) in the same order and priority as they existed immediately prior to the Sale.

6. **THIS COURT ORDERS** that subject to the terms of this Order, the Amended and Restated Initial Order and the Sale Guidelines, the Consultant shall have the right to enter and use the Stores and Warehouses and all related store services and all facilities and all furniture, trade fixtures and equipment, including the FF&E, located at the Stores and Warehouses for the purpose of conducting the Sale in accordance with the terms of the Consulting Agreement, the Sale Guidelines, and this Order, and for such purposes, the Consultant shall be entitled to the benefit of

the stay of proceedings granted in favour of the Applicants under the Amended and Restated Initial Order, as such stay of proceedings may be extended by further Order of the Court.

7. **THIS COURT ORDERS** that until the end of the FF&E Removal Period for each Store (which shall in no event be later than May 7, 2025, or such later date as may be ordered by this Court), the Consultant shall have access to (a) the Stores in accordance with the applicable Leases and (b) the Warehouses in accordance with the applicable contractual agreements between the applicable Applicant or Applicants and the third party operator of the applicable Warehouse, in each case in accordance with the Sale Guidelines, as applicable, and on the basis that the Consultant is assisting the Merchants, and the Merchants have granted their right of access to the Stores and Warehouses to the Consultant, in accordance with the terms of the Consulting Agreement, the Sale Guidelines, and this Order. To the extent that the terms of the applicable Leases are in conflict with any term of this Order or the Sale Guidelines, the terms of this Order and the Sale Guidelines shall govern. With respect to the Warehouse, the Consultants shall be deemed to be authorized representatives of the Merchants.

8. **THIS COURT ORDERS** that nothing in this Order shall amend or vary, or be deemed to amend or vary, the terms of the Leases. Nothing contained in this Order or the Sale Guidelines shall be construed to create or impose upon the Merchants or the Consultant any additional restrictions not contained in the applicable Lease.

9. **THIS COURT ORDERS** that, subject to and in accordance with the Consulting Agreement, the Sale Guidelines and this Order, the Consultant is authorized to advertise and promote the Sale, without further consent of any Person other than (a) the Merchants and the Monitor as provided under the Consulting Agreement; or (b) a Landlord as provided under the Sale Guidelines.

10. **THIS COURT ORDERS** that until the Sale Termination Date, the Consultant shall have the right to use, without interference by any Person (including any licensor), all licenses and rights granted to the Merchants to use trade names, trademarks, logos, copyrights or other intellectual property of any Person, solely for the purpose of advertising and conducting the Sale of the Merchandise and FF&E in accordance with the terms of the Consulting Agreement, the Sale Guidelines, and this Order. Any Person with access to such information, shall cooperate and provide access to such information to the Consultant to facilitate the Sale.

CONSULTANT LIABILITY

11. **THIS COURT ORDERS** that the Consultant shall act solely as an independent consultant to the Merchants and that it shall not be liable for any claims against the Merchants other than as expressly provided in the Consulting Agreement (including the Consultant's indemnity obligations thereunder) or the Sale Guidelines and, for greater certainty:

(a) the Consultant shall not be deemed to be an owner or in possession, care, control or management of the Stores or the Warehouses, of the assets located therein or associated therewith or of the Merchants' employees located at the Stores, or the Warehouses or of any other property of the Merchants;

(b) the Consultant shall not be deemed to be an employer, or a joint or successor employer, related or common employer or payor within the meaning of any legislation, statute or regulation or rule of law or equity governing employment, labour standards, pension benefits or health and safety for any purpose whatsoever in relation to the Merchants' employees, and shall not incur any successorship liabilities whatsoever (including without limitation, losses, costs, damages, fines or awards); and

(c) subject to and without limiting the Consultant's indemnification of the Merchant Indemnified Parties pursuant to the Consulting Agreement, the Consultant shall bear no responsibility for any liability whatsoever (including without limitation, losses, costs, damages, fines or awards) relating to Claims of customers, the Merchants' employees and any other Persons arising from events occurring at the Stores during and after the term of the Sale or at the Warehouses, or otherwise in connection with the Sale, except to the extent that such Claims are the result of events or circumstances caused or contributed to by the gross negligence or wilful misconduct of the Consultant, its employees, Supervisors, independent contractors, agents or other representatives, or otherwise in accordance with the Consulting Agreement.

12. **THIS COURT ORDERS** that, to the extent (a) any Landlord has a claim against a Merchant arising solely out of the conduct of the Consultant in conducting the Sale; and (b) such Merchant has a claim against the Consultant under the Consulting Agreement arising from such conduct, such Merchant shall be deemed to have assigned such claim against the Consultant under

the Consulting Agreement free and clear to the applicable Landlord (the "**Assigned Landlord Rights**"); provided that, each such Landlord shall only be permitted to advance the Assigned Landlord Rights against the Consultant if written notice, including the reasonable details of such claim, is provided by such Landlord to the Consultant, the Merchants and the Monitor during the period commencing on the Sale Commencement Date and ending on the date that is thirty (30) days following the FF&E Removal Period for the applicable Store(s); provided, however, that, the Landlords shall be provided with access to the Stores to inspect the Stores within fifteen (15) days following the FF&E Removal Period for the applicable Store(s).

CONSULTANT AN UNAFFECTED CREDITOR

13. **THIS COURT ORDERS** that the Consulting Agreement shall not be repudiated, resiliated or disclaimed by the Merchants nor shall the claims of the Consultant pursuant to the Consulting Agreement be compromised or arranged pursuant to any plan of arrangement or compromise among the Merchants and their creditors (a "**Plan**"), or any other transaction involving the sale of the Merchants' assets and business, including without limitation, a sale of the Merchants' assets or the Merchants' shares, however implemented (each, a "**Transaction**"). For greater certainty, the Consultant shall be treated as an unaffected creditor in these proceedings, under any Plan or Transaction.

14. **THIS COURT ORDERS** that the Merchants are hereby authorized and directed, in accordance with the Consulting Agreement, to remit all amounts that become due to the Consultant thereunder.

15. **THIS COURT ORDERS** that without limiting the generality of paragraph 3, the payment by the Merchants of the Special Purpose Payment to the Consultant is approved, authorized, and ratified, *nunc pro tunc*.

16. **THIS COURT ORDERS** that no Encumbrances shall attach to any amounts payable or to be credited or reimbursed to, or retained by, the Consultant pursuant to the Consulting Agreement, including without limitation, the payment by the Merchants of the Special Purpose Payment to the Consultant, and any amounts to be reimbursed by any Merchant to the Consultant pursuant to the Consulting Agreement and at all times the Consultant will retain such amounts,

free and clear of all Encumbrances, notwithstanding any enforcement or other process or Claims, all in accordance with the Consulting Agreement.

17. **THIS COURT ORDERS** that notwithstanding:

(a) the pendency of these proceedings;

(b) any application for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) ("**BIA**") in respect of any Applicant, or any bankruptcy order made pursuant to any such applications;

(c) any assignment in bankruptcy made in respect of any Applicant;

(d) the provisions of any federal, or provincial statute; 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, mortgage, security agreement, debenture, sublease, offer to lease or other document or agreement to which any Applicant is a party;

the Consulting Agreement and the transactions and actions provided for and contemplated therein, including without limitation, the payment of amounts due to the Consultant and the Assigned Landlord Rights shall be binding on any trustee in bankruptcy that may be appointed in respect of the Applicants and shall not be void or voidable by any Person, including any creditor of the Applicants, nor shall they, or any of them, constitute or be deemed to be a preference, fraudulent conveyance, transfer at undervalue or other challengeable or reviewable transaction, under the CCAA or BIA or any applicable law, nor shall they constitute oppressive or unfairly prejudicial conduct under any applicable law.

PIPEDA

18. **THIS COURT ORDERS** that the Merchants are authorized and permitted to transfer to the Consultant personal information in the Merchants' custody and control solely for the purposes of assisting with and conducting the Sale and only to the extent necessary for such purposes and the Consultant is hereby authorized to make use of such personal information solely for the purposes as if it were a Merchant, subject to and in accordance with the Consulting Agreement.

GENERAL

19. **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 respective powers and duties hereunder.

20. **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 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 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 agents in carrying out the terms of this Order.

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

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SCHEDULE "A"

Sale Guidelines

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

Court File No: CV-25-00734339-00CL

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF COMARK HOLDINGS INC., BOOTLEGGER CLOTHING INC., CLEO FASHIONS INC. and RICKI'S FASHIONS INC.

Applicants

Ontario
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

Proceeding commenced at Toronto

REALIZATION PROCESS APPROVAL ORDER

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Lawyers for the Applicants

TAB 4

Court File No. CV-25-00734339-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

THE HONOURABLE MR.	)	FRIDAY, THE 17TH
	)	
JUSTICE CAVANAGH	)	DAY OF JANUARY, 2025

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 COMARK HOLDINGS INC., BOOTLEGGER CLOTHING INC., CLEO FASHIONS INC. AND RICKI'S FASHIONS INC. (collectively, the "**Applicants**")

AMENDED AND RESTATED INITIAL ORDER
(amending the Initial Order dated January 7, 2025)

THIS APPLICATION, made by the Applicants, pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**") was heard this day via videoconference.

ON READING the Notice of Motion of the Applicants, the affidavit of Shamsh Kassam sworn January 6, 2025, and the Exhibits thereto (the "**Initial Kassam Affidavit**"), the affidavit of Shamsh Kassam sworn January 16, 2025, and the Exhibits thereto (the "**Second Kassam Affidavit**"), the consent of Alvarez & Marsal Canada Inc. ("**A&M**") to act as monitor (in such capacity, the "**Monitor**"), the Pre-Filing Report dated January 6, 2025, of A&M in its capacity as proposed Monitor, the First Report of the Monitor dated January 16, 2025, and 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, the Monitor, Canadian Imperial Bank of Commerce, in its capacity as Senior Lender, Interim Lender and DIP Lender (as defined below), and such other counsel present,

SERVICE

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

DEFINITIONS

2. **THIS COURT ORDERS** that unless otherwise indicated or defined herein, capitalized terms have the meanings given to them in the Initial Kassam Affidavit and the Second Kassam Affidavit, as applicable.

APPLICATION

3. **THIS COURT ORDERS AND DECLARES** that the Applicants are companies to which the CCAA applies.

PLAN OF ARRANGEMENT

4. T**HIS COURT ORDERS** that the Applicants 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

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**"). 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 are each authorized and empowered to continue to retain and employ the employees, independent contractors, advisors, consultants, agents, experts, appraisers, valuators, 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 the Applicants shall be entitled to continue to use the central cash management system currently in place as described in the Initial Kassam Affidavit or, with the prior consent of the Monitor and the DIP Lender, 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 Applicants 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 Applicants, 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, subject to and in accordance with the DIP Term Sheet (defined below), the Applicants shall be entitled but not required to pay the following expenses whether incurred prior to, on or after January 7, 2025 (the "**Filing Date**"):

(a) all outstanding and future wages, salaries, employee benefits (including, without limitation, employee medical, dental and similar benefit plans or arrangements), vacation pay and expenses, 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 expenses;

(b) all outstanding and future amounts invoiced to any of the Applicants from any independent contractors retained by any of the Applicants, in each case incurred in the ordinary course of business and consistent with existing payment arrangements;

(c) to and including January 16, 2025, or such other later date as the Applicants determine in consultation with the DIP Lender, all outstanding or future amounts owing in respect of existing customer pre-payments, deposits, return policies, refunds, discounts or other amounts on account of similar customer programs or obligations,

including loyalty programs, and further the Applicants shall be entitled, but not required, to honour existing exchange policies until such date;

(d) to and including January 16, 2025, all outstanding or future amounts related to honouring gift cards;

(e) to the extent included in the Cash Flow Forecast or DIP Budget and approved by the Monitor and the DIP Lender, amounts owing for (I) any Parian Services or IT Services (each as defined in the Initial Kassam Affidavit) supplied to the Applicants prior to the Filing Date, or (II) goods or services ordered by or supplied to the Applicants prior to the Filing Date by any:

(i) providers of credit, debit and gift card processing related services;

(ii) logistics, warehouse or supply chain providers, including transportation providers, clearing houses, customs brokers, freight forwarders and security and armoured truck carriers, and including amounts payable in respect of customs and duties for goods;

(iii) providers of information, internet, telecommunications, and other technology, including e-commerce providers and related services; and

(iv) other suppliers or service providers if, in the opinion of the Applicants following consultation with the Monitor, such payment is necessary to maintain the uninterrupted operations of the Business, including, for clarity, pursuant to any Merchandise Transfer Agreement;

(f) the fees and disbursements of any Assistants retained or employed by the Applicants in respect of these proceedings, at their standard rates and charges; and

(g) any other amounts to the extent included in the Cash Flow Forecast or DIP Budget and approved by the Monitor and DIP Lender.

8. **THIS COURT ORDERS** that, except as otherwise provided to the contrary herein, and consistent with the Cash Flow Forecast or DIP Budget, the Applicants shall be entitled but not required to pay all reasonable expenses incurred by them in carrying on the Business in the ordinary course after the Filing Date, and in carrying out the provisions of this Order and any other Order of this Court, 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, maintenance and security services; and

(b) payment for goods or services actually supplied to the Applicants following the Filing Date.

9. **THIS COURT ORDERS** that the Applicants shall remit, in accordance with legal requirements, 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, and (iv) income taxes, and all other amounts related to such deductions or employee wages payable for periods following the Filing Date pursuant to the *Income Tax Act*, Canada Pension Plan, *Employment Insurance Act*, and similar provincial statutes;

(b) all goods and services taxes, harmonized sales taxes or other applicable sales taxes (collectively, "**Sales Taxes**") due and 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 Filing Date;

(c) all Sales Taxes accrued or collected prior to the Filing Date but not remitted until on or after the Filing Date, provided that, unless otherwise agreed by the Applicants and the DIP Lender (i) all Obligations have been Repaid in Full under the Pre-Filing Credit Agreement (including, without limitation, all obligations under the Revolving Credit, Term Credit and the BCAP Facility, all accrued and unpaid interest relating to such facilities and the Lender Expenses) (in each case as defined in the DIP Term Sheet), and (ii) all DIP Financing Obligations under the DIP Facility have been Repaid in Full (in each case as defined in the DIP Term Sheet);

(d) 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, until a real property lease (each, a "**Lease**") to which any Applicant is a party is disclaimed in accordance with the CCAA, or otherwise consensually terminated, the applicable Applicant that is party to such Lease shall pay, without duplication, all amounts constituting rent or payable as rent under such Lease (including, for greater certainty, common area maintenance charges, utilities and realty taxes and any other amounts payable to the applicable landlord (each, a "**Landlord**") under such Lease, but for greater certainty, excluding amounts owing in respect of the period prior to the Filing Date (including percentage rent), accelerated rent or penalties, fees or other charges arising as a result of any default that is stayed by this Order, the insolvency of the Applicants, the commencement of these CCAA proceedings, or the making of this Order) or as otherwise may be negotiated between such Applicant and the Landlord from time to time ("**Rent**"), (a) incurred and relating solely to the period commencing from and including the Filing Date until and including January 17, 2025, as a single payment made on the Filing Date, (b) incurred and relating solely to the period commencing from and including January 18, 2025, until and including January 31, 2025, as a single payment made on January 17, 2025, or within two (2) business days thereafter, and (c) thereafter, twice-monthly in equal payments on the first and fifteenth day of each month, in advance (but not in arrears), in each case save and except for any component of Rent which is percentage rent which, commencing from and including the Filing Date, shall be calculated every two weeks and paid one week thereafter regarding revenues incurred during the period from and including the Filing Date.

11. **THIS COURT ORDERS** that, except as specifically permitted herein or to the extent included in the Cash Flow Forecast, the DIP Budget or otherwise permitted under the DIP Term Sheet, 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 this date); (b) to grant no security interests, trusts,

liens, charges or encumbrances upon or in respect of any of their Property; and (c) to not grant credit or incur liabilities except in the ordinary course of the Business.

RESTRUCTURING

12. **THIS COURT ORDERS** that the Applicants shall, subject to such requirements as are imposed by the CCAA, such covenants as may be contained in the Definitive Documents (as hereinafter defined), or as otherwise ordered by this Court, have the right to:

(a) permanently or temporarily cease, downsize or shut down any of their business or operations, and to dispose of redundant or non-material assets not exceeding $150,000 in any one transaction or $500,000 in the aggregate;

(b) vacate, abandon or quit the whole but not part of any leased premises and/or disclaim any real property lease, including any Lease, and any ancillary agreements relating to any leased premises;

(c) without limiting paragraph 12(b), above, disclaim, with the prior consent of the Monitor, and after consultation with the DIP Lender, any of their arrangements or agreements of any nature whatsoever and with whomsoever, whether oral or written, as the Applicants deem appropriate, in accordance with section 32 of the CCAA;

(d) terminate the employment of such of their employees or temporarily lay off such of their employees as they deem appropriate;

(e) in consultation with, and with the oversight of the Monitor and in consultation with the DIP Lender, (i) engage in discussions with and solicit proposals and agreements from, third parties in respect of the liquidation of the inventory, furniture, equipment and fixtures and other property located in and/or forming part of the Property, and return to Court for the approval of any such agreement (the "**Realization Selection Process**"), and (ii) with the assistance of any real estate advisor or other Assistants as may be desirable, pursue all avenues and offers for the sale, transfer or assignment of the Leases to third parties, in whole or in party and return to Court for approval of any such sale, transfer or assignment; and

(f) pursue all offers for or avenues of refinancing, restructuring, sale or reorganizing the Business or Property, in whole or part, including pursuant to any solicitation process letter establishing bid procedures (including minimum proposal requirements, key milestones, and successful bid selection criteria) as may be determined by the Applicants and Monitor in consultation with the DIP Lender, for circulation to potentially interested parties identified by the Applicants and the Monitor; provided, however, that completion of any such refinancing, restructuring, sale or reorganization transaction will be subject to (i) prior approval of this Court (except as permitted by paragraph 12(a) above in respect of redundant or non-material assets or the Realization Process Approval Order granted by this Court on January 17, 2025) and (ii) prior approval of the DIP Lender.

all of the foregoing to permit the Applicants to proceed with an orderly restructuring of the Business (the "**Restructuring**").

13. **THIS COURT ORDERS** that the Applicants shall provide each of the relevant Landlords with notice of the Applicants' 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 such Landlord disputes the Applicants' entitlement to remove any such fixture under the provisions of the applicable Lease, such fixture shall remain on the premises and shall be dealt with as agreed between any applicable secured creditors, such Landlord and the Applicants, or by further Order of this Court upon application by the Applicants on at least two (2) days notice to such Landlord and any such secured creditors. If the Applicants disclaim the Lease governing such leased premises in accordance with Section 32 of the CCAA, the Applicants 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 such Lease shall be without prejudice to the Applicants' claim to the fixtures in dispute.

14. **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 Applicants 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 the Applicants 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.

NO PROCEEDINGS AGAINST THE APPLICANTS OR THE PROPERTY

15. **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 the Applicants 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 prior written consent of the Applicants and the Monitor, or with leave of this Court, and any and all Proceedings currently under way against or in respect of the Applicants, or except as permitted by subsection 11.03(2) of the CCAA, their employees, directors, advisors, officers, or representatives acting in such capacities, or affecting the Business or the Property are hereby stayed and suspended pending further Order of this Court.

16. **THIS COURT ORDERS** that, to the extent any prescription, time or limitation period relating to any Proceeding against or in respect of any Applicant that is stayed pursuant to this Order may expire, the term of such prescription, time or limitation period shall hereby be deemed to be extended by a period equal to the Stay Period.

NO EXERCISE OF RIGHTS OR REMEDIES

17. **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 the Applicants or the Monitor, or their respective employees, directors, advisors, officers, and representatives acting in such capacities, or affecting the Business or the Property, are hereby stayed and suspended except with the prior written consent of the Applicants and the Monitor, or leave of this Court, provided that nothing in this Order shall (a) empower the Applicants 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

18. **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, lease, sublease, licence or permit in favour of or held by the Applicants, except with the prior written consent of the Applicants and the Monitor, or leave of this Court.

CONTINUATION OF SERVICES

19. **THIS COURT ORDERS** that during the Stay Period, all Persons having oral or written agreements or arrangements with any of the Applicants or statutory or regulatory mandates for the supply or license of goods, intellectual property, 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, importing services, customs clearing, warehouse and logistics services, security services, utility or other services to the Business or the Applicants, are hereby restrained until further Order of this Court from discontinuing, altering, suspending, interfering with or terminating the supply or license of such goods, intellectual property, or services as may be required by the Applicants, and that the Applicants shall be entitled to the continued use of their current premises, telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case, that the normal prices or charges for all such goods or services received after the Filing Date are paid by the Applicants in accordance with normal payment practices of the applicable Applicant or such other practices as may be agreed upon by the supplier or service provider and the applicable Applicant and the Monitor, or as may be ordered by this Court.

NO PRE-FILING VS POST-FILING SET-OFF

20. **THIS COURT ORDERS** that, no Person shall be entitled to set off any amounts that: (a) are or may become due to any Applicant in respect of obligations arising prior to the Filing Date

with any amounts that are or may become due from such Applicant in respect of obligations arising on or after the Filing Date; or (b) are or may become due from any Applicant in respect of obligations arising prior to the Filing Date with any amounts that are or may become due to such Applicant in respect of obligations arising on or after the Filing Date, in each case without the consent of the Applicants and the Monitor, or leave of this Court.

NON-DEROGATION OF RIGHTS

21. **THIS COURT ORDERS** that, notwithstanding anything else in this Order other than paragraph 10 of this Order, 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 Filing Date, nor shall any Person be under any obligation on or after the Filing Date to advance or re-advance any monies or otherwise extend any credit to the Applicants. Nothing in this Order shall derogate from the rights conferred and obligations imposed by the CCAA.

PROCEEDINGS AGAINST DIRECTORS AND OFFICERS

22. **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 the Applicants with respect to any claim against the directors or officers that arose before the Filing Date and that relates to any obligations of the Applicants 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 Plan in respect of the Applicants, if one is filed, is sanctioned by this Court or is refused by the creditors of the Applicants or this Court.

DIRECTORS' AND OFFICERS' INDEMNIFICATION AND CHARGE

23. **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.

24. **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 $7,400,000, as security for the indemnity provided in paragraph 23 of this Order. The Directors' Charge shall have the priority set out in paragraphs 47 and 49 hereof.

APPOINTMENT OF MONITOR

25. **THIS COURT ORDERS** that A&M is hereby 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 the Applicants and their shareholders, officers, directors, and Assistants shall advise the Monitor of all material steps taken by the Applicants 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.

26. **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 and review the Applicants' receipts and disbursements;

(b) assist with the Restructuring and the operations of the Applicants;

(c) assist the Applicants in their dissemination to the DIP Lender and its counsel and financial advisor of financial and other information as agreed to between the Applicants and the DIP Lender, which may be used in these proceedings, including reporting on a basis to be agreed with the DIP Lender;

(d) liaise with Assistants, to the extent required, with respect to all matters relating to the Property, the Business, and such other matters as may be relevant to the proceedings herein;

(e) 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;

(f) advise the Applicants in their preparation of the Applicants' cash flow statements and other required reporting, including under the DIP Term Sheet;

(g) advise the Applicants in their development of any Plan and any amendments to any such Plan and, to the extent required by the Applicants, assist with the holding and administering of creditors' or shareholders' meetings for voting on any Plan;

(h) 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, wherever located and to the extent that is necessary to adequately assess the Applicants' business and financial affairs or to perform its duties arising under this Order;

(i) liaise and consult with any Assistants and any liquidator selected through the Realization Selection Process, to the extent required by the Applicants, with any matters relating to the Property, the Business and such other matters as may be relevant to the proceedings herein;

(j) be at liberty to engage independent legal counsel or such other persons, or utilize the services of employees of its affiliates, as the Monitor deems necessary or advisable respecting the exercise of its powers and performance of its obligations under this Order;

(k) perform its obligations under any Merchandise Transfer Agreements**;** and

(l) perform such other duties as are required by this Order or by this Court from time to time.

27. **THIS COURT ORDERS** that 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, be deemed to have taken or maintained possession or control of the Business or Property, or any part thereof.

28. **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 waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, *1999,* 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 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 the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

29. **THIS COURT ORDERS** that the Monitor shall provide any creditor of the Applicants 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.

30. **THIS COURT ORDERS** that, in addition to the rights and protections afforded the Monitor under the CCAA or as an officer of this Court, neither the Monitor nor any of its employees or representatives shall incur any liability or obligation as a result of the Monitor's appointment or the carrying out by it of the provisions of this Order (including in carrying out its duties under any Merchandise Transfer Agreement**)**, 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.

31. **THIS COURT ORDERS** that the Monitor, counsel to the Monitor and counsel to the Applicants**,** counsel to the Interim Lender and the DIP Lender and financial advisor thereto, shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges, whether incurred prior to, on or subsequent to the Filing Date, 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 to the Monitor and counsel to the Applicants, counsel to the Interim Lender and the DIP Lender and financial advisor thereto, in each case, on a weekly basis or on such terms as such parties may agree and, in addition, the Applicants are hereby authorized to pay to the Monitor, counsel to the Monitor and counsel to the Applicants, retainers, *nunc pro tunc*, to be held by them as security for payment of their respective fees and disbursements outstanding from time to time.

32. **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.

MERCHANDISE TRANSFER AGREEMENTS

33. **THIS COURT ORDERS** that the form of Merchandise Transfer Agreement attached as Exhibit "E" to the Second Kassam Affidavit (the "**Template MTA**") is approved, and the Applicants and Monitor are hereby authorized and empowered to execute Merchandise Transfer Agreements substantially in the form of the Template MTA with the Overseas Vendors and to perform their respective obligations thereunder, and any Merchandise Transfer Agreements executed by the Monitor and Applicants prior to the making of this Order are hereby authorized and approved *nunc pro tunc*.

ADMINISTRATION CHARGE

34. **THIS COURT ORDERS** that the Monitor, counsel to the Monitor and counsel to the Applicants, 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 $1,000,000 as security for their professional fees and disbursements incurred at their 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 set out in paragraphs 47 and 49 hereof.

INTERIM FINANCING

35. **THIS COURT ORDERS** that on or after the Filing Date and until January 17, 2025, Comark Holdings Inc. is hereby authorized and empowered to continue to borrow from the Canadian Imperial Bank of Commerce (in such capacity, the "**Interim Lender**") under the existing credit facilities (the "**Existing Credit Facilities**") pursuant to the Amended and Restated Credit Agreement dated as of September 9, 2024 (as amended, the "**Existing Credit Agreement**") between, among others, Comark Holdings Inc. and the Interim Lender (in its capacity as lender and agent under the Existing Credit Agreement, the "**Senior Lender**"), in order to finance the Applicants' working capital requirements and other general corporate purposes, capital expenditures, and costs of these proceedings during the Stay Period (each, an "**Interim Borrowing**" and collectively, the "**Interim Borrowings**"), provided that: (i) such Interim Borrowings are made in accordance with the Cash Flow Forecast or otherwise agreed by the Applicants and the Interim Lender, in each case subject to prior approval pursuant to a draw request in form and substance satisfactory to the Interim Lender, accompanied by such supporting documentation as the Interim Lender may request; (ii) such Interim Borrowings are secured by the Interim Lender's Charge (as defined below) with the priority set out in paragraphs 47 and 49 hereof; (iii) such Interim Borrowings under the Existing Credit Facility shall accrue interest at the default rates set out in the Existing Credit Agreement; (iv) (a) Bootlegger Clothing Inc., cleo fashions Inc., and Ricki's Fashions Inc. shall be deemed to guarantee and secure the Interim Borrowings, together with all interest accrued thereon and costs and expenses incurred in connection therewith (collectively, the "**Interim Borrowing Obligations**"), in the same manner as the other Obligations (as defined in the Existing Credit Agreement) that they have guaranteed and secured in connection with the Existing Credit Agreement and under the loan and security documents provided by them in connection therewith, (b) the Pledged Collateral (as defined in the Limited Recourse Guarantee by 9383921 Canada Inc. in favour of Senior Lender dated August 7, 2020) shall secure the Interim Borrowings, and (c) Bootlegger Clothing Inc., cleo fashions Inc., Ricki's Fashions Inc. and 9383921 Canada Inc. shall be deemed to ratify and

acknowledge the guarantees and security they have provided in connection with the Existing Credit Agreement and the loan and security documents provided by them in connection therewith, in the case of each of the foregoing (a) to (c), without the need for any further guarantee, security or documentation from Bootlegger Clothing Inc., cleo fashions Inc., Ricki's Fashions Inc. or 9383921 Canada Inc.

36. **THIS COURT ORDERS** that the Applicants are hereby authorized and empowered to execute and deliver such amendments to the Existing Credit Agreement or other documents, if any, as may be reasonably required by the Interim Lender to facilitate any Interim Borrowings, provided that failure to execute any such documentation does not invalidate any Interim Borrowings or the validity or priority of the Interim Lender's Charge.

37. **THIS COURT ORDERS** that the Interim Borrowings shall mature on January 17, 2025, and the Interim Borrowings shall be payable in full by the Applicants on such date.

38. **THIS COURT ORDERS** that (i) the Interim Lender shall be entitled to the benefit of and is hereby granted a charge (the "**Interim Lender's Charge**") on the Property of each of the Applicants as security for the Interim Borrowings, which Interim Lender's Charge shall, for greater certainty, not secure any obligation that exists before the Filing Date, (ii) the Interim Lender's Charge shall have the priority set out in paragraphs 47 and 49 hereof, (iii) the Interim Lender's Charge shall be terminated, released and discharged upon the Interim Borrowing Obligations being Repaid in Full from the proceeds of the First Advance (each as defined in the DIP Term Sheet), without any other act or formality; and (iv) until the Interim Borrowings Obligations are Repaid in Full, all consents required of the DIP Lender in this Order and all rights afforded to the DIP Lender under paragraph 26(c), 45, and 46 of this Order shall also apply to the Interim Lender *mutatis mutandis*.

39. **THIS COURT ORDERS** in the event the Applicants fail to make the payment to the Interim Lender required by paragraph 37 herein, then upon three (3) business days' notice to the Applicants and the Monitor, the Interim Lender may exercise any and all of its rights and remedies against the Applicants or the Property under or pursuant to the Existing Credit Agreement and the Interim Lender's Charge, including without limitation, to cease making advances to the Applicants and, subject to further Order of the Court, set off and/or consolidate any amounts owing by the Interim Lender to any of the Applicants against the obligations of the

Applicants to the Interim Lender under the Existing Credit Agreement, this Order or the 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 Applicants or the Property and for the appointment of a trustee in bankruptcy of the Applicants.

40. **THIS COURT ORDERS** that the Interim Lender shall be treated as unaffected in any Plan filed by the Applicants under the CCAA, or any proposal filed by the Applicants under the *Bankruptcy and Insolvency Act* (Canada) (the "**BIA**") with respect to any Interim Borrowings.

DIP FINANCING

41. **THIS COURT ORDERS** that Comark Holdings Inc. is hereby authorized and empowered to obtain and borrow under a credit facility from the Canadian Imperial Bank of Commerce (in such capacity, the "**DIP Lender**") in order to finance the Applicants' working capital requirements and other general corporate purposes and costs of these proceedings (each, a "**DIP Borrowing**" and collectively, the "**DIP Borrowings**").

42. **THIS COURT ORDERS** that such credit facility shall be on the terms and subject to the conditions set forth in the term sheet between the Applicants and the DIP Lender dated as of January 15, 2025 (the "**DIP Term Sheet**"), filed.

43. **THIS COURT ORDERS** that the Applicants are 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 DIP Term Sheet or as may be required by the DIP Lender, and the Applicants are hereby authorized and directed to pay and perform all of their indebtedness, interest, fees, liabilities and obligations to the DIP Lender under and pursuant to the DIP Term Sheet and the Definitive Documents 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 Lender shall be entitled to the benefit of and is hereby granted a charge (the "**DIP Lender's Charge**") on the Property of each of the Applicants as security for the DIP Borrowings, which DIP Lender's Charge shall not secure an obligation

that exists before this Order is made. The DIP Lender's Charge shall have the priority set out in paragraphs 47 and 49 hereof.

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

(a) the DIP Lender may take such steps from time to time as it may deem necessary or appropriate to file, register, record or perfect the DIP Lender's Charge, the DIP Term Sheet or any of the Definitive Documents;

(b) upon the occurrence of an event of default under the DIP Term Sheet or the Definitive Documents, the DIP Lender may cease making advances to Comark Holdings Inc. pursuant to the DIP Term Sheet and, upon approval of the Court, may exercise any and all of its rights and remedies against the Applicants or the Property under or pursuant to the DIP Term Sheet, Definitive Documents and the DIP Lender's Charge, including without limitation, to set off and/or consolidate any amounts owing by the DIP Lender to the Applicants against the obligations of the Applicants to the DIP Lender under the DIP Term Sheet, the Definitive Documents or the DIP 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 Applicants or the Property and for the appointment of a trustee in bankruptcy of the Applicants; and

(c) the foregoing rights and remedies of the DIP Lender shall be enforceable against any trustee in bankruptcy, interim receiver, receiver or receiver and manager of the Applicants or the Property.

46. **THIS COURT ORDERS** that the DIP Lender shall be treated as unaffected in any Plan filed by the Applicants under the CCAA, or any proposal filed by the Applicants under the BIA with respect to any advances made under the DIP Term Sheet or the Definitive Documents.

VALIDITY AND PRIORITY OF CHARGES CREATED BY THIS ORDER

47. **THIS COURT ORDERS** that the priorities of the security interests granted by the Administration Charge, Interim Lender's Charge, the DIP Lender's Charge, and the Directors'

Charge (collectively, the "**Charges**"), and the Applicants to Senior Lender, as among them, shall be as follows:

(a) First – Administration Charge (to the maximum amount of $1,000,000);

(b) Second – the DIP Lender's Charge;

(c) Third – the Interim Lender's Charge, until such Interim Lender's Charge is terminated pursuant to paragraph 38, and the other security granted by the Applicants to the Senior Lender with respect to the Existing Credit Facilities (excluding the Interim Borrowings) in accordance with the Existing Credit Agreement, on a *pari pasu* basis; and

(c) Fourth – Directors' Charge (to the maximum amount of $7,400,000).

48. **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.

49. **THIS COURT ORDERS** that each of the Charges shall constitute a charge on the Property and such Charges 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.

50. **THIS COURT ORDERS** that except as otherwise expressly provided for herein, or as may be approved by this Court, 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 Lender, and the other beneficiaries of the Charges (collectively, the "**Chargees**"), or further Order of this Court.

51. **THIS COURT ORDERS** that the Charges shall not be rendered invalid or unenforceable and the rights and remedies of the Chargees 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 or receivership order(s) issued pursuant to the BIA or otherwise, or any bankruptcy or receivership 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 or provincial 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:

(i) neither the creation of the Charges nor the execution, delivery, perfection, registration or performance of the Interim Borrowings or any amendment or document pursuant to paragraph 36 hereof, the DIP Term Sheet, or the Definitive Documents shall create or be deemed to constitute a breach by the Applicants of any Agreement to which any of them is a party,

(ii) 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 execution of the DIP Term Sheet, the DIP Financing Obligations, the Interim Borrowings, creation of the Charges, the Interim Borrowings or the execution, delivery or performance of any amendment or document pursuant to paragraph 36 hereof, the DIP Term Sheet, or the Definitive Documents; and

(iii) the payments made by the Applicants pursuant to this Order, including with respect to the Interim Borrowings, the DIP Term Sheet, 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.

52. **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' interests in such real property leases.

SERVICE AND NOTICE

53. **THIS COURT ORDERS** that the Monitor shall (a) without delay, publish in the Globe & Mail a notice containing the information prescribed under the CCAA; and (b) within five days after the Filing Date, (i) make this Order publicly available in the manner prescribed under the CCAA, (ii) send, or cause to be sent, in the prescribed manner (including by electronic message

to the e-mail addresses as last shown in the Applicants' books and records), a notice to all known creditors having a claim against the Applicants of more than $1,000, and (iii) prepare a list showing the names and addresses of such 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 individuals who are creditors publicly available, unless otherwise ordered by the Court.

54. **THIS COURT ORDERS** that any employee of any of the Applicants who is sent a notice of termination of employment or any other communication by the Applicants on or after the Filing Date shall be deemed to have received such communication by no later than 8:00 a.m. prevailing Eastern Time on the fourth day following the date any such communication is sent, if such communication is sent by ordinary mail, expedited parcel or registered mail to the individual's address as reflected in the Applicants' books and records; provided, however, that any communication that is sent to an employee of the Applicants by electronic message to the individual's corporate email address and/or the individual's personal address as last shown in the Applicants' books and records shall, (a) if sent by electronic message at or prior to 5:00 p.m. prevailing Eastern Time on a business day, be deemed to have been received by such employee on the date on which such electronic message was sent, or (b) if sent by electronic message after 5:00 p.m. prevailing Eastern Time on a business day or on a day that is not a business day, be deemed to have been received by such employee on the next business day following the date on which such electronic message was sent, notwithstanding that the mailing of any notices of termination of employment or other employee communication was sent pursuant to any other means.

55. **THIS COURT ORDERS** that the E-Service Guide 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 https://www.ontariocourts.ca/scj/practice/regional-practice-directions/eservice-commercial/) 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: 'www.alvarezandmarsal.com/ComarkRetail'.

56. **THIS COURT ORDERS** that if the service or distribution of documents in accordance with the Protocol or the CCAA and the regulations thereunder 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 copies thereof by prepaid ordinary mail, courier, personal delivery, facsimile transmission or electronic message to the Applicants' creditors or other interested parties at their respective addresses (including e-mail addresses) as last shown in the books and records of the Applicants and that any such service or distribution shall be deemed to be received on the earlier of (a) the date of forwarding thereof, if sent by electronic message at or prior to 5:00 p.m. prevailing Eastern Time (or on the next business day following the date of forwarding thereof if sent on a non-business day); (b) the next business day following the date of forwarding thereof, if sent by courier, personal delivery, facsimile transmission or electronic message sent after 5:00 p.m. prevailing Eastern Time; or (c) on the third business day following the date of forwarding thereof, if sent by ordinary mail.

57. **THIS COURT ORDERS** that the Applicants and the Monitor and their respective counsel are at liberty to serve or distribute this Order, any other materials and orders as may be reasonably required in these proceedings, including any notices, or other correspondence, by forwarding 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* (SOR/2013-221).

GENERAL

58. **THIS COURT ORDERS** that any interested party that wishes to amend or vary this Order shall be entitled to appear or bring a motion before this Court, and any such interested party shall give not less than five business days' notice to the Service List and any other party or parties likely to be affected by the Order sought; provided, however, that the Chargees shall be entitled to rely on this Order as granted and on the Charges and priorities set forth in paragraphs 47 and 49 hereof with respect to any fees, expenses and disbursements incurred, as applicable, until the date this Order may be amended, varied or stayed.

59. **THIS COURT ORDERS** that, notwithstanding paragraph 58 of this Order, 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 respective powers and duties hereunder.

60. **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 the Applicants, the Business or the Property.

61. **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 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 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 agents in carrying out the terms of this Order.

62. **THIS COURT ORDERS** that each of the Applicants 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.

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

_____

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

Court File No:

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF COMARK HOLDINGS INC., BOOTLEGGER CLOTHING INC., CLEO FASHIONS INC. AND RICKI'S FASHIONS INC.

Applicants

Ontario
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

Proceeding commenced at Toronto

AMENDED AND RESTATED INITIAL ORDER

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Lawyers for the Applicants

TAB 5

Court File No. CV-25-00734339-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

THE HONOURABLE MR.	)	~~TUESDAY~~FRIDAY, THE ~~7TH~~17TH
	)	
JUSTICE CAVANAGH	)	DAY OF JANUARY, 2025

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 COMARK HOLDINGS INC., BOOTLEGGER CLOTHING INC., CLEO FASHIONS INC. AND RICKI'S FASHIONS INC. (collectively, the "**Applicants**")

AMENDED AND RESTATED INITIAL ORDER

(amending the Initial Order dated January 7, 2025)

THIS APPLICATION, made by the Applicants, pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**") was heard this day via videoconference.

ON READING the Notice of Motion of the Applicants, the affidavit of Shamsh Kassam sworn January 6, 2025, and the Exhibits thereto (the "**Initial Kassam Affidavit**"), the affidavit of Shamsh Kassam sworn January 16, 2025, and the Exhibits thereto (the "**Second Kassam Affidavit**"), the consent of Alvarez & Marsal Canada Inc. ("**A&M**") to act as monitor (in such capacity, the "**Monitor**") ~~and~~, the Pre-Filing Report dated January 6, 2025, of A&M in its capacity as proposed Monitor, the First Report of the Monitor dated January 16, 2025, and 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, the ~~proposed~~ Monitor, Canadian Imperial Bank of Commerce ~~(the "~~, in its capacity as Senior Lender, Interim Lender~~")~~ and DIP Lender (as defined below), and such other counsel present,

SERVICE

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

DEFINITIONS

2. **THIS COURT ORDERS** that unless otherwise indicated or defined herein, capitalized terms have the meanings given to them in the Initial Kassam Affidavit and the Second Kassam Affidavit, as applicable.

APPLICATION

3. ~~2.~~ **THIS COURT ORDERS AND DECLARES** that the Applicants are companies to which the CCAA applies.

PLAN OF ARRANGEMENT

4. **THIS COURT ORDERS** that the Applicants 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

5. ~~3.~~ **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**"). 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 are each authorized and empowered to continue to retain and employ the employees, independent contractors, advisors, consultants, agents, experts, appraisers, valuators, 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. ~~4.~~ **THIS COURT ORDERS** that the Applicants shall be entitled to continue to use the central cash management system currently in place as described in the Initial Kassam Affidavit or, with the prior consent of the Monitor and the ~~Interim~~DIP Lender, 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 Applicants 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 Applicants, 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 of compromise or arrangement filed under the CCAA~~Plan with regard to any claims or expenses it may suffer or incur in connection with the provision of the Cash Management System.

7. ~~5.~~ **THIS COURT ORDERS** that, subject to and in accordance with the DIP Term Sheet (defined below), the Applicants shall be entitled but not required to pay the following expenses whether incurred prior to, on or after January 7, 2025 (the ~~date of this Order~~"**Filing Date**"):

(a) all outstanding and future wages, salaries, employee benefits (including, without limitation, employee medical, dental and similar benefit plans or arrangements), vacation pay and expenses, 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 expenses;

(b) all outstanding and future amounts invoiced to any of the Applicants from any independent contractors retained by any of the Applicants, in each case incurred in the ordinary course of business and consistent with existing payment arrangements;

(c) ~~until~~to and including January ~~17~~16, 2025, or such other later date as the Applicants determine in consultation with the ~~Interim~~DIP Lender, all outstanding or future amounts owing in respect of existing customer pre-payments, deposits, return policies, refunds, discounts or other amounts on account of similar customer programs or obligations, including loyalty programs, and further the Applicants shall be entitled, but not required, to honour existing exchange policies until such date;

(d) ~~until~~to and including January ~~17~~16, 2025~~ or such other later date as the Applicants determine in consultation with the Interim Lender~~, all outstanding or future amounts related to honouring gift cards~~ issued before, on or after the date of this Order~~;

(e) to the extent included in the Cash Flow Forecast ~~(as defined in the Kassam Affidavit) or otherwise~~or DIP Budget and approved by the Monitor and the ~~Interim~~DIP Lender, amounts owing for (I) any Parian Services or IT Services (each as defined in the Initial Kassam Affidavit) supplied to the Applicants prior to the ~~date of this Order~~Filing Date, or (II) goods or services ordered by or supplied to the Applicants prior to the ~~date of this Order~~Filing Date by any:

(i) providers of credit, debit and gift card processing related services;

(ii) logistics, warehouse or supply chain providers, including transportation providers, clearing houses, customs brokers, freight forwarders and security and armoured truck carriers, and including amounts payable in respect of customs and duties for goods;

(iii) providers of information, internet, telecommunications, and other technology, including e-commerce providers and related services; and

(iv) other suppliers or service providers if, in the opinion of the Applicants following consultation with the Monitor, such payment is necessary to maintain the uninterrupted operations of the Business, including, for clarity, pursuant to any Merchandise Transfer Agreement;

(f) the fees and disbursements of any Assistants retained or employed by the Applicants in respect of these proceedings, at their standard rates and charges; and

(g) any other amounts to the extent included in the Cash Flow Forecast or DIP Budget and approved by the Monitor and DIP Lender.

8. ~~6.~~ **THIS COURT ORDERS** that, except as otherwise provided to the contrary herein, and consistent with the Cash Flow Forecast or DIP Budget, the Applicants shall be entitled but not required to pay all reasonable expenses incurred by them in carrying on the Business in the ordinary course after ~~this Order~~the Filing Date, and in carrying out the provisions of this Order and any other Order of this Court, 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, maintenance and security services; and

(b) payment for goods or services actually supplied to the Applicants following the ~~date of this Order~~Filing Date.

9. ~~7.~~ **THIS COURT ORDERS** that the Applicants shall remit, in accordance with legal requirements, 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, and (iv) income taxes, and all other amounts related to such deductions or employee wages payable for periods following the Filing Date pursuant to the *Income Tax Act*, Canada Pension Plan, *Employment Insurance Act*, and similar provincial statutes;

(b) all goods and services taxes, harmonized sales taxes or other applicable sales taxes (collectively, "**Sales Taxes**") due and 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 this Order, or where such Sales Taxes were accrued or collected prior to the date of this Order but not remitted until on or after the date of this Order; and~~Filing Date;

(c) all Sales Taxes accrued or collected prior to the Filing Date but not remitted until on or after the Filing Date, provided that, unless otherwise agreed by the Applicants and

the DIP Lender (i) all Obligations have been Repaid in Full under the Pre-Filing Credit Agreement (including, without limitation, all obligations under the Revolving Credit, Term Credit and the BCAP Facility, all accrued and unpaid interest relating to such facilities and the Lender Expenses) (in each case as defined in the DIP Term Sheet), and (ii) all DIP Financing Obligations under the DIP Facility have been Repaid in Full (in each case as defined in the DIP Term Sheet);

(d) ~~(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. ~~8.~~ **THIS COURT ORDERS** that, until a real property lease (each, a "**Lease**") to which any Applicant is a party is disclaimed in accordance with the CCAA, or otherwise consensually terminated, the applicable Applicant that is party to such Lease shall pay, without duplication, all amounts constituting rent or payable as rent under such Lease (including, for greater certainty, common area maintenance charges, utilities and realty taxes and any other amounts payable to the applicable landlord (each, a "**Landlord**") under such Lease, but for greater certainty, excluding amounts owing ~~which are stayed by this Order~~in respect of the period prior to the Filing Date (including percentage rent), accelerated rent or penalties, fees or other charges arising as a result of any default that is stayed by this Order, the insolvency of the Applicants, the commencement of these CCAA proceedings, or the making of this Order) or as otherwise may be negotiated between such Applicant and the Landlord from time to time ("**Rent**"), (a) incurred and relating solely to the period commencing from and including the ~~date of this Order~~Filing Date until and including January 17, 2025, as a single payment made ~~forthwith following issuance of this Order~~on the Filing Date, (b) incurred and relating solely to the period commencing from and including January 18, 2025, until and including January 31, 2025, as a single payment made ~~forthwith following issuance of an amended and restated Initial Order in these CCAA proceedings~~,on January 17, 2025, or within two (2) business days thereafter, and (c) thereafter, twice-monthly in equal payments on the first and fifteenth day of each month, in

advance (but not in arrears), in each case save and except for any component of Rent which is percentage rent which, commencing from and including the ~~date of this Order~~Filing Date, shall be calculated every two weeks and paid one week thereafter regarding revenues incurred during the period from and including the ~~date of this Order in accordance with the terms of such Lease~~Filing Date.

11. ~~9.~~ **THIS COURT ORDERS** that, except as specifically permitted herein or to the extent included in the Cash Flow Forecast, the DIP Budget or otherwise permitted under the DIP Term Sheet, 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 this date); (b) to grant no security interests, trusts, liens, charges or encumbrances upon or in respect of any of their Property; and (c) to not grant credit or incur liabilities except in the ordinary course of the Business.

RESTRUCTURING

12. ~~10.~~ **THIS COURT ORDERS** that the Applicants shall, subject to such requirements as are imposed by the CCAA, such covenants as may be contained in the Definitive Documents (as hereinafter defined), or as otherwise ordered by this Court, have the right to:

(a) permanently or temporarily cease, downsize or shut down any of their business or operations, and to dispose of redundant or non-material assets not exceeding $150,000 in any one transaction or $500,000 in the aggregate;

(b) vacate, abandon or quit the whole but not part of any leased premises and/or disclaim any real property lease, including any Lease, and any ancillary agreements relating to any leased premises;

(c) without limiting paragraph ~~10(b)~~12(b), above, disclaim, with the prior consent of the Monitor, and after consultation with the DIP Lender, any of their arrangements or agreements of any nature whatsoever and with whomsoever, whether oral or written, as the Applicants deem appropriate, in accordance with section 32 of the CCAA;

(d) terminate the employment of such of their employees or temporarily lay off such of their employees as they deem appropriate;

(e) in consultation with, and with the oversight of the Monitor and in consultation with the ~~Interim~~DIP Lender, (i) engage in discussions with and solicit proposals and agreements from, third parties in respect of the liquidation of the inventory, furniture, equipment and fixtures and other property located in and/or forming part of the Property, and return to Court for the approval of any such agreement (the "~~**Liquidation**~~**Realization Selection Process**"), and (ii) with the assistance of any real estate advisor or other Assistants as may be desirable, pursue all avenues and offers for the sale, transfer or assignment of the Leases to third parties, in whole or in party and return to Court for approval of any such sale, transfer or assignment; and

(f) pursue all offers for or avenues of refinancing, restructuring, sale or reorganizing the Business or Property, in whole or part, ~~subject to prior approval of this Court being obtained before any material~~ including pursuant to any solicitation process letter establishing bid procedures (including minimum proposal requirements, key milestones, and successful bid selection criteria) as may be determined by the Applicants and Monitor in consultation with the DIP Lender, for circulation to potentially interested parties identified by the Applicants and the Monitor; provided, however, that completion of any such refinancing, restructuring, sale or ~~reorganizing,~~ reorganization transaction will be subject to (i) prior approval of this Court (except as permitted by paragraph 12(a) above in respect of redundant or non-material assets or the Realization Process Approval Order granted by this Court on January 17, 2025) and (ii) prior approval of the DIP Lender.

all of the foregoing to permit the Applicants to proceed with an orderly restructuring of the Business (the "**Restructuring**").

13. ~~11.~~ **THIS COURT ORDERS** that the Applicants shall provide each of the relevant Landlords with notice of the Applicants' 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 such Landlord disputes the Applicants' entitlement to remove any such fixture under the provisions of the applicable Lease, such fixture shall remain on the premises and shall be dealt with as agreed between any applicable secured creditors, such Landlord and the Applicants, or by further Order of this Court upon application by the Applicants on at least two (2) days notice to such Landlord and any such secured creditors. If the Applicants disclaim the Lease governing such leased premises in accordance with Section 32 of the CCAA, the Applicants shall not be required to pay Rent under such Lease pending resolution of any such dispute (other than~~,~~ ~~subject to paragraph 8 hereof,~~ Rent payable for the notice period provided for in Section 32(5) of the CCAA), and the disclaimer of such Lease shall be without prejudice to the Applicants' claim to the fixtures in dispute.

14. ~~12.~~ **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 Applicants 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 the Applicants 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.

NO PROCEEDINGS AGAINST THE APPLICANTS OR THE PROPERTY

15. ~~13.~~ **THIS COURT ORDERS** that until and including ~~January 17~~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 the Applicants 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 prior written consent of the Applicants and the Monitor, or with leave of this Court, and any and all Proceedings currently under way against or in respect of the Applicants, or except as permitted by subsection 11.03(2) of the CCAA, their employees, directors, advisors,

officers, or representatives acting in such capacities, or affecting the Business or the Property are hereby stayed and suspended pending further Order of this Court.

16. ~~14.~~ **THIS COURT ORDERS** that, to the extent any prescription, time or limitation period relating to any Proceeding against or in respect of any Applicant that is stayed pursuant to this Order may expire, the term of such prescription, time or limitation period shall hereby be deemed to be extended by a period equal to the Stay Period.

NO EXERCISE OF RIGHTS OR REMEDIES

17. ~~15.~~ **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 the Applicants or the Monitor, or their respective employees, directors, advisors, officers, and representatives acting in such capacities, or affecting the Business or the Property, are hereby stayed and suspended except with the prior written consent of the Applicants and the Monitor, or leave of this Court, provided that nothing in this Order shall (a) empower the Applicants 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

18. ~~16.~~ **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, lease, sublease, licence or permit in favour of or held by the Applicants, except with the prior written consent of the Applicants and the Monitor, or leave of this Court.

CONTINUATION OF SERVICES

19. ~~17.~~ **THIS COURT ORDERS** that during the Stay Period, all Persons having oral or written agreements or arrangements with any of the Applicants or statutory or regulatory

mandates for the supply or license of goods, intellectual property, 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, importing services, customs clearing, warehouse and logistics services, security services, utility or other services to the Business or the Applicants, are hereby restrained until further Order of this Court from discontinuing, altering, suspending, interfering with or terminating the supply or license of such goods, intellectual property, or services as may be required by the Applicants, and that the Applicants shall be entitled to the continued use of their current premises, telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case, that the normal prices or charges for all such goods or services received after the ~~date of this Order~~Filing Date are paid by the Applicants in accordance with normal payment practices of the applicable Applicant or such other practices as may be agreed upon by the supplier or service provider and the applicable Applicant and the Monitor, or as may be ordered by this Court.

NO PRE-FILING VS POST-FILING SET-OFF

20. ~~18.~~ **THIS COURT ORDERS** that, no Person shall be entitled to set off any amounts that: (a) are or may become due to any Applicant in respect of obligations arising prior to the ~~date hereof~~Filing Date with any amounts that are or may become due from such Applicant in respect of obligations arising on or after the ~~date of this Order~~Filing Date; or (b) are or may become due from any Applicant in respect of obligations arising prior to the ~~date hereof~~Filing Date with any amounts that are or may become due to such Applicant in respect of obligations arising on or after the ~~date of this Order~~Filing Date, in each case without the consent of the Applicants and the Monitor, or leave of this Court.

NON-DEROGATION OF RIGHTS

21. ~~19.~~ **THIS COURT ORDERS** that, notwithstanding anything else in this Order other than paragraph ~~8~~10 of this Order, 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 this Order~~Filing Date, nor shall any Person be under any obligation on or after the ~~date of this Order~~Filing Date to advance or re-advance any monies or

otherwise extend any credit to the Applicants. Nothing in this Order shall derogate from the rights conferred and obligations imposed by the CCAA.

PROCEEDINGS AGAINST DIRECTORS AND OFFICERS

22. ~~20.~~ **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 the Applicants with respect to any claim against the directors or officers that arose before the ~~date hereof~~Filing Date and that relates to any obligations of the Applicants 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 Plan in respect of the Applicants, if one is filed, is sanctioned by this Court or is refused by the creditors of the Applicants or this Court.

DIRECTORS' AND OFFICERS' INDEMNIFICATION AND CHARGE

23. ~~21.~~ **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.

24. ~~22.~~ **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 $~~6,200,000~~7,400,000, as security for the indemnity provided in paragraph ~~21~~23 of this Order. The Directors' Charge shall have the priority set out in paragraphs ~~38~~47 and ~~40~~49 hereof.

APPOINTMENT OF MONITOR

25. ~~23.~~ **THIS COURT ORDERS** that A&M is hereby 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 the Applicants and their shareholders, officers, directors, and Assistants shall advise the Monitor of

all material steps taken by the Applicants 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.

26. ~~24.~~ **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 and review the Applicants' receipts and disbursements;

(b) assist with the Restructuring and the operations of the Applicants;

(c) assist the Applicants in their dissemination to the ~~Interim~~DIP Lender and its counsel and financial advisor of financial and other information as agreed to between the Applicants and the ~~Interim~~DIP Lender, which may be used in these proceedings, including reporting on a basis to be agreed with the ~~Interim~~DIP Lender;

(d) liaise with Assistants, to the extent required, with respect to all matters relating to the Property, the Business, and such other matters as may be relevant to the proceedings herein;

(e) 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;

(f) advise the Applicants in their preparation of the Applicants' cash flow statements and other required reporting, including under the DIP Term Sheet;

(g) advise the Applicants in their development of any Plan and any amendments to any such Plan and, to the extent required by the Applicants, assist with the holding and administering of creditors' or shareholders' meetings for voting on any Plan;

(h) ~~(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, wherever located and to the extent that is necessary to adequately assess

the Applicants' business and financial affairs or to perform its duties arising under this Order;

(i) ~~(h)~~ liaise and consult with any Assistants and any liquidator selected through the ~~Liquidation~~Realization Selection Process, to the extent required by the Applicants, with any matters relating to the Property, the Business and such other matters as may be relevant to the proceedings herein;

(j) ~~(i)~~ be at liberty to engage independent legal counsel or such other persons, or utilize the services of employees of its affiliates, as the Monitor deems necessary or advisable respecting the exercise of its powers and performance of its obligations under this Order; ~~and~~

(k) perform its obligations under any Merchandise Transfer Agreements; and

(l) ~~(j)~~ perform such other duties as are required by this Order or by this Court from time to time.

27. ~~25.~~ **THIS COURT ORDERS** that 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, be deemed to have taken or maintained possession or control of the Business or Property, or any part thereof.

28. ~~26.~~ **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 waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, *1999,* 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 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 the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

29. ~~27.~~ **THIS COURT ORDERS** that the Monitor shall provide any creditor of the Applicants 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.

30. ~~28.~~ **THIS COURT ORDERS** that, in addition to the rights and protections afforded the Monitor under the CCAA or as an officer of this Court, neither the Monitor nor any of its employees or representatives shall incur any liability or obligation as a result of the Monitor's appointment or the carrying out by it of the provisions of this Order (including in carrying out its duties under any Merchandise Transfer Agreement), 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.

31. ~~29.~~ **THIS COURT ORDERS** that the Monitor, counsel to the Monitor and counsel to the Applicants**,** counsel to the Interim Lender and the DIP Lender and financial advisor thereto, shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges, whether incurred prior to, on or subsequent to the ~~date of this Order~~Filing Date, 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 to the Monitor and counsel to the Applicants, counsel to the Interim Lender and the DIP Lender and financial advisor thereto, in each case, on a weekly basis or on such terms as such parties may agree and, in addition, the Applicants are hereby authorized to pay to the Monitor, counsel to the Monitor and counsel to the Applicants, retainers, *nunc pro tunc*, to be held by them as security for payment of their respective fees and disbursements outstanding from time to time.

32. ~~30.~~ **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.

MERCHANDISE TRANSFER AGREEMENTS

33. **THIS COURT ORDERS** that the form of Merchandise Transfer Agreement attached as Exhibit "E" to the Second Kassam Affidavit (the "**Template MTA**") is approved, and the Applicants and Monitor are hereby authorized and empowered to execute Merchandise Transfer Agreements substantially in the form of the Template MTA with the Overseas Vendors and to perform their respective obligations thereunder, and any Merchandise Transfer Agreements executed by the Monitor and Applicants prior to the making of this Order are hereby authorized and approved *nunc pro tunc*.

ADMINISTRATION CHARGE

34. ~~31.~~ **THIS COURT ORDERS** that the Monitor, counsel to the Monitor and counsel to the Applicants, 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 $~~750,000~~1,000,000 as security for their professional fees and disbursements incurred at their 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 set out in paragraphs ~~38~~47 and ~~40~~49 hereof.

INTERIM FINANCING

35. ~~32.~~ **THIS COURT ORDERS** that on or after the ~~date of this Order~~Filing Date and until January 17, 2025, Comark Holdings Inc. is hereby authorized and empowered to continue to borrow from the Canadian Imperial Bank of Commerce (in such capacity, the "**Interim Lender**") under the existing credit facilities (the "**Existing Credit Facilities**") pursuant to the Amended and Restated Credit Agreement dated as of September 9, 2024 (as amended, the "**Existing Credit Agreement**") between, among others, Comark Holdings Inc. and the Interim Lender (in its capacity as lender and agent under the Existing Credit Agreement, the "**Senior Lender**"), in order to finance the Applicants' working capital requirements and other general

corporate purposes, capital expenditures, and costs of these proceedings during the Stay Period (each, an "**Interim Borrowing**" and collectively, the "**Interim Borrowings**"), provided that: (i) such Interim Borrowings are made in accordance with the Cash Flow Forecast or otherwise agreed by the Applicants and the Interim Lender, in each case subject to prior approval pursuant to a draw request in form and substance satisfactory to the Interim Lender, accompanied by such supporting documentation as the Interim Lender may request; (ii) such Interim Borrowings are secured by the Interim Lender's Charge (as defined below) with the priority set out in paragraphs ~~38~~47 and ~~40~~49 hereof; (iii) such Interim Borrowings under the Existing Credit Facility shall accrue interest at the default rates set out in the Existing Credit Agreement; (iv) (a) Bootlegger Clothing Inc., cleo fashions Inc., and Ricki's Fashions Inc. shall be deemed to guarantee and secure the Interim Borrowings, together with all interest accrued thereon and costs and expenses incurred in connection therewith (collectively, the "**Interim Borrowing Obligations**"), in the same manner as the other Obligations (as defined in the Existing Credit Agreement) that they have guaranteed and secured in connection with the Existing Credit Agreement and under the loan and security documents provided by them in connection therewith, (b) the Pledged Collateral (as defined in the Limited Recourse Guarantee by 9383921 Canada Inc. in favour of Senior Lender dated August 7, 2020) shall secure the Interim Borrowings, and (c) Bootlegger Clothing Inc., cleo fashions Inc., Ricki's Fashions Inc. and 9383921 Canada Inc. shall be deemed to ratify and acknowledge the guarantees and security they have provided in connection with the Existing Credit Agreement and the loan and security documents provided by them in connection therewith, in the case of each of the foregoing (a) to (c), without the need for any further guarantee, security or documentation from Bootlegger Clothing Inc., cleo fashions Inc., Ricki's Fashions Inc. or 9383921 Canada Inc.

36. ~~33.~~ **THIS COURT ORDERS** that the Applicants are hereby authorized and empowered to execute and deliver such amendments to the Existing Credit Agreement or other documents, if any, as may be reasonably required by the Interim Lender to facilitate any Interim Borrowings, provided that failure to execute any such documentation does not invalidate any Interim Borrowings or the validity or priority of the Interim Lender's Charge.

37. ~~34.~~ **THIS COURT ORDERS** that the Interim Borrowings shall mature on January 17, 2025, and the Interim Borrowings shall be payable in full by the Applicants on such date~~,~~

~~together with all interest accrued thereon and costs or expenses incurred in connection therewith, and, for greater certainty, the Applicants shall be permitted to repay the Interim Borrowings with the proceeds of replacement interim financing approved by this Court on a subsequent motion.~~.

38. ~~35.~~ **THIS COURT ORDERS** that (i) the Interim Lender shall be entitled to the benefit of and is hereby granted a charge (the "**Interim Lender's Charge**") on the Property of each of the Applicants as security for the Interim Borrowings, which Interim Lender's Charge shall, for greater certainty, not secure any obligation that exists before ~~this Order is made. The~~the Filing Date, (ii) the Interim Lender's Charge shall have the priority set out in paragraphs ~~38 and 40 hereof.~~47 and 49 hereof, (iii) the Interim Lender's Charge shall be terminated, released and discharged upon the Interim Borrowing Obligations being Repaid in Full from the proceeds of the First Advance (each as defined in the DIP Term Sheet), without any other act or formality; and (iv) until the Interim Borrowings Obligations are Repaid in Full, all consents required of the DIP Lender in this Order and all rights afforded to the DIP Lender under paragraph 26(c), 45, and 46 of this Order shall also apply to the Interim Lender *mutatis mutandis*.

39. ~~36.~~ **THIS COURT ORDERS** in the event the Applicants fail to make the payment to the Interim Lender required by paragraph ~~34~~37 herein, then upon three (3) business days' notice to the Applicants and the Monitor, the Interim Lender may exercise any and all of its rights and remedies against the Applicants or the Property under or pursuant to the Existing Credit Agreement and the Interim Lender's Charge, including without limitation, to cease making advances to the Applicants and, subject to further Order of the Court, set off and/or consolidate any amounts owing by the Interim Lender to any of the Applicants against the obligations of the Applicants to the Interim Lender under the Existing Credit Agreement, this Order or the 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 Applicants or the Property and for the appointment of a trustee in bankruptcy of the Applicants.

40. ~~37.~~ **THIS COURT ORDERS** that the Interim Lender shall be treated as unaffected in any ~~plan of arrangement or compromise~~Plan filed by the Applicants under the CCAA, or any

proposal filed by the Applicants under the *Bankruptcy and Insolvency Act* (Canada) (the "**BIA**") with respect to any Interim Borrowings.

DIP FINANCING

41. **THIS COURT ORDERS** that Comark Holdings Inc. is hereby authorized and empowered to obtain and borrow under a credit facility from the Canadian Imperial Bank of Commerce (in such capacity, the "**DIP Lender**") in order to finance the Applicants' working capital requirements and other general corporate purposes and costs of these proceedings (each, a "**DIP Borrowing**" and collectively, the "**DIP Borrowings**").

42. **THIS COURT ORDERS** that such credit facility shall be on the terms and subject to the conditions set forth in the term sheet between the Applicants and the DIP Lender dated as of January 15, 2025 (the "**DIP Term Sheet**"), filed.

43. **THIS COURT ORDERS** that the Applicants are 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 DIP Term Sheet or as may be required by the DIP Lender, and the Applicants are hereby authorized and directed to pay and perform all of their indebtedness, interest, fees, liabilities and obligations to the DIP Lender under and pursuant to the DIP Term Sheet and the Definitive Documents 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 Lender shall be entitled to the benefit of and is hereby granted a charge (the "**DIP Lender's Charge**") on the Property of each of the Applicants as security for the DIP Borrowings, which DIP Lender's Charge shall not secure an obligation that exists before this Order is made. The DIP Lender's Charge shall have the priority set out in paragraphs 47 and 49 hereof.

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

(a) the DIP Lender may take such steps from time to time as it may deem necessary or appropriate to file, register, record or perfect the DIP Lender's Charge, the DIP Term Sheet or any of the Definitive Documents;

(b) upon the occurrence of an event of default under the DIP Term Sheet or the Definitive Documents, the DIP Lender may cease making advances to Comark Holdings Inc. pursuant to the DIP Term Sheet and, upon approval of the Court, may exercise any and all of its rights and remedies against the Applicants or the Property under or pursuant to the DIP Term Sheet, Definitive Documents and the DIP Lender's Charge, including without limitation, to set off and/or consolidate any amounts owing by the DIP Lender to the Applicants against the obligations of the Applicants to the DIP Lender under the DIP Term Sheet, the Definitive Documents or the DIP 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 Applicants or the Property and for the appointment of a trustee in bankruptcy of the Applicants; and

(c) the foregoing rights and remedies of the DIP Lender shall be enforceable against any trustee in bankruptcy, interim receiver, receiver or receiver and manager of the Applicants or the Property.

46. **THIS COURT ORDERS** that the DIP Lender shall be treated as unaffected in any Plan filed by the Applicants under the CCAA, or any proposal filed by the Applicants under the BIA with respect to any advances made under the DIP Term Sheet or the Definitive Documents.

VALIDITY AND PRIORITY OF CHARGES CREATED BY THIS ORDER

47. ~~38.~~ **THIS COURT ORDERS** that the priorities of the security interests granted by the Administration Charge, Interim Lender's Charge, the DIP Lender's Charge, and the Directors' Charge (collectively, the "**Charges**"), and the Applicants to Senior Lender, as among them, shall be as follows:

(a) First – Administration Charge (to the maximum amount of $~~750,000~~1,000,000);

(b) Second – the DIP Lender's Charge;

(~~b~~c) ~~Second – (i)~~Third – the Interim Lender's Charge, ~~and (ii)~~until such Interim Lender's Charge is terminated pursuant to paragraph 38, and the other security granted by the Applicants to the Senior Lender with respect to the Existing Credit Facilities (excluding the Interim Borrowings) in accordance with the Existing Credit Agreement, on a *pari pasu* basis; and

(c) ~~Third~~Fourth – Directors' Charge (to the maximum amount of $~~6,200,000~~7,400,000).

48. ~~39.~~ **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.

49. ~~40.~~ **THIS COURT ORDERS** that each of the Charges shall constitute a charge on the Property and such Charges 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~~, except for any Person who is a "secured creditor" as defined in the CCAA that has not been served with the Notice of Application for this Order. The Applicants shall be entitled, at the Comeback Hearing (as hereinafter defined) or as part of any subsequent motion, on notice to those Persons likely to be affected thereby, to seek priority of the Charges ahead of any Encumbrance over which the Charges may not have obtained priority pursuant to this Order.~~.

50. ~~41.~~ **THIS COURT ORDERS** that except as otherwise expressly provided for herein, or as may be approved by this Court, 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 ~~Interim~~DIP Lender, and the other beneficiaries of the Charges (collectively, the "**Chargees**"), or further Order of this Court.

51. ~~42.~~ **THIS COURT ORDERS** that the Charges shall not be rendered invalid or unenforceable and the rights and remedies of the Chargees 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 or receivership order(s) issued pursuant to the BIA or otherwise, or any bankruptcy or receivership 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 or provincial 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:

(i) neither the creation of the Charges nor the execution ~~or~~, delivery ~~of~~, perfection, registration or performance of the Interim Borrowings or any amendment or document pursuant to paragraph ~~33 hereof~~36 hereof, the DIP Term Sheet, or the Definitive Documents shall create or be deemed to constitute a breach by the Applicants of any Agreement to which any of them is a party,

(ii) 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 execution of the DIP Term Sheet, the DIP Financing Obligations, the Interim Borrowings, creation of the Charges, the Interim Borrowings or the execution ~~or~~, delivery or performance of any amendment or document pursuant to paragraph ~~33 hereof~~36 hereof, the DIP Term Sheet, or the Definitive Documents; and

(iii) the payments made by the Applicants pursuant to this Order, including with respect to the Interim Borrowings, the DIP Term Sheet, 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.

52. ~~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 Applicants' interests in such real property leases.

SERVICE AND NOTICE

53. ~~44.~~ **THIS COURT ORDERS** that the Monitor shall (a) without delay, publish in the Globe & Mail a notice containing the information prescribed under the CCAA; and (b) within five days after the ~~date of this Order~~Filing Date, (i) make this Order publicly available in the manner prescribed under the CCAA, (ii) send, or cause to be sent, in the prescribed manner (including by electronic message to the e-mail addresses as last shown in the Applicants' books and records), a notice to all known creditors having a claim against the Applicants of more than $1,000, and (iii) prepare a list showing the names and addresses of such 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 individuals who are creditors publicly available, unless otherwise ordered by the Court.

54. ~~45.~~ **THIS COURT ORDERS** that any employee of any of the Applicants who is sent a notice of termination of employment or any other communication by the Applicants on or after the ~~date hereof~~Filing Date shall be deemed to have received such communication by no later than 8:00 a.m. prevailing Eastern Time on the fourth day following the date any such communication is sent, if such communication is sent by ordinary mail, expedited parcel or registered mail to the individual's address as reflected in the Applicants' books and records; provided, however, that any communication that is sent to an employee of the Applicants by electronic message to the individual's corporate email address and/or the individual's personal address as last shown in the Applicants' books and records shall, (a) if sent by electronic message at or prior to 5:00 p.m. prevailing Eastern Time on a business day, be deemed to have been received by such employee on the date on which such electronic message was sent, or (b) if sent by electronic message after 5:00 p.m. prevailing Eastern Time on a business day or on a day that is not a business day, be deemed to have been received by such employee on the next business day following the date on which such electronic message was sent, notwithstanding that

the mailing of any notices of termination of employment or other employee communication was sent pursuant to any other means.

55. ~~46.~~ **THIS COURT ORDERS** that the E-Service Guide 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 https://www.ontariocourts.ca/scj/practice/regional-practice-directions/eservice-commercial/) 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: 'www.alvarezandmarsal.com/ComarkRetail'.

56. ~~47.~~ **THIS COURT ORDERS** that if the service or distribution of documents in accordance with the Protocol or the CCAA and the regulations thereunder 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 copies thereof by prepaid ordinary mail, courier, personal delivery, facsimile transmission or electronic message to the Applicants' creditors or other interested parties at their respective addresses (including e-mail addresses) as last shown in the books and records of the Applicants and that any such service or distribution shall be deemed to be received on the earlier of (a) the date of forwarding thereof, if sent by electronic message at or prior to 5:00 p.m. prevailing Eastern Time (or on the next business day following the date of forwarding thereof if sent on a non-business day); (b) the next business day following the date of forwarding thereof, if sent by courier, personal delivery, facsimile transmission or electronic message sent after 5:00 p.m. prevailing Eastern Time; or (c) on the third business day following the date of forwarding thereof, if sent by ordinary mail.

57. ~~48.~~ **THIS COURT ORDERS** that the Applicants and the Monitor and their respective counsel are at liberty to serve or distribute this Order, any other materials and orders as may be reasonably required in these proceedings, including any notices, or other correspondence, by

forwarding 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* (SOR/2013-221).

~~**COMEBACK HEARING**~~

~~49. **THIS COURT ORDERS** that the comeback motion in these CCAA proceedings shall be heard by a Commercial List Judge on January 17, 2025 (the "**Comeback Hearing**").~~

GENERAL

58. ~~50.~~ **THIS COURT ORDERS** that any interested party that wishes to amend or vary this Order shall be entitled to appear or bring a motion before this Court ~~at the Comeback Hearing~~, and any such interested party shall give not less than ~~two~~five business days' notice to the Service List and any other party or parties likely to be affected by the Order sought ~~in advance of the Comeback Hearing~~; provided, however, that the Chargees shall be entitled to rely on this Order as granted and on the Charges and priorities set forth in paragraphs ~~38~~47 and ~~40~~49 hereof with respect to any fees, expenses and disbursements incurred, as applicable, until the date this Order may be amended, varied or stayed.

59. ~~51.~~ **THIS COURT ORDERS** that, notwithstanding paragraph ~~50~~58 of this Order, 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 respective powers and duties hereunder.

60. ~~52.~~ **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 the Applicants, the Business or the Property.

61. ~~53.~~ **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 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 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 agents in carrying out the terms of this Order.

62. ~~54.~~ **THIS COURT ORDERS** that each of the Applicants 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.

63. ~~55.~~ **THIS COURT ORDERS** that this Order and all of its provisions are effective as of 12:01 a.m. prevailing Eastern Time on the date of this Order.

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 COMARK HOLDINGS INC., BOOTLEGGER CLOTHING INC., CLEO FASHIONS INC. AND RICKI'S FASHIONS INC.

Court File No:

Applicants

Ontario
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

Proceeding commenced at Toronto

AMENDED AND RESTATED INITIAL ORDER

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

Court File No: CV-25-00734339-00CL

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF COMARK HOLDINGS INC., BOOTLEGGER CLOTHING INC., CLEO FASHIONS INC. AND RICKI'S FASHIONS INC.

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

Proceeding commenced at Toronto

MOTION RECORD OF THE APPLICANTS
(Comeback Hearing returnable January 17, 2025)

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