

District of: Ontario  
Division No.: 09 – Toronto  
Court No.: BK-31-3050418  
Estate No.: BK-24-03050418-0031

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)  
IN BANKRUPTCY AND INSOLVENCY**

**IN THE MATTER OF THE NOTICE OF INTENTION  
TO MAKE A PROPOSAL OF THE BODY SHOP  
CANADA LIMITED, IN THE CITY OF TORONTO, IN  
THE PROVINCE OF ONTARIO**

**SECOND REPORT OF THE PROPOSAL TRUSTEE  
ALVAREZ & MARSAL CANADA INC.**

**APRIL 9, 2024**

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## 1.0 INTRODUCTION

- 1.1 On March 1, 2024 (the “**Filing Date**”), The Body Shop Canada Limited (“**TBS Canada**” or the “**Company**”) filed a Notice of Intention to Make a Proposal (“**NOI**”) pursuant to Section 50.4(1) of the *Bankruptcy and Insolvency Act (Canada)*, R.S.C. 1985, c. B-3 (the “**BIA**”) and Alvarez & Marsal Canada Inc. (“**A&M**”) was appointed as Proposal Trustee of the Company (the “**Proposal Trustee**”).
- 1.2 TBS Canada is a subsidiary of The Body Shop International Limited (the “**UK Parent**”). Prior to the Company filing the NOI, on February 13, 2024, the UK Parent commenced administration proceedings in the United Kingdom (the “**UK Administration Proceeding**”).
- 1.3 Facing a liquidity crisis and other challenges caused by commencement of the UK Administration Proceeding, TBS Canada filed the NOI, commencing a proceeding (the “**NOI Proceeding**”) to provide the stability and flexibility necessary to evaluate its strategic alternatives and explore various going concern alternatives, while also commencing a liquidation and closure of a subset of store locations.
- 1.4 On March 4, 2024, the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) granted an order (the “**March 4 Order**”) which, among other things:
- (i) extended the time to file a proposal, and expanded and extended the stay of proceedings triggered under the BIA by the NOI filing, until and including April 16, 2024 (the “**Stay Period**”);

- (ii) approved an Administration Charge, D&O Charge and Landlord Charge over the Property (each as defined in the March 4 Order); and
- (iii) permitted the Company to pay rent: (A) for the month of March, in four equal payments on the first business day of each week, in advance; and (B) for the period commencing April 1, 2024, twice monthly in equal payments on the first and fifteenth day of each month, in advance.

1.5 In connection with the NOI Proceeding and the relief to be sought in the March 4 Order, the Proposal Trustee filed and served the First Report of the Proposal Trustee dated March 2, 2024 (the “**First Report**”). The First Report and other documents filed with the Court in the NOI Proceeding are available on the Proposal Trustee’s case website at: [www.alvarezandmarsal.com/TheBodyShop](http://www.alvarezandmarsal.com/TheBodyShop) (the “**Case Website**”). The First Report is also attached hereto (without appendices) as **Appendix “A”**.

## **2.0 PURPOSE OF THIS REPORT**

2.1 The purpose of this second report (the “**Second Report**”) is to provide the Court with information on:

- (i) updates in respect of the ongoing restructuring proceedings of the UK Parent and TBS US (as defined below);
- (ii) updates in respect of TBS Canada’s store network, employees and inventory position;
- (iii) TBS Canada’s cash flow results for the 5-week period ended March 29, 2024;

- (iv) TBS Canada's updated cash flow forecast for the 13-week period ending June 28, 2024;
- (v) TBS Canada's proposed draft Order (the "**Draft Order**"), which, among other things:
  - (a) approves a key employee retention plan (the "**KERP**") and grants a super-priority charge over the Property (the "**KERP Charge**") as security for payments to be made in accordance with the KERP;
  - (b) seals the KERP and related payment information subject to further order of the Court; and
  - (c) extends the Stay Period for a 45-day period from its expiry on April 16, 2024, to and including May 31, 2024.
- (vi) the intercompany arrangements and the intercompany account between TBS Canada and the UK Parent that existed prior to the commencement of the NOI Proceeding; and
- (vii) the Proposal Trustee's activities and its recommendations in connection with the foregoing.

### **3.0 TERMS OF REFERENCE AND DISCLAIMER**

- 3.1 In preparing this Second Report, A&M, in its capacity as the Proposal Trustee, has been provided with, and has relied upon, unaudited financial information, books and records and financial information prepared by the Company and has held discussions with management

of the Company and its legal counsel (collectively, the “**Information**”). Except as otherwise described in this Second Report in respect of the Cash Flow Forecast:

- (i) the Proposal Trustee has reviewed the Information for reasonableness, internal consistency and use in the context in which it was provided. However, the Proposal Trustee has not audited or otherwise attempted to verify the accuracy or completeness of the Information in a manner that would wholly or partially comply with Canadian Auditing Standards (“**CASs**”) pursuant to the *Chartered Professional Accountants Canada Handbook* (the “**CPA Handbook**”) and, accordingly, the Proposal Trustee expresses no opinion or other form of assurance contemplated under CASs in respect of the Information; and
- (ii) some of the information referred to in this Second Report consists of forecasts and projections. An examination or review of the financial forecasts and projections, as outlined in the CPA Handbook, has not been performed.

3.2 Future oriented financial information referred to in this Second Report was prepared based on the Company’s estimates and assumptions. Readers are cautioned that since projections are based upon assumptions about future events and conditions that are not ascertainable, actual results will vary from the projections, even if the assumptions materialize, and the variations could be significant.

3.3 This Second Report should be read in conjunction with the Affidavit of Jordan Searle, General Manager, North America of the Company, sworn April 8, 2024 (the “**Second Searle Affidavit**”). Capitalized terms used and not defined in this Second Report have the meanings given to them in the Second Searle Affidavit.

- 3.4 Unless otherwise stated, all monetary amounts contained herein are expressed in Canadian dollars.

#### **4.0 UPDATE ON UK PARENT AND TBS US**

##### UK Parent

- 4.1 As noted above, on February 13, 2024, the UK Parent commenced the UK Administration Proceeding and individuals of the firm FRP Advisory Trading Limited were appointed as the joint administrators (the “**Joint Administrators**”) to oversee the business and the restructuring of the UK Parent.
- 4.2 TBS Canada and the Proposal Trustee have been in regular contact with the Joint Administrators to receive status updates regarding the UK Administration Proceeding and the overall restructuring process of the UK Parent.
- 4.3 The Proposal Trustee understands that the UK Parent has shuttered approximately 75 of its local retail stores since the commencement of the UK Administration Proceeding, and approximately 125 locations in the United Kingdom remain open for business in the ordinary course. Further, the Joint Administrators continue to explore and advance various restructuring alternatives for the UK Parent which, if successful, would see the UK Parent emerge from the UK Administration Proceeding and continue to operate its local retail business and certain of its international operating subsidiaries.
- 4.4 The Proposal Trustee understands that TBS Canada is in the process of retaining UK counsel to assist it with assessing and participating in any plan of compromise or arrangement that is put forward to creditors in the UK Administration Proceeding.

- 4.5 The Proposal Trustee and the Joint Administrators have also held a number of meetings and are in ongoing discussions to explore ways TBS Canada could emerge from its NOI Proceeding in a coordinated manner that would provide for the Going Concern Stores (as defined below) to continue to operate as a going concern business.
- 4.6 The Proposal Trustee notes that these conversations remain preliminary and would be wholly dependent on the UK Parent successfully restructuring and emerging from the UK Administration Proceeding.

#### TBS US

- 4.7 As described in the First Searle Affidavit, Buth-Na-Bodhaige Inc. (“**TBS US**”) is a wholly owned subsidiary of the UK Parent and previously operated the retail and wholesale business of “The Body Shop” in the United States.
- 4.8 On March 1, 2024, TBS US made the decision to cease all operations by closing its retail locations, terminating all of its employees and stopping all shipments that originate from the U.S. based distribution centre (the “**US Distribution Centre**”).
- 4.9 On March 8, 2024, TBS US commenced a proceeding under chapter 7 of title 11 of the United States Code (the “**Chapter 7 Proceeding**”) and Rimon, P.C. was appointed as trustee (the “**Chapter 7 Trustee**”).
- 4.10 The Proposal Trustee has been in regular contact with the Chapter 7 Trustee to understand the intended steps in the Chapter 7 Proceeding, and how these steps may impact TBS Canada and the NOI Proceeding.

- 4.11 The first meeting of creditors and equity security holders in the Chapter 7 Proceeding is scheduled to occur on April 9, 2024. The Proposal Trustee intends to continue to engage with the Chapter 7 Trustee and will keep the Court apprised of the Chapter 7 Proceeding as appropriate.

## **5.0 UPDATE ON STORE CLOSURES, EMPLOYEES AND INVENTORY**

### Store Closures and Employee Reductions

- 5.1 As described in the First Report, upon commencing the NOI Proceeding on March 1, 2024, the Company immediately delivered disclaimer notices for lease agreements relating to 33 of its store locations and commenced inventory liquidation sales to exit those stores within 30 days.
- 5.2 Inventory sales at the 33 store locations are now complete. As summarized in the following table, the store closures were conducted in waves, with each store's last day of business selected based its level of inventory and sales trend.

<b>Last Day of Business</b>	<b>Store Count</b>	<b>Employee Terminations</b>
March 8, 2024	4	27
March 11, 2024	6	29
March 14 & 15, 2024	13	78
March 18, 2024	2	14
March 22 & 23, 2024	2	10
March 25, 2024	2	12
March 28 & 29, 2024	4	27
<b>TOTAL</b>	<b>33</b>	<b>197</b>

- 5.3 In the days leading up to the last day of business for each of the closing stores, TBS Canada delivered a termination letter to each employee who worked at the location to be closed.

These termination letters provided that the employment of each applicable TBS Canada employee would be terminated effective on the last day of business for their respective store location, and that they would be paid all of their regular wages, any bonuses owing and an amount for any accrued vacation owing as at their termination date. In total, TBS Canada terminated approximately 197 store level employees across the 33 closed locations.<sup>1</sup>

- 5.4 The Company's remaining 72 stores (the "**Going Concern Stores**") remain open while TBS Canada continues to advance various going concern alternatives available to it through the NOI Proceeding. The Company continues to employ approximately 570 employees.

#### U.S. Based Employees

- 5.5 TBS Canada historically received certain Shared Services (as defined below) from employees of TBS US who assisted with critical functions related to human resources, payroll, financial reporting and information technology.
- 5.6 In order to avoid disruption to these Shared Services, following the commencement of the Chapter 7 Proceeding and termination of all TBS US employees, TBS Canada identified seven US-based employees as being critical to its ongoing operations and who would be required to support its restructuring efforts.

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<sup>1</sup> As described in the First Report, on March 1, 2024, TBS Canada also terminated 20 head office employees. Further, on April 3, 2024, TBS Canada terminated a regional manager as part of an operational restructuring that followed the closure of the 33 store locations.

- 5.7 To retain the services of these former TBS US employees and ensure the critical services they provided for TBS Canada continued, TBS Canada entered into independent contractor agreements (the “**Contractor Agreements**”) with each of the seven former US employees (together, the “**Contractors**”), effective March 18, 2024.
- 5.8 The Contractor Agreements provide that TBS Canada will pay the Contractors on an hourly basis, at rates based on their previous salaries with TBS US. Certain of the Contractors will also be participating in the KERP, as described below, and will receive the benefit of the KERP Charge, if approved.

TBS Canada’s Inventory Position

- 5.9 As described in the First Report, all of TBS Canada’s inventory was historically supplied by the UK Parent via the US Distribution Centre. While the inventory was located in the United States, the UK Parent retained ownership of the inventory and would provide all of the necessary arrangements to organize the shipping and logistics to transport and transfer ownership of the merchandise to TBS Canada.
- 5.10 Following the commencement of the UK Administration Proceeding, TBS Canada stopped receiving inventory shipments in the ordinary course.
- 5.11 Since the commencement of the NOI Proceeding, TBS Canada and the Proposal Trustee have been working on a number of initiatives to bring merchandise into Canada to replenish inventory at the Going Concern Stores. These initiatives include, among others:
- (i) purchasing inventory that at the commencement of the NOI Proceeding was in-transit to North America (originally destined for the US Distribution Centre). This

in-transit inventory is currently: (a) being held at ports located in North Carolina, U.S. and Norfolk, UK by a brokerage company due to unpaid freight and storage costs associated with the importing of the product from the United Kingdom and other international locations; and (b) on the water being shipped from various international locations;

- (ii) purchasing inventory from the UK Parent currently located at the UK Parent's primary inventory warehouse in the United Kingdom;
- (iii) purchasing inventory from the UK Parent, in conjunction with the Chapter 7 Trustee, currently located in the US Distribution Centre<sup>2</sup>; and
- (iv) coordinating the transfer of inventory that at the commencement of the NOI Proceeding was in-transit to Canada from the US Distribution Centre but was returned to the US Distribution Centre due to logistical disruptions caused by the UK Administration Proceeding.

5.12 In order to advance each of the above initiatives to bring inventory into Canada, the Company has been working hard to establish a new supply chain, including engaging with various providers of shipping, brokerage, warehousing and 3PL (third-party logistics) services.

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<sup>2</sup> The Proposal Trustee understands that the US Distribution Centre is currently holding approximately US\$85 million of merchandise (retail value). However, at this time, because of the Chapter 7 Proceeding, the US Distribution Centre is not operational. TBS Canada and the Proposal Trustee are in advanced discussions with the UK Administrator and the Chapter 7 Trustee to re-open the US Distribution Centre so that the Company can purchase the inventory necessary to operate the Going Concern Stores in the ordinary course.

## 6.0 CASH FLOW RESULTS RELATIVE TO FORECAST

6.1 Actual receipts and disbursements for the period from February 24, 2024 to March 29, 2024 (the “**Reporting Period**”), as compared to the cash flow forecast attached as Appendix “A” to the First Report, are summarized in the following table:

Cash Flow Variance Report			\$000's
	Budget	Actual	Variance
<b>Receipts</b>			
Sales	5,683	11,048	5,365
Sales Tax Collections	445	1,270	825
<b>Total Receipts</b>	<b>6,128</b>	<b>12,318</b>	<b>6,190</b>
<b>Disbursements</b>			
Vendor Payments	(600)	(247)	353
Rent	(1,671)	(2,403)	(732)
Payroll & Benefits	(3,091)	(3,145)	(54)
Restructuring Professional Fees	(893)	(286)	607
Sales Tax Remittances	(320)	(739)	(419)
Other Expenditures	(118)	(70)	48
<b>Total Disbursements</b>	<b>(6,693)</b>	<b>(6,890)</b>	<b>(197)</b>
<b>Net Cash Flow</b>	<b>(565)</b>	<b>5,428</b>	<b>5,993</b>
Opening Cash Balance	2,572	2,572	-
Net Cash Flow	(565)	5,428	5,993
<b>Ending Cash Balance</b>	<b>2,007</b>	<b>8,000</b>	<b>5,993</b>

6.2 During the Reporting Period:

- (i) the positive variance in sales of approximately \$5.4 million is due to greater-than-forecast sales across the Company’s store network. Sales at the 33 closing stores and the Going Concern Stores were approximately \$2.2 million and \$3.2 million greater than forecast, respectively. At this time, the Company believes the majority of this positive variance was caused by an acceleration of sales following the

commencement of the NOI Proceeding, and accordingly, future sales trends will likely return to normalized levels;

- (ii) the positive variance in vendor payments of approximately \$353,000 is due primarily to the timing of certain post-filing disbursements and deposit payments with vendors, and is expected to reverse in future weeks;
- (iii) rent payments for the period March 1, 2024 to March 31, 2024 were paid in full, in four equal installments, including for the 33 stores that were issued lease disclaimers. On April 1, 2024, the Company commenced paying rent in 50% installments on the first and fifteenth of the month. The negative variance of approximately \$732,000 is a result of the Company paying its initial 50% installment of April 2024 rent, and is considered a timing variance that will reverse in future weeks; and
- (iv) the remaining variance in total disbursements of approximately \$183,000 is expected to reverse and is due primarily to timing in the remittance of February sales taxes and restructuring professional fees.

6.3 Overall, during the Reporting Period, the Company experienced a positive net cash flow variance of approximately \$6.0 million, primarily attributed to the higher than forecast sales results. However, it is anticipated that a portion of this net positive variance will decline as the NOI Proceeding continues and sales return to normalized levels.

6.4 The closing cash balance as at March 29, 2024 was approximately \$8.0 million, as compared to the projected cash balance of \$2.0 million.

## 7.0 UPDATED CASH FLOW FORECAST

7.1 TBS Canada, with the assistance of the Proposal Trustee, prepared a revised and updated cash flow forecast (the “**Updated Cash Flow Forecast**”) for the period from March 30, 2024 to June 28, 2024 (the “**Cash Flow Period**”). A copy of the Updated Cash Flow Forecast, together with Notes and Summary of Assumptions, is attached to this Second Report as **Appendix “B”**.

7.2 A summary of the Updated Cash Flow Forecast is set out in the following table:

<b>Cash Flow Forecast</b>		<b>\$000's</b>
<b>Receipts</b>		
Sales		10,478
Sales Tax Collections		838
<b>Total Receipts</b>		<b>11,316</b>
<b>Disbursements</b>		
Inventory Purchases		(1,200)
Vendor Payments		(1,399)
Rent		(3,431)
Payroll & Benefits		(5,040)
Proposed KERP		(470)
Restructuring Professional Fees		(1,571)
Sales Tax Remittances		(1,861)
Other Expenditures		(185)
<b>Total Disbursements</b>		<b>(15,156)</b>
<b>Net Cash Flow</b>		<b>(3,840)</b>
Opening Cash Balance		8,000
Net Cash Flow		(3,840)
<b>Closing Cash Balance</b>		<b>4,160</b>

7.3 The Proposal Trustee notes the following with respect to the Updated Cash Flow Forecast:

- (i) sales are forecast based on normalized sale trends at the Company's 72 Going Concern Stores;
- (ii) as described above, TBS Canada is actively working on several methods to replenish its inventory levels. Based on the status of current discussions with the UK Administrator, disbursements for certain inventory purchases (from the UK Parent) and related shipping, brokerage, storage and 3PL costs have been included in the Updated Cash Flow Forecast;
- (iii) vendor payments consist of the shipping and 3PL costs described above, credit and debit card processing fees, information technology services, and other store-level and general operating costs;
- (iv) payroll & benefits and rent consist of payments to support the Going Concern Stores and the Company's head-office, including the costs associated with the seven Contractors;
- (v) disbursements to certain key individuals (including the Contractors) are included in accordance with the proposed KERP; and
- (vi) restructuring professional fees include costs for the Company's legal counsel, and the Proposal Trustee and its legal counsel.

7.4 During the Cash Flow Period, net cash flow is approximately negative \$3.8 million. The Proposal Trustee notes that while net cash flow is negative, the Company is replenishing its inventory balances and is maintaining the Going Concern Stores in the ordinary course

as it advances various alternatives to implement a going concern outcome for the Canadian business.

- 7.5 The Updated Cash Flow Forecast has been prepared solely for the purpose and subject to the Cash Flow Assumptions, and readers are cautioned that it may not be appropriate for other purposes.

## **8.0 KEY EMPLOYEE RETENTION PLAN**

### Key Employee Retention Plan

- 8.1 To facilitate and encourage the continued participation of a limited number of non-store employees and Contractors during the NOI Proceeding, the Company is seeking approval of: (i) a KERP for five individuals (consisting of both employees and Contractors) who are considered by TBS Canada to be critical to the success of the NOI Proceeding (collectively, the “**KERP Participants**”); and (ii) the granting of the KERP Charge to secure the payments expected to become due under the KERP.
- 8.2 Under the KERP, the KERP Participants are entitled to retention bonuses of a percentage of the KERP Participants’ annual wages, totaling approximately \$470,000 in the aggregate across the five KERP Participants. Such retention bonuses are proposed to be paid on the following dates:
- (i) one-third following Court approval of the KERP by the Court and on or prior to April 26, 2024;
  - (ii) one-third on or prior to June 7, 2024; and

(iii) one-third on: (a) the closing of any transaction which results in the continued operation of all or substantially all of the stores operated by the Company; or (b) the implementation date of any proposal filed by the Company in the NOI Proceeding (collectively, the “**Transaction Dates**”). The third installment will not be payable if the Company is adjudged bankrupt prior to any Transaction Dates.

8.3 The foregoing entitlements under the KERP are conditional upon the applicable KERP Participant continuing to provide services to the Company until such time as he or she is advised that they are no longer required. Additional information regarding the KERP is included in **Confidential Appendix “C”** attached hereto.

8.4 Pursuant to the proposed Draft Order, the Company is requesting that the KERP and related payment information be sealed, subject to further order of the Court. The proposed KERP contains private and commercially sensitive information regarding the identities and compensation of the KERP Participants. As a result, and given that the aggregate maximum amount payable under the KERP has been disclosed, the Proposal Trustee recommends that the proposed KERP be sealed, subject to further order of this Court. In the circumstances, the sealing of the proposed KERP will protect the privacy interests of the KERP Participants and TBS Canada’s commercial interests in maintaining the confidentiality of their respective compensation.

8.5 As part of its review and consideration of the reasonableness of the KERP, the Proposal Trustee examined key employee retention plans that have recently been approved by the Court in similar proceedings.

8.6 The Proposal Trustee supports the approval of the proposed KERP as:

- (i) the KERP will provide stability to the business and facilitate the successful completion of the NOI Proceeding by encouraging the KERP Participants to remain with TBS Canada;
- (ii) the KERP Participants are considered by TBS Canada, exercising their business judgement, to be crucial to maximizing realizations in the NOI Proceeding for the benefit of the Company's stakeholders;
- (iii) the KERP Participants are required to assist in the potential going-concern alternatives being contemplated and advanced by the Company, and cannot be easily and expediently replaced; and
- (iv) the terms of the KERP and the quantum of the payments expected to be made thereunder are reasonable both in the circumstances and when compared to other key employee retention and incentive plans previously approved by the Court.

#### KERP Charge

8.7 The Draft Order provides for a KERP Charge over the Property in an amount not to exceed \$470,000 in favour of the KERP Participants. The KERP Charge represents the maximum aggregate amount payable to the KERP Participants and will be reduced after each of the one-third payments described above.

8.8 Should the KERP Charge be granted, the proposed relative priorities of the Charges are:

- (i) First – Administration Charge (to the maximum amount of \$700,000);
- (ii) Second – D&O Charge (to the maximum amount of \$2.1 million); and

(iii) Third – KERP Charge (to the maximum amount of \$470,000).

The Charges would rank ahead of the Aurelius Security and HSBC Registrations but would rank behind the Enterprise Security (each as defined in the First Searle Affidavit).

8.9 Although the March 4 Order also granted the Landlord Charge, by the terms of paragraph 16 of the March 4 Order, the Landlord Charge ceases to be operative as of April 16, 2024, which timing coincides with the KERP Charge becoming effective, if granted.

8.10 The Proposal Trustee supports the granting of the KERP Charge.

## **9.0 INTERCOMPANY ACCOUNT PRIOR TO THE NOI PROCEEDING**

9.1 Since the commencement of the NOI Proceeding, the Proposal Trustee has been engaged in discussions with the UK Administrator, the UK Parent and Royal Bank of Canada (formerly HSBC Bank Canada) (“**RBC**”) with respect to, among other things, the pre-filing intercompany arrangements between TBS Canada and the UK Parent and the bank accounts at RBC held by TBS Canada and managed by the UK Parent.

9.2 In connection with these discussions and the Proposal Trustee’s review of the intercompany arrangements, the Proposal Trustee has submitted requests to each of the UK Administrator and RBC to provide certain documents and information related thereto. While each of the UK Administrator and RBC have been generally cooperative, certain of the Proposal Trustee’s requests remain outstanding and the Proposal Trustee’s review remains ongoing.

- 9.3 Based on the information received to date, the Proposal Trustee's assessment of the intercompany arrangements are as follows.
- 9.4 As described in the First Searle Affidavit and the Second Searle Affidavit, TBS Canada has the right to market and sell "The Body Shop" branded products pursuant to a Selective Master Distribution & Franchise Agreement between TBS Canada and its UK Parent dated October 4, 2023 (the "**Franchise Agreement**"), a copy of which was attached to the First Searle Affidavit as Exhibit C. Further, as described in the Second Searle Affidavit, TBS Canada is party to a number of additional intercompany agreements with the UK Parent, notably the services agreement dated November 16, 2016 (the "**Services Agreement**"), the market supply and royalty agreement dated January 1, 2016 (the "**Market Supply Agreement**") and the financing agreement dated July 19, 2017 and an amendment thereto dated June 26, 2018 (the "**Financing Agreement**", and collectively with the Franchise Agreement, the "**Intercompany Agreements**"). Each of these agreements are described and attached to the Second Searle Affidavit.

#### Inventory

- 9.5 In accordance with the Intercompany Agreements, the UK Parent (and certain of its international subsidiaries, including TBS US) would historically provide TBS Canada with all of its inventory, as well as a majority of its corporate functions, including legal, accounting/finance, treasury, tax, human resources, payroll, information technology, real estate, marketing, procurement and logistics services (collectively, "**Shared Services**"). The costs and fees associated with inventory purchases and Shared Services would be recorded and charged through the Company's intercompany ledger (the "**Intercompany Account**").

9.6 Prior to the commencement of the UK Administration Proceeding, the UK Parent would supply inventory to TBS Canada via the US Distribution Centre, with legal title transferring when the inventory is shipped and TBS Canada being charged for the inventory through the Intercompany Account. Invoices were issued by the UK Parent to TBS Canada to record the intercompany inventory transactions at a predetermined purchase price. An annual adjustment was then made in accordance with the Transfer Pricing Policy, as described below.

9.7 During Fiscal 2023, TBS Canada purchased approximately \$17.7 million dollars of inventory, at cost, from the UK Parent.

#### Shared Services

9.8 Under the Services Agreement, Shared Services are calculated monthly and charged through the Intercompany Account. The costs for Shared Services cover, among other things, the wages and benefits of employees engaged in the performance of Shared Services. Actual costs of the Shared Services would be allocated to TBS Canada based on relevant factors, such as the number of Canadian stores and the relative percentage of global sales, among others.

9.9 During Fiscal 2023, TBS Canada incurred a total of approximately \$1.3 million in fees for Shared Services.

#### Transfer Pricing Policy

9.10 In accordance with the Market Supply Agreement, the UK Parent has historically utilized a transfer pricing policy (the “**Transfer Pricing Policy**”) that, in addition to the above transactions, would result in either a “market support payment” to the benefit of TBS

Canada, or a “franchise fee” to the benefit of the UK Parent, depending on the Company’s operating income relative to a specific regional benchmarking target.

9.11 Initially, inventory and Shared Services provided to TBS Canada by the UK Parent are recorded in the Intercompany Account at the original cost of the inventory and Shared Services. Additional adjusting entries are then recorded in the Intercompany Account as follows:

- (i) if TBS Canada achieved less than the targeted operating income percentage, a market support adjustment was recorded in the Intercompany Account to the benefit of TBS Canada to adjust its operating income up to the target. This adjustment would create and/or increase any receivable amounts owing to TBS Canada from the UK Parent; or
- (ii) if TBS Canada achieved higher than the targeted operating income percentage, a franchise fee adjustment was recorded in the Intercompany Account to the benefit of the UK Parent to adjust TBS Canada’s operating income down to the target. This adjustment would create and/or increase any payable amounts owing by TBS Canada to the UK Parent.

9.12 During Fiscal 2023, the specified operating income percentage under the Transfer Pricing Policy was 0.5%, and because of its profitability, TBS Canada was charged with a franchise fee of \$4.8 million.

9.13 The Proposal Trustee understands that from time-to-time, the UK Parent engages an independent international accounting firm to conduct a review of the Transfer Pricing

Policy and perform a benchmarking analysis. The Proposal Trustee reviewed the latest of such draft benchmarking analysis conducted by Ernst & Young LLP, and notes that Transfer Pricing Policy is being implemented on a basis consistent with industry standards and arm's-length principles.

#### Intercompany Payments

- 9.14 Prior to the commencement of the UK Administration Proceedings, the UK Parent administered TBS Canada's cash management system, including managing its bank accounts and making payments on behalf of the Company. As described in the Second Searle Affidavit, all cash held in TBS Canada's bank accounts at RBC was automatically swept by the UK Parent and in exchange, the UK Parent would then remit payment for TBS Canada's payables upon direction by the Company (the "**Cash Pooling Arrangement**"). Pursuant to the Cash Pooling Arrangement, the UK Parent had full control over TBS Canada's bank accounts.
- 9.15 In conjunction with the cash management system, the daily cash sweeps were recorded through the Intercompany Account, generating an intercompany receivable for TBS Canada. As described further in the Second Searle Affidavit, these intercompany receivables were recorded through various loan facilities established between TBS Canada and the UK Parent pursuant to the Financing Agreement.
- 9.16 In addition to the above, an intercompany transaction would also be recorded on a monthly basis to settle the amounts owing from TBS Canada to the UK Parent for amounts owing relating to the cost of inventory and Shared Services, as well as taking into account other adjustments for foreign exchange and interest.

9.17 Accordingly, on a monthly basis, if TBS Canada generated excess cash (i.e., the cash sweeps were greater than the cost of inventory and Shared Services), TBS Canada would be in a net receivable position for the given month.

9.18 During Fiscal 2023, a total amount of approximately \$27.3 million was paid by TBS Canada to the UK Parent for the above daily and monthly transactions pursuant to the cash management system.

9.19 The following table sets out a summary of intercompany activity for Fiscal 2023:

<b>Fiscal 2023 Intercompany Account Summary (in \$000s)</b>	
<b>TBS Canada Opening Payable/(Receivable) Balance, as at January 1, 2023</b>	<b>(43,701)</b>
Add: Inventory Purchases	17,677
Add: Costs for Shared Services	1,299
Add: Franchise Fee Adjustment	4,827
Less: Intercompany Payments	(27,293)
Less: Interest, foreign exchange and other adjustments	(1,758)
<b>TBS Canada Closing Payable/(Receivable) Balance, as at December 31, 2023</b>	<b>(48,949)</b>

9.20 As at December 31, 2023, the Intercompany Account was in a receivable position of approximately \$48.9 million, to the benefit of TBS Canada. This net receivable position reflects the general profitability of TBS Canada and the positive net cash flow transferred to the UK Parent over a number of years.

9.21 The Proposal Trustee understands that the UK Parent is currently reconciling the Intercompany Account for the period January 1, 2024 to the commencement date of the UK Administration Proceeding. After the Intercompany Account has been reconciled and

the necessary information received, the Proposal Trustee will provide an update to the intercompany receivable balance owing from the UK Parent.

- 9.22 As mentioned above, TBS Canada has not received any inventory from the UK Parent since the commencement of the UK Administration Proceeding and the UK Parent is no longer sweeping TBS Canada's bank accounts. However, TBS Canada has continued to receive certain Shared Services from the UK Parent.

## **10.0 EXTENSION OF THE STAY PERIOD**

- 10.1 Pursuant to the March 4 Order, the Stay Period is set to expire on April 16, 2024. The Company is seeking an extension of the Stay Period to and including May 31, 2024.

- 10.2 The Proposal Trustee supports the extension request for the following reasons:

- (i) the proposed stay of proceedings will provide the stability and certainty required to enable TBS Canada to advance its ongoing review of strategic alternatives to implement a going-concern outcome for the Canadian business;
- (ii) the Company is projected to have sufficient liquidity to fund its operations, as reflected in the Updated Cash Flow Forecast, through the end of the proposed Stay Period;
- (iii) the proposed extension of the Stay Period is for the maximum permitted 45-day period for any one stay extension and remains under the total permitted stay period of six months under the BIA;

- (iv) the Company has acted, and continues to act, in good faith and with due diligence since commencing the NOI Proceeding;
- (v) the Proposal Trustee is of the view that TBS Canada is making progress toward being able to make a viable proposal and, should the Stay Period be extended as requested, that progress will continue; and
- (vi) the Proposal Trustee does not believe any creditor will be prejudiced if the extension is granted.

## **11.0 ACTIVITIES OF THE PROPOSAL TRUSTEE**

11.1 Since the Filing Date, the Proposal Trustee has engaged in the following activities:

- (i) preparing and mailing a creditors package to all known creditors notifying them of the NOI Proceeding;
- (ii) filing the Cash Flow Forecast and the March 4 Order with the Office of the Superintendent of Bankruptcy Canada;
- (iii) establishing and maintaining the Case Website;
- (iv) assisting the Company in its communications to employees, suppliers and customers;
- (v) answering questions from and communicating with former employees of the Company;

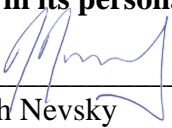
- (vi) monitoring the Company's receipts and disbursements against the Cash Flow Forecast;
- (vii) attending meetings and engaging in various correspondence with the Joint Administrators and the Chapter 7 Trustee regarding their respective restructuring proceedings and matters in connection with the NOI Proceeding;
- (viii) assisting the Company in the preparation of the Updated Cash Flow Forecast;
- (ix) preparing the First Report and this Second Report; and
- (x) attending calls and email correspondence with the Company, the Company's legal counsel and the Proposal Trustee's counsel, Cassels Brock and Blackwell LLP, regarding all matters in connection with the NOI Proceeding.

## **12.0 CONCLUSIONS AND RECOMMENDATIONS**

12.1 For the reasons set out in this Second Report, the Proposal Trustee is of the view that the relief requested by the Company in the Draft Order is reasonable, appropriate and necessary having regard to the Company's current circumstances and respectfully recommends that the Court grant the relief requested in the Draft Order.

All of which is respectfully submitted to the Court this 9<sup>th</sup> day of April, 2024.

**Alvarez & Marsal Canada Inc.,  
solely in its capacity as Proposal Trustee of The Body Shop Canada Limited,  
and not in its personal or corporate capacity**

Per:   
Josh Nevsky  
Senior Vice-President

**APPENDIX A**  
**FIRST REPORT OF THE PROPOSAL TRUSTEE**  
**(WITHOUT APPENDICES)**

District of: Ontario  
Division No.: 09 – Toronto  
Court No.: 31-3050418  
Estate No.: 31-3050418

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)  
IN BANKRUPTCY AND INSOVLENCY**

**IN THE MATTER OF THE NOTICE OF INTENTION  
TO MAKE A PROPOSAL OF THE BODY SHOP  
CANADA LIMITED, IN THE CITY OF TORONTO, IN  
THE PROVINCE OF ONTARIO**

**FIRST REPORT OF THE PROPOSAL TRUSTEE  
ALVAREZ & MARSAL CANADA INC.**

**MARCH 2, 2024**

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## **APPENDICES**

**Appendix A – Notice of Appointment in respect of the UK Administration Proceeding**

**Appendix B – Cash Flow Forecast**

**Appendix C – Management’s Representation Letter Regarding the Cash Flow Forecast**

**Appendix D – Proposal Trustee’s Report on the Cash Flow Forecast**

## 1.0 INTRODUCTION

- 1.1 On March 1, 2024 (the “**Filing Date**”), The Body Shop Canada Limited (“**TBS Canada**” or the “**Company**”) filed a Notice of Intention to Make a Proposal (“**NOI**”) pursuant to Section 50.4(1) of the *Bankruptcy and Insolvency Act (Canada)*, R.S.C. 1985, c. B-3 (the “**BIA**”) and Alvarez & Marsal Canada Inc. (“**A&M**”) was appointed as Proposal Trustee of the Company (the “**Proposal Trustee**”).
- 1.2 TBS Canada is a subsidiary company of The Body Shop International Limited (the “**UK Parent**”). On February 13, 2024, the UK Parent commenced administration proceedings in the United Kingdom (the “**UK Administration Proceeding**”). A copy of the Notice of Appointment in respect of the UK Administration Proceeding is attached as **Appendix “A”**.
- 1.3 TBS Canada relied on the UK Parent for the supply of all inventory, treasury and other critical corporate services. Following the commencement of the UK Administration Proceeding, which was commenced without any coordination or notice to the Company, TBS Canada commenced this NOI proceedings (the “**NOI Proceeding**”) to obtain a stay of proceedings and stabilize its operations while it evaluates its strategic alternatives. As explained in further detail below, TBS Canada has taken immediate steps to protect its liquidity position by commencing liquidation sales at certain store locations, issuing disclaimers at those locations to reduce lease obligations and implementing headcount reductions and other costs curtailment initiatives.
- 1.4 The purpose of this first report (the “**First Report**”) is to provide the Court with information on:

- (i) the Company's business and financial circumstances;
- (ii) the Company's Cash Flow Forecast (as defined below) for the 13-week period ending May 24, 2024;
- (iii) the relief sought by the Company in its motion returnable March 4, 2024 (the "**Draft Order**"), including with respect to:
  - (a) extending the time to file a proposal, and the corresponding stay of proceedings, until and including April 16, 2024 (the "**Stay Period**");
  - (b) approval of the Charges (as defined below) over the property and assets of the Company (collectively, the "**Property**") and the proposed priority of same, including:
    - (1) a charge in the amount of \$700,000 over the Property to secure the fees and disbursements of the Company's legal counsel, and the Proposal Trustee and its counsel (the "**Administration Charge**"); and
    - (2) a charge in the amount of \$2,100,000 over the Property in favour of the director and officers of the Company (the "**D&O Charge**");
  - (c) expansion of the stay of proceedings;
  - (d) compelling delivery of the Company's Property; and
- (iv) the Proposal Trustee's activities and its recommendations in connection with the foregoing.

- 1.5 Further information about the Company and copies of materials filed in the NOI Proceeding are available on the Proposal Trustee's case website at: [www.alvarezandmarsal.com/TheBodyShop](http://www.alvarezandmarsal.com/TheBodyShop) (the "**Case Website**").

## 2.0 TERMS OF REFERENCE AND DISCLAIMER

- 2.1 In preparing this First Report, A&M, in its capacity as the Proposal Trustee, has been provided with, and has relied upon, unaudited financial information, books and records and financial information prepared by the Company and has held discussions with management of the Company and its legal counsel (collectively, the "**Information**"). Except as otherwise described in this Report in respect of the Cash Flow Forecast:

- (i) the Proposal Trustee has reviewed the Information for reasonableness, internal consistency and use in the context in which it was provided. However, the Proposal Trustee has not audited or otherwise attempted to verify the accuracy or completeness of the Information in a manner that would wholly or partially comply with Canadian Auditing Standards ("**CASs**") pursuant to the *Chartered Professional Accountants Canada Handbook* (the "**CPA Handbook**") and, accordingly, the Proposal Trustee expresses no opinion or other form of assurance contemplated under CASs in respect of the Information; and
- (ii) some of the information referred to in this First Report consists of forecasts and projections. An examination or review of the financial forecasts and projections, as outlined in the CPA Handbook, has not been performed.

- 2.2 Future oriented financial information referred to in this First Report was prepared based on the Company's estimates and assumptions. Readers are cautioned that since projections are based upon assumptions about future events and conditions that are not ascertainable, actual results will vary from the projections, even if the assumptions materialize, and the variations could be significant.
- 2.3 This First Report should be read in conjunction with the Affidavit of Jordan Searle, General Manager, North America of the Company, sworn March 1, 2024 (the "**Searle Affidavit**"). The Searle Affidavit contains further background in respect of the Company, including events leading to this NOI Proceeding and additional detail in respect of the relief sought by the Company. Capitalized terms used and not defined in this First Report have the meanings given to them in the Searle Affidavit.
- 2.4 Unless otherwise stated, all monetary amounts contained herein are expressed in Canadian dollars.

### **3.0 BACKGROUND INFORMATION**

- 3.1 More extensive background information on the Company is set out in the Searle Affidavit. Certain key points are summarized below.
- 3.2 TBS Canada is a cosmetics, perfume and skin care retailer with 105 store locations across Canada, an e-commerce platform and a wholesale business. The Company sells merchandise under the "The Body Shop" brand, a global brand recognized for its natural and ethically sourced beauty products.

3.3 For the 12-month period ended December 31, 2023, the Company generated revenue of \$88.4 million and earnings before interest, taxes, depreciation, and amortization (“**EBITDA**”) of positive \$11.6 million<sup>1</sup>.

3.4 The Company leases a head office in Toronto, Ontario and also has 105 leased store locations throughout Canada, as follows:

Stores by Province	
Ontario	49
British Columbia	18
Alberta	17
Nova Scotia	5
Manitoba	5
Saskatchewan	5
New Brunswick	3
Newfoundland	2
Prince Edward Island	1
<b>TOTAL</b>	<b>105</b>

3.5 As of February 29, 2024, TBS Canada’s employee count, by province, was as follows:

Employees	Full Time	Part Time	Total
Ontario	155	229	384
British Columbia	47	84	131
Alberta	44	82	126
Manitoba	14	23	37
Nova Scotia	12	21	33
Saskatchewan	11	20	31
New Brunswick	7	13	20
Newfoundland	5	9	14
Prince Edward Island	2	6	8
<b>TOTAL</b>	<b>297</b>	<b>487</b>	<b>784</b>

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<sup>1</sup> TBS Canada’s financial statements are prepared based on International Accounting Standards taking into account IFRS16 treatment of store leases.

- 3.6 TBS Canada's full-time employees are enrolled in a health benefits program providing medical, dental, life insurance and disability programs. None of the Company's employees are unionized.

Store Closures and Employee Reductions

- 3.7 As described in the Searle Affidavit, upon commencing the NOI Proceeding, the Company immediately commenced liquidation sales at 33 of its store locations and delivered notices to disclaim each of those 33 leases such that it could ultimately exit these locations on an accelerated basis.
- 3.8 This proactive measure was taken to preserve the Company's liquidity position by maximizing the recovery of its inventory, while limiting the future exposure to rent and labour costs associated with these store locations.
- 3.9 The Company's remaining 72 stores remain open in the ordinary course of business while TBS Canada considers its strategic alternatives and business prospects.
- 3.10 Also on March 1, 2024, TBS Canada terminated approximately 20 of its 40 head office employees.

Financial Position

- 3.11 A summary of TBS Canada's unaudited financial position, based on the Company's books and records, as at January 31, 2024 was as follows:

<b>Balance Sheet (as at January 31, 2024)</b>		<b>(\$000s)</b>
<b><u>Assets</u></b>		
Cash		489
Accounts Receivable		396
Inventory		5,758
Intercompany Receivables		55,184
Furniture, Fixtures and Equipment		9,039
Intangible Assets		9,615
Other Assets		2,332
<b>Total Assets</b>		<b>82,813</b>
<b><u>Liabilities &amp; Shareholders' Equity</u></b>		
Accounts Payable and Accrued Liabilities		5,835
Intercompany Payables		8,610
Taxes Payable		1,909
Other Current Liabilities		4,190
Non-current Liabilities		2,804
<b>Total Liabilities</b>		<b>23,347</b>
Shareholders' Equity		59,466
<b>Total Liabilities &amp; Shareholders' Equity</b>		<b>82,813</b>

3.12 The Proposal Trustee notes the following:

- (i) all of TBS Canada's inventory is supplied by the UK Parent via a U.S. based distribution centre. There is no central warehouse or distribution centre located in Canada;
- (ii) Intercompany Receivables and Intercompany Payables relate to the Cash Pooling Arrangements (as defined and described in the Searle Affidavit) and other intercompany transactions relating to the purchase of inventory and provision of shared services; and
- (iii) Accounts Payable and Accrued Liabilities are primarily owed to: (a) suppliers of logistics, technology, marketing and other service providers; (b) landlords who are owed approximately \$900,000 for unpaid pre-filing rents; and (c) other general accruals for payroll, taxes and utilities.

## 4.0 SECURED CREDITORS

### Parent Company

4.1 Aurelius IV UK Acquico Seven Limited (“**Aurelius Seven**”), has registered financing statements against the Company under the personal property regimes in each of the Canadian provinces and territories.

4.2 The Proposal Trustee understands that:

- (i) on or around December 2023, Aurelius IV UK Acquico Eight Ltd. (the “**Aurelius Purchaser**”) acquired all of the shares of Naruta (Brasil) International B.V., and indirectly the UK Parent (the “**Acquisition**”);
- (ii) in connection with the Acquisition, Aurelius Seven, the immediate parent company of the Aurelius Purchaser, entered into a Loan Agreement with the UK Parent, pursuant to which approximately GBP £2.7 million was made available to the UK Parent (the “**Loan Agreement**”); and
- (iii) TBS Canada provided a Guarantee and Indemnity Agreement, guaranteeing the obligations of the UK Parent under the Loan Agreement (the “**Guarantee**”). TBS Canada’s obligations under the Guarantee are apparently secured pursuant to a General Security Agreement and a Hypothec granting Aurelius Seven a security interest over all of TBS Canada’s present and after-acquired property.

#### Other Secured Creditors

- 4.3 In addition to the registrations by Aurelius Seven, registrations have also been made against TBS Canada by Enterprise Fleet Management Canada Inc. (“**Enterprise**”) and HSBC Bank of Canada and Hong Kong Bank of Canada (collectively, “**HSBC**”). The Proposal Trustee understands that Enterprise has made registrations in Ontario, British Columbia, Alberta and Nova Scotia, in connection with corporate vehicles leased by TBS Canada for certain of its employees. The registration held by HSBC only appears in the personal property security search results in Saskatchewan. The Proposal Trustee understands from the Company that they are not aware of what HSBC’s registration relates to and are not aware of any amounts owing to HSBC that would be secured by such registration.

### **5.0 CASH FLOW FORECAST**

- 5.1 The Company has prepared a weekly cash flow forecast (the “**Cash Flow Forecast**”) for the 13-week period from February 24, 2024 to May 24, 2024 (the “**Cash Flow Period**”). A copy of the Cash Flow Forecast, together with a summary of assumptions (the “**Cash Flow Assumptions**”), Management’s report on the Cash Flow Forecast, and the Proposal Trustee’s report on the Cash Flow Forecast, are attached hereto as **Appendices “B”, “C” and “D”**, respectively.
- 5.2 The following table provides a summary of the Cash Flow Forecast:

<b>Cash Flow Forecast</b>		<b>\$000's</b>
<b>Receipts</b>		
Sales		12,738
Sales tax collections		1,009
<b>Total Receipts</b>		<b>13,748</b>
<b>Disbursements</b>		
Vendor Payments		(925)
Payroll & Benefits		(6,818)
Rent		(4,444)
Sales Tax Remittances		(1,801)
Restructuring Professional Fees		(1,531)
Other Expenditures		(239)
<b>Total Disbursements</b>		<b>(15,758)</b>
<b>Net Cash Flow</b>		<b>(2,010)</b>
Opening Cash Balance		2,572
Net Cash Flow		(2,010)
<b>Ending Cash Balance</b>		<b>562</b>

5.3 The Proposal Trustee notes the following with respect to the Cash Flow Forecast:

- (i) Sales are based on planned sales and promotions at the Company's 33 liquidating stores and 72 stores that remain open in the ordinary course;
- (ii) Vendor Payments primarily consist of post-filing logistics, credit and debit card processing services, information technology services, and certain other store-level and general operating costs, all of which are forecast to be paid in the ordinary course; and
- (iii) Restructuring Professional Fees include costs for the Company's legal counsel, and the Proposal Trustee and its legal counsel.

- 5.4 The Cash Flow Forecast has been prepared solely for the purpose and subject to the Cash Flow Assumptions, and readers are cautioned that it may not be appropriate for other purposes.

Rent Payments

- 5.5 As described in the Searle Affidavit, prior to the commencement of the UK Administration Proceeding, the UK Parent swept all of the Company's available cash, leaving it with limited to no liquidity. Since this time, the Company stopped paying most vendor obligations, other than payroll and certain other limited amounts, and accordingly the Company did not pay February rent at the majority of its store locations.
- 5.6 Since the UK Administration Proceeding, the Company has regenerated a positive liquidity position. As of the date of this report the Company's cash balance is approximately \$2.4 million.
- 5.7 In order to responsibly preserve its liquidity and to ensure that priority payable amounts for payroll and sales taxes are accounted for, the Draft Order provides that the Company may pay rent on a weekly basis. Accordingly, in the Cash Flow Forecast, rent is contemplated to be paid: (a) on a weekly basis through March; and (b) bi-weekly thereafter.
- 5.8 In light of the Company's liquidity crisis and the uniquely challenging circumstances arising from being cut-off from its UK Parent, the Company requires this flexibility so that it can proceed with its ability to explore a going concern solution for the business. If required to pay an entire month of rent in advance, the Company would exhaust its available liquidity, compromising the ability of TBS Canada to reorganize its affairs.

## **6.0 REQUEST FOR EXTENSION**

6.1 The Company is seeking, as part of the Draft Order, an extension of the time required to file a proposal to April 16, 2024.

6.2 The Proposal Trustee supports the extension request for the following reasons:

- (i) the proposed stay of proceedings will provide the breathing room required by the Company to stabilize its business and explore its strategic alternatives;
- (ii) it will provide the Company with the ability to advance certain restructuring initiatives, including the planned liquidation sales at 33 store locations;
- (iii) the Company is projected to have sufficient liquidity to fund its operations, as reflected in the Cash Flow Forecast, through the end of the proposed Stay Period;
- (iv) the Proposal Trustee does not believe any creditor will be prejudiced if the extension is granted; and
- (v) the Company has acted, and continues to act, in good faith and with due diligence since commencing the NOI Proceeding.

## **7.0 COURT-ORDERED CHARGES**

7.1 The Draft Order seeks the granting of the Administration Charge and the D&O Charge (collectively, the “**Charges**”) over the Property of the Company.

### Administration Charge

7.2 The proposed Initial Order provides for an Administration Charge in an amount not to exceed \$700,000 in favour of the Proposal Trustee, counsel to the Proposal Trustee and counsel to the Company.

7.3 The Proposal Trustee assisted the Company with the calculation of the Administration Charge and is of the view that the amount of the charge is reasonable and appropriate in the circumstances, having regard to the nature of the NOI Proceeding, the anticipated professional costs to be incurred, the size of charges approved in similar NOI proceedings, and the fact that the proposed beneficiaries of the Administration Charge do not have retainers.

#### D&O Charge

7.4 The proposed Initial Order grants a charge over the Property in the amount of \$2.1 million in favour of the Company's director and officers as security for any such obligations or liabilities arising after the commencement of the NOI Proceeding, except to the extent that any such obligation or liability arises as a result of an officer's or director's gross negligence or wilful misconduct.

7.5 The Proposal Trustee understands that the Company may hold directors' and officers' insurance policies that provide coverage for certain director and officer obligations. However, as described in the Searle Affidavit, TBS Canada does not have direct access to the policy documents, nor is it able to confirm that the premiums have been paid and the policies are in good standing. As a result, it is currently uncertain if the policies provide adequate coverage to the Company's director and officers during the NOI Proceeding. The Draft Order also provides that the Company's directors and officers will only be entitled

to the benefit of the D&O Charge to the extent they do not have coverage under directors' and officers' insurance policies or to the extent such coverage is insufficient to pay an indemnified amount.

- 7.6 The Proposal Trustee assisted the Company in the calculation of the initial quantum of the D&O Charge, taking into consideration the amount of the Company's payroll, vacation pay and federal and provincial sales tax liabilities. The components that comprise the proposed D&O Charge are as follows:

<b>Proposed D&amp;O Charge</b>	<b>\$000's</b>
Provision for sales taxes (HST, GST, PST)	\$500
Provision for employee wages and source deductions	\$1,200
Provision for accrued vacation pay	\$225
Provision for employee benefits, EHT and other similar amounts	\$175
<b>Total</b>	<b>\$2,100</b>

- 7.7 The Proposal Trustee understands that the director and officers of the Company have advised that they are not willing to continue in their current roles absent the protection afforded to them under the D&O Charge. In the circumstances, the Proposal Trustee is of the view that the D&O Charge is required and reasonable.

Priority of Charges Created by the Proposed Initial Order

- 7.8 The priorities of the Charges are proposed to be as follows:

- (i) First – Administration Charge (to the maximum amount of \$700,000); and
- (ii) Second – D&O Charge (to the maximum amount of \$2.1 million).

The Charges would rank ahead of the Aurelius Security and HSBC Registration, but would rank behind the Enterprise Security.

- 7.9 As set out above, the Proposal Trustee believes that the Charges are reasonable in the circumstances.

## **8.0 ADDITIONAL RELIEF SOUGHT**

### Expansion of the Stay of Proceedings and Related Relief

- 8.1 To provide the Company with the opportunity to operate while it considers its restructuring alternatives, TBS Canada needs to operate without disruption during the NOI Proceeding. Accordingly, TBS Canada is seeking the Court's approval to provide enhanced stay provisions to require suppliers and service providers to continue to provide goods and services to the Company during the NOI Proceeding.
- 8.2 The proposed Draft Order also contains language that rent shall be paid by the Company on a weekly basis (in advance) for the leased locations. The Proposal Trustee notes that the typical language in an order made in a proceeding under the *Companies' Creditors Arrangement Act* provides for bi-weekly payments of rent. The Proposal Trustee understands that the Company is requesting weekly payments to appropriately preserve its liquidity position.
- 8.3 The Draft Order also contains language prohibiting HSBC Bank Canada, or any other person, from paying, transferring or disbursing any of the funds in the HSBC Accounts without the prior consent of the Company or the Proposal Trustee. As described in the Searle Affidavit, prior to the filing of the NOI Proceeding the UK Parent had control over

the HSBC Accounts. The Proposal Trustee understands this relief over the HSBC Accounts is necessary because, among other things: (i) in the period leading up to the UK Administration Proceeding, approximately \$20 million was withdrawn from the HSBC Accounts and remains held by the UK Parent, leaving the Company with substantially reduced liquidity; and (ii) the UK Parent controls disbursements from the HSBC Accounts such that the Company is not able to independently make disbursements. While the Proposal Trustee understands that the Company has received oral assurances from the UK Parent that it would provide the Company with administrator control over the HSBC Accounts, the Company has not received any written confirmation to this effect and are apprehensive in light of the UK Parent's past conduct with respect to the HSBC Accounts. Accordingly, the Proposal Trustee supports the requested relief which is intended to ensure that the Company has control over its cash.

#### Return of Property

- 8.4 TBS Canada is seeking an order compelling any person who has any property, book, document or paper of any kind, of the Company in its possession to deliver such property to the Company promptly upon the request of the Company or the Proposal Trustee.
- 8.5 This relief is necessary because, among other things, the UK Parent and other parties are in possession of certain of the Company's books and records and TBS Canada requires this information. Without this information, the Company will face substantial difficulties in disentangling its accounting services from the UK Parent and will be unable to perform many of the treasury and human resource functions that were previously performed by the UK Parent.

- 8.6 Expanding the scope of the stay of proceedings in these circumstances will assist in stabilizing the Company's operations and allowing it the greatest opportunity to preserve normal course operations during the NOI Proceeding while it considers its restructuring and other options. Any disruptions will impair the Company's ability to continue to operate in the normal course and the prospect of identifying a potential going-concern solution.
- 8.7 The Proposal Trustee believes that expanding the scope of the stay of proceedings, as described above, is appropriate as the continued operation of the Company will assist it to achieve its objectives in this NOI Proceeding.

## **9.0 INTENDED NEXT STEPS IN THE NOI PROCEEDING**

- 9.1 As set out in the Searle Affidavit, the Company intends to engage with, among others, the UK Parent and the UK Administrators, as appropriate to explore available strategic and restructuring alternatives. In parallel, the Company continues to evaluate liquidity preservation initiatives, including closing the 33 stores described above and reducing headcount as appropriate.
- 9.2 If no viable going-concern alternatives are identified by the Company, the Proposal Trustee understands that the Company may return before this Court to seek such alternative relief as is necessary, including with respect to commencing a liquidation sale of the inventory at its remaining store locations, as well as other assets, for the benefits of its creditors.

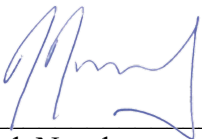
## **10.0 CONCLUSIONS AND RECOMMENDATIONS**

- 10.1 For the reasons set out in this First Report, the Proposal Trustee is of the view that the relief requested by the Company in the Draft Order is reasonable, appropriate and necessary

having regard to the Company's current circumstances and respectfully recommends that the Court grant the relief requested in the Draft Order.

All of which is respectfully submitted to the Court this 2<sup>nd</sup> day of March, 2024.

**Alvarez & Marsal Canada Inc.,  
solely in its capacity as Proposal Trustee of The Body Shop Canada Limited,  
and not in its personal or corporate capacity**

Per:   
Josh Nevsky  
Senior Vice-President

**IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF THE  
BODY SHOP CANADA LIMITED**

Court No.: 31-3050418

Estate No.: 31-3050418

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

Proceeding commenced at Toronto

**FIRST REPORT OF THE  
PROPOSAL TRUSTEE**

**Cassels Brock & Blackwell LLP**

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in its capacity as Proposal Trustee and not in its  
personal or corporate capacity.

**APPENDIX B**  
**UPDATED CASH FLOW FORECAST**

## Appendix B – Updated Cash Flow Forecast

The Body Shop Canada Limited  
13-Week Cash Flow Forecast ending June 28, 2024  
Unaudited \$CAD 000's

Cash Flow Week: Week Ending:	Note	Week 1 05-Apr-24	Week 2 12-Apr-24	Week 3 19-Apr-24	Week 4 26-Apr-24	Week 5 03-May-24	Week 6 10-May-24	Week 7 17-May-24	Week 8 24-May-24	Week 9 31-May-24	Week 10 07-Jun-24	Week 11 14-Jun-24	Week 12 21-Jun-24	Week 13 28-Jun-24	13-Week Total
<b>Receipts</b>															
Sales	2	713	786	771	795	772	936	779	728	706	910	972	833	777	10,478
Sales Tax Collections		57	63	62	64	62	75	62	58	56	73	78	67	62	838
<b>Total Receipts</b>		<b>770</b>	<b>849</b>	<b>832</b>	<b>858</b>	<b>834</b>	<b>1,010</b>	<b>841</b>	<b>786</b>	<b>763</b>	<b>983</b>	<b>1,049</b>	<b>900</b>	<b>840</b>	<b>11,316</b>
<b>Disbursements</b>															
Inventory Purchases	3	-	-	(400)	(100)	-	(200)	-	(200)	-	(200)	-	(100)	-	(1,200)
Vendor Payments	4	(50)	(110)	(289)	(169)	(50)	(160)	(50)	(160)	(50)	(160)	(50)	(50)	(50)	(1,399)
Payroll & Benefits	5	-	(870)	(20)	(770)	(20)	(870)	(20)	(770)	(20)	(870)	(20)	(770)	(20)	(5,040)
Proposed KERP	6	-	-	-	(157)	-	-	-	-	-	(157)	-	-	(157)	(470)
Rent	7	-	(50)	(656)	-	(656)	(50)	(656)	-	(656)	(50)	(656)	-	-	(3,431)
Sales Tax Remittances		-	-	(27)	(883)	-	-	(13)	-	(407)	-	-	-	(531)	(1,861)
Restructuring Professional Fees	8	-	(322)	-	(249)	-	(249)	-	(249)	-	(249)	-	-	(254)	(1,571)
Other Expenditures		(21)	(22)	(12)	(12)	(13)	(16)	(13)	(13)	(13)	(13)	(13)	(13)	(13)	(185)
<b>Total Disbursements</b>		<b>(71)</b>	<b>(1,374)</b>	<b>(1,404)</b>	<b>(2,340)</b>	<b>(739)</b>	<b>(1,545)</b>	<b>(752)</b>	<b>(1,392)</b>	<b>(1,146)</b>	<b>(1,698)</b>	<b>(739)</b>	<b>(933)</b>	<b>(1,025)</b>	<b>(15,156)</b>
<b>Net Cash Flow</b>		<b>699</b>	<b>(526)</b>	<b>(571)</b>	<b>(1,481)</b>	<b>95</b>	<b>(534)</b>	<b>90</b>	<b>(606)</b>	<b>(383)</b>	<b>(715)</b>	<b>310</b>	<b>(33)</b>	<b>(185)</b>	<b>(3,840)</b>
Opening Cash Balance		8,000	8,699	8,174	7,603	6,122	6,217	5,683	5,772	5,166	4,783	4,068	4,378	4,345	8,000
Net Cash Flow		699	(526)	(571)	(1,481)	95	(534)	90	(606)	(383)	(715)	310	(33)	(185)	(3,840)
<b>Ending Cash Balance</b>		<b>8,699</b>	<b>8,174</b>	<b>7,603</b>	<b>6,122</b>	<b>6,217</b>	<b>5,683</b>	<b>5,772</b>	<b>5,166</b>	<b>4,783</b>	<b>4,068</b>	<b>4,378</b>	<b>4,345</b>	<b>4,160</b>	<b>4,160</b>

**IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL UNDER THE  
BANKRUPTCY AND INSOLVENCY ACT, R.S.C. 1985, c. B-3, AS AMENDED, OF THE BODY  
SHOP CANADA LIMITED**

**NOTES TO THE CONSOLIDATED STATEMENT OF CASH FLOW FOR THE 13-WEEK  
PERIOD ENDING JUNE 28, 2024**

**A. Purpose and General Assumptions of the Updated Cash Flow Statement**

1. The Body Shop Canada Limited (the “**Company**”) has prepared this Updated Cash Flow Statement and the accompanying Notes to the Updated Cash Flow Statement (collectively the “**Updated Cash Flow Statement**”) in support of the proposal proceedings that has been filed under the Bankruptcy and Insolvency Act (“**BIA**”) on March 1, 2024.

Alvarez & Marsal Canada Inc. is the Proposal Trustee in this matter (the “**Proposal Trustee**”). The Updated Cash Flow Statement should be read in conjunction with the Report on Cash Flow Statement by the Company (Form 30 under the BIA), the Proposal Trustee’s Report on Cash Flow Statement (Form 29 under the BIA) and the Proposal Trustee’s Second Report to Court dated April 9, 2024 (the “**Second Report**”).

The Company has prepared the Updated Cash Flow Statement based on probable and hypothetical assumptions that reflect the Company’s planned course of action for the period from March 30 to June 28, 2024 (the “**Cash Flow Period**”). Management is of the opinion that, as at the date of filing the Updated Cash Flow Statement, the assumptions used to develop the projection represent the most probable set of economic conditions facing the Company and that the assumptions used proved a reasonable basis for and are consistent with the purpose of the Updated Cash Flow Statement.

The Updated Cash Flow Statement has been developed pursuant to subsection 50 (6) of the BIA and is in support of these BIA proceedings. The information contained in the Updated Cash Flow Statement is subject to changing assumptions and/or receipt of new or additional information; actual results may vary.

This Updated Cash Flow Statement should not be used for any other purpose, and creditors are cautioned that the information provided in the Updated Cash Flow Statement could vary based on changing future circumstances.

The projected cash flow statement is prepared in Canadian dollars.

**B. Hypothetical and Probable Assumptions of the Updated Cash Flow Statement**

2. **Sales:** Includes receipts from the sale of goods through the Company's Going Concern Stores, net of a provision for inventory shrinkage.
3. **Inventory Purchases:** Includes estimated disbursements to replenish inventory at the Going Concern Stores, as discussed in the Second Report.
4. **Vendor Payments:** Includes estimated shipping and 3PL costs related to inventory purchases, IT and software costs, store level expenses, overhead costs and other general expenses.
5. **Payroll & Benefits:** Includes salaries, wages, remittances and employee benefits for salaried and part-time employees across the Company's Going Concern Stores, the Canadian head office and the Contractors, as discussed in the Second Report.
6. **Proposed KERP:** Payments to key personnel retained by the Company, in accordance with a proposed Key Employee Retention Plan.
7. **Rent:** Includes disbursements for the Going Concern Stores and the Canadian head office.
8. **Restructuring Professional Fees:** Disbursements include fees paid to the Company's legal counsel and the Proposal Trustee and its legal counsel.

District of: Ontario  
Division No.: 09 - Toronto  
Court No.: BK-24-03050418-0031  
Estate No.: BK-24-03050418-0031

FORM 29

Trustee's Report on Cash-Flow Statement  
(Paragraphs 50(6)(b) and 50.4(2)(b) of the Act)

IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL UNDER THE BANKRUPTCY AND INSOLVENCY ACT, R.S.C.  
1985, c. B-3, AS AMENDED, OF THE BODY SHOP CANADA LIMITED

The attached statement of projected cash flow of The Body Shop Canada Limited, as of April 9, 2024, consisting of a 13-week cash flow statement and accompanying notes and assumptions, has been prepared by the management of the insolvent debtor for the purpose described in Note 1, using the probable and hypothetical assumptions set out in Notes 2-8.

Our review consisted of inquiries, analytical procedures and discussions related to information supplied to us by the management and employees of the insolvent person. Since hypothetical assumptions need not be supported, our procedures with respect to them were limited to evaluating whether they were consistent with the purpose of the projection. We have also reviewed the support provided by management for the probable assumptions and preparation and presentation of the projection.

Based on our review, nothing has come to our attention that causes us to believe that, in all material respects,

- a) the hypothetical assumptions are not consistent with the purpose of the projection;
- b) as at the date of this report, the probable assumptions developed are not suitably supported and consistent with the plans of the insolvent person or do not provide a reasonable basis for the projection, given the hypothetical assumptions; or
- c) the projection does not reflect the probable and hypothetical assumptions.

Since the projection is based on assumptions regarding future events, actual results will vary from the information presented even if the hypothetical assumptions occur, and the variations may be material. Accordingly, we express no assurance as to whether the projection will be achieved.

The projection has been prepared solely for the purpose described in Note 1, and readers are cautioned that it may not be appropriate for any other purpose.

Dated at Toronto, Ontario, this April 9, 2024.



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Alvarez & Marsal Canada Inc., solely in its capacity  
as Trustee *in re* the Proposal of The Body Shop Canada Limited,  
and not in its corporate or personal capacity

Per: Josh Nevsky, Senior Vice-President

District of: Ontario  
Division No.: 09 - Toronto  
Court No.: BK-24-03050418-0031  
Estate No.: BK-24-03050418-0031

FORM 30

Report on Cash-Flow Statement by the Person Making the Proposal (Paragraphs 50(6)(c)  
and 50.4(2)(c) of the Act)

IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL UNDER THE BANKRUPTCY AND INSOLVENCY ACT,  
R.S.C. 1985, c. B-3, AS AMENDED, OF THE BODY SHOP CANADA LIMITED

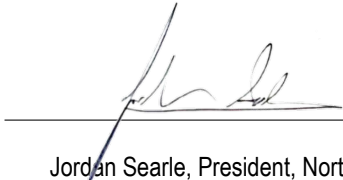
The management of The Body Shop Canada Limited (the "**Company**") has developed the assumptions and prepared the attached statement of projected cash flow of the Company, as of the April 9, 2024, consisting of a 13-week cash flow statement and accompanying notes and assumptions.

The hypothetical assumptions are reasonable and consistent with the purpose of the projection described in Note 1 attached, and the probable assumptions are suitably supported and consistent with the plans of the insolvent person and provide a reasonable basis for the projection. All such assumptions are disclosed in Notes 2-8 attached.

Since the projection is based on assumptions regarding future events, actual results will vary from the information presented, and the variations may be material.

The projection has been prepared solely for the purpose described in the notes attached, using a set of hypothetical and probable assumptions set out in the notes attached. Consequently, readers are cautioned that it may not be appropriate for any other purposes.

Dated at Toronto, Ontario, this April 9, 2024.



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Jordan Searle, President, North America

**IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF THE  
BODY SHOP CANADA LIMITED**

Court No.: BK-31-3050418

Estate No.: BK-24-03050418-0031

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

Proceeding commenced at Toronto

**SECOND REPORT OF THE  
PROPOSAL TRUSTEE**

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in its capacity as Proposal Trustee and not in its  
personal or corporate capacity.