

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

IN THE MATTER OF *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 INC.

APPLICANT

MOTION RECORD

(Sale Approval and Stay Extension)

July 20, 2015

OSLER, HOSKIN & HARCOURT LLP
Box 50, 1 First Canadian Place
Toronto, Canada M5X 1B8

Marc Wasserman (LSUC#: 44066M)
Tel: 416.862.4908
Fax: 416.862.6666

Caitlin Fell (LSUC #: 60091H)
Tel: 416.862.6690
Fax: 416.862.6666

Lawyers for the Applicant

TO: THE SERVICE LIST

CCAA Proceedings of Comark Inc., Court File No. CV15-10920-00CL

Service List
(as at July 20, 2015)

| <u>PARTY</u> | <u>CONTACT</u> |
|---|---|
| OSLER, HOSKIN & HARCOURT LLP Box 50, 1 First Canadian Place Toronto, ON M5X 1B8 Counsel to the Applicant | Marc Wasserman Tel: 416.862.4908 Fax: 416.862.6666 Email: mwasserman@osler.com Caitlin Fell Tel: 416.862.6690 Email: cfell@osler.com |
| GOODMANS LLP Bay Adelaide Centre 333 Bay Street, Suite 3400 Toronto, ON M5H 2S7 Counsel to the Monitor | Robert Chadwick Tel: 416.597.4285 Fax: 416.979.1234 Email: rchadwick@goodmans.ca Brian Empey Tel: 416.597.4194 Email: bempey@goodmans.ca Ryan Baulke Tel: 416.849.6954 Email: rbaulke@goodmans.ca |
| AIRD & BERLIS LLP Brookfield Place 181 Bay Street Suite 1800, Box 754 Toronto, ON M5J 2T9 Counsel to Salus Capital Partners, LLC | Kenneth R. Rosenstein Tel: 416.865.3427 Fax: 416.863.1515 Email: krosenstein@airdberlis.com Sam Babe Tel: 416.865.7718 Email: sbabe@airdberlis.com |
| HAHN & HESSEN LLP 488 Madison Avenue New York, NY 10022 Counsel to Capital Business Credit LLC | Joseph Orbach Tel: 212.478.7396 Fax: 212.478.7400 Email: jorbach@hahn Hessen.com Edward Schnitzer Tel: 212.478.7215 Email: eschnitzer@hahn Hessen.com |
| FASKEN MARTINEAU DUMOULIN LLP 2900 – 550 Burrard Street Vancouver, BC V6C 0A3 Counsel to Western Glove Works | John F. Grieve Tel: 604.631.4772 Fax: 604.632.4772 Email: jgrieve@fasken.com |

| | |
|---|--|
| <p>MILLER THOMSON LLP Scotia Plaza 40 King Street West, Suite 5800 Toronto, ON M5H 3S1</p> <p>Counsel to Toronto Dominion Bank</p> | <p>Jeffrey Carhart Tel: 416.595.8615 Email: jcarhart@millerthomson.com</p> |
| <p>FASKEN MARTINEAU DUMOULIN LLP Bay Adelaide Centre 333 Bay Street, #2400 Toronto, ON M5H 2T6</p> <p>Counsel to Ivanhoe Cambridge</p> | <p>Aubrey Kauffman Tel: 416.868.3538 Email: akauffman@fasken.com</p> <p>Luc Morin Tel: 514.397.5121 Email: lmorin@fasken.com</p> |
| <p>TORYS LLP 79 Wellington Street West, 30th Floor Box 270, TD South Tower Toronto, ON M5K 1N2</p> <p>Counsel to Cadillac Fairview</p> | <p>David Bish Tel: 416.865.7353 Email: dbish@torys.com</p> <p>Lily Coodin Tel: 416.865.7541 Email: lcoodin@torys.com</p> |
| <p>MCLEAN & KERR LLP 130 Adelaide Street West, Suite 2800 Toronto, ON M5H 3P5</p> <p>Counsel to 20 VIC Management Inc. (on behalf of various landlords), Morguard Investments Limited (on behalf of various landlords), Calloway Real Estate Investment Trust (on behalf of various landlords), Crombie Real Estate Investment Trust (on behalf of various landlords), and Triovest Realty Advisors Inc. (on behalf of various landlords).</p> | <p>Walter R. Stevenson Tel: 416.369.6602 Email: wstevenson@mcleankerr.com</p> <p>Linda Galessiere Tel: 416.369.6609 Email: lgalessiere@mcleankerr.com</p> |
| <p>DAOUST VUKOVICH LLP 3000 - 20 Queen Street West Toronto, ON M5H 3R3</p> <p>Counsel to 1445006 Alberta Ltd.</p> | <p>Gasper Galati Tel: 416.598.7050 Fax: 416.597.8897 ggalati@dv-law.com</p> <p>Kenneth Pimentel Tel: 416.597.9306 Fax: 416.597.8897 kpimentel@dv-law.com</p> |

| | |
|--|--|
| <p>BLANEY MCMURTRY LLP 2 Queen Street East, Suite 1500 Toronto, ON M5C 3G5</p> <p>Counsel to Hillside Centre I LP and Hillside Centre II LP, Optrust Retail Inc., Driftwood Mall Ltd, 5275 Investments Ltd., 2725312 Canada Inc., 2973758 Canada Inc., bcIMC Realty Corporation, PCM Sheridan Inc., Artis Tamarack Ltd., White Oaks Mall Holdings Inc., Narland Properties (Victoria Square) Ltd.</p> | <p>John C. Wolf Tel: 416.593.2994 Email: jwolf@blaney.com</p> |
| <p>WELLS FARGO FOOTHILL CANADA ULC 40 King Street West, Suite 2500 Toronto, ON M5H 3Y2</p> | |
| <p>XEROX CANADA LTD. 33 Bloor Street East, 3rd Floor Toronto, ON M4W 3H1</p> | |
| <p>LEGGAT NATIONAL LEASING 2207 Fairview Street, P.O. Box 369 Burlington, ON L7R 3Y3</p> | |
| <p>FLEET MANAGEMENT Element Financial Corporation 900-4 Robert Speck Parkway Mississauga, ON L4Z 1S1</p> | <p>Laurie Sehl, Manager Tel: 905-366-1629 Cell: 416-573-2350</p> |
| <p>VW CREDIT CANADA INC. 4865 Marc-Blain Street, Suite 300 St. Laurent, QC H4R 3B2</p> | |
| <p>PLAZA RETAIL REIT 98 Main Street Fredricton, NB E3A 9N6</p> | <p>Jamie Petrie Tel: 506.460.8295 Fax: 506.451.1802 Email: jamie.petrie@plaza.ca</p> <p>Kevin Salsberg Email: kevin.salsberg@plaza.ca</p> |
| <p>DENTONS CANADA LLP 77 King Street West, Suite 400 Toronto-Dominion Centre Toronto, ON M5K 0A1 Counsel to Amex Bank of Canada</p> | <p>Kenneth Kraft Tel: 416.863.4374 Email: kenneth.kraft@dentons.com</p> <p>Sara-Ann Van Allen Tel: 416.863.4402 Email: sara.vanallen@dentons.com</p> |
| <p>DEPARTMENT OF JUSTICE Ontario Regional Office 130 King Street West, Suite 3400</p> | <p>Diane Winters Tel: 416.973.3172 Email: diane.winters@justice.gc.ca</p> |

| | |
|---|--|
| <p>Toronto, ON M5X 1K6 Counsel to the Attorney General of Canada in Right of Canada</p> | <p>Andrew Kinoshita Tel: 416.973.9337 Fax: 416.973.0810 Email: andrew.kinoshita@justice.gc.ca</p> |
| <p>BOYNECLARKE 99 Wyse Road, Suite 600 P.O. Box 876, Dartmouth Main Halifax Regional Municipality, NS B2Y 3Z5 Counsel to Google Inc.</p> | <p>Tim Hill Tel: 902.460.3442 Fax: 902.463.7500 Email: thill@boyneclarke.ca</p> |
| <p>WILDEBOER DELLELCE LLP Wildeboer Dellelce Place Suite 800, 365 Bay Street Toronto, Ontario M5H 2V1</p> | <p>Alfred Apps Tel: 416.361.6211 Email: aapps@wildlaw.ca</p> |
| <p>DAVIES WARD PHILLIPS & VINEBERG LLP 1501 Av McGill College Suite 2600 Montreal, Quebec H3A 3N9 Counsel to SACE SRV s.r.l. and Assicurazioni Generali S.p.A (credit insurers of Simple Approach Ltd.)</p> | <p>George J. Pollack Tel: 514.841.6420 Fax: 514.841.6499 Email: gpollack@dwpv.com</p> |

Index

INDEX

| Tab | Document | Page No. |
|------------|--|-----------------|
| 1. | Notice of Motion, returnable July 29, 2015 | 1 |
| | Schedule "A" Draft Approval and Vesting Order | 7 |
| | Schedule "B" Draft Distribution Order | 19 |
| 2. | Affidavit of Neville Lewis sworn July 20, 2015 | 23 |
| | Exhibit "A" Redacted Copy of the Asset Purchase Agreement | 42 |
| | Exhibit "B" Copy of Form of Final Bid Process Letter | 157 |
| | Confidential Exhibit "C" Unredacted Copy of the Asset Purchase Agreement | 163 |

Tab 1

Court File No. CV15-10920-00CL

**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 INC.

APPLICANT

**NOTICE OF MOTION
(Sale Approval and Stay Extension
Returnable July 29, 2015)**

The Applicant, Comark Inc. ("**Comark**"), will make a motion before the Honourable Senior Regional Justice Morawetz of the Ontario Superior Court of Justice (Commercial List) on July 29, 2015 at 8:30 a.m. or as soon after that time as the motion can be heard, at 330 University Ave, Toronto, Ontario.

THE MOTION IS FOR:

1. An Order substantially in the form attached hereto as Schedule "A":
 - (a) abridging the time for and validating service of this Notice of Motion and supporting materials such that the motion is properly returnable on July 29, 2015 and dispensing with further service thereof;
 - (b) approving the sale transaction (the "**Transaction**") contemplated by the Asset Purchase Agreement made between Comark and Pacific West Commercial Corporation and its permitted assignees (the "**Purchaser**") dated July 16, 2015 (the "**Asset Purchase Agreement**");

- (c) vesting in the Purchaser, the Applicant's right, title and interest in and to the assets described in the Asset Purchase Agreement free and clear of any claims and encumbrances other than certain permitted encumbrances as set out in the draft Order; and
 - (d) ordering that the Confidential Exhibit to the Affidavit of Neville Lewis sworn July 20, 2015 (the "**Lewis Affidavit**") and the confidential appendices to the Fourth Report of the Monitor be sealed from the public record and kept confidential;
2. An Order substantially in the form attached hereto as Schedule "B":
- (a) approving a distribution from the sale proceeds of the Transaction to Salus Capital Partners, LLC. ("**Salus**") in an amount to be determined by the Monitor and in the maximum amount of Salus' secured claim;
 - (b) extending the Stay Period, as defined in paragraph 14 of the Initial Order, until and including October 30, 2015; and
 - (c) approving the Fourth Report of the Monitor and the Monitor's activities described therein;
3. Such further and other relief as counsel may advise and as this Honourable Court deems just.

THE GROUNDS FOR THE MOTION ARE:

4. On March 26, 2015, this Honourable Court granted protection to the Applicant under the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36 as amended (the

“CCAA”) in the form of an initial order, as amended and restated on April 21, 2015 and further amended on June 1, 2015 (the “**Initial Order**”);

5. Capitalized terms not otherwise defined herein have the same meanings given to them in the Initial Order;

6. Alvarez & Marsal Canada Inc. was appointed to act as the Monitor in the CCAA proceedings;

7. The Applicant was authorized to obtain and borrow up to CAD\$28 million under the DIP Facility from Salus;

8. The Initial Order granted a stay of proceedings until and including April 24, 2015, as later extended by subsequent orders of the Court and presently expiring on August 28, 2015;

9. Comark was also directed to immediately commence a sale and investor solicitation process (the “**SISP**”) in accordance with the terms set out therein and with the assistance of the Monitor and Houlihan Lokey Capital, Inc. (the “**Financial Advisor**”);

10. As a result of this process, Comark selected the Purchaser as the successful bidder and entered into the Asset Purchase Agreement, which provides for a going concern sale of substantially all of the assets and business of Comark to the Purchaser;

11. The Transaction represents both the highest and the best offer identified in the SISP;

12. The SISP was conducted in a fair, efficient and transparent manner and resulted in a positive outcome for the business, which will continue as a going concern with all the associated benefits to Comark’s stakeholders;

13. The Purchaser has provided evidence that it will have sufficient funds on closing to complete the Transaction and satisfy all of the obligations of the Purchaser under the Asset Purchase Agreement;

14. It was a requirement of a qualifying bid under the SISP that the purchase price be in an amount sufficient to pay the amounts owing to Salus in full on closing;

15. As at July 11, 2015, there is approximately USD\$43.1 million plus accrued interest from June 30, 2015 outstanding under the term loan facility provided for in the Salus Credit Agreement. All of the obligations of Comark under the Salus Credit Agreement are secured by all of Comark's assets;

16. The Confidential Exhibit to the Lewis Affidavit and the confidential appendices to the Fourth Report of the Monitor contain commercially sensitive information, the disclosure of which would be harmful to the Company;

17. The Applicant has been acting and continues to act in good faith and with due diligence;

18. The Applicant has continued to operate the business and pay for goods and services within the terms and operating limits of the DIP Facility and to be in discussions with its various stakeholder groups;

19. The Applicant has worked closely with the Monitor, the Financial Advisor and Salus to carry out the SISP, which has successfully resulted in the selection of the proposed Transaction;

20. An extension of the Stay Period until October 30, 2015 is necessary and appropriate in the circumstances to allow time for the Applicant to close the Sale Transaction and to attend to various post-closing matters;

21. It is in the best interests of the Applicant's stakeholders that the requested Order be granted and the Stay Period be extended;

22. The Applicant has sufficient liquidity to be able to continue operating in the ordinary course during the requested Stay Period;

23. The Monitor and Salus have each expressed their support for the relief requested herein;

24. The provisions of the CCAA and, in particular, Section 36 thereof;

25. The inherent and inequitable jurisdiction of this Honourable Court;

26. Rules 1.04, 1.05, 2.03, 3.02, 16, 37 and 39 of the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194, as amended and section 106 of the *Courts of Justice Act*, R.S.O. 1990, c. C. 43, as amended; and

27. Such further and other grounds as counsel may advise and this Honourable Court may permit.

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

28. The Affidavit of Neville Lewis sworn July 20, 2015 and the exhibits attached thereto; and

29. The Fourth Report of the Monitor, to be filed;
30. Such further and other material as counsel may advise and this Honourable Court may permit.

July 20, 2015

OSLER, HOSKIN & HARCOURT LLP
Box 50, 1 First Canadian Place
Toronto, Canada M5X 1B8

Marc Wasserman (LSUC #: 44066M)
Tel: 416.862.4908

Caitlin Fell (LSUC #: 60091H)
Tel: 416.862.6690
Fax: 416.862.6666

Lawyers for the Applicant

TO: THE SERVICE LIST

Tab A

Schedule "A"

Court File No. CV15-10920-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

| | | |
|-------------------------|---|-------------------|
| THE HONOURABLE REGIONAL |) | |
| SENIOR JUSTICE MORAWETZ |) | ●, THE ● |
| |) | DAY OF JULY, 2015 |

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 INC.

Applicant

APPROVAL AND VESTING ORDER

THIS MOTION, made by Comark Inc. (the "**Applicant**"), pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**") for an Order approving the sale transaction (the "**Transaction**") contemplated by an agreement of purchase and sale (the "**Sale Agreement**") between the Applicant and Pacific West Commercial Corporation and its permitted assignees (collectively, the "**Purchaser**") dated July ●, 2015 and appended to the Motion Record of the Applicant and vesting in the Purchaser the Applicant's right, title and interest in and to the assets described in the Sale Agreement (the "**Purchased Assets**"), was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Affidavit of Neville Lewis sworn July ●, 2015, the Fourth Report of Alvarez & Marsal Canada Inc., in its capacity as court-appointed monitor of the Applicant (the "**Monitor**") dated July ●, 2015 and on hearing the submissions of counsel for the Applicant, the Purchaser, Salus Capital Partners, LLC, the Monitor and such other counsel as were present and on being advised that the Service List was served with the Motion Record herein;

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 Sale Agreement.

TRANSACTION

3. THIS COURT ORDERS AND DECLARES that the Transaction is hereby approve and ratified, and that the execution of the Sale Agreement by the Applicant is hereby authorized, approved and ratified, with such minor amendments as the Applicant, in consultation with the Monitor and the Purchaser may agree to in writing. The Applicant is hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Transaction in accordance with the terms of the Sale Agreement, including for the conveyance, assignment and transfer by the Applicant of its right, title and interest in and to the Purchased Assets to the Purchaser.
4. THIS COURT ORDERS that on Closing, the Monitor shall hold back from the Closing Payment, an amount equal to \$5 million (the “**Holdback Amount**”), such amount to be held by the Monitor in trust and dealt with in accordance with this paragraph 3 as follows:
 - (a) in the event that the Working Capital is less than the Estimated Working Capital, as determined pursuant to and in accordance with section 3.5(h) of the Sale Agreement, the Monitor shall, on behalf of the Vendor, wire transfer the amount from the balance of the Holdback Amount (as may be reduced pursuant to subparagraph 4(b)) that is the lesser of: (i) the amount by which the Working Capital is less than the Estimated Working Capital; and (ii) the balance of the Holdback Amount, to the Purchaser within two (2) Business Days after the Settlement Date and following such transfer, the Holdback Amount shall be reduced accordingly and the balance, if any, shall be held by the Monitor in trust and dealt with in accordance with this paragraph 3; and

- (b) the Monitor shall, on behalf of the Vendor, wire transfer the amount from the balance of the Holdback Amount (as may be reduced pursuant to subparagraph 4(a)(b)) that is the lesser of (i) the Tier B Lease Adjustment Amount, if any; and (ii) the balance of the Holdback Amount, to the Purchaser by wire transfer of immediately available funds to an account specified by the Purchaser within two (2) Business Days of the Tier B Lease Deadline and following such transfer, the Holdback Amount shall be reduced accordingly and the balance, if any, shall be held by the Monitor in trust and dealt with in accordance with this paragraph 3,

within two (2) Business Days after the Settlement Date, or the Tier B Lease Deadline, whichever is later, the Monitor may remit the remainder of the Holdback Amount, if any, to the Vendor.

5. THIS COURT ORDERS that the Monitor shall be authorized to take such additional steps in furtherance of its responsibilities under the Sale Agreement.

6. THIS COURT ORDERS AND DECLARES that upon the delivery of a certificate of the Monitor to the Purchaser substantially in the form attached as Schedule A hereto (the "**Monitor's Certificate**"), all of the Applicant's right, title and interest in and to the Purchased Assets (which for greater certainty do not include any Contract excluded from the Sale Agreement in accordance with Section 2.9 thereof) shall vest absolutely in the Purchaser, free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the "**Claims**") including, without limiting the generality of the foregoing:

- (a) the Administration Charge, the KERP Charge, the Directors' Charge, the DIP Lender's Charge, the Bridging Charge (as such terms are defined in the Initial Order);
- (b) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario), the *Alberta Personal Property Security Act*, the *British Columbia Personal Property Security Act*, the *Personal Property Security Act* (Saskatchewan), the *Personal Property Security Act* (Manitoba), the

Register of Personal and Movable Rights (Quebec) or any other personal property registry system; and;

- (c) those Claims under the heading "Encumbrances to be Expunged/Deleted on Schedule "B" hereto.

(all of which are collectively referred to as the "**Encumbrances**") other than any personal property leases and those Permitted Encumbrances listed on Schedule "C" hereto and, for greater certainty, this Court orders that all of the Claims and Encumbrances affecting or relating to the Purchased Assets other than the Permitted Encumbrances are hereby expunged and discharged as against the Purchased Assets, other than any registrations made at the applicable land registry of the Leases forming part of the Purchased Assets and any memorials of lease, summaries of lease, notices of lease, assignments of lease and any amendments or other registrations pertaining to the Leases forming part of the Purchased Assets, provided however that, except as may otherwise be agreed to by the applicable landlord to such Lease (a "**Landlord**") and the Purchaser, nothing herein shall affect the rights and remedies of such Landlord against the Purchaser that may exist or arise under or in respect of any Lease that is ultimately assigned to the Purchaser in connection with the Transaction.

7. THIS COURT ORDERS that notwithstanding anything contained in this Order, nothing shall derogate from the obligations of the Purchaser to assume the Assumed Liabilities and to perform its obligations under the Assigned Contracts, as set out in the Sale Agreement.

8. THIS COURT ORDERS that: (a) nothing in this Order shall amend or vary, or be deemed to amend or vary, the terms of a Lease; and (b) none of the Leases shall be transferred conveyed, assigned or vested in the Assignee by operation of this Order.

9. THIS COURT ORDERS that upon the registration in the Canadian Intellectual Property Office of a certified copy of this Order, the applicable Registrar is hereby directed to transfer all Applicant's right, title and interest in and to the Purchased Assets that is Intellectual Property as described in the Sale Agreement, including the Intellectual Property listed on Schedule 1.1(d) to the Purchaser, free and clear of and from any and all Claims.

10. THIS COURT ORDERS that upon the registration in the applicable land registry office of a certified copy of this Order in the manner prescribed by the applicable land registry

office, the applicable Land Registrar is hereby directed to specifically discharge, cancel, delete and expunge from title to the applicable real or immovable property described in Schedule "B" all of the Encumbrances listed in Schedule "B" hereto.

11. THIS COURT ORDERS that for the purposes of determining the nature and priority of Claims, the net proceeds from the sale of the Purchased Assets shall stand in the place and stead of the Purchased Assets, and that from and after the delivery of the Monitor's Certificate all Claims and Encumbrances shall attach to the net proceeds from the sale of the Purchased Assets with the same priority as they had with respect to the Purchased Assets immediately prior to the sale, as if the Purchased Assets had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale.

12. THIS COURT ORDERS THIS COURT ORDERS that, pursuant to clause 7(3)(c) of the *Canada Personal Information Protection and Electronic Documents Act*, and any similar Provincial Legislation (the "**Privacy Legislation**"), the Applicant is authorized and permitted to disclose and transfer to the Purchaser all human resources and payroll information and any customer information in the Applicant's records pertaining to the Applicant's past and current employees and customers. The Purchaser shall be entitled to use the personal information provided to it in accordance with the Privacy Legislation. The Purchaser shall maintain and protect the privacy of such information and shall be entitled to use the personal information provided to it in a manner which is in all material respects identical to the prior use of such information by the Applicant.

13. THIS COURT ORDERS AND DIRECTS the Monitor to file with the Court a copy of the Monitor's Certificate, forthwith after delivery thereof.

14. THIS COURT ORDERS that the Monitor may rely on written notice from the Applicant and the Purchaser regarding fulfillment of conditions to closing under the Sale Agreement and shall incur no liability with respect to the delivery of the Monitor's Certificate, save and except for any gross negligence or wilful misconduct on its part.

15. THIS COURT ORDERS that, notwithstanding:

- (a) the pendency of these proceedings;

- (b) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) in respect of the Applicant and any bankruptcy order issued pursuant to any such applications; and
- (c) any assignment in bankruptcy made in respect of the Applicant;

the vesting of the Purchased Assets in the Purchaser pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of the Applicant and shall not be void or voidable by creditors of the Applicant, nor shall it constitute nor be deemed to be a fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue, or other reviewable transaction under the *Bankruptcy and Insolvency Act* (Canada) or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

THIS COURT ORDERS AND DECLARES that the Transaction is exempt from the application of the *Bulk Sales Act* (Ontario), the *Retail Sales Tax Act* (Ontario) and any legislation of similar effect in any other province of Canada in which all or any part of the Purchased Assets are located.

16. THIS COURT ORDERS that: (i) on or after the Closing Date, the Applicant is hereby permitted to execute and file articles of amendment or such other documents or instruments as may be required to change its corporate and business names in accordance with the Sale Agreement, and such articles, documents or other instruments shall be deemed to be duly authorized, valid and effective and shall be accepted by the applicable Governmental Authority without the requirement (if any) of obtaining director or shareholder approval pursuant to any federal or provincial legislation.

SEALING

17. THIS COURT ORDERS that an unredacted Sale Agreement be sealed, kept confidential and not form part of the public record, but rather shall be placed, separate and apart from all other contents of the Court file, in a sealed envelope attached to a notice that sets out the title of these proceedings and a statement that the contents are subject to a sealing order and shall only be opened upon further Order of the Court.

GENERAL PROVISIONS

18. 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 Applicant and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Applicant and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Applicant, the Monitor and its agents in carrying out the terms of this Order.

SCHEDULE A – Form of Monitor’s Certificate

Court File No. CV15-10920-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE REGIONAL) ●, THE ●
 SENIOR JUSTICE MORAWETZ)
) DAY OF JULY, 2015

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 INC.

Applicant

RECITALS

- A. All undefined terms in this Monitor’s Certificate have the meanings ascribed to them in the Order of the Court dated July ●, 2015 (the “**Approval Order**”) approving the Sale Agreement entered into among Comark Inc. (“**Comark**”) and Pacific West Commercial Corporation (the “**Purchaser**”) dated July ●, 2015 (as amended from time to time, the “**Sale Agreement**”).
- B. Pursuant to the Approval Order, the Court approved the Sale Agreement and provided for the vesting in and sale, assignment and transfer to the Purchaser of Comark’s right, title and interest in and to the Purchased Assets, which vesting, sale, assignment and transfer is to be effective with respect to the Purchased Assets upon the delivery by the Monitor to the Purchaser and Comark of a certificate confirming: (i) the conditions to Closing as set out the Sale Agreement have been satisfied or waived by the Purchaser and Comark, as applicable; and (ii) the Transaction has been completed to the satisfaction of the Monitor.

C. As of the date hereof, Comark and the Purchaser, with the consent of the Monitor, have agreed to effect the sale, assignment and transfer of the Purchased Assets in accordance with the provisions of the Sale Agreement and the Approval Order.

THE MONITOR CERTIFIES the following:

1. The conditions to Closing with respect to the Purchased Assets as set out in Articles 7 and 8 of the Sale Agreement have been satisfied or waived by the Purchaser and Comark, as applicable; and
2. The Transaction with respect to the Purchased Assets has been completed to the satisfaction of the Monitor.

This Monitor's Certificate was delivered by the Monitor at _____ on _____, 2015.

ALVAREZ & MARSAL CANADA INC., in its capacity as Court-appointed Monitor of Comark Inc. and not in its personal or corporate capacity

Per: _____
Name:
Title:

SCHEDULE "B"

| Province | Land Registry Office | Legal Description | Encumbrances to be Expunged/ Deleted |
|------------------------|--------------------------------------|--|---|
| Georgian Mall, Ontario | Simcoe Land Registry Office (No. 51) | PIN: 58928-1969 (LT) PT LT 19 CON 4 VESPRA PTS 4, 5, 6 & 13 51R12305; BARRIE PIN: 58928-2249 (LT) PT LT 19 CON 4 VESPRA PTS 7 & 9 51R12305; BARRIE | Construction Lien registered as Instrument No. SC1200209 on March 26, 2015 |
| Vaughan Mills, Ontario | York Land Registry Office (No. 65) | PIN: 03280-0533 (LT) BLK 1, PL 65M3696, EXCEPT PTS 1 TO 29 INCL., 42 & 43, 65R26825, PTS 71, 72, 73, 74, 75, 78, 79, 80, 99, 100, 101 & 105, 65R27637, PTS 1 TO 8 INCL., 65R28663 & EXCEPT PTS 9, 10, 11, 12, 13, 24, 25, 30, 35, 36, 37, 38 & 39, 65R29976 , VAUGHAN | Construction Lien registered as Instrument No. YR2276519 on April 9, 2015 Certificate of Action registered as Instrument No. YR2302036 on June 8, 2015 |

SCHEDULE "C" - PERMITTED ENCUMBRANCES

"Permitted Encumbrances" means, collectively: (a) any Encumbrances (as defined in the Sale Agreement) encumbering the freehold or other ownership interest in the Leased Real Property (as defined in the Sale Agreement) or any other landlord's interest in the Leased Real Property (b) Encumbrances resulting from the Purchaser's actions or omissions; and (c) the items identified in Schedule "1.1(g)" of the Sale Agreement.

Tab B

Schedule “B”

Court File No. CV15-10920-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE REGIONAL)
SENIOR JUSTICE MORAWETZ)

)
)
)

●, THE ●

DAY OF JULY, 2015

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 INC.

Applicant

DISTRIBUTION ORDER

THIS MOTION, made by Comark Inc. (the “**Applicant**”), pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended for an Order, *inter alia*, authorizing the Monitor, on behalf of the Applicant, to make a distribution to Salus Capital Partners, LLC in accordance with the terms herein was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Affidavit of Neville Lewis sworn July ●, 2015, the Fourth Report of Alvarez & Marsal Canada Inc., in its capacity as court-appointed monitor of the Applicant (the “**Monitor**”) dated July ●, 2015 (the “**Fourth Report**”) and on hearing the submissions of counsel for the Applicant, the Purchaser, Salus Capital Partners, LLC (“**Salus**”), the Monitor and such other counsel as were present and on being advised that the Service List was served with the Motion Record herein;

DEFINITIONS

1. **THIS COURT ORDERS** that any capitalized term used and not defined herein shall have the meaning ascribed thereto in the Sale Agreement between the Applicant and Pacific West Commercial Corporation and its permitted assignees (the “**Purchaser**”) dated July 16, 2015 (the “**Sale Agreement**”), which agreement contemplates the sale of the Applicant’s right, title and interest in and to the assets described in the Sale Agreement to the Purchaser (the “**Transaction**”).

DISTRIBUTION

2. **THIS COURT ORDERS** that, immediately following delivery of the Monitor’s Certificate to the Purchaser and subject to the terms of the Approval and Vesting Order granted by the Court in respect of the Transaction, the Monitor, on behalf of the Applicant, shall be authorized and directed, without further Order of the Court, to distribute to Salus, an amount to be determined by the Monitor in the maximum amount of Salus’s secured claim, from the sale proceeds of the Transaction and such distribution shall be free and clear of all Encumbrances other than those in favour of Salus, and shall be applied against the indebtedness, liabilities and obligations owing by the Applicant to Salus under the Amended and Restated Credit Agreement dated March 26, 2015.

EXTENSION OF THE STAY PERIOD

3. **THIS COURT ORDERS** that the Stay Period (as defined in paragraph 14 of the Amended and Restated Initial Order dated April 21, 2015) is hereby extended until and including October 30, 2015.

REPORT OF THE MONITOR

4. **THIS COURT ORDERS** that the Fourth Report is hereby approved and the activities of the Monitor as described therein are hereby approved.

GENERAL

5. **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 Monitor and its 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 Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Monitor and its agents in carrying out the terms of this Order.

Tab 2

Court File No. CV15-10920-00CL

**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 INC.

APPLICANT

**AFFIDAVIT OF NEVILLE LEWIS
(Sworn July 20, 2015)**

(Sale Approval and Stay Extension)

I, Neville Lewis, of the Town of Caledon, in the Province of Ontario, MAKE OATH AND SAY:

1. I am the Chief Financial Officer of the Applicant, Comark Inc. ("**Comark**" or the "**Company**"). As such, I have personal knowledge of the matters deposed to herein. Where I have relied on other sources for information, I have specifically referred to such sources and verily believe them to be true.

Overview

2. I swear this Affidavit in support of the motion brought by Comark seeking, among other things: (a) approval of a proposed sale transaction (the "**Transaction**") in which Comark will sell substantially all of its assets and business to Pacific West Commercial Corporation and/or its permitted assignees (the "**Purchaser**"); (b) approval of a distribution from the sale proceeds of the Transaction to Salus Capital Partners, LLC. ("**Salus**") in the amount of its secured claim; (c) sealing from the public record the Confidential Exhibit to this Affidavit and the confidential appendices to the Fourth Report of the Monitor (the "**Monitor's Fourth Report**"); and (d) a stay extension until and including October 30, 2015.

3. Pursuant to an Order of this Court, beginning on March 26, 2015, Comark commenced a sale and investor solicitation process (the “SISP”) according to the terms set out therein and with the assistance of the Monitor and the Financial Advisor (defined below).

4. As a result of this process, Comark selected the Purchaser as the Successful Bidder and entered into an asset purchase agreement made between Comark and the Purchaser as of July 16, 2015 (the “Asset Purchase Agreement”), which provides for a going concern sale of substantially all of the assets and business of Comark to the Purchaser. A copy of the Asset Purchase Agreement is attached as Exhibit “A”, with the purchase price and certain related numbers and schedules redacted.

5. As set out herein, the Transaction represents both the highest and the best offer identified in the extensive, Court-supervised SISP that was conducted. The completion of the Transaction will result in the following benefits to Comark’s stakeholders:

- (a) The Transaction contemplates that the Purchaser will continue Comark’s business uninterrupted following the closing, which will benefit employees, suppliers, customers, landlords and other stakeholders;
- (b) The Purchaser has agreed to extend offers of employment to at least 90% of Comark’s employees, with at least 90% of those offers being on terms and conditions substantially similar in the aggregate for each individual employee to those currently available to them, provided that the relevant consent to the assignment of a store lease is obtained; and
- (c) The Transaction allows for the payment of Salus, Comark’s secured lender, in full, and, depending on the CAD/USD exchange rate and Comark’s working capital at Closing, the Transaction may yield additional proceeds for distribution to Comark’s other creditors.

6. The SISP was conducted in a fair, efficient and transparent manner and resulted in a positive outcome for the business, which will continue as a going concern with all the associated benefits.

7. In addition to working closely with the Monitor, the Financial Advisor and Salus to carry out the SISP, Comark has acted in good faith and with due diligence in its continued operation of the business and in ongoing discussions with its various stakeholders. Comark thus requests that the current Stay Period (defined below) be extended up to and including October 30, 2015 to allow time for the Transaction to close and to attend to various post-closing matters with respect to the Transaction and these CCAA proceedings.

8. This Affidavit is organized in the following sections:

| | |
|---|----|
| Overview..... | 1 |
| Background..... | 3 |
| Update on Discussions with Stakeholders..... | 4 |
| Update on the DIP Facility..... | 5 |
| The Sale and Investment Solicitation Process..... | 5 |
| The Proposed Transaction..... | 9 |
| Comparison of Purchaser’s Bid to Other Bids..... | 14 |
| The Proposed Transaction Should be Approved..... | 14 |
| The Proposed Distribution to Salus..... | 15 |
| Sealing of Confidential Information..... | 16 |
| Stay Extension is Appropriate..... | 16 |
| Relief Requested..... | 18 |

Background

9. On March 26, 2015, Comark was granted protection under the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36 as amended (the “CCAA”) pursuant to an initial order of the Superior Court of Justice (Commercial List) (the “Court”), as amended and restated on April 21, 2015 and further amended on June 1, 2015 (the “Initial Order”).

10. The Initial Order, among other things:

- (a) granted a stay of proceedings until and including April 24, 2015, as later extended by subsequent orders of the Court and presently expires on August 28, 2015 (the “Stay Period”);
- (b) authorized Comark to obtain and borrow up to CAD\$28 million under the DIP Facility from Salus;

- (c) appointed Alvarez & Marsal Canada Inc. to act as the monitor in these CCAA proceedings (the “**Monitor**”);
- (d) approved the engagement of Houlihan Lokey Capital, Inc. as financial advisor (the “**Financial Advisor**”) to Comark; and
- (e) directed Comark to immediately commence the SISP attached to the Initial Order and solicit potential purchasers or investors for the business or property of Comark;

11. Since the granting of the Initial Order, Comark has been operating its business as a going concern in close consultation with the Monitor.

12. On June 1, 2015, the Court authorized Comark to borrow and obtain payment guarantees under an inventory guarantee credit facility (the “**Inventory Purchase Guarantee Facility**”) from Bridging Finance Inc. (“**Bridging**”) in order to guarantee certain inventory purchase orders made by Comark.

13. Further details regarding the background to this proceeding are set out in the Affidavits of Gerald Bachynski sworn on March 25, 2015 and March 26, 2015 (together the “**Bachynski Affidavit**”) and in my Affidavits sworn April 15, 2015 and May 26, 2015. Capitalized terms contained herein that are not otherwise defined have the same meaning ascribed to them in those Affidavits.

Update on Discussions with Stakeholders

14. Comark has continued to develop and implement restructuring initiatives and to engage in discussions with its various stakeholders, including landlords, employees and suppliers. In particular, Comark, in consultation with the Monitor, has continued to be in contact with its suppliers to ensure the continued, long-term supply of goods and services necessary for Comark’s business.

15. On June 1, 2015, the Court approved the Inventory Purchase Guarantee Facility under which Bridging would provide guarantees of payment for specific purchase orders issued

by the Company to certain of its inventory suppliers. The inventory purchase orders guaranteed by Bridging must be approved by Bridging. Comark entered into the Inventory Purchase Guarantee Facility to provide certain suppliers with additional comfort to accept purchase orders well in advance of payment and without significant cash pre-payment.

16. Comark has utilized the Inventory Purchase Guarantee Facility as it was designed to backstop certain of Comark's inventory orders through payment guarantees issued by Bridging. Guarantees have been issued under the Inventory Purchase Guarantee Facility to a total of seven vendors. As intended, these payment guarantees have provided certain of Comark's suppliers with additional comfort, where necessary, and have assisted in ensuring the continued supply of products needed for the holiday season. To date, Bridging has not been required to advance any cash payments under the Inventory Purchase Guarantee Facility.

Update on the DIP Facility

17. Comark is authorized to obtain and borrow up to CAD\$28 million under the DIP Facility from Salus. Pursuant to the terms of the DIP Facility, Comark has delivered a borrowing base certificate to Salus weekly.

18. In accordance with the Current Cash Management System in effect, Comark's cash from business operations continues to be deposited into the Blocked Account and swept by Salus in order to reduce the obligations outstanding under the DIP Facility. Since the filing date, the cash from operations deposited to the Blocked Account revolved to pay down the pre-filing Salus Revolver Facility, and after such date, the DIP Facility. As of July 11, 2015, approximately CAD\$ 20.1 million was outstanding under the DIP Facility. The Transaction contemplates that the entire amount outstanding under the DIP Facility will be repaid to Salus from the proceeds.

The Sale and Investment Solicitation Process

19. The SISP was commenced on the date that the Initial Order was granted. It consisted of two phases, Phase 1 and Phase 2.

20. Phase 1 of the SISP involved the identification of potential bidders who may have an interest in bidding for the sale of or investment in Comark's business and the solicitation of non-binding letters of intent ("LOIs") from interested prospective bidders.

21. Potential bidders who expressed interest in the SISP and executed non-disclosure agreements were provided with: (a) access to a preliminary data room containing information about Comark (the "**Data Room**"); (b) a confidential information memorandum describing the opportunity to acquire all or a portion of Comark's property or invest in the business; and (c) a process letter explaining the process for submitting LOIs.

22. As previously reported, a number of LOIs were submitted by the Phase 1 Bid Deadline of 5:00PM EDT on May 5, 2015. Of the LOIs that were submitted, six were determined to be qualified for inclusion in Phase 2 in accordance with the terms of the SISP.

23. The Board of Directors of Comark (the "**Board**") met on May 7, 2015 and approved the Monitor's recommendation that the six qualifying LOIs proceed into Phase 2. Five of the qualifying LOIs contemplated the sale of Comark's assets as a going concern. One of the six qualifying LOIs was for the sale of a single division of Comark's business. The Financial Advisor and the Monitor informed the party that bid only for a single division of Comark's business that it would need to bid for the entire business in order to be competitive with the remaining going concern bids.

24. Phase 2 of the SISP commenced on May 9, 2015 and involved granting Qualified Bidders with further access to additional due diligence materials and information in the Data Room. Comark's management team, together with the Monitor and the Financial Advisor, personally met with all Qualified Bidders that were actively participating in Phase 2 of the SISP to conduct on-site management presentations at the Corporate Headquarters and answer questions arising from the due diligence process. Most of the Qualified Bidders also participated in on-site store visits. One bidder participated in a tour of the Distribution Centre in Laval and the Bootlegger headquarters in Vancouver.

25. As part of the additional materials provided in the Data Room in Phase 2, the Qualified Bidders actively participating in the process were granted access to a due diligence

report prepared by KPMG LLP (“KPMG”) on the Company’s historical operating results and working capital requirements. The Company facilitated due diligence calls between the bidders and KPMG to answer any questions arising from the report.

26. The Qualified Bidders and their advisors reviewed the information provided in the Data Room and several Qualified Bidders submitted supplemental due diligence information requests to Comark’s management. With the assistance of the Monitor and the Financial Advisor, Comark and its counsel spent considerable time retrieving and preparing information responsive to the numerous due diligence requests.

27. The Monitor and the Financial Advisor facilitated discussions between Qualified Bidders and certain lenders interested in providing debt financing in support of an ultimate acquisition. Subject to the execution of an appropriate non-disclosure agreement, those lenders that requested information in respect of the Company were granted access to the Data Room so that they could provide financing proposals to Qualified Bidders.

28. On June 9, 2015, in accordance with the SISP, the Monitor, in consultation with the Financial Advisor and Comark, informed Qualified Bidders that the deadline for Phase 2 had been extended by an additional 12 days, from the original 45 days, such that the Final Bids were due by 5:00PM EDT on June 29, 2015 (the “**Phase 2 Bid Deadline**”).

29. The Financial Advisor sent a process letter (the “**Final Bid Process Letter**”) to the bidders actively participating in Phase 2 of the SISP, which, among other things, set out the process by which final, binding proposals (“**Final Bids**”) were to be submitted and evaluated by Comark. Bidders were also provided with a proposed form of a definitive asset purchase agreement (the “**Pro Forma APA**”), which had been prepared by Comark and its counsel, in consultation with the Monitor and the Financial Advisor. The forms of the schedules to the Pro Forma APA were provided through the Data Room. Participants were requested to submit a mark-up of the Pro Forma APA and a list of remaining due diligence items to the Monitor by 5:00PM EDT on June 22, 2015. A copy of the Final Bid Process Letter is attached as Exhibit “B”.

30. Bidders were provided with an estimate of the closing working capital through the Data Room on June 16, 2015, and an updated inventory appraisal from Gordon Brothers on June 28, 2015.

31. Ultimately, two bidders submitted mark-ups of the Pro Forma APA on June 22, 2015. After reviewing the mark-ups, Comark's counsel held a call with the Monitor, the Financial Advisor and each of the two bidders and their respective counsel to discuss the mark-ups, narrow the issues raised and propose solutions where appropriate. One bidder only submitted a revised LOI which set out a proposed bid that was contingent upon bid protections among other things.

32. A total of three Final Bids were submitted to the Financial Advisor and the Monitor by the Phase 2 Bid Deadline. The Monitor, in consultation with the Financial Advisor, Comark and Salus, reviewed and evaluated each bid in accordance with the process and criteria set out in the SISP. Two of the Final Bids submitted were competitive.

33. The competitive bids were reviewed by the Company and the Monitor and their respective advisors. The Financial Advisor and the Monitor, with the assistance of the Company, were in contact with each of the two Qualified Bidders to discuss their bids and seek certain clarifications and/or concessions in respect of the bids. As a result of these discussions, the two Qualified Bidders were given the opportunity to revise and resubmit their best and final bids by 12:00PM EDT on July 3, 2015. Both bidders submitted revised and improved proposals. The Purchaser's Final Bid was a Qualified Bid and was higher in value than the other bid received. The parties then commenced negotiation of the Asset Purchase Agreement.

34. As a result of this process, the Monitor, exercising its reasonable business judgment and following consultation with the Financial Advisor and Comark, recommended to the Board that the Final Bid submitted by the Purchaser be selected as the Successful Bid. The Monitor, the Financial Advisor, Comark and Salus were all in agreement that the Final Bid by the Purchaser qualified in accordance with the SISP and was the most favourable bid to Comark and its stakeholders for the reasons set forth in greater detail below.

35. The Board accepted the Monitor's recommendation and the parties executed the Asset Purchase Agreement, subject to approval of this Court.

The Proposed Transaction

36. Capitalized terms contained in this section that are not otherwise defined have the same meaning ascribed to them in the Asset Purchase Agreement.

A. Qualifying Bid Requirements

37. The Transaction contemplated by the Asset Purchase Agreement and ancillary or related documents contained the necessary components of a Qualified Bid pursuant to the SISP. The following are the key components of the Purchaser's Qualified Bid:

- (a) the purchase of substantially all of the property, assets and rights of Comark (the "**Purchased Assets**") save and except for the Excluded Assets;
- (b) the Excluded Assets are limited to, *inter alia*, items such as cash (including restricted cash that serves as collateral in respect of Comark's cash management system and foreign exchange hedging program), tax refunds, shares of the Company, licences or registrations and insurance policies and certain Contracts that the Purchaser may designate as an Excluded Asset prior to Closing;
- (c) the Purchaser shall offer employment to at least 90% of all current full-time and part-time employees of the Company, at least 90% of those offers to be on terms and conditions which are substantially similar in the aggregate for each individual employee to those currently available to them, provided (as applicable) that the Lease for the applicable store location employing such Employee is assigned to the Purchaser;
- (d) in addition to paying the cash portion of the purchase price, the Purchaser has agreed to assume certain liabilities of the Company (the "**Assumed Liabilities**") and to pay such liabilities in the ordinary course;

- (e) the Purchaser will assume all liabilities and obligations of the Company in connection with the Assigned Contracts (including, among other contracts, Comark's real estate leases), arising after the time of closing. Any Cure Amounts related to the Assigned Contracts are an Assumed Liability of the Purchaser, with a corresponding adjustment to Working Capital in favour of the Purchaser;
- (f) is not conditional on obtaining financing or the outcome of unperformed due diligence;
- (g) no parties other than the Purchaser (or affiliated acquisition vehicles established by the purchaser) will be sponsoring or participating in the Transaction;
- (h) the Purchaser has delivered a deposit in an amount equal to 10% of the purchase price, which the Monitor has received and is holding in trust pending the closing of the Transaction;
- (i) the bid was received by the Phase 2 Bid Deadline;
- (j) the purchase price is sufficient to pay the aggregate amount owing to Salus in full at the current CAD/USD exchange rate; and
- (k) the Asset Purchase Agreement contains an acknowledgement that the Purchaser (i) has had an opportunity to conduct any and all due diligence regarding the Purchased Assets; (ii) has relied solely upon its own independent review and investigation; and (iii), except for the representations and warranties set out in the agreement or any certificate provided pursuant to the agreement, did not rely upon any written or oral statements or representations whatsoever regarding the Purchased Assets except as expressly stated herein.

B. Purchased and Excluded Assets

38. Pursuant to the Asset Purchase Agreement, the Purchaser is purchasing all assets, properties and rights of Comark, including all inventory, supplies, accounts receivables, books and records, prepaid expenses and deposits, intellectual property and other items set out in section 1.1 of the Asset Purchase Agreement, except for the Excluded Assets.

39. The Excluded Assets include items such as cash (including restricted cash and funds held as collateral), shares or other securities, licences or registrations to the extent not transferable, refunds for taxes paid prior to closing, insurance policies, Contracts that the Purchaser has determined to be Excluded Contracts and other items set out in section 1.1 of the Asset Purchase Agreement.

C. Assumed and Excluded Liabilities

40. The Purchaser is assuming the liabilities of Comark described in section 1.01 of the Asset Purchase Agreement, including account payables, liability for wages and vacation pay for Transferred Employees, gift cards and store credits, charitable donations, and other current liabilities. The Purchaser will also be assuming all of the purchase orders outstanding with suppliers to Comark in respect of inventory ordered, including, but not limited to, those purchase orders guaranteed pursuant to the Inventory Purchase Guarantee Facility.

41. The Purchaser shall not assume responsibility for the Excluded Liabilities, including benefit plans, wages and benefits owed to employees who are not hired by the Purchaser, employee costs related to termination and severance, taxes relating to the business or Purchased Assets, and liabilities related to any environmental condition existing at or arising from occurrences prior to closing. The Purchaser shall also not assume liabilities for amounts owing under the KERP.

D. Working Capital Adjustment

42. The Asset Purchase Agreement contemplates that an adjustment will be made post-closing with respect to the Working Capital. The Purchase Price includes the estimated amount by which the Working Capital at closing is expected to be greater than the Working Capital Target previously provided to bidders. If, upon final determination of the Working Capital at Closing, the Working Capital exceeds the Estimated Working Capital, the Purchaser will pay the amount of the difference to the Monitor within two business days after the date that the Working Capital has been determined, and the Purchase Price will be adjusted accordingly. If the Working Capital is less than the Estimated Working Capital, Comark will pay, in the aggregate, the amount of the difference to the Purchaser within two business days (the

“**Working Capital Adjustment**”), in accordance with the draft Approval and Vesting Order, and the Purchase Price will be adjusted accordingly.

43. In the draft Approval and Vesting Order, Comark seeks an order that on closing of the Transaction, the Monitor shall hold back from the closing payment an amount equal to \$5 million (the “**Holdback Amount**”), to be held by the Monitor in trust in the event that a Working Capital Adjustment or Lease Adjustment (as defined herein) must be made and paid to the Purchaser.

E. Conditions for Closing

i. *Competition Act Approval*

44. It is a condition of the closing of the Transaction that Competition Act Approval be obtained. Comark and the Purchaser shall use commercially reasonable efforts to take certain actions, as specified in the Asset Purchase Agreement, with respect to obtaining such approval.

ii. *The Assignment of Agreements*

45. The Transaction contemplates the assignment of Contracts (other than the Excluded Contracts) by to obtaining the consent of the relevant counter party to such Assigned Contract, or if necessary, through an Order of the Court pursuant to section 11.3 of the CCAA. Under the Asset Purchase Agreement, the Purchaser, or such assignee as directed by the Purchaser pursuant to the draft Order, has agreed to assume, at the time of closing, all of the Assumed Liabilities arising from or in connection with the performance of the Assigned Contracts.

46. The Assigned Contracts include real property leases for store locations, the Banner and Corporate Headquarters, and the Distribution Centre. The assignment of these leases is essential to the continuation of Comark’s business by the Purchaser and for the continued employment of substantially all of its Employees. The Asset Purchase Agreement contemplates that substantially all the real property leases will be assigned to the Purchaser. Prior to closing the Vendor in consultation with the Purchaser has identified ten unprofitable store locations, which store location leases will be disclaimed by Comark pursuant to the CCAA.

47. It is a condition of the closing of the Transaction that Comark will obtain consents for the assignment of all of the Tier A Leases (representing approximately 226 stores) and for 80% of the Tier B Leases (representing approximately 71 stores). Accordingly, the assignment of the Leases is critical for a successful going concern solution for the business of Comark and for the employment of thousands of Employees. If Comark is not able to obtain consents for the assignment of any leases that are Assigned Contracts, it will be required to make an application before this Honorable Court for an order authorizing the assignment of such Assigned Contracts pursuant to section 11.3 of the CCAA. Comark is currently in the process of contacting each landlord to advise them of the Transaction and to seek their consent to the assignment of their leases.

48. The Purchaser has agreed to accept all Assigned Contracts, including real property leases, on the same terms and conditions as set out in each of the Assigned Contracts between Comark and its respective counterparty. Furthermore, as a condition to consenting to the assignment, the Purchaser will be assuming and satisfying the Cure Amounts, if any, in respect of the Assigned Contracts, with a corresponding reduction in the Working Capital.

49. Pursuant to the Asset Purchase Agreement, to the extent that Comark does not obtain the consent to the assignment of the remaining 20% of Tier B Leases by no later than 60 days following the closing (the “**Tier B Lease Deadline**”), the Purchase Price will be reduced by the amount, if any, equal to the aggregate of the Lease Adjustment Amount for each such Tier B Lease (the “**Lease Adjustment**”). Subsequent to the Tier B Lease Deadline, the applicable Tier B Lease shall be deemed to be an Excluded Contract under the Asset Purchase Agreement.

50. The Purchaser has advised Comark that it anticipates assigning Comark’s three Banners and Comark’s head office to separate permitted assignee entities under section 11.6 of the Asset Purchase Agreement. Under the Asset Purchase Agreement, an assignee of the Purchaser assumes all of the obligations of the Purchaser under the Asset Purchase Agreement and is jointly and severally liable with the Purchaser with respect to the obligations of the Purchaser.

Comparison of Purchaser's Bid to Other Bids

51. A description of the other bids received pursuant to the SISP will be included in a confidential appendix to the Monitor's Fourth Report. As that confidential appendix demonstrates, the Purchaser's bid is superior to the other Qualified Bid for the following main reasons:

- (a) The Purchase Price set out in the Asset Purchase Agreement was higher than the other Qualified Bid;
- (b) The amount of the Purchase Price and the form in which it would be paid was more certain in the Transaction than the other Qualified Bid; and
- (c) The transition services required from Comark post-closing are less onerous than those contemplated in the other Qualified Bid.

The Proposed Transaction Should be Approved

52. The following factors, among others, support the approval of the Transaction contemplated by the Asset Purchase Agreement:

- (a) The process leading to the proposed Transaction was reasonable and in accordance with the Court-approved SISP;
- (b) The Monitor recommended approval of the SISP to the Court and actively participated in and supervised its execution. The Monitor recommends the approval of the Transaction and will be filing a report setting out its opinion of the benefits of the Transaction compared to a sale or disposition under a bankruptcy;
- (c) Salus participated in the development of the SISP and is supportive of the proposed Transaction;
- (d) The Transaction would provide sufficient proceeds to: (i) pay amounts owing to Salus in full; (ii) pay outstanding amounts under the Court-ordered charges; (iii)

pay any amounts that would have been required under paragraphs 6(4)(a) and (5)(a) of the CCAA; (iv) pay post-filing obligations; and (v) pay any liabilities or obligations arising from the completion of the Transaction;

- (e) The Transaction will preserve Comark's business as a going concern, which includes consequential benefits to employees, customers, landlords and suppliers;
- (f) The Purchase Price as set out in the Asset Purchase Agreement was the highest price offered by any of the participants in the SISP;

53. For all of the reasons set out above, I believe that the Transaction represents the best possible transaction in the circumstances for the benefit of Comark and its stakeholders. The Purchaser has provided evidence that it will have sufficient funds on closing to complete the Transaction and satisfy all of the obligations of the Purchaser under the Asset Purchase Agreement.

The Proposed Distribution to Salus

54. The draft Order contemplates that upon the closing of the Transaction, the Purchase Price will be paid to the Monitor, and the Monitor will make a distribution to Salus. As the Purchase Price is being paid in Canadian dollars and the majority of Salus' secured claim is denominated in U.S. currency, the cost in Canadian dollars of the ultimate payout to Salus cannot be calculated until a date closer to the Closing Date due to the recent volatility in the U.S and Canadian dollar exchange rate. Notwithstanding the foregoing, it is anticipated that the distribution to Salus will be in the amount of its secured claim under the DIP Facility and the Salus Credit Agreement. Such distribution will be free and clear of all encumbrances other than those in favour of Salus, and will be applied against the indebtedness owing by Comark to Salus.

55. Under the SISP, it was a requirement for a Qualified Bid that the purchase price be in an amount sufficient to pay the amounts owing to Salus in full on closing, unless other arrangements were made that are acceptable to Salus.

56. Pursuant to the DIP Lender's Charge granted by the Initial Order in respect of the interim financing provided by Salus under the DIP Facility, Salus has priority over all other

creditors other than holders of a property perfected purchase money security interest, TD (in respect of certain security interests), and the other charges created by the Initial Order.

57. As at July 11, 2015, there is approximately USD\$43.1 million plus any accrued interest from June 30, 2015 outstanding under the term loan facility provided for in the Salus Credit Agreement. All of the obligations of Comark under the Salus Credit Agreement are secured by all of Comark's assets. The Monitor sought and obtained an opinion from its counsel which confirmed the validity and enforceability of the security in connection with the Salus Credit Agreement.

Sealing of Confidential Information

58. Comark will be filing with the Court a Confidential Appendix "C" including a copy of the unredacted Asset Purchase Agreement and the cash flows which disclose the sale proceeds. Comark requests that the purchase price and related schedules of the Asset Purchase Agreement be sealed from the public record and kept confidential.

59. The purchase price and certain other pricing information is commercially sensitive information, the disclosure of which would be harmful to the Company. It is not necessary to disclose the exact price of the Transaction since other terms of the Asset Purchase Agreement have been disclosed, the evidence supporting the conclusion that the SISP has been complied with in all respects, and the Purchase Price set out in the Asset Purchase Agreement is the highest price offered by any participant in the SISP.

60. I believe that the sealing order requested is necessary to protect the integrity of the SISP, particularly if the Transaction does not close.

Stay Extension is Appropriate

61. I believe that Comark has acted and is continuing to act in good faith and with due diligence in these CCAA proceedings. As described above, Comark has worked closely with the Monitor, the Financial Advisor and Salus to carry out the SISP, which has successfully resulted

in the selection of the proposed Transaction. As part of the SISP, the Company worked diligently with the Monitor in responding to voluminous due diligence requests for prospective bidders.

62. In addition, Comark has continued to operate the business and pay for goods and services within the terms and operating limits of the DIP Facility and to be in discussions with its various stakeholders groups.

63. The current Stay Period expires on August 28, 2015. Comark seeks a further extension of the Stay Period up to and including October 30, 2015.

64. The extension of the Stay Period is necessary and appropriate in the circumstances to allow for the continued operation of Comark's business and for Comark to complete the Transaction, subject to the approval of this Court, and to deal with any remaining issues post-closing. Extending the current Stay Period beyond August 28, 2015 will allow the parties to focus on the closing and post-closing process and will be cost-effective in that the parties would only return to Court before the expiry of the extended Stay Period if circumstances arose that required Court direction.

65. Comark has sufficient liquidity to fund operations and proceed to close the Transaction during the requested extension of the Stay Period, as indicated in the cash flow to be attached as a confidential appendix to the Monitor's Fourth Report.

66. The Monitor and Salus have each expressed their support for the extension of the Stay Period to October 30, 2015.

Relief Requested

67. Accordingly, I request that this Honourable Court approve the Transaction contemplated by the Asset Purchase Agreement and grant the related relief requested herein.

SWORN BEFORE ME at the City of }
Toronto, in the Province of Ontario, this }
20th day of July, 2015. }



Commissioner for Taking Affidavits



Neville Lewis

**IN THE MATTER OF 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 INC.**

APPLICANT

Court File No. CV15-10920-00CL

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

PROCEEDING COMMENCED AT
TORONTO

**AFFIDAVIT OF NEVILLE LEWIS
(Sale Approval and Stay Extension)**

OSLER, HOSKIN & HARCOURT LLP

Box 50, 1 First Canadian Place
Toronto, Canada M5X 1B8

Marc Wasserman (LSUC #: 44066M)
Tel: 416.862.4908

Caitlin Fell (LSUC #: 60091H)
Tel: 416.862.6690
Fax: 416.862.6666

Lawyers for the Applicant

Matter No: 1163824

Tab A

**THIS IS EXHIBIT "A" TO THE AFFIDAVIT OF
NEVILLE LEWIS SWORN BEFORE ME
THIS 20TH DAY OF JULY, 2015**

A handwritten signature in black ink, consisting of several overlapping loops and strokes, positioned above a horizontal line.

A Commissioner for taking Affidavits

ASSET PURCHASE AGREEMENT

BETWEEN

COMARK INC.

– and –

**PACIFIC WEST COMMERCIAL CORPORATION
and/or its permitted assigns**

MADE AS OF JULY 16, 2015

TABLE OF CONTENTS

| | Page |
|---|------|
| ARTICLE 1 DEFINITIONS AND PRINCIPLES OF INTERPRETATION | 1 |
| 1.1 Definitions..... | 1 |
| 1.2 Certain Rules of Interpretation..... | 14 |
| 1.3 Knowledge | 15 |
| 1.4 Entire Agreement..... | 15 |
| 1.5 Schedules | 16 |
| ARTICLE 2 PURCHASE AND SALE | 16 |
| 2.1 Action by Vendor and Purchaser | 16 |
| 2.2 Delivery of the Monitor's Certificate | 17 |
| 2.3 Place of Closing | 17 |
| 2.4 Vendor's Closing Deliveries | 17 |
| 2.5 Purchaser's Closing Deliveries..... | 18 |
| 2.6 Vendor's Post Closing Deliveries..... | 18 |
| 2.7 No Assumption of Liabilities..... | 19 |
| 2.8 Non-Assignable Rights | 19 |
| 2.9 Right to Exclude Contracts | 20 |
| ARTICLE 3 PURCHASE PRICE | 20 |
| 3.1 Purchase Price | 20 |
| 3.2 Allocation of Purchase Price..... | 20 |
| 3.3 Deposit | 20 |
| 3.4 Satisfaction of Purchase Price..... | 21 |
| 3.5 Working Capital Adjustment | 21 |
| 3.6 Tier B Lease Adjustment | 23 |
| 3.7 Inventory | 23 |
| ARTICLE 4 REPRESENTATIONS AND WARRANTIES OF THE VENDOR..... | 24 |
| 4.1 Status of the Vendor..... | 24 |
| 4.2 Residence of the Vendor..... | 24 |
| 4.3 Due Authorization and Enforceability of Obligations..... | 24 |
| 4.4 Goods and Services Tax and Harmonized Sales Tax Registration..... | 24 |
| 4.5 Litigation and Intellectual Property | 24 |

TABLE OF CONTENTS
(continued)

| | Page |
|--|-------------|
| 4.6 Purchased Assets..... | 25 |
| 4.7 Inventory | 25 |
| 4.8 Leased Real Property | 25 |
| 4.9 Leases..... | 25 |
| 4.10 Employees..... | 26 |
| 4.11 Material Contracts..... | 26 |
| 4.12 Disclaimer of Other Representations and Warranties..... | 26 |
| ARTICLE 5 REPRESENTATIONS AND WARRANTIES OF THE PURCHASER | 26 |
| 5.1 Status of the Purchaser..... | 26 |
| 5.2 Due Authorization and Enforceability of Obligations | 26 |
| 5.3 Absence of Conflicts..... | 27 |
| 5.4 Investment Canada..... | 27 |
| 5.5 Litigation..... | 27 |
| 5.6 Financial Ability | 27 |
| 5.7 Goods and Services Tax and Harmonized Sales Tax Registration..... | 28 |
| 5.8 Brokers..... | 28 |
| 5.9 Due Diligence by Purchaser..... | 28 |
| 5.10 Acknowledgements of the Purchaser..... | 28 |
| ARTICLE 6 SURVIVAL | 29 |
| 6.1 Nature and Survival | 29 |
| ARTICLE 7 PURCHASER'S CONDITIONS PRECEDENT | 29 |
| 7.1 Truth and Accuracy of Representations of Vendor at the Closing Time..... | 30 |
| 7.2 Compliance with Vendor Covenants | 30 |
| 7.3 Consents and Authorizations | 30 |
| 7.4 Transition Services Agreement..... | 30 |
| 7.5 No Proceedings | 30 |
| 7.6 Material Adverse Effect..... | 30 |
| 7.7 Deliveries At Closing..... | 30 |
| ARTICLE 8 VENDOR'S CONDITIONS PRECEDENT | 30 |

TABLE OF CONTENTS
(continued)

| | Page |
|--|-------------|
| 8.1 Truth and Accuracy of Representations of the Purchaser at Closing Time | 31 |
| 8.2 Performance of Obligations | 31 |
| 8.3 Consents and Authorizations | 31 |
| 8.4 Bridging Agreement..... | 31 |
| 8.5 Transition Services Agreement..... | 31 |
| 8.6 Deliveries At Closing..... | 31 |
| ARTICLE 9 OTHER COVENANTS OF THE PARTIES | 31 |
| 9.1 Conduct of Business Prior to Closing | 31 |
| 9.2 Approval and Vesting Order and other Transaction Orders | 32 |
| 9.3 Access for Investigation..... | 33 |
| 9.4 Confidentiality | 33 |
| 9.5 Actions to Satisfy Closing Conditions..... | 34 |
| 9.6 Assumption of Obligations | 35 |
| 9.7 Employees..... | 36 |
| 9.8 GST, HST, Sales Taxes and Transfer Taxes..... | 37 |
| 9.9 Elections..... | 38 |
| 9.10 Preservation of Books and Records | 38 |
| 9.11 Risk of Loss | 38 |
| 9.12 Submission to Jurisdiction | 40 |
| 9.13 Bulk Sales and Retail Sales Tax Waiver..... | 40 |
| 9.14 Change of Names..... | 40 |
| ARTICLE 10 TERMINATION..... | 41 |
| 10.1 Termination Rights | 41 |
| 10.2 Effect of Termination..... | 41 |
| ARTICLE 11 GENERAL | 42 |
| 11.1 Monitor's Capacity | 42 |
| 11.2 Releases upon Closing | 42 |
| 11.3 Public Notices | 42 |
| 11.4 Expenses | 43 |

TABLE OF CONTENTS
(continued)

| | Page |
|-----------------------------------|-------------|
| 11.5 Notices | 43 |
| 11.6 Assignment | 45 |
| 11.7 Enurement | 45 |
| 11.8 Amendment..... | 45 |
| 11.9 Further Assurances..... | 45 |
| 11.10 Execution and Delivery..... | 45 |

THIS ASSET PURCHASE AGREEMENT is made as of July 16, 2015

BETWEEN:

PACIFIC WEST COMMERCIAL CORPORATION, a corporation governed by the laws of British Columbia, together with its assignee(s) pursuant to Section 11.6 below.

(the “**Purchaser**”)

- and -

COMARK INC., a corporation governed by the laws of Canada,

(the “**Vendor**”).

RECITALS:

- A. On March 26, 2015 the Vendor obtained protection from creditors and certain other relief pursuant to an initial order, as amended and restated (the “**Initial Order**”) made by the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) pursuant to the *Companies’ Creditors Arrangement Act* (Canada) (the “**CCAA**”) (the proceedings thereunder hereinafter referred to as the “**CCAA Proceedings**”).
- B. Pursuant to the Initial Order, the Court (i) appointed Alvarez & Marsal Canada Inc. as “Monitor” (the “**Monitor**”) in connection with the CCAA Proceedings and (ii) approved, among other things, a Sale and Investor Solicitation Process (the “**SISP**”), the purpose of which was to seek sale proposals or investment proposals from qualified bidders and to implement one or a combination of such proposals in respect of the Purchased Assets, the Business and/or the Vendor.
- C. The Vendor has agreed to transfer to the Purchaser, and the Purchaser has agreed to purchase, in the case of the Purchased Assets, and to assume, in the case of the Assumed Liabilities, the Purchased Assets and the Assumed Liabilities from the Vendor, upon the terms and conditions set forth herein.

THEREFORE, in consideration of the covenants and agreements herein contained, the Parties agree as follows:

ARTICLE 1 DEFINITIONS AND PRINCIPLES OF INTERPRETATION

1.1 Definitions

Whenever used in this Agreement the following words and terms shall have the meanings set out below:

“**Accounts Payable Period**” means the period from the Closing Date until the date that is sixty (60) days from the Closing Date;

“Accounts Payable” means any and all amounts relating to the Business owing by the Vendor to any Person that is arms’ length to the Vendor as of the Closing Time, which are incurred after the Effective Time in connection with the purchase of goods or services in the ordinary course of business, and for greater certainty does not include any Indebtedness of the Vendor, including under the Senior Facilities or any amounts owing to any Person incurred prior to the Effective Time, but does include the Cure Amounts;

“Accounts Receivable” means accounts receivable, bills receivable, trade accounts and book debts relating to the Business, recorded as a receivable in the Books and Records and other amounts due or deemed to be due to the Vendor relating to the Business including tenant allowances, refunds, and rebates receivable relating to the Business or the Purchased Assets, including (i) those amounts recoverable under insurance policies pursuant to Section 9.11, and (ii) any refundable Taxes owed to the Vendor by the landlord under any of the Leases;

“Affiliate” has the meaning given in the *Canada Business Corporations Act*;

“Agreement” means this Asset Purchase Agreement, including all schedules, and all amendments or restatements, as permitted, and references to **“Article”** or **“Section”** mean the specified Article or Section of this Agreement;

“Approval and Vesting Order” means the order of the Court in form and substance attached as Schedule 1.1(g), authorizing the Vendor to enter into this Agreement and vesting in and to the Purchaser the Purchased Assets free and clear of all Encumbrances (other than Permitted Encumbrances);

“Assigned Contracts” means, subject to Section 2.8, all Contracts entered into by the Vendor in respect of any Purchased Assets and the Business, including Material Contracts, Leases and all Equipment Contracts, whether or not there are any written agreements with respect thereto, but excluding the Excluded Contracts;

“Assignment Order” means an Order of the Court, in form and substance attached as Schedule 1.1(h) and reasonably satisfactory to the Purchaser, assigning the rights and obligations of the Vendor under an Assigned Contract to the Purchaser pursuant to Section 11.3 of the CCAA;

“Assumed Accounts Payable” means those Assumed Liabilities referred to in paragraphs (a), (b) and (c) of the definition of Assumed Liabilities;

“Assumed Non-Contingent Liabilities” means Assumed Liabilities of the Vendor in respect of which, as of the Closing Time, (i) the Vendor has a legal and unconditional, though not necessarily immediate, obligation to pay a determined amount and, (ii) no contingency exists;

“Assumed Liabilities” means, without duplication:

- (a) Accounts Payable that remain unpaid at the Closing Time that are reflected as a Liability in Working Capital;

- (b) All Liabilities for wages, vacation pay and Statutory Plans owing by the Vendor to any Transferred Employee accruing to and including the Closing Time and reflected as a Liability in the Working Capital Statement, but specifically excluding the Employee Costs;
- (c) All Liabilities arising from or in connection with the performance of the Assigned Contracts, in respect of the period after the Effective Time, including the Cure Amounts;
- (d) All Liabilities relating to Gift Cards and Store Credits, Charitable Donations Program, Loyalty Programs and in each case accruing to the Closing Time and reflected as a Liability in Working Capital;
- (e) All Liabilities related to or arising from any of the following: (i) the Purchaser's employment or termination of employment of the Transferred Employees; and (ii) the terms of any offer of employment to any Employee who is provided an offer pursuant to the terms of Section 9.7, but specifically excluding the Employee Costs; and
- (f) All Liabilities for any Tax that the Purchaser is required to bear pursuant to Section 9.8;

“Benefit Plans” means:

- (a) plans providing for employment benefits relating to disability or wage or benefits continuation during periods of absence from work, and any and all employment benefits relating to hospitalization, healthcare, medical or dental treatments or expenses, life insurance, accidental death and dismemberment insurance, death or survivor’s benefits, and supplementary employment insurance, in each case regardless of whether or not such benefits are insured or self-insured; and
- (b) plans in the nature of compensation plans, which means all employment benefits relating to bonuses, incentive pay or compensation, performance compensation, deferred compensation, profit sharing or deferred profit sharing, vacation or vacation pay, sick pay, severance or termination pay, employee loans or separation from service benefits, or any other type of arrangement providing for compensation or benefits additional to base pay or salary, but not any share purchase, share option, stock appreciation or phantom stock plans;

in each case to which the Vendor is a party and by which the Vendor is bound or under which the Vendor has any liability or contingent liability with respect to any of its Employees or former employees (or any spouses, dependants, survivors or beneficiaries of any such Employees or former employees), directors or officers, individuals working on contract with the Vendor (i.e., independent contractors) or other individuals providing services to any of them of a kind normally provided by employees or eligible dependants of such Person, including the DPSP but excluding Statutory Plans and the KERP;

“Books and Records” means books and records of the Vendor relating to the Business or the Purchased Assets, including financial, corporate, operations and sales books, records, books of account, sales and purchase records, lists of suppliers and customers, formulae, business reports, plans and projections, and all other documents, surveys, plans, files, records, assessments, correspondence, and other data and information, financial or otherwise including all data, information and databases stored on computer-related or other electronic media, and “Books and Records” shall include the advice and files of lawyers and accountants specifically relating to the Business and the Purchased Assets, whether subject to privilege or not (together, the **“Advisors’ Records”**), but shall not include any advice and files of lawyers and accountants relating to the CCAA Proceedings or the transactions contemplated in this Agreement;

“Bona Fide Unpaid Assumed Payables” means those Assumed Accounts Payable, if any, that, at the end of the Accounts Payable Period have not been paid in full or otherwise satisfied by the Purchaser as a result of a *bona fide* dispute between the Purchaser and the applicable payee, such dispute to be determined as *bona fide* by the Monitor acting reasonably;

“Bridging Agreement” means the Inventory Purchase Guarantee Facility Agreement dated May 26, 2015 between the Vendor and Bridging Financing Inc. as agent for Sprott Bridging Income Fund LP;

“Business” means the business carried on by the Vendor of operating specialty apparel retail stores located in shopping malls and big box power centres across Canada under the “Ricki’s”, “cleo” and “Bootlegger” banners, including the electronic commerce business conducted by the Vendor under each banner;

“Business Day” means any day, other than a Saturday or Sunday or any day on which banks are generally not open for business in the City of Toronto and the City of Vancouver;

“Cash Amount” has the meaning set out in Section 3.1;

“CCAA” has the meaning given in the recitals;

“CCAA Proceedings” has the meaning given in the recitals;

“Charitable Donations Program” means the program established by the Vendor pursuant to which the Vendor collects and remits funds from customers to various charitable organizations;

“Claims” means claims, demands, complaints, grievances, actions, applications, suits, causes of action, Orders, charges, indictments, prosecutions, arbitrations, informations or other similar processes, assessments or reassessments, judgments, debts, liabilities, expenses, costs, damages or losses, contingent or otherwise, including loss of value, reasonable professional fees, including fees and disbursements of legal counsel on a partial indemnity basis, and all actual and

documented costs incurred in investigating or pursuing any of the foregoing or any proceeding relating to any of the foregoing;

“**Closing**” means the completion of the sale to and purchase by the Purchaser of the Purchased Assets under this Agreement;

“**Closing Date**” means the date that is three (3) Business Days from the date on which all conditions set out in Article 7 and Article 8 respectively, (other than those conditions that by their nature can only be satisfied on the Closing Date) have been satisfied or waived or such other date as may be agreed to in writing by each of the Vendor and the Purchaser;

“**Closing Payment**” has the meaning set out in Section 3.4;

“**Closing Time**” means 12:00 p.m. Toronto time, on the Closing Date or such other time on such date as the Parties may agree in writing as the time at which the Closing shall take place;

“**Competition Act Approval**” means:

- (a) the Commissioner of Competition (the “**Commissioner**”) appointed under the *Competition Act* (Canada) (the “**Competition Act**”) shall have issued an advance ruling certificate under section 102 of the *Competition Act*;
- (b) the Purchaser shall have been advised in writing by the Commissioner that the Commissioner does not, at this time, intend to make an application under section 92 of the *Competition Act* in respect of the transactions contemplated by this Agreement; or
- (c) the waiting period under section 123 of the *Competition Act* shall have expired or been terminated or the obligation to provide a pre-merger notification in accordance with Part IX of the *Competition Act* shall have been waived in accordance with paragraph 113(c) of the *Competition Act* and none of the Parties shall have received any notification, communication or other indication from the Commissioner that the Commissioner intends to make an application for an order under Section 92, 100 or 104 of the *Competition Act*, nor shall there be any such order pending or issued;

“**Confidentiality Agreement**” has the meaning given in Section 9.4;

“**Contracts**” means contracts, licences, leases, agreements, obligations, purchase orders, promises, undertakings, understandings, arrangements, documents, commitments, entitlements or engagements to which the Vendor is a party and which the Vendor is bound (in each case, whether written or oral, express or implied), and includes quotations, orders, proposals or tenders which remain open for acceptance and warranties and guarantees;

“**Corporate Offices**” means the Vendor’s corporate offices identified on Schedule 1.1(b);

“**Court**” has the meaning given in the recitals;

“**Cure Amounts**” means amounts that must be paid, if any, in connection with the assignment of the Assigned Contracts to the Purchaser, including costs to cure any monetary defaults thereunder that are required to be cured as a condition of such assignment;

“**Deposit**” means [REDACTED];

“**Disclosure Letter**” has the meaning ascribed to it in Section 9.7;

“**Distribution Center**” means the Vendor’s distribution center, storage facility and warehouse identified on Schedule 1.1(b);

“**DPSP**” means the Deferred Profit Sharing Plan established by the Vendor for the benefit of the Employees;

“**Effective Time**” means the effective time of the Initial Order, being 12:01am Eastern Daylight Time on March 26, 2015;

“**Employee Costs**” means all Liabilities for notice of termination, termination pay, severance pay and all other costs, liabilities and obligations relating to benefit coverage, stock options or incentive compensation whether due under contract, statute, common law, relating to the Employees and all Liabilities for the KERP and the Benefit Plans;

“**Employees**” means individuals employed or retained by the Vendor in the Business, on a full-time, part-time or temporary basis, including those employees of the Business on disability leave, parental leave or other absence;

“**Encumbrances**” means pledges, liens, charges, security interests, leases, title retention agreements, mortgages, options, adverse claims or encumbrances of any kind or character whatsoever, including any and all Court ordered charges granted in the CCAA Proceedings;

“**Equipment Contracts**” means motor vehicle leases, equipment leases, conditional sales contracts, title retention agreements and other similar agreements binding upon the Vendor relating to equipment and vehicles used by the Vendor relating to the Business;

“**Estimated Working Capital**” means [REDACTED], such amount representing the Vendor’s estimation of the Working Capital of the Business at the Closing Time;

“**Excluded Assets**” means:

- (a) cash, bank balances, moneys in possession of banks, the Monitor and other depositories, term or time deposits, including in respect of collateral posted by the Vendor related to cash management or hedging programs, and similar cash items of, owned or held by or for the account of the Vendor, except for such items which are part of Prepaid Expenses and Deposits;

- (b) marketable shares, notes, bonds, debentures or other securities of or issued by corporations or other Persons and not relating to the Business and certificates or other evidences of ownership thereof owned or held by or for the account of the Vendor;
- (c) corporate, financial and taxation records of the Vendor and records of the Vendor that do not relate to the Business;
- (d) extra-provincial, sales, excise or other licences or registrations issued to or held by the Vendor, whether relating to the Business or otherwise, to the extent not transferable;
- (e) Governmental Authorizations, if any, held by the Vendor, whether relating to the Business or otherwise, to the extent not transferable;
- (f) any known or unknown Claims of the Vendor against any Person other than a (i) Claim for Accounts Receivable in the ordinary course of business, and (ii) Claim relating directly or indirectly to the Purchased Assets or the Business;
- (g) refunds in respect of reassessments for Taxes relating to the Business or Purchased Assets paid prior to the Closing;
- (h) refundable Taxes; except for any refundable Taxes owed to the Vendor by the landlord under any of the Leases, which are part of Prepaid Expenses and Deposits;
- (i) amounts owing from any Affiliate of the Vendor or any director, officer, former director or officer, shareholder or employee of the Vendor or its Affiliates;
- (j) insurance policies (including director and officer insurance policies) and, the right to receive insurance recoveries under such policies, but specifically excluding any insurance recoveries to be assigned to the Purchaser pursuant to Section 9.11;
- (k) Contracts relating to the foregoing;
- (l) Excluded Contracts; and
- (m) any Contracts that are added to the Excluded Assets pursuant to Sections 3.6 or 2.9;

“**Excluded Contracts**” means the Contracts that are not assignable as described in Section 2.8, Contracts that are listed in Schedule 1.1(a) (including the KERP and the Benefit Plans) and any Contracts that are added to the Excluded Assets pursuant to Sections 2.9 or 3.6;

“**Excluded Liabilities**” means, to the extent not otherwise included in Assumed Liabilities:

- (a) all Liabilities for wages or other employee benefits or Claims, including vacation pay and amounts under any Benefit Plans and Statutory Plans owing by the Vendor to any Employee who is not a Transferred Employee;
- (b) all Liabilities for the Employee Costs;
- (c) any Liability of the Vendor not included in the Working Capital;
- (d) all Liabilities relating to or in respect of any director, officer or shareholder of the Vendor howsoever and whensoever arising;
- (e) subject to Section 9.8, any Liabilities of the Vendor for or relating to any Taxes relating to the Business or the Purchased Assets including any Liabilities of the Vendor for any income Taxes relating to the Business or the Purchased Assets, accruing or incurred before or after the Closing Date;
- (f) all Liabilities in connection with, arising from or relating to the conduct of the Business, the operation of the Purchased Assets, the use of the Leased Property or the use of the equipment under Equipment Contracts prior to the Effective Time, including any Claims from Employees relating to events or circumstances occurring prior to the Closing Date;
- (g) any Liability accruing before or after the Effective Date relating to any Contract that is of the nature of a Material Contract that is not disclosed in Schedule 1.1(c);
- (h) all Liabilities arising from or related to any environmental condition existing at, or arising from occurrences prior to, the Closing Time;
- (i) all Liabilities in connection with, arising from or related to any Excluded Assets; and
- (j) all Indebtedness of the Vendor other than any Indebtedness assumed pursuant to Section 8.4;

“Four Wall Cash Flow Amount” means the four wall cash flow amount indicated in Schedule 1.1(h) in respect of each Tier B Lease;

“GAAP” means the generally accepted accounting principles under Canadian Accounting Standards for private enterprises;

“Gift Cards and Store Credits” means the banner-specific gift cards purchased by customers of the Vendor which can be redeemed for merchandise and the in-store credits issued to customers upon return of any merchandise and which can be redeemed for cash or other merchandise in the Vendor’s Stores;

“Goodwill” means the goodwill of the Business and relating to the Purchased Assets, and information and documents relevant thereto including lists of customer and suppliers, credit information, telephone and facsimile numbers, email addresses, internet addresses and domain names used in connection with the Business, research

materials, research and development files and the exclusive right of the Purchaser to represent itself as carrying on the Business in succession to the Vendor and to all rights in respect of the names “Comark”, “Bootlegger” and “Ricki’s” and “cleo” and any variations of such names;

“**Governmental Authorities**” means governments, regulatory authorities, governmental departments, agencies, agents, commissions, bureaus, officials, ministers, Crown corporations, courts, bodies, boards, tribunals or dispute settlement panels or other law or regulation-making organizations or entities:

- (a) having or purporting to have jurisdiction on behalf of any nation, province, territory or state or any other geographic or political subdivision of any of them; or
- (b) exercising, or entitled or purporting to exercise any administrative, executive, judicial, legislative, policy, regulatory or taxing authority or power;

“**Governmental Authorizations**” means authorizations, approvals, licences or permits issued to the Vendor relating to the Business or any of the Purchased Assets by or from any Governmental Authority;

“**Indebtedness**” means any and all indebtedness, liabilities and obligations of the Vendor for borrowed money, including debt that traditionally bears interest as recognized pursuant to GAAP;

“**Independent Auditor**” has the meaning set out in Section 3.5(g);

“**Information Technology**” means computer hardware, software in source code and object code form (including documentation, interfaces and development tools), websites for the Business, databases, telecommunications equipment and facilities and other information technology systems owned, used or held by the Vendor for use in or relating to the Business;

“**Initial Order**” has the meaning given in the recitals;

“**Intellectual Property**” means intellectual property rights, whether registered or not, owned, used or held by the Vendor for use in or relating to the Business and Purchased Assets, including all copyrights, patents, patent rights, trade-marks, certification marks and industrial designs, applications for any of the foregoing, trade names, brand names, business names, trade secrets, proprietary manufacturing information and know-how, instruction manuals, inventions, inventors’ notes, research data, unpatented blue prints, drawings and designs, formulae, calculations, processes, prototypes, technology and marketing rights, designs, patterns and manufacturing processes, together with all rights under licence agreements, sublicense agreements, strategic alliances, development agreements, technology transfer agreements and other agreements or instruments relating to any of the foregoing, that owned, used or held by the Vendor;

“**Inventory**” means all of the Vendor’s right, title and interest to:

- (a) all of the inventories of stock-in-trade, merchandise, samples and supplies relating to the Business or located in the Stores, the Distribution Centers and Corporate Offices, including finished goods, office, packaging and shipping supplies; and
- (b) all inventories of stock-in-trade, merchandise, finished goods, store, office, packaging shipping supplies relating to the Business on order or in transit to any Stores, Distribution Centers or Corporate Offices;

“**KERP**” means the key employee retention plan concerning certain key Employees established by retention letter agreements entered into between the Vendor and certain key Employees dated March 28, 2015;

“**Laws**” means with respect to any Person, property, transaction, event or other matter; all laws, statutes, by-laws, rules, regulations, Orders, ordinances or judgments, guidelines, directives or other requirements having the force of law, whether federal, provincial, state or municipal, relating or applicable to that Person, property, transaction, event or other matter;

“**Leases**” means the leases or agreements in the nature of a lease or right of occupancy of real property to which the Vendor is a party as lessee, in respect of or related to the Leased Real Property;

“**Lease Adjustment Amount**” means with respect to each Tier B Lease, an amount equal to the Four Wall Cash Flow Amount multiplied by [REDACTED];

“**Leased Real Property**” means the Stores, Corporate Offices and Distribution Centre that are listed in Schedule 1.1(b), together with any and all interests of the Vendor in all plants, buildings, structures, fixtures, erections, improvements, easements, rights-of-way and other appurtenances situated on or forming part of those premises,

“**Liabilities**” means all costs, expenses, charges, debts, liabilities, commitments and obligations of any nature or kind, whether accrued or fixed, actual, absolute, contingent, latent or otherwise, matured or unmatured or determined or undeterminable, including those arising under any Law or Claim and those arising under any Contract or undertaking or otherwise, including any Tax liability or tort liability;

“**Loyalty Programs**” means the banner-specific customer loyalty programs offered by the Vendor;

“**Material Adverse Effect**” means any change, effect, event or occurrence arising after the date of this Agreement that, individually or in the aggregate is, or would reasonably be expected to be, materially adverse to the Business, either (A) as a whole, (B) with respect to the condition or the operations of the operating banner of Bootlegger, or (C) with respect to the condition or the operations of the operating banners of Ricki’s and cleo’s, considered together, but shall exclude any Material Adverse Effect arising out of: (i) any adverse change, effect or circumstance relating

generally to financial markets or general economic conditions, including any currency fluctuations; (ii) any adverse change, effect or circumstance relating to conditions generally affecting the industry in which the Business operates, and not affecting the Business in a materially disproportionate manner; (iii) war, act of terrorism, civil unrest or similar event; (iv) any generally applicable change in Laws or interpretation thereof; (v) any adverse change, effect or circumstance resulting from an action required or permitted by this Agreement; (vi) any adverse change, effect or circumstance caused by the announcement or pendency of this Agreement or the transactions contemplated by this Agreement; or (vii) the existence of the CCAA Proceedings;

“**Material Contracts**” means the Contracts described in Section 4.11;

“**Monitor**” has the meaning given in the recitals;

“**Monitor’s Certificate**” means a certificate signed by the Monitor and confirming that (i) the Purchaser has paid, and the Monitor has received payment of, the Purchase Price in relation to the purchase by the Purchaser of the Purchased Assets; and (ii) the conditions to be complied with at or prior to the Closing Time as set out in Article 7, or Article 8 have been satisfied or waived by the Vendor or the Purchaser, as applicable;

“**Non-Assignable Rights**” has the meaning given in Section 2.8;

“**Notice**” has the meaning given in Section 11.5;

“**Orders**” means orders, injunctions, judgments, administrative complaints, decrees, rulings, awards, assessments, directions, instructions, penalties or sanctions issued, filed or imposed by any Governmental Authority or arbitrator and includes any orders in the CCAA Proceedings;

“**Parties**” means the Vendor and the Purchaser collectively, and “**Party**” means any one of them;

“**Permitted Encumbrances**” means the Encumbrances listed in Schedule 1.1(g);

“**Person**” means any individual, sole proprietorship, partnership, firm, entity, unincorporated association, unincorporated syndicate, unincorporated organization, trust, body corporate, Governmental Authority, and where the context requires any of the foregoing when they are acting as trustee, executor, administrator or other legal representative;

“**Personal Information**” means information in the possession or under the control of the Vendor about an identifiable individual;

“**Prepaid Expenses and Deposits**” means the unused portion of amounts prepaid by or on behalf of the Vendor relating to the Business or the Purchased Assets including Taxes, assessments, rates and charges, utilities, rents, deposits with any public utility or any Governmental Authority or any supplier as well as the cash float in each Store

as at the Closing Time; but excluding income or other Taxes which are personal to the Vendor;

“**Process Agent**” has the meaning given in Section 9.12(c);

“**Purchase Price**” has the meaning given in Section 3.1;

“**Purchased Assets**” means all of the Vendor’s right, title and interest in, to and under, or relating to, the following properties, assets and rights:

- (a) the Accounts Receivable relating to the Business and the benefit of all security (including cash deposits), guarantees and other collateral held by the Vendor relating thereto;
- (b) the Books and Records;
- (c) the Assigned Contracts;
- (d) the Goodwill;
- (e) the Governmental Authorizations, except to the extent not transferable;
- (f) the Prepaid Expenses and Deposits;
- (g) the Tangible Personal Property;
- (h) subject to Section 2.8, the Technology; and
- (i) all other rights, properties and assets of the Vendor used in or held by the Vendor or its Affiliates for use in or relating to the Business, of whatsoever nature or kind and wherever situated;

other than the Excluded Assets;

“**Purchaser**” has the meaning given in the recitals;

“**Senior Facilities**” means the Senior Secured, Super-Priority Debtor-in-Possession Credit Agreement dated as of March 26, 2015 by, among others, the Vendor and Salus Capital Partners, LLC as administrative agent and collateral agent for the lenders party thereto that was approved by the CCAA Court as a debtor-in-possession facility pursuant to the Amended and Restated Initial Order and any other amendments to the Senior Secured, Super-Priority Debtor-in-Possession Credit Agreement agreed to by the parties thereto, and any replacement facility;

“**Settlement Date**” has the meaning set out in Section 3.5(h);

“**SISP**” has the meaning given in the recitals;

“**Statutory Plans**” means statutory benefit plans with which the Vendor is required to comply, including the Canada and Québec Pension Plans and plans administered

pursuant to applicable health tax, workplace safety insurance and employment insurance legislation;

“**Stores**” means all of the Vendor’s retail store locations listed on Schedule 1.1(b);

“**Tangible Personal Property**” means the Inventory, machinery, equipment, furniture, fixtures, furnishings, office equipment, supplies, materials, vehicles, material handling equipment and tangible assets (other than Leased Real Property) owned or used or held by the Vendor for use in or relating to the Business;

“**Tax Returns**” means returns, reports, declarations, elections, notices, filings, forms, statements and other documents (whether in tangible, electronic or other form) and including any amendments, schedules, attachments, supplements, appendices and exhibits thereto, made, prepared, filed or required to be made, prepared or filed by Law in respect of Taxes;

“**Taxes**” means taxes, duties, fees, premiums, assessments, imposts, levies and other similar charges imposed by any Governmental Authority under applicable Law, including all interest, penalties, fines, additions to tax or other additional amounts imposed by any Governmental Authority in respect thereof, and including those levied on, or measured by, or referred to as, income, gross receipts, profits, capital, transfer, land transfer, sales, goods and services, harmonized sales, use, value-added, excise, stamp, withholding, business, franchising, property, development, occupancy, employer health, payroll, employment, health, social services, education and social security taxes, all surtaxes, all customs duties and import and export taxes, countervail and anti-dumping, all licence, franchise and registration fees and all employment insurance, health insurance and Canada, Québec and other government pension plan premiums or contributions;

“**Technical Information**” means know-how and related technical knowledge owned, used or held by the Vendor for use in or relating to the Business;

“**Technology**” means the Intellectual Property, Technical Information and Information Technology including those listed in Schedule 1.1(d);

“**Tier A Leases**” means those Leases listed in Schedule 1.1(i) as “Tier A Leases”;

“**Tier B Leases**” means those Leases listed in Schedule 1.1(i) as “Tier B Leases”;

“**Tier B Lease Adjustment Amount**” has the meaning given in Section 3.6;

“**Tier B Lease Consents**” has the meaning given in Section 2.6;

“**Tier B Lease Deadline**” has the meaning given in Section 2.6;

“**Transaction Orders**” has the meaning given in Section 4.3;

“**Transferred Employees**” means Employees who accept the Purchaser’s offer of employment made pursuant to Section 9.7;

“**Transition Services Agreement**” means an agreement entered into between the Vendor and the Purchaser, on terms satisfactory to the Vendor and Purchaser, both acting reasonably, with respect to the provision of services to the Vendor by the Purchaser and the Transferred Employees, and the provision of the services to the Purchaser by the Vendor, as the case may be, following the Closing, in connection with the CCAA Proceedings including any claims process carried out thereunder, and any Tier B Leases not assigned to the Purchaser at Closing pursuant to Section 2.4(b);

“**Vendor**” has the meaning given in the recitals;

“**Working Capital**” means the current assets of the Vendor included in the Purchased Assets, less the current liabilities of the Vendor included in the Assumed Liabilities as determined in accordance with GAAP consistently applied at the Closing Time and otherwise in a manner consistent with the indicative Working Capital calculation set forth on Schedule 1.1(e) and for greater certainty, and despite Schedule 1.1(e), “current liabilities” shall include the Cure Amounts and any amounts owing pursuant to the Permitted Encumbrances, shall exclude any Indebtedness assumed pursuant to Section 8.4 and Working Capital shall be reduced by the amount of the Cure Amounts for the purposes of Section 3.5;

“**Working Capital Statement**” has the meaning set out in Section 3.5(b); and

“**Working Capital Target**” means the amount of \$ [REDACTED].

1.2 Certain Rules of Interpretation

In this Agreement:

- (a) **Currency** – Unless otherwise specified, all references to money amounts are to lawful currency of Canada.
- (b) **Governing Law** – This Agreement is a contract made under and shall be governed by and construed in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein.
- (c) **Headings** – Headings of Articles and Sections are inserted for convenience of reference only and do not affect the construction or interpretation of this Agreement.
- (d) **Including** – Where the word “including” or “includes” is used in this Agreement, it means “including (or includes) without limitation”.
- (e) **No Strict Construction** – The language used in this Agreement is the language chosen by the Parties to express their mutual intent, and no rule of strict construction shall be applied against any Party.
- (f) **Number and Gender** – Unless the context otherwise requires, words importing the singular include the plural and vice versa and words importing gender include all genders.

- (g) **Severability** – If, in any jurisdiction, any provision of this Agreement or its application to any Party or circumstance is restricted, prohibited or unenforceable, such provision shall, as to such jurisdiction, be ineffective only to the extent of such restriction, prohibition or unenforceability without invalidating the remaining provisions of this Agreement and without affecting the validity or enforceability of such provision in any other jurisdiction or without affecting its application to other Parties or circumstances.
- (h) **Statutory references** – A reference to a statute includes all regulations and rules made pursuant to such statute and, unless otherwise specified, the provisions of any statute or regulation which amends, supplements or supersedes any such statute or any such regulation.
- (i) **Time** – Time is of the essence in the performance of the Parties' respective obligations.
- (j) **Time Periods** – Unless otherwise specified, time periods within or following which any payment is to be made or act is to be done shall be calculated by excluding the day on which the period commences and including the day on which the period ends and by extending the period to the next Business Day following if the last day of the period is not a Business Day.

1.3 Knowledge

Any reference to the knowledge of any Party means to the actual knowledge of such Party.

1.4 Entire Agreement

This Agreement and the agreements and other documents required to be delivered pursuant to this Agreement, constitute the entire agreement between the Parties and set out all the covenants, promises, warranties, representations, conditions and agreements between the Parties in connection with the subject matter of this Agreement and supersede all prior agreements, understandings, negotiations and discussions, whether oral or written, pre-contractual or otherwise with respect to the subject matter of this Agreement. There are no covenants, promises, warranties, representations, conditions, understandings or other agreements, whether oral or written, pre-contractual or otherwise, express, implied or collateral, whether statutory or otherwise, between the Parties in connection with the subject matter of this Agreement except as specifically set forth in this Agreement and any document required to be delivered pursuant to this Agreement and the Purchaser shall acquire the Business and the Purchased Assets as is and where is subject to the benefit of the representations and warranties in this Agreement. This Agreement constitutes the complete and exclusive statement of its terms and no extrinsic evidence whatsoever may be introduced in any proceedings involving this Agreement. Any cost estimates, projections or other predictions contained or referred to in any other material that has been provided to the Purchaser or any of its Affiliates, agents or representatives (including any due diligence presentations or documents, and in particular any descriptive memorandum transmitted to the Purchaser relating to the sale of the Purchased Assets, and any supplements or addenda thereto) are not and shall not be deemed to be representations or warranties of any of the Vendor, the Monitor, any of their Affiliates or any partner, employee, officer, director,

accountant, agent, financial, legal or other representative of any of the Vendor, the Monitor or any of their Affiliates.

1.5 Schedules

The schedules to this Agreement, listed below, are an integral part of this Agreement:

| <u>Schedule</u> | <u>Description</u> |
|-----------------|---|
| Schedule 1.1(a) | Excluded Contracts |
| Schedule 1.1(b) | Leased Real Property |
| Schedule 1.1(c) | Material Contracts |
| Schedule 1.1(d) | Technology |
| Schedule 1.1(e) | Indicative Working Capital Calculations |
| Schedule 1.1(f) | Permitted Encumbrances |
| Schedule 1.1(g) | Form of Approval and Vesting Order |
| Schedule 1.1(h) | Form of Assignment Order |
| Schedule 1.1(i) | Tier A Leases and Tier B Leases |
| Schedule 2.8 | Governmental Authorizations |
| Schedule 4.7 | Inventory |
| Schedule 8.4 | Guarantees Under Bridging Agreement |

**ARTICLE 2
PURCHASE AND SALE**

2.1 Action by Vendor and Purchaser

Subject to the provisions of this Agreement, at the Closing Time the Vendor shall sell, transfer convey and assign to the Purchaser and the Purchaser shall purchase from the Vendor the Purchased Assets free and clear of all Encumbrances (other than the Permitted Encumbrances) and the Purchaser shall assume the Assumed Liabilities, all as more fully outlined in Sections 2.2, 2.4, 2.5, and Article 3:

- (a) **Payment of Purchase Price** – the Purchaser shall pay the Closing Payment;
- (b) **Transfer and Delivery of Purchased Assets** – the Vendor shall execute and deliver to the Purchaser all such bills of sale, assignments, instruments of transfer, deeds, assurances, consents and other documents as shall be necessary to effectively transfer to the Purchaser the Purchased Assets. The Vendor shall deliver up to the Purchaser possession of the Purchased Assets, free and clear of all Encumbrances (other than Permitted Encumbrances); and

- (c) **Other Documents** – the Vendor and Purchaser shall deliver such other documents as may be necessary to complete the transactions provided for in this Agreement.

2.2 Delivery of the Monitor's Certificate

When the conditions set out in Article 7 or Article 8 as applicable, have been satisfied or waived, the Purchaser and Vendor will each deliver to the Monitor written confirmation of same, following which the Monitor will deliver an executed copy of the Monitor's Certificate to the Purchaser's counsel in escrow upon the sole condition of receipt by the Monitor of the Closing Payment. Following written confirmation of receipt by the Monitor of such funds, the Monitor's Certificate will be released from escrow to the Purchaser. Upon such delivery of the Monitor's Certificate, the Closing Time will be deemed to have occurred. The Monitor will file a copy of the Monitor's Certificate with the Court and provide evidence of such filing to the Purchaser.

2.3 Place of Closing

The Closing shall take place at the Closing Time at the offices of Osler, Hoskin & Harcourt LLP located at 100 King Street West, Suite 6300, First Canadian Place, Toronto, Ontario, or at such other place as may be agreed upon by the Vendor and the Purchaser.

2.4 Vendor's Closing Deliveries

On or before the Closing, the Vendor will deliver or cause to be delivered to the Purchaser the following, each of which shall be in form and substance satisfactory to the Purchaser, acting reasonably:

- (a) a notarial copy of the Approval and Vesting Order;
- (b) to the extent that any Assigned Contract is not subject to the Approval and Vesting Order or the Assignment Order, all of the consents from the other contracting parties or party to a Tier A Lease consenting to the assignment of such Tier A Lease to the Purchaser, and 80% of the consents from the other contracting parties or party to a Tier B Lease consenting to the assignment of such Tier B Lease to the Purchaser, subject to the payment by the Purchaser of the Cure Amounts provided that there shall be a corresponding reduction of the Working Capital equal to the amount of any such Cure Amounts paid by the Purchaser;
- (c) possession of the Purchased Assets (other than the Advisors' Records, which may be delivered following Closing in accordance with any reasonable request made by the Purchaser and at the Purchaser's sole expense), free and clear of all Encumbrances (other than Permitted Encumbrances);
- (d) a certificate executed by a senior officer of the Vendor dated as of the Closing Date confirming that: (i) all of the representations and warranties of the Vendor made in or pursuant to this Agreement shall be true and correct in all material respects at the Closing Time and with the same effect as if made at

and as of the Closing Time, except as such representations and warranties may be affected by the occurrence of events or transactions contemplated or permitted by this Agreement; (ii) the Vendor has performed or complied with, in all material respects, all its obligations and covenants under this Agreement; and (iii) to the knowledge of the Vendor, there has been no Material Adverse Effect to the Business.

- (e) the tax elections as contemplated by Section 9.9 executed by the Vendor;
- (f) all keys, security passes and alarm codes with respect to the Leased Real Property, to the extent in the Vendor's possession or control, and all original copies of the Material Contracts, if available;
- (g) subject to Sections 2.4(a) and 2.4(b) above, all such bills of sale, assignments, instruments of transfer, deeds, assurances, consents and other documents as shall be necessary to effectively transfer to the Purchaser, the Purchased Assets; and
- (h) all such other assurances, consents, agreements, documents and instruments as may be reasonably required by the Purchaser to complete the transactions provided for in this Agreement.

2.5 Purchaser's Closing Deliveries

On or before the Closing Time, the Purchaser will deliver or cause to be delivered to the Vendor the following, each of which shall be in form and substance satisfactory to the Vendor, acting reasonably:

- (a) the Closing Payment referred to in Section 2.1(a);
- (b) a certificate executed by a senior officer of the Purchaser confirming that (i) all of the representations and warranties of the Purchaser made in or pursuant to this Agreement shall be true and correct in all material respects at the Closing Time and with the same effect as if made at and as of the Closing Time, and (ii) the Purchaser has performed or complied with, in all material respects, all its obligations and covenants under this Agreement;
- (c) the tax elections contemplated by Section 9.9 executed by the Purchaser; and
- (d) all such other assurances, consents, agreements, documents and instruments as may be reasonably required by the Vendor to complete the transactions provided for in this Agreement.

2.6 Vendor's Post Closing Deliveries

The Vendor shall use reasonable commercial efforts to deliver to the Purchaser the consents from the contracting party or parties consenting to the assignment of such Tier B Lease to the Purchaser which were not delivered pursuant to Section 2.4(b), being not more than 20% of the Tier B Leases (the "**Tier B Lease Consents**"), by no later than sixty (60) days following the Closing Date (the "**Tier B Lease Deadline**"), subject to the payment by the Purchaser of

any Cure Amounts, provided there shall be a corresponding reduction of the Working Capital equal to the amount of any such Cure Amounts paid by the Purchaser. To the extent that the Vendor fails to deliver any Tier B Lease Consents by the Tier B Lease Deadline, the Purchase Price will be adjusted pursuant to Section 3.6.

2.7 No Assumption of Liabilities

Except for the Assumed Liabilities, the Purchaser shall not assume and shall not be responsible for any of the Liabilities of the Vendor, whether present or future, known or unknown, absolute or contingent and whether or not relating to the Business, including any Liabilities relating to the Excluded Assets or the Excluded Liabilities.

2.8 Non-Assignable Rights

Nothing in this Agreement shall be construed as an assignment of, or an attempt to assign to the Purchaser, any Contract or Governmental Authorization which, as a matter of law or by its terms, is (i) not assignable, or (ii) not assignable without the approval or consent of the issuer thereof or the other party or parties thereto or a Court Order, without first obtaining such approval, consent or a Court Order (collectively "**Non-Assignable Rights**"). In connection with such Non-Assignable Rights, the Vendor shall:

- (a) use commercially reasonable efforts to assist the Purchaser in applying for and in obtaining any of the Governmental Authorizations contemplated in Schedule 2.8, provided that nothing shall require the Vendor to make any payment to any other party in order to obtain such consent or approval;
- (b) use commercially reasonable efforts to apply for and obtain any consent necessary for the assignment of any Assigned Contracts and, to the extent a consent to an assignment of an Assigned Contract is not obtained prior to Closing Time, to use commercially reasonable efforts to obtain an Assignment Order, authorizing the assignment of such Assigned Contract, subject to the payment by the Purchaser of the Cure Amounts provided that shall be a corresponding reduction in the Working Capital equal to the amount of any such Cure Amounts paid by the Purchaser ; and
- (c) to the extent permitted by Law, co-operate with the Purchaser in any reasonable arrangements designed to provide the benefits of such Non-Assignable Rights to the Purchaser, (including those relating to the Tier B Leases which were not assigned to the Purchaser at Closing) which may include holding specified Non-Assignable Rights in trust for the Purchaser or acting as agent for the Purchaser for a period of 12 weeks following the Closing Date provided that, during such 12 week period, the Purchaser shall perform the obligations of the Vendor under such specified Assigned Contract and be entitled to receive all money becoming due or payable under, and other benefits derived from, the specified Assigned Contract immediately upon receipt by the Vendor as set out and in accordance with the Transition Services Agreement.

2.9 Right to Exclude Contracts

- (a) At any time prior to Closing, the Purchaser may elect to exclude any Contracts (including Leases) from the Purchased Assets, and add such Contracts to the Excluded Contracts by giving written notice to the Vendor of its intention to do so. No changes to the Closing Payment or the Purchase Price shall result from the exclusion of any Excluded Contracts from the Purchased Assets pursuant to this Section 2.9. Notwithstanding the foregoing, the Purchaser shall not exclude any purchase orders or other commitments subject or relating to the Bridging Agreement.
- (b) The Vendor shall be at liberty to deal with the Excluded Contracts as it sees fit, including to sell, dispose or disclaim the Excluded Contracts free and clear of any interest of the Purchaser therein.

ARTICLE 3 PURCHASE PRICE

3.1 Purchase Price

The consideration to be paid by the Purchaser for the Purchased Assets (the “**Purchase Price**”), exclusive of all applicable sales and transfer taxes, shall be:

- (a) the amount of the Assumed Non-Contingent Liabilities; and
- (b) \$ [REDACTED] million (the “**Cash Amount**”); plus or minus as applicable,
- (c) the amount in cash equal to the amount by which the Working Capital is greater or less than the Working Capital Target, without duplication, and as adjusted and determined in accordance with Section 3.5; minus
- (d) the amount of cash equal to the Tier B Lease Adjustment Amount, if any.

3.2 Allocation of Purchase Price

The Purchase Price will be allocated among the Purchased Assets in accordance with an allocation to be proposed by the Purchaser, acting reasonably, as approved by the Vendor, acting reasonably. The Vendor and Purchaser shall use such allocations in their respective Tax Returns.

3.3 Deposit

- (a) The Deposit shall be held, pending Closing, by the Monitor in an interest bearing account with a bank.
- (b) The Deposit will be:
 - (i) credited to the Purchase Price and will be paid to the Vendor pursuant to Section 3.4 if the sale and purchase of the Purchased Assets is completed in accordance with the terms hereof;

- (ii) the property of and be retained by the Monitor on behalf of the Vendor as liquidated damages and not as a penalty in the event a condition of closing set forth in Sections 8.1, 8.2, 8.4, or 8.6 is not satisfied or waived by August 31, 2015, only if (A) such failure to satisfy or waive is solely due to the default of the Purchaser, (B) the Vendor is not also in breach of its obligations hereunder, and (C) this Agreement is terminated by the Vendor pursuant to Section 10.1(d), or
 - (iii) in all cases except as provided in Sections 3.3(b)(i) and (ii) above, promptly returned to the Purchaser upon termination of this Agreement.
- (c) Except as provided in Section 3.3(b)(i) and (ii) above, the full amount of the Deposit (plus accrued interest) shall be paid to the Purchaser within five (5) Business Days after the date on which this Agreement is terminated pursuant to Section 10.1.

3.4 Satisfaction of Purchase Price

The Purchaser shall satisfy the Purchase Price as follows:

- (a) on the Closing Date:
 - (i) by the assumption by the Purchaser of the Assumed Liabilities;
 - (ii) by release of the Deposit, being \$ [REDACTED] million to the Monitor in accordance with Section 3.3(b)(i);
 - (iii) by payment to the Monitor by wire transfer of immediately available funds to an account specified in writing by the Monitor of \$ [REDACTED] million, (the "Closing Payment") being the total of:
 - (A) the Cash Amount, being \$ [REDACTED] million, plus
 - (B) \$ [REDACTED] million, representing the amount by which the Estimated Working Capital is greater than the Working Capital Target;
 - (C) less the Deposit, being \$ [REDACTED] million;
- (b) on the Settlement Date, by the settlement of any adjustment of the Working Capital as outlined in Section 3.5, provided that Purchase Price adjustment will include a reduction of any Tier B Lease Adjustment Amount as outlined in Section 3.6.

3.5 Working Capital Adjustment

- (a) As provided in Section 3.1(c), the Purchase Price includes the amount by which the Working Capital is greater or less than the Working Capital Target.

- (b) Not later than ten (10) days following the expiry of the Accounts Payable Period, the Purchaser will prepare and deliver to the Vendor and the Monitor an unaudited statement setting out (by separate line-item) the Working Capital for the Business as at the Closing Time (the “**Working Capital Statement**”).
- (c) If requested by the Vendor, the Purchaser will permit the Vendor, the Monitor and their auditors or other representatives to review the working papers and other documentation used or prepared in connection with the preparation of, or which otherwise form the basis of the Working Capital Statement.
- (d) For purposes of determining Working Capital and preparing the Working Capital Statement, the current liabilities of the Vendor will be reduced by an amount, if any, equal to the aggregate amount of all Assumed Accounts Payable, other than Bona Fide Unpaid Assumed Payables, that have not been paid by the Purchaser to the applicable payee during the Accounts Payable Period to the extent that such Assumed Accounts Payable were due and payable prior to, or during the Accounts Payable Period and the Vendor will pay the applicable payee(s) the amount owed pursuant to such unpaid Assumed Accounts Payable within 5 days after the Settlement Date. Further, an Assumed Accounts Payable shall be considered fully paid if the Vendor and the Monitor have received an officer’s certificate from the Purchaser confirming that such Assumed Accounts Payable has been paid in full;
- (e) The Parties acknowledge and agree that: (a) any such reduction of the current liabilities of the Vendor will result in an increase in Working Capital on a dollar for dollar basis; and (b) such unpaid Assumed Accounts Payable other than Bona Fide Unpaid Assumed Payables shall no longer be Assumed Liabilities for the purpose of this Agreement.
- (f) The Purchaser will not engage or retain KPMG LLP to represent the Purchaser in connection with its preparation of, or dispute in relation to, the Working Capital Statement. The Vendor and the Purchaser will each bear fifty percent (50%) of any fees and expenses of the Purchaser’s accountants incurred by the Purchaser in the preparation of the Working Capital Statement.
- (g) If the Vendor gives written notice to the Purchaser that it disputes the Working Capital Statement, within ten (10) Business Days after delivery of the Working Capital Statement to the Vendor, and the Parties cannot reach agreement on the Working Capital Statement within twenty (20) Business Days after such notice of dispute is given, the dispute will be referred for determination by a senior audit partner at the Toronto office of Ernst & Young LLP chosen by the managing partner of such office (the “**Independent Auditor**”). The Parties will instruct the Independent Auditor to consider only those items and amounts as to which the Parties have not resolved their disagreement and to conduct such hearings as it considers necessary to resolve the disagreement between the Parties. The Parties will furnish, or cause to be furnished, to such Independent Auditor such working papers and other documents and information related to the items and amounts in dispute as the

Independent Auditor may request and are available to the relevant party or its agents. The determination by such Independent Auditor will be made within twenty (20) Business Days of such referral and will be final and binding on all Parties. The costs of the Independent Auditor will be borne by the Party (being the Vendor on the one hand and the Purchaser on the other) losing the majority of the amount at issue. If the Vendor does not give such notice of dispute within such ten (10) Business Day period, the Working Capital Statement will be final and binding on the Parties.

- (h) If the Working Capital as determined by the Parties or the Independent Auditor, as the case may be, exceeds the Estimated Working Capital, the Purchaser will pay the amount of the difference to the Monitor, by wire transfer of immediately available funds to an account specified by the Monitor within two (2) Business Days after the date that the Working Capital has been determined (the “**Settlement Date**”), and such amount will be credited to the Vendor on account of the Purchase Price and the Purchase Price will be adjusted accordingly.
- (i) If the Working Capital as determined by the Parties or the Independent Auditor, as the case may be, is less than the Estimated Working Capital, the Vendor will pay, in the aggregate, the amount of the difference to the Purchaser by wire transfer of immediately available funds to an account specified by the Purchaser within two (2) Business Days after the Settlement Date in accordance with the Approval and Vesting Order, and the Purchase Price will be adjusted accordingly.

3.6 Tier B Lease Adjustment

To the extent that the Vendor does not obtain the consent to the assignment of up to 20% of the Tier B Leases by the Tier B Lease Deadline, the Purchase Price shall be reduced by the amount, if any, equal to the aggregate of the Lease Adjustment Amount for each such Tier B Lease (the “**Tier B Lease Adjustment Amount**”). From and after the Tier B Lease Deadline, the applicable Tier B Lease shall be deemed to be an Excluded Contract hereunder. The Vendor will pay the Tier B Lease Adjustment Amount, if any, to the Purchaser by wire transfer of immediately available funds to an account specified by the Purchaser in accordance with the Approval and Vesting Order, and the Purchase Price will be adjusted accordingly.

3.7 Inventory

The Inventory will be confirmed by the Purchaser, the Vendor and the Monitor by a physical stock-taking, in a manner agreed upon by the Parties, supervised jointly by representatives of the Vendor, representatives of the Purchaser and, if the Monitor determines it is necessary or desirable to be present during the completion of the physical stock-taking, representatives of the Monitor, and each Party will bear its own expenses thereof. The Inventory shall be valued consistent with the practice of the Vendor at the lower of cost or net realizable value determined in accordance with GAAP, consistently applied, with appropriate provision being made for damaged and obsolete Inventory.

ARTICLE 4 REPRESENTATIONS AND WARRANTIES OF THE VENDOR

The Vendor represents and warrants to the Purchaser the matters set out below. The inclusion of any information in any Schedule (or any update) shall not be deemed to be an acknowledgement, in and of itself, that such information is required to be disclosed, is material to the Business, has resulted in or would result in a Material Adverse Effect or is outside the ordinary course of business.

4.1 Status of the Vendor

The Vendor is a corporation existing under the Federal laws of Canada.

4.2 Residence of the Vendor

The Vendor is not a non-resident of Canada for the purposes of the *Income Tax Act* (Canada).

4.3 Due Authorization and Enforceability of Obligations

Subject to the entry of the Approval and Vesting Order and any other orders required by the Court in connection with the transactions contemplated thereby, including in respect of the assignment of any Assigned Contracts (collectively, the “**Transaction Orders**”):

- (a) the Vendor has all necessary corporate power, authority and capacity to enter into this Agreement and to carry out its obligations under this Agreement and has full power and capacity to own the Purchased Assets and to carry on the Business as now conducted and to enter into, carry out the transactions contemplated by and duly observe and perform all its obligations contained in this Agreement; and
- (b) the execution and delivery of this Agreement and all documents, instruments and agreements required to be executed and delivered by the Vendor pursuant to this Agreement, and the completion of the transactions contemplated by this Agreement, have been duly authorized by all necessary corporate action on the part of the Vendor, and this Agreement constitutes a valid and binding obligation of the Vendor enforceable against it in accordance with its terms subject to any limitations imposed by Law.

4.4 Goods and Services Tax and Harmonized Sales Tax Registration

The Vendor is duly registered under Subdivision (d) of Division V of Part IX of the *Excise Tax Act* (Canada) with respect to the goods and services tax and harmonized sales tax and under Division I of Chapter VIII of Title 1 of the *Quebec Sales Tax Act* with respect to the Quebec sales tax, and its registration numbers are: 120932926 RT0001 and 1003604736 TQ0003.

4.5 Litigation and Intellectual Property

- (a) Except for the CCAA Proceedings, to the knowledge of the Vendor, there are no Claims, injunctions, investigations or other proceedings, including appeals

and applications for review, in progress or, to the knowledge of the Vendor, pending or threatened against or relating to the Vendor which, if determined adversely to the Vendor, would:

- (i) enjoin, restrict or prohibit the transfer of all or any part of the Purchased Assets as contemplated by this Agreement; or
 - (ii) prevent the Vendor from fulfilling any of its obligations set out in this Agreement or arising from this Agreement.
- (b) To the knowledge of the Vendor, the use of the Intellectual Property by the Vendor, and the operation of the Business as conducted by the Vendor as of the date hereof does not infringe or otherwise violate the rights of any Person in respect of any Intellectual Property.

4.6 Purchased Assets

Except for the Excluded Assets, the Purchased Assets constitute all of the property, undertaking and assets used by the Vendor in carrying on the Business.

4.7 Inventory

- (a) Subject to the Bridging Agreement, if applicable, all the outstanding forward commitments by or on behalf of the Vendor for the purchase or sale of Inventory have been made in accordance with the established price lists of the Vendor or its suppliers or, if otherwise, in accordance with the Vendor's normal business custom in varying therefrom.
- (b) As of July 4, 2015, the Inventory that has been ordered but which has not been received as of the date hereof is summarized by banner, vendor, units, and value, as listed hereto at Schedule 4.7.

4.8 Leased Real Property

- (a) Schedule 1.1(b) contains a full, complete and accurate list of all the Leased Real Property.
- (b) The Vendor occupies, and has the exclusive right to occupy and use, the Leased Real Property.

4.9 Leases

- (a) To the knowledge of the Vendor, none of the Leases have been assigned nor has the whole or any part of the Leased Real Property been sublet or licensed to another person by the Vendor.
- (b) The Vendor has provided or made available to the Purchaser, or will make available prior to the Closing Time at the request of the Purchaser, a true and complete copy of all of the Leases and all amendments, extensions or additions thereto.

4.10 Employees

- (a) The Vendor does not sponsor or participate in a registered or unregistered pension plan (whether defined benefit or defined contribution).
- (b) There are no labour disputes, grievances, strikes or lockouts currently in existence or threatened with respect to the Business or any of the Employees.
- (c) There are no collective agreements in force with respect to the Employees. No Person holds bargaining rights with respect to any of the Employees, and to the knowledge of the Vendor, no Person has applied to be certified as the bargaining agent of any Employees, and no part of the Business has been certified as a unit appropriate for collective bargaining by which the Purchaser will be bound as a result of the purchase of the Business or the Purchased Assets.

4.11 Material Contracts

Schedule 1.1(b) contains a complete and accurate listing and description of Contracts to which the Vendor is a party and by which the Vendor is bound which is material to, or necessary in, the operation of the Business. Correct and complete copies of the Material Contracts have been made available to the Purchaser.

4.12 Disclaimer of Other Representations and Warranties

Except as expressly set forth in this Article 4 the Vendor makes no representation or warranty, and there is no condition, in each case, express or implied, at law, by statute or in equity, in respect of the Business or the Purchased Assets, including with respect to merchantability or fitness for any particular purpose, and any such other representations, warranties or conditions are expressly disclaimed.

ARTICLE 5 REPRESENTATIONS AND WARRANTIES OF THE PURCHASER

The Purchaser represents and warrants to the Vendor the matters set out below.

5.1 Status of the Purchaser

The Purchaser is a corporation existing under the laws of British Columbia.

5.2 Due Authorization and Enforceability of Obligations

- (a) The Purchaser has all necessary corporate power, authority and capacity to enter into this Agreement and to carry out its obligations under this Agreement.
- (b) The execution and delivery of this Agreement and the consummation of the transactions contemplated by this Agreement have been duly authorized by all necessary corporate action of the Purchaser.

- (c) This Agreement constitutes a valid and binding obligation of the Purchaser enforceable against it in accordance with its terms subject to the entry of the Approval and Vesting Order and to any limitations imposed by Law.

5.3 Absence of Conflicts

The Purchaser is not a party to, bound or affected by or subject to any material:

- (a) indenture, mortgage, lease, agreement, obligation or instrument;
- (b) charter or by-law provision; or
- (c) Laws or Governmental Authorizations;

which would be violated or breached by, or under which default would occur or an Encumbrance would be created as a result of the execution and delivery of, or the performance of obligations under, this Agreement or any other agreement to be entered into under the terms of this Agreement.

5.4 Investment Canada

The Purchaser is a “Canadian” within the meaning of the *Investment Canada Act* (Canada).

5.5 Litigation

There are no Claims, investigations or other proceedings, including appeals and applications for review, in progress or, to the knowledge of the Purchaser, pending or threatened against or relating to the Purchaser which, if determined adversely to the Purchaser, would

- (a) prevent the Purchaser from paying the Purchase Price to the Vendor;
- (b) enjoin, restrict or prohibit the transfer of all or any part of the Purchased Assets as contemplated by this Agreement; or
- (c) prevent the Purchaser from fulfilling any of its obligations set out in this Agreement or arising from this Agreement.

5.6 Financial Ability

The Purchaser will have, as of the Closing Date, (i) sufficient funds available for purposes of paying the Purchase Price and paying any other amount due hereunder or in respect hereof; and (ii) the resources and capabilities (financial or otherwise) to perform its obligations hereunder, including the Assumed Liabilities. The Purchaser has not, as of the date hereof, and will not have, as of the Closing Time, incurred any liability that would materially impair or adversely affect such resources and capabilities. The Purchaser's obligations to consummate the transactions contemplated by this Agreement are not conditioned or contingent in any way upon the receipt of financing from any person or the availability of funds to the Purchaser (including the respective commitments contemplated by each firm financing commitment).

5.7 Goods and Services Tax and Harmonized Sales Tax Registration

The Purchaser is duly registered under Subdivision (d) of Division V of Part IX of the *Excise Tax Act* (Canada) with respect to the goods and services tax and harmonized sales tax and under Division I of Chapter VIII of Title 1 of the Quebec Sales Tax Act with respect to the Quebec sales tax, and the registration numbers of the Purchaser and any permitted assignees of the Purchaser will be as advised by the Purchaser prior to Closing.

5.8 Brokers

Except for fees and commissions that will be paid by the Purchaser, no broker, finder or investment banker is entitled to any brokerage, finder's or similar fee or commission in connection with the transactions contemplated by this Agreement based upon arrangements made by or on behalf of the Purchaser or any of its Affiliates.

5.9 Due Diligence by Purchaser

The Purchaser acknowledges that it has conducted to its satisfaction an independent investigation of the financial condition, liabilities, results of operations and projected operations of the Business and the nature and condition of all Purchased Assets and, in making the determination to proceed with the transactions contemplated by this Agreement, relied solely on the results of its own independent investigation and the representations, warranties, conditions and statements in this Agreement and, except to the extent specifically set forth in this Agreement, is purchasing the Purchased Assets on an "as-is, where-is" basis.

5.10 Acknowledgements of the Purchaser

- (a) THE PURCHASER ACKNOWLEDGES AND AGREES THAT ALL ASSETS PURCHASED AND LIABILITIES ASSUMED BY THE PURCHASER PURSUANT TO THIS AGREEMENT WILL BE ACQUIRED AND ASSUMED BY THE PURCHASER ON AN "AS IS, WHERE IS" BASIS, WITHOUT WARRANTY, REPRESENTATION, COVENANT, EXPRESS OR IMPLIED, ORAL OR WRITTEN, LEGAL, EQUITABLE, STATUTORY AND "WITH ALL KNOWN AND UNKNOWN FAULTS".
- (b) The Purchaser acknowledges and agrees that, except for the representations and warranties of the Vendor set out in this Agreement or any certificate provided pursuant to this Agreement none of the Vendor, the Monitor, any of their Affiliates or any partner, employee, officer, director, accountant, agent, financial, legal or other representative of any of the Vendor, the Monitor or any of their Affiliates has made any representation or warranty, express or implied, as to the Purchased Assets or the Assumed Liabilities (including any implied representation or warranty as to the condition, merchantability, suitability or fitness for a particular purpose of any of the Purchased Assets), title to the Purchased Assets, the Employees, the Business, or the Assumed Liabilities, or as to the accuracy or completeness of any information regarding any of the foregoing that the Vendor, or any other Person, furnished or made available to the Purchaser or its representatives (including any projections,

estimates, budgets, offering memoranda, management presentations or due diligence materials).

- (c) The Purchaser acknowledges and agrees that, in determining whether to enter into this Agreement, Purchaser (i) has had an opportunity to conduct any and all due diligence regarding the Purchased Assets, the Business and the Assumed Liabilities prior to the execution of this Agreement and that the obligations of the Purchaser are not conditional upon any additional due diligence; (ii) has relied solely upon its own independent review, investigation and/or inspection of any documents and/or the Purchased Assets to be acquired and obligations and liabilities to be assumed in entering into this Agreement; and (iii), except for the representations and warranties set out in this Agreement or any certificate provided pursuant to this Agreement, did not rely upon any written or oral statements, representations, promises, warranties or guaranties whatsoever, whether express or implied from or by the Vendor, the Monitor, any of their Affiliates or any partner, employee, officer, director, accountant, agent, financial, legal or other representative of any of the Vendor, the Monitor or any of their Affiliates, regarding the Purchased Assets to be acquired or the Liabilities to be assumed or the completeness of any information provided in connection therewith, except as expressly stated herein.
- (d) The Purchaser acknowledges and agrees that the enforceability of this Agreement against the Vendor is subject to entry of the Approval and Vesting Order.

ARTICLE 6 SURVIVAL

6.1 Nature and Survival

No covenants, representations or warranties of any Party contained in this Agreement or any document delivered pursuant hereto will survive the completion of the sale and purchase and assumption of the Purchased Assets and the Assumed Liabilities hereunder, except for covenants that by their terms are to be satisfied after the Closing Time, which covenants will continue in full force and effect in accordance with their terms.

ARTICLE 7 PURCHASER'S CONDITIONS PRECEDENT

The obligation of the Purchaser to complete the purchase of the Purchased Assets under this Agreement is subject to the satisfaction of, or compliance with, at or before the Closing Time, each of the following conditions precedent (each of which is acknowledged to be inserted for the exclusive benefit of the Purchaser and may be waived by it in whole or in part):

7.1 Truth and Accuracy of Representations of Vendor at the Closing Time

All of the representations and warranties of the Vendor made in or pursuant to this Agreement shall be true and correct in all material respects at the Closing Time and with the same effect as if made at and as of the Closing Time, except as such representations and warranties may be affected by the occurrence of events or transactions contemplated or permitted by this Agreement.

7.2 Compliance with Vendor Covenants

The Vendor shall have performed or complied with, in all material respects, all its obligations and covenants under this Agreement.

7.3 Consents and Authorizations

The Approval and Vesting Order shall have been entered, and shall not have been stayed, vacated or amended in any material respect, and all Governmental Authorizations contemplated in Schedule 2.8, including, the Competition Act Approval, shall have been obtained at or before the Closing Time.

7.4 Transition Services Agreement

The Vendor and the Purchaser shall have entered into the Transition Services Agreement.

7.5 No Proceedings

There shall be no Order issued preventing, and no pending or threatened Claim or judicial or administrative proceeding, or investigation against any Party by any Governmental Authority known to the Parties, for the purpose of enjoining or preventing the consummation of the transactions contemplated in this Agreement.

7.6 Material Adverse Effect

There shall have been no Material Adverse Effect to the Business or the Purchased Assets.

7.7 Deliveries At Closing

Each of the deliveries required to be made to the Purchaser pursuant to Section 2.4 shall have been so delivered.

The foregoing conditions are for the exclusive benefit of the Purchaser and may be waived, in writing, by the Purchaser, in whole or in part, at or prior to the applicable time for satisfaction of such conditions, and if they are not satisfied or waived at or prior to the applicable times, then the Purchaser may terminate this Agreement pursuant to Section 10.1.

ARTICLE 8 VENDOR'S CONDITIONS PRECEDENT

The obligation of the Vendor to complete the sale of the Purchased Assets under this Agreement shall be subject to the satisfaction of or compliance with, at or before the Closing

Time, each of the following conditions precedent (each of which is acknowledged to be inserted for the exclusive benefit of the Vendor and may be waived by it in whole or in part):

8.1 Truth and Accuracy of Representations of the Purchaser at Closing Time

All of the representations and warranties of the Purchaser made in or pursuant to this Agreement shall be true and correct in all material respects at the Closing Time and with the same effect as if made at and as of the Closing Time.

8.2 Performance of Obligations

The Purchaser shall have performed or complied with, in all material respects, all its obligations and covenants under this Agreement.

8.3 Consents and Authorizations

The Approval and Vesting Order shall have been entered, and shall not have been stayed, vacated or amended in any material respect, and all Governmental Authorizations contemplated in Schedule 2.8, including Competition Act Approval, shall have been obtained at or before the Closing Time.

8.4 Bridging Agreement

All of the purchase orders of the Vendor listed on Schedule 8.4 that have been guaranteed under the Bridging Agreement, shall have been either (i) honoured, (ii) released by Bridging Finance Inc., as agent for Sprott Bridging Income Fund LP; or (iii) assumed by the Purchaser.

8.5 Transition Services Agreement

The Vendor and the Purchaser shall have entered into the Transition Services Agreement.

8.6 Deliveries At Closing

Each of the deliveries required to be made to the Vendor pursuant to Section 2.5 shall have been so delivered.

The foregoing conditions are for the exclusive benefit of the Vendor and may be waived, in writing, by the Vendor, in whole or in part, at or prior to the applicable time set for the satisfaction of such conditions and if they are not satisfied or waived at or prior to the applicable times, then the Vendor may terminate this Agreement pursuant to Section 10.1.

**ARTICLE 9
OTHER COVENANTS OF THE PARTIES**

9.1 Conduct of Business Prior to Closing

During the period from the date of this Agreement to the Closing Time, the Vendor shall:

- (a) **Conduct Business in the Ordinary Course** – subject to any limitation imposed as a result of being subject to the CCAA Proceedings or, as required by any Law, including any order of the Court, and except as the Purchaser may approve in writing or as otherwise contemplated or permitted by this Agreement, conduct the Business in all material respects in the ordinary course, consistent with past practice, and in particular:
 - (i) use all reasonable efforts to preserve the Purchased Assets intact and maintain the Purchased Assets in accordance with standard industry practice;
 - (ii) not sell, lease, license, transfer or otherwise dispose of, or agree to sell, lease, license, transfer or otherwise dispose of, any of the Purchased Assets except for the Inventory in the ordinary course of the Business, consistent with past practice;
 - (iii) subject to Section 9.7 and in the ordinary course of operations, use all reasonable efforts to keep available the services of the Employees for the Purchaser and subject to ordinary course of operations to maintain relations and goodwill with suppliers, customers and others having business relations with the Vendor;
 - (iv) make all necessary tax, governmental and other filings, as and when required, in the ordinary course of business;
 - (v) pay to all its Employees all wages (including overtime claims), salaries, bonuses and commissions, and all earned but unpaid vacation pay and sick leave pay and other entitlements under Benefit Plans in ordinary course of operations;
 - (vi) not, without the prior written consent of the Purchaser, amend, disclaim, reject or vary any of the Material Contracts or the Governmental Authorizations, or enter into any Contract, agreement, instrument, commitment, lease, engagement, indenture or transaction;
- (b) **Approvals** – co-operate with the Purchaser with respect to the Purchaser’s application for any Governmental Authorization contemplated in Schedule 2.8, including the Competition Act Approval; and
- (c) **Purchase Orders** – will provide copies to the Purchaser of all new purchase orders for Inventory, including those purchase orders made pursuant to the Bridging Agreement.

9.2 Approval and Vesting Order and other Transaction Orders

- (a) The Vendor will promptly serve on the service list in the CCAA Proceedings, as supplemented with such additional parties as the Purchaser may reasonably request, and file with the Court one or more motion records seeking the

Approval and Vesting Order and other Transaction Orders, and use commercially reasonable efforts to obtain such Orders of the Court.

- (b) The Purchaser and the Vendor will cooperate in obtaining entry of the Approval and Vesting Order and other Transaction Orders, and the Vendor will deliver, or will request the Monitor to deliver, as applicable, to the Purchaser prior to service and filing, and as early in advance as is practicable to permit adequate and reasonable time for the Purchaser and its counsel to review and comment upon, copies of all proposed pleadings, motions, notices, statements, schedules, applications, reports and other material papers to be filed by the Vendor or Monitor, as applicable, in connection with such motions and relief requested therein and any objections thereto.
- (c) The Purchaser, at its own expense, will promptly provide to the Vendor and the Monitor all such information within its possession or under its control as the Vendor or the Monitor may reasonably require to obtain the Approval and Vesting Order and other Transaction Orders.

9.3 Access for Investigation

- (a) The Vendor shall permit the Purchaser and its representatives, between the date of this Agreement and the Closing Time, without interference to the ordinary conduct of the Business, to have reasonable access during normal business hours upon reasonable advance notice, for purposes consistent with this Agreement, to (i) the Purchased Assets, (ii) the Leased Real Property and (iii) the Books and Records, provided that the Purchaser may not conduct any environmental investigation in, on, under or near any Leased Real Property including any sampling or interview any Employees without the Vendor's prior consent, not to be unreasonably withheld. The Vendor shall furnish to the Purchaser copies of Books and Records as the Purchaser shall from time to time reasonably request. Notwithstanding the foregoing, without the prior written consent of the Vendor, not to be unreasonably withheld, the Purchaser shall not contact, and shall instruct its counsel, financial advisors, auditors and other authorized representatives not to contact, any of the suppliers, customers, clients or financing sources of the Vendor with respect to the Business or the transactions contemplated by this Agreement.
- (b) Notwithstanding Section 9.3(a), the Vendor shall not be required to disclose any information, records, files or other data to the Purchaser where prohibited by any Laws.

9.4 Confidentiality

- (a) Prior to the Closing, the Purchaser shall keep confidential all information disclosed to it by the Vendor or its agents relating to the Vendor or the Business in accordance with the terms of the confidentiality agreement signed by the Purchaser and the Vendor dated April 22, 2015 (the "**Confidentiality Agreement**").

- (b) The Purchaser shall keep confidential all Personal Information disclosed to it by the Vendor or its agents and will not disclose the Personal Information except in accordance with Law. If this Agreement is terminated without completion of the transactions contemplated by this Agreement, the Purchaser shall promptly return all documents, work papers and other written material (including all copies) obtained from the Vendor in connection with this Agreement, and not previously made public and shall continue to maintain the confidence of all such information.
- (c) After the Closing, the Vendor shall keep confidential all Personal Information it disclosed to the Purchaser and all information relating to the Business, except information which:
 - (i) is part of the public domain;
 - (ii) becomes part of the public domain other than as a result of a breach of these provisions by the Vendor; or
 - (iii) was received in good faith after Closing from an independent Person who was lawfully in possession of such information free of any obligation of confidence in accordance with the Confidentiality Agreement.

9.5 Actions to Satisfy Closing Conditions

- (a) Each of the Parties shall use commercially reasonable efforts to take all such actions as are within its power to control, and to cause other actions to be taken which are not within its power to control, so as to fulfill and satisfy the conditions set forth in Article 7 or Article 8.
- (b) Without limiting the generality of Section 9.5(a): (i) the Purchaser shall prepare and submit not later than five (5) Business Days following the execution of this Agreement to the Commissioner, an application for an advance ruling certificate; and (ii) the Purchaser and the Vendor shall, not later than five (5) Business Days following the execution of this Agreement, each submit to the Commissioner the information required under section 114 of the Competition Act. The Purchaser and the Vendor shall further promptly submit to the Commissioner any additional information requested in connection with the Competition Act Approval process. The Vendor will co-operate with the Purchaser and provide reasonable assistance and information to the Purchaser that is necessary or mutually desirable in respect of the Competition Act Approval, and the Purchaser shall co-operate with the Vendor, and keep the Vendor and the Monitor informed as to the status of any required applications or proceedings relating to obtaining any of the Governmental Authorizations contemplated in Schedule 2.8, including, Competition Act Approval. The Purchaser and the Vendor shall provide each other copies of applications, notifications, filings and other written communications to a Governmental Authority in draft form and shall provide to each other a copy of all written communications received from a

Governmental Authority, provided that in all cases information that is confidential may be provided on an external counsel-only basis. Neither the Purchaser nor the Vendor shall participate, or permit its Affiliates to participate, in any substantive meeting or discussion, either in person or by telephone with any Governmental Authority in connection with the consummation of the transactions contemplated by this Agreement unless it consults with counsel to other party in advance and, to the extent not prohibited by such Governmental Authority, give the other party's counsel the opportunity to attend, (in both cases the requirement to consult and provide an opportunity to attend shall be deemed to be complied with if counsel to both parties participate in such meetings or discussions, or a party provides the other party's counsel with twenty-four (24) hours' notice of such meetings or discussions) and participate, on an external counsel-only basis where requested. For greater certainty, notwithstanding any other provision herein, in no event will the Purchaser be required to enter into or offer to enter into any divestiture, hold-separate, transfer of control, business limitation, or similar agreement or undertaking.

- (c) The Purchaser will promptly notify the Vendor and the Monitor and the Vendor will promptly notify the Purchaser and the Monitor upon:
 - (i) becoming aware of any Order, pending or threatened or any complaint requesting an Order restraining or enjoining the execution of this Agreement or the consummation of the transactions contemplated under this Agreement; or
 - (ii) receiving any notice from any Governmental Authority of its intention:
 - (A) to institute a suit or proceeding to restrain or enjoin the execution of this Agreement or the consummation of the transactions contemplated by this Agreement; or
 - (B) to nullify or render ineffective this Agreement or such transactions if consummated.

9.6 Assumption of Obligations

At the Closing Time and conditional upon Closing, the Purchaser agrees to be responsible for and to indemnify and save harmless the Vendor in respect of the all obligations of the Vendor arising under the Assumed Liabilities, the Governmental Authorizations and the Permitted Encumbrances, to the extent that such liabilities and obligations: (i) arose in respect of the period after the Effective Time or Closing Time, as applicable (ii) are not payable to the Vendor or its Affiliates or any of their respective directors, officers, former directors or officers, shareholders or Employees other than the Transferred Employees; and (iii) consist of liabilities or obligations in respect of Transferred Employees or that arise out of events or circumstances that occur after the Closing Time or are to be performed after the Closing Time.

9.7 Employees

- (a) Prior to the Closing Date, the Vendor will provide notice to all Employees of the sale of the Purchased Assets and the Business and such notice shall be at a time and in a form approved by the Parties, each acting reasonably.
- (b) The Vendor shall provide to the Purchaser a letter (the "**Disclosure Letter**") containing a true, correct and complete list of all of the Employees on the date that is fifteen (15) days prior to the Closing Date, specifying their position or title, annual salary and/or wages and entitlements under the Benefit Plans and the DPSP, date of hire, working location, length of service, vacation entitlements, annual bonus for the current calendar year and their status as active or inactive (and, if inactive, whether long term disability, short term disability, maternity or paternity leave or other reason).
- (c) At least seven (7) days prior to the Closing Date, the Purchaser shall provide the Vendor with a list of the Employees that the Purchaser, in its sole discretion, intends to make offers of employment to, conditional on Closing, which shall be comprised of at least 90% of the Employees (the "**Offered Employees**"). Prior to Closing, the Purchaser shall offer employment in writing, conditional on Closing, and effective from the Closing Date, to all of the Offered Employees who are Employees on the Closing Date, and will ensure that at least 90% of such offers of employment will be on terms and conditions of employment which are substantially similar in the aggregate for each individual Offered Employee to those currently available to each Employee based on the Vendor's employee policies as provided to the Purchaser. The Purchaser shall make the offer of employment in a form approved by the Monitor, acting reasonably, and the Purchaser shall provide such form of offer to the Monitor for approval no later than three (3) days prior to making such offers. The Purchaser shall make the forms of offer of employment available to the Vendor no later than three (3) days prior to making such offers. Notwithstanding the foregoing, the Purchaser shall be under no obligation to make offers of employment to any Employee unless and until the Vendor has obtained a consent for assignment from the other contracting party to the Lease associated with the store that is the primary location for such Employee's employment.
- (d) To the extent required by Law, the Purchaser shall recognize the past service of each Employee who becomes a Transferred Employee. To the extent that such amounts are included as current liabilities in Working Capital and are adjusted for, the Purchaser shall assume all unpaid wages, salary, incentive compensation, and vacation pay up to the Closing Date for each Employee who becomes a Transferred Employee.
- (e) The Vendor and the Purchaser shall exercise reasonable efforts to persuade the Employees to accept such offers of employment.
- (f) The Purchaser shall have no liability in respect of any Employees who are not Transferred Employees or any Employee Costs.

- (g) As of the Closing Date, the Transferred Employees shall cease participating in, being covered by and accruing benefits under the Benefit Plans. Notwithstanding this Section 9.7 in the event an Transferred Employee is on disability leave from the Vendor as of the Closing Date, the Vendor shall maintain the Employee's disability insurance coverage that is in place prior to the Closing Date until the Employee has returned to active employment.
- (h) No later than five (5) days prior to the Closing Date, with respect to Transferred Employees, the Purchaser shall have established plans providing for employment benefits relating to disability or wage or benefits continuation during periods of absence from work, and employment benefits relating to hospitalization, healthcare, medical or dental treatments or expenses, life insurance, accidental death and dismemberment insurance and death or survivor's benefits
- (i) The Purchaser will not participate in, adopt, assume or contribute to, or will be required to participate in, adopt, assume or contribute to, any of the Benefit Plans or the KERP or incur any liability thereunder.
- (j) The Vendor shall remain liable for obligations for benefit claims under the Benefit Plans and the KERP in respect of the Transferred Employees incurred prior to the Closing Time. For the purpose of this Section, a benefit claim is deemed incurred: (i) in the case of extended health care benefits, including dental and medical treatments, on the date of treatment, the date the prescription is filled, or the date of purchase of eligible supplies, (ii) in the case of life insurance, when the death occurs; and (iii) in the case of long term disability, when the disability occurs. For greater certainty, the Vendor shall remain liable for obligations for benefit claims in respect of long term disability which commenced prior to the Closing Time even if the disability continues after the Closing Time.

9.8 GST, HST, Sales Taxes and Transfer Taxes

The Purchaser shall pay directly to the appropriate Governmental Authority all sales and transfer taxes, registration charges and transfer fees payable in respect of the purchase and sale of the Purchased Assets under this Agreement and shall furnish proof of such payment to the Vendor provided however that the Purchaser shall be liable for and shall pay to the Vendor an amount equal to any Tax payable by the Purchaser and collectible by the Vendor under the *Excise Tax Act* (Canada) and under any similar provincial or territorial legislation imposing a similar value-added or multi-staged tax. The Purchaser agrees to indemnify and save harmless the Vendor from and against any and all claims and demands for payment of the above mentioned transfer taxes, including, for greater certainty, (i) any liability imposed on the Vendor as a result of any failure or refusal by any Governmental Authority to accept an election referred to in Section 9.9(a) below, (ii) penalties and interest thereon; and (iii) any liability or costs incurred as a result of any failure to pay such transfer taxes when due, except where the Vendor has collected from the Purchaser amounts for Taxes and failed to remit such Tax amounts to the applicable Governmental Authority.

9.9 Elections

- (a) Each of the Vendor and the Purchaser will, if applicable, on or before the Closing Time jointly execute elections, in the prescribed form and containing the prescribed information, to have subsection 167(1.1) of the *Excise Tax Act* (Canada) and section 75.1 of an *Act Respecting Québec Sales Tax* (Québec) apply to the sale and purchase of the Purchased Assets so that no tax is payable in respect of such sale and purchase under those statutes. The Purchaser will file such elections with the appropriate revenue authority within the time prescribed.
- (b) Each of the Vendor and the Purchaser will, if applicable, execute and file, on a timely basis and using the prescribed form, a joint election under section 22 of the *Income Tax Act* (Canada) and any equivalent or corresponding provision under applicable provincial or territorial Tax legislation as to the sale of the Accounts Receivable to be purchased under this Agreement, and prepare their respective Tax Returns in a manner consistent with such joint election. For purposes of such joint election, the Parties agree that the consideration paid for the Accounts Receivable sold by the Vendor to the Purchaser will be the amount determined in accordance with Section 3.2.
- (c) Each of the Vendor and the Purchaser acknowledges that the Vendor is transferring the Purchased Assets to the Purchaser with a value equal to the amount determined in accordance with Section 3.2, in consideration for the Purchaser assuming prepaid obligations of the Vendor to deliver goods or provide services in the future. Each of the Vendor and the Purchaser will execute and file, on a timely basis and using any prescribed form, a joint election under subsection 20(24) of the *Income Tax Act* (Canada) and any equivalent or corresponding provision under applicable provincial or territorial Tax legislation as to such assumption hereunder, and prepare their respective Tax Returns in a manner consistent with such joint election.

9.10 Preservation of Books and Records

The Purchaser shall take all reasonable steps to preserve and keep the Books and Records of the Vendor and the Business delivered to it in connection with the completion of the transactions contemplated by this Agreement, including in respect of the conduct of the Business prior to the date of the Initial Order, for a period of six years from the Closing Date, or for any longer period as may be required by any Law or Governmental Authority, and shall make such records available to the Vendor, the Monitor or any trustee in bankruptcy of the Vendor on a timely basis, as may be reasonably required by it, including in connection with any administrative or legal proceeding that may be initiated by, on behalf of, or against the Vendor. Notwithstanding the foregoing, the Monitor shall retain a copy of any Books and Records delivered to the Purchaser in respect of this Agreement.

9.11 Risk of Loss

- (a) Until the Closing Time the Purchased Assets will remain at the risk of the Vendor.

- (b) If all or any portion of the Purchased Assets are damaged or destroyed or appropriated, expropriated or seized by any Person on or prior to the Closing Time, the Vendor shall notify the Purchaser promptly in writing of such fact, and if such acts or events have a Material Adverse Effect, then the Purchaser may, at its option terminate this Agreement and the Deposit will be released to the Purchaser.
- (c) If the Purchased Assets that are damaged or destroyed or appropriated, expropriated or seized by any Person on or prior to the Closing Time, in the aggregate do not have a Material Adverse Effect, at the Purchaser's option:
 - (i) All proceeds of insurance or compensation for expropriation or seizure in respect thereof will be payable to the Purchaser, all amounts paid to the Vendor prior to the Closing Date will be included in the Purchased Assets and transferred to the Purchaser on Closing, and all right and claim of the Vendor to any such amounts not paid by the Closing Date will be assigned to the Purchaser; or
 - (ii) the Purchase Price will be reduced by an amount equal to estimated value of those Purchased Assets that are damaged, destroyed, appropriated, or expropriated; or
 - (iii) all proceeds of insurance or compensation for expropriation or seizure in respect thereof will be payable to the Purchaser, all amounts paid to the Vendor prior to the Closing Date will be included in the Purchased Asset and transferred to the Purchaser on Closing, and all right and claim of the Vendor to any such amounts not paid by the Closing Date will be assigned to the Purchaser (together, the "Proceeds"), and the Purchase Price will be reduced by an amount equal to the amount by which the estimated value of those Purchased Assets exceeds the Proceeds;

provided that in the case of 9.11(c)(ii) or 9.11(c)(iii), the value of those Purchased Assets that are damaged, destroyed, appropriated, or expropriated will be determined by an adjuster appointed by the Monitor for that purpose.

- (d) The Vendor shall consult with the Purchaser prior to making a claim against any applicable insurance policy and shall act reasonably and bona fide in respect thereof and in a manner consistent with the Purchaser's interest in the Business and the Assets. The Vendor shall at Closing make, or cause to be made, the necessary claims under all applicable insurance policies and shall, in the event that the Purchaser has opted to proceed pursuant to 9.11(c)(i) or 9.11(c)(iii), assign to the Purchaser all remaining insurance proceeds, including business interruption insurance proceeds, which are or may become receivable by the Vendor in respect of any such loss, damage or destruction.

9.12 Submission to Jurisdiction

- (a) Each Party submits to the exclusive jurisdiction of the Court in any action, application, reference or other proceeding arising out of or relating to this Agreement and consents to all claims in respect of any such action, application, reference or other proceeding being heard and determined in the Court.
- (b) The Parties shall not raise any objection to the venue of any action, application, reference or other proceeding arising out of or relating to this Agreement in the Court, including the objection that the proceedings have been brought in an inconvenient forum.
- (c) The Vendor irrevocably appoints Osler, Hoskin & Harcourt LLP (the “**Process Agent**”), with an office as of the date of this Agreement at 100 King Street West, Suite 6300, First Canadian Place, Toronto, Ontario, for the attention of Marc Wasserman as its agent to receive on behalf of it and its property, service of any documents by which any action, application, reference or other proceeding arising out of or relating to this Agreement is commenced. Such service may be made by delivering a copy of such documents to the Vendor in care of the Process Agent at the Process Agent’s above address or as notified pursuant to the notice provisions of this Agreement, and the Vendor irrevocably authorizes and directs the Process Agent to accept such service on its behalf.
- (d) A final judgment in any such action, application or proceeding is conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner specified by law.

9.13 Bulk Sales and Retail Sales Tax Waiver

Exemptions from any requirements of (a) the Bulk Sales Act (Ontario) and any other applicable provincial or territorial bulk sales legislation or (b) section 6 of the Retail Sales Tax Act (Ontario) and any equivalent or corresponding provisions under any other applicable legislation in respect of the purchase and sale of the Purchased Assets under this Agreement shall be obtained in the Approval and Vesting Order.

9.14 Change of Names

The Vendor shall, within ten (10) Business Days after the Closing Date, provide evidence satisfactory to the Purchaser that the Vendor has changed its corporate and business names to names that do not contain or otherwise use any of the names included in the Purchased Assets. The Vendor will refrain from using any such names following the Closing except to the extent as may be required in the context of the CCAA Proceedings. For greater certainty, this covenant shall survive the Closing indefinitely.

ARTICLE 10 TERMINATION

10.1 Termination Rights

This Agreement may be terminated prior to Closing as follows:

- (a) by mutual written consent of the Vendor and the Purchaser;
- (b) by the Purchaser, by written notice to the Vendor and the Monitor, if any of the conditions precedent contained in Article 7, have not been satisfied or waived by no later than August 31, 2015; provided that the Purchaser is not in breach of its obligations hereunder;
- (c) by the Purchaser, by written notice to the Vendor and the Monitor, pursuant to Section 9.11 of this Agreement;
- (d) by the Vendor, by written notice to the Purchaser and the Monitor, if any of the conditions precedent contained in Article 8, have not been satisfied or waived by no later than August 31, 2015; provided that the Vendor is not in breach of its obligations hereunder;
- (e) from receipt of a written notice from a non-breaching Party;
 - (i) if a Governmental Authority issues an Order prohibiting the transactions contemplated hereby;
 - (ii) if the Closing does not take place by August 31, 2015;
 - (iii) upon the sale, transfer or other disposition, directly or indirectly, of any material portion of the Business or the Purchased Assets other than as contemplated in this Agreement; and
 - (iv) if the CCAA Proceedings are terminated;

and, unless this Agreement is terminated pursuant to Section 10.1(d) above in the circumstances outlined in Section 3.3(b)(ii) (in which case Section 3.3(b)(ii) shall apply), the Deposit shall be promptly returned to the Purchaser pursuant to Section 3.3(c).

10.2 Effect of Termination

If this Agreement is terminated pursuant to Section 10.1, the Purchaser shall be released from all of its obligations under this Agreement and the Vendor shall also be released from all of its obligations under this Agreement, and all further obligations of the parties hereto under this Agreement will cease immediately; and the Parties will have no further obligations to each other (except for its obligations pursuant to Sections 3.3, 11.1, 11.2, 11.3, and 11.4).

ARTICLE 11 GENERAL

11.1 Monitor's Capacity

The Purchaser acknowledges and agrees that the Monitor, acting in its capacity as the Monitor of the Vendor in the CCAA Proceedings, will have no liability in connection with this Agreement whatsoever in its capacity as Monitor, in its personal capacity or otherwise.

11.2 Releases upon Closing

- (a) Upon termination of this Agreement pursuant to, and subject to, Section 10, or at the Closing Time, as applicable, except for covenants that by their terms are to be satisfied after the Closing Time, the Purchaser releases the Vendor, the Monitor, any of their Affiliates and any partner, employee, officer, director, accountant, agent, financial, legal or other representative of any of the Vendor, the Monitor or any of their Affiliates, from any and all Claims, known or unknown, that the Purchaser may have against such Person relating to, arising out of, or in connection with the negotiation and execution of this Agreement, the transactions contemplated hereunder and any proceedings commenced with respect to or in connection therewith.
- (b) Upon termination of this Agreement pursuant to, and subject to, Section 10, or at the Closing Time, as applicable, except for covenants that by their terms are to be satisfied after the Closing Time, the Vendor releases the Purchaser, any of their Affiliates and any partner, employee, officer, director, accountant, agent, financial, legal or other representative of the Purchaser, from any and all Claims, known or unknown, that the Purchaser may have against such Person relating to, arising out of, or in connection with the negotiation and execution of this Agreement, the transactions contemplated hereunder and any proceedings commenced with respect to or in connection therewith.

11.3 Public Notices

The Parties shall jointly plan and co-ordinate any public notices, press releases, and any other publicity concerning the transactions contemplated by this Agreement and no Party shall act in this regard without the prior approval of the other, such approval not to be unreasonably withheld, except:

- (a) where required to meet timely disclosure obligations of any Party under Laws (including the CCAA) or stock exchange rules in circumstances where prior consultation with the other Party is not practicable and a copy of such disclosure is provided to the other Party; and
- (b) in the case of the Vendor's communication made to the Vendor's Employees affected by such transaction.

11.4 Expenses

Except as otherwise provided in this Agreement, each of the Parties shall pay their respective legal, accounting, and other professional advisory fees, costs and expenses incurred in connection with the purchase and sale of the Business and the Purchased Assets and the preparation, execution and delivery of this Agreement and all documents and instruments executed pursuant to this Agreement and any other costs and expenses incurred. The Parties shall equally be responsible for all application fees related to any Governmental Authorization, including the Competition Act Approval and any Governmental Authorization contemplated in Schedule 2.8, and any other licenses in any jurisdiction necessary for the operation of the Business.

11.5 Notices

Any notice, consent or approval required or permitted to be given in connection with this Agreement (in this Section referred to as a “**Notice**”) shall be in writing and shall be sufficiently given if delivered (whether in person, by courier service or other personal method of delivery), or if transmitted by facsimile or e-mail:

- (a) in the case of a Notice to the Vendor at:

Comark Inc.
6789 Millcreek Drive
Mississauga, ON L5N 5M4

Attention: Gerald Bachynski
President & CEO

Fax: (905) 567-5965
E-mail: GBachynski@comark.ca

With a copy to:

Osler, Hoskin & Harcourt
Box 50, 1 First Canadian Place
Toronto, ON M5X 1B8

Attention: Marc Wasserman and Sandra Abitan

Fax: (416) 862-6666
E-mail: mwasserman@osler.com / sabitan@osler.com

- (b) in the case of a Notice to the Monitor at:

Alvarez & Marsal Canada Inc.
Royal Bank Plaza, South Tower
Suite 2900
P.O. Box 22
Toronto, ON M5J 2J1

Attention: John Walker and Adam Zalev
Fax: (416) 847-5201
E-mail: jwalker@alvarezandmarsal.com /
azalev@alvarezandmarsal.com

With a copy to:

Goodmans LLP
Bay Adelaide Centre
333 Bay Street, Suite 3400
Toronto, ON M5H 2S7

Attention: Brian Empey and Ryan Baulke
Fax: (416) 979-1234
E-mail: bempey@goodmans.ca / rbaulke@goodmans.ca

(c) in the case of a Notice to the Purchaser at:

Pacific West Commercial Corporation
#2900 - 650 West Georgia Street
Vancouver, BC V6B 4N8

Attention: Shamsh Kassam and Shawn Lewis
Fax: (604) 681-8861
E-mail: skassam@sternpartners.com
slewis@sternpartners.com

With a copy to:

Fasken Martineau DuMoulin LLP
#2900 - 550 Burrard Street
Vancouver, BC V6C 0A3

Attention: John Grieve and Don Dalik
Fax: (604) 631-3232
E-mail: jgrieve@fasken.com
ddalik@fasken.com

Any Notice delivered or transmitted to a Person as provided above shall be deemed to have been given and received on the day it is delivered or transmitted, provided that it is delivered or transmitted on a Business Day prior to 5:00 p.m. local time in the place of delivery or receipt. However, if the Notice is delivered or transmitted after 5:00 p.m. local time or if such day is not a Business Day then the Notice shall be deemed to have been given and received on the next Business Day.

Any Party may, from time to time, change its address by giving Notice to the other Parties in accordance with the provisions of this Section.

11.6 Assignment

No party may assign this Agreement or any rights or obligations under this Agreement without the prior written consent of the other Party, except for assignment of all or any part of this Agreement by the Purchaser to one or more Affiliates, provided that:

- (a) the assignee(s) will become jointly and severally liable with the Purchaser, as a principal and not as a surety, with respect to all of the obligations of the Purchaser, including the representations, warranties, covenants, indemnities and agreements of the Purchaser; and
- (b) the assignee(s) must execute an agreement confirming the assignment and the assumption by the assignee of all obligations of the Purchaser under this Agreement.

11.7 Enurement

This Agreement enures to the benefit of and is binding upon the Parties and their respective successors (including any successor by reason of amalgamation of any Party) and permitted assigns.

11.8 Amendment

No amendment, supplement, modification or waiver or termination of this Agreement and, unless otherwise specified, no consent or approval by any Party, is binding unless executed in writing by the Party to be bound thereby.

11.9 Further Assurances

The Parties shall, with reasonable diligence, do all such things and provide all such reasonable assurances as may be required to consummate the transactions contemplated by this Agreement, and each Party shall provide such further documents or instruments required by any other Party as may be reasonably necessary or desirable to effect the purpose of this Agreement and carry out its provisions, whether before or after the Closing provided that the costs and expenses of any actions taken after Closing at the request of a Party shall be the responsibility of the requesting Party.

11.10 Execution and Delivery

This Agreement may be executed by the Parties in counterparts and may be executed and delivered by facsimile and all such counterparts and facsimiles together constitute one and the same agreement.

[Remainder of page intentionally left blank]

IN WITNESS OF WHICH the Parties have executed this Agreement.

COMARK INC.

By: 
Name: Gerald Bachynski
Title: President & CEO

PACIFIC WEST COMMERCIAL
CORPORATION


By: _____
Name:
Title:

IN WITNESS OF WHICH the Parties have executed this Agreement.

COMARK INC.

By: _____
Name: Gerald Bachynski
Title: President & CEO

**PACIFIC WEST COMMERCIAL
CORPORATION**

By: 
Name: SHAMCH KASSAM
Title: CFO

SCHEDULE 1.1(a): EXCLUDED CONTRACTS

KERP

Benefit Plans

Foreign exchange hedging and other similar derivative contracts

| Contract | Parties | Date |
|--|---|------------------|
| Trust Agreement for the Deferred Profit Sharing Plan for Employees of Comark Inc. and Participating Affiliates | Sun Life Financial Trust Inc. & Comark Inc. | April 1, 2009 |
| Investment Management and Record Keeping Agreement | Sun Life Assurance Company of Canada & Beutel, Goodman & Company Ltd. & Comark Inc. | April 1, 2008 |
| Demand Operating Facility Agreement | The Toronto-Dominion Bank & Comark Inc. | October 29, 2014 |
| Manulife Group Benefits Policies G008309, G0039204 | Manulife Financial & Comark Inc. | June 1, 2015 |

Excluded Leases in respect of the following Real Property

| Store | Shopping Centre | Street Address | Location City | Location Province | Landlord |
|--------------|------------------------|---------------------------|----------------------|--------------------------|-------------------|
| 20099 | Mayflower Mall | 800 Grand Lake Road | Sydney | NS | McCOR Management |
| 20495 | Station Mall | 293 Bay Street | Sault Ste. Marie | ON | Algoma Central |
| 20068 | The Village | 430 Topsail Road | St. John's | NL | Plazacorp |
| 20052 | Mic Mac Mall | 21 Micmac Blvd. | Dartmouth | NS | Ivanhoe Cambridge |
| 30058 | Mic Mac Mall | 21 Micmac Blvd. | Dartmouth | NS | Ivanhoe Cambridge |
| 40056 | Mic Mac Mall | 21 Micmac Blvd. | Dartmouth | NS | Ivanhoe Cambridge |
| 40352 | Carlingwood Mall | 2121 Carling Avenue | Ottawa | ON | 20 Vic |
| 40293 | Conestoga Mall | 550 King Street North | Waterloo | ON | Ivanhoe Cambridge |
| 30270 | Georgian Mall | 509 Bayfield St. | Barrie | ON | RioCan |
| 30692 | Calgary Eaton Centre | 317-7th Avenue South West | Calgary | AB | 20 Vic |

All insurance policies including the following:

| Type | Insurer | Coverage Allowance | Expiration Date | Net Premium | Taxes | Total |
|---|-----------------------------------|---|-----------------|-------------|------------|-------------|
| Commercial General Liability Policy | Lloyd's Underwriters | | March 1, 2016 | \$43,834.00 | \$1361.05 | \$45,195.05 |
| Umbrella Liability Policy | Lloyd's Underwriters | \$20M each occurrence, \$20M policy period aggregate | March 1, 2016 | \$15,000.00 | \$465.75 | \$15,465.75 |
| Automobile Liability Policy | Lloyd's Underwriters | \$2M third party liability (all provinces except BC), \$1.8M third party liability (BC & SK) | March 1, 2016 | \$43,729.00 | N/A | \$43,729.00 |
| All Risks | Lloyd's Underwriters | \$25M | March 1, 2016 | \$83,800.00 | \$3,170.73 | \$86,970.73 |
| Marine Cargo Policy | Continental Casualty Company | \$2.5M any one conveyance | March 1, 2016 | \$15,000.00 | N/A | \$15,000.00 |
| Directors and Officers Liability Policy | Chubb Insurance Company of Canada | \$10M policy period aggregate – D&O \$10M limit | March 1, 2016 | \$33,500.00 | \$1,267.53 | \$34,767.53 |
| Crime Policy | Chubb Insurance Company of Canada | \$1M each occurrence | March 1, 2016 | \$7,500.00 | \$600.00 | \$8,100.00 |
| Special Crime Policy | Chubb Insurance Company of Canada | \$1M each loss, \$250K mutilation, \$250K express kidnapping, \$250K disappearance events, \$1M all other accidental loss | March 1, 2016 | \$1,275.00 | \$102.00 | \$1,377.00 |

SCHEDULE 1.1(b): LEASED REAL PROPERTY

Distribution Centre

| Distribution Centre | Street Address | Location City | Location Province | Landlord |
|---------------------------|-------------------------|---------------|-------------------|--------------------------------------|
| Laval Distribution Centre | 930 St-Martin Boulevard | Laval | QC | Cominar Real Estate Investment Trust |

Corporate Offices

| Corporate Offices | Street Address | Location City | Location Province | Landlord |
|-------------------------|----------------------|---------------|-------------------|----------------------------|
| Ricki's Home Office | 1670 Inkster Blvd. | Winnipeg | MB | Peregrine Equities Inc. |
| Comark/cleo Home Office | 6789 Millcreek Drive | Mississauga | ON | Artis GTA West Ltd. |
| Bootlegger Home Office | 4460 Jacombs Road | Richmond | BC | Chung Laam Holding Limited |

Stores

| Shopping Centre | Street Address | Location City | Location Province | Landlord |
|----------------------------|------------------------------|---------------|-------------------|----------------------------|
| Aberdeen Mall | 1320 W. Trans Canada Highway | Kamloops | BC | 20 Vic |
| Aberdeen Mall | 1320 W. Trans Canada Highway | Kamloops | BC | 20 Vic |
| Aberdeen Mall | 1320 W. Trans Canada Highway | Kamloops | BC | 20 Vic |
| Arthur Street Market Place | 1101 West Arthur Street | Thunder Bay | ON | Prime Site Properties Inc. |
| Aurora East Power Centre | 43 First Commerce Drive | Aurora | ON | Calloway |
| Avalon Mall | 48 Kenmount Road | St. John's | NL | Crombie |
| Avalon Mall | 48 Kenmount Road | St. John's | NL | Crombie |
| Avalon Mall | 48 Kenmount Road | St. John's | NL | Crombie |
| Bayshore Shopping Centre | 100 Bayshore Drive | Ottawa | ON | Ivanhoe Cambridge |
| Bayshore Shopping Centre | 100 Bayshore Drive | Ottawa | ON | Ivanhoe Cambridge |
| Bedford Commons Plaza | Phase II, 181 Damascus Road | Bedford | NS | Plazacorp |
| Bedford Commons Plaza | Phase II, 181 Damascus | Bedford | NS | Plazacorp |

| Shopping Centre | Street Address | Location City | Location Province | Landlord |
|-------------------------------|----------------------------|---------------|-------------------|-----------------------------|
| | Road | | | |
| Billings Bridge Plaza | 2269 Riverside Drive | Ottawa | ON | 20 Vic |
| Boitano Mall | 850 Oliver Street | Williams Lake | BC | Grand Peak Capital Ltd. |
| Bower Place | 4900 Molly Banister Dr. | Red Deer | AB | Bentall Kennedy (Canada) LP |
| Bower Place | 4900 Molly Banister Dr. | Red Deer | AB | Bentall Kennedy (Canada) LP |
| Bower Place | 4900 Molly Banister Dr. | Red Deer | AB | Bentall Kennedy (Canada) LP |
| Bower Place | 4900 Molly Banister Dr. | Red Deer | AB | Bentall Kennedy (Canada) LP |
| Bramalea City Centre | 25 Peel Centre Drive | Brampton | ON | Morguard |
| Bramalea City Centre | 25 Peel Centre Drive | Brampton | ON | Morguard |
| Brandon Shoppers Mall | 1570 18th Street | Brandon | MB | Morguard REIT |
| Brandon Shoppers Mall | 1570 18th Street | Brandon | MB | Morguard REIT |
| Brandon Shoppers Mall | 1570 18th Street | Brandon | MB | Morguard REIT |
| Burlington Mall | 777 Guelph Line | Burlington | ON | RioCan |
| Burlington North Power Centre | 4517 Dundas Street | Burlington | ON | Smart!Centres |
| | | | | |
| Calgary Market Mall | 3625 Shaganappi Trail N.W. | Calgary | AB | Cadillac |
| Calgary Market Mall | 3625 Shaganappi Trail N.W. | Calgary | AB | Cadillac |
| Calgary Market Mall | 3625 Shaganappi Trail N.W. | Calgary | AB | Cadillac |
| Cambridge Centre | 355 Hespeler Road | Cambridge | ON | Morguard REIT |
| Cambridge Centre | 355 Hespeler Road | Cambridge | ON | Morguard REIT |
| Cambridge Centre | 355 Hespeler Road | Cambridge | ON | Morguard REIT |
| Campbell River Common | 1400 Ironwood Road | Campbell | BC | A.B. Edie |

| Shopping Centre | Street Address | Location City | Location Province | Landlord |
|-------------------------------|-----------------------|----------------|-------------------|-----------------------------|
| | | River | | Equities Inc. |
| Campbell River Common | 1400 Ironwood Road | Campbell River | BC | A.B. Edie Equities Inc. |
| Capilano SmartCentres | 5055 - 101 Avenue NW | Edmonton | AB | Calloway |
| Carlingwood Mall | 2121 Carling Avenue | Ottawa | ON | 20 Vic |
| | | | | |
| Cataraqui Town Centre | 945 Gardiners Road | Kingston | ON | Primaris Retail REIT |
| Cataraqui Town Centre | 945 Gardiners Road | Kingston | ON | Primaris Retail REIT |
| Centre At Circle And Eighth | 3310 8th Street East | Saskatoon | SK | Morguard REIT |
| Centre At Circle And Eighth | 3310 8th Street East | Saskatoon | SK | Morguard REIT |
| Centre Square Shopping Centre | 5014 - 49th Street | Yellowknife | NT | HREIT |
| Champlain Place | 477 Paul Street | Dieppe | NB | Cadillac |
| Champlain Place | 477 Paul Street | Dieppe | NB | Cadillac |
| Champlain Place | 477 Paul Street | Dieppe | NB | Cadillac |
| Chinook Centre | 6455 MacLeod Trail SW | Calgary | AB | Cadillac |
| Chinook Centre | 6455 MacLeod Trail SW | Calgary | AB | Cadillac |
| Cloverdale Mall | 250 The East Mall | Etobicoke | ON | Bentall Kennedy (Canada) LP |
| Conestoga Mall | 550 King Street North | Waterloo | ON | Ivanhoe Cambridge |
| | | | | |
| Coquitlam Centre | 2929 Barnet Highway | Coquitlam | BC | Morguard |
| Coquitlam Centre | 2929 Barnet Highway | Coquitlam | BC | Morguard |
| Corner Brook Plaza | 44 Maple Valley Road | Corner Brook | NL | Westcliff |
| Corner Brook Plaza | 44 Maple Valley Road | Corner Brook | NL | Westcliff |
| Corner Brook Plaza | 44 Maple Valley Road | Corner Brook | NL | Westcliff |
| Cornwall Centre | 2102-11th Avenue | Regina | SK | 20 Vic |
| Cornwall Centre | 2102-11th Avenue | Regina | SK | 20 Vic |
| Cornwall Square | 1 Water Street East | Cornwall | ON | Triovest |
| Cottonwood Mall | 45585 Luckakuck Way | Chilliwack | BC | Morguard |
| Cottonwood Mall | 45585 Luckakuck Way | Chilliwack | BC | Morguard |

| Shopping Centre | Street Address | Location City | Location Province | Landlord |
|---------------------------|--------------------------|---------------|-------------------|-----------------------------|
| Cottonwood Mall | 45585 Luckakuck Way | Chilliwack | BC | Morguard |
| Country Club Centre | 3200 Island Hwy. | Nanaimo | BC | Northwest |
| CrossIron Mills | 261055 CrossIron Blvd. | Rocky View | AB | Ivanhoe Cambridge |
| CrossIron Mills | 261055 CrossIron Blvd. | Rocky View | AB | Ivanhoe Cambridge |
| CrossIron Mills | 261055 CrossIron Blvd. | Rocky View | AB | Ivanhoe Cambridge |
| Devonshire Mall | 3100 Howard Avenue | Windsor | ON | 20 Vic |
| Devonshire Mall | 3100 Howard Avenue | Windsor | ON | 20 Vic |
| Downtown Chatham Centre | 100 King Street West | Chatham | ON | 1854313 Ontario Limited |
| Downtown Chatham Centre | 100 King Street West | Chatham | ON | 1854313 Ontario Limited |
| Driftwood Mall | 2751 Cliffe Avenue | Courtenay | BC | Bentall Kennedy (Canada) LP |
| Duggan Mall | 6601 - 48th Avenue | Camrose | AB | W.E. Roth |
| Duggan Mall | 6601 - 48th Avenue | Camrose | AB | W.E. Roth |
| Edmonton City Centre East | 101 St. & 102 Ave. | Edmonton | AB | Oxford |
| Edmonton City Centre East | 101 St. & 102 Ave. | Edmonton | AB | Oxford |
| Edmonton NE Power Centre | 13838 40th Street NW | Edmonton | AB | SmartCentres |
| Emerald Hills Centre | 5000 Emerald Hills Drive | Sherwood Park | AB | WAM Development |
| Emerald Hills Centre | 5000 Emerald Hills Drive | Sherwood Park | AB | WAM Development |
| Erin Mills Town Centre | 5100 Erin Mills Parkway | Mississauga | ON | 20 Vic |
| Estevan Shoppers Mall | 400 King Street | Estevan | SK | Artis Estevan Mall Ltd. |
| Etobicoke Power Centre | 171 North Queen Street | Etobicoke | ON | Smart!Centres |
| Etobicoke Power Centre | 171 North Queen Street | Etobicoke | ON | Smart!Centres |
| Fairview Park Mall | 2960 Kingsway Drive | Kitchener | ON | Cadillac |
| Fairview Park Mall | 2960 Kingsway Drive | Kitchener | ON | Cadillac |

| Shopping Centre | Street Address | Location City | Location Province | Landlord |
|-------------------------------|---------------------------|---------------|-------------------|-----------------------------|
| Fairview Park Mall | 2960 Kingsway Drive | Kitchener | ON | Cadillac |
| Frontier Mall | 11429 Railway Street East | N. Battleford | SK | Terracap |
| Frontier Mall | 11429 Railway Street East | N. Battleford | SK | Terracap |
| Garden City Shopping Centre | 2305 McPhillips Street | Winnipeg | MB | RioCan |
| Gateway Mall | 1403 Central Avenue | Prince Albert | SK | Fishman Holdings |
| Gateway Mall | 1403 Central Avenue | Prince Albert | SK | Fishman Holdings |
| Gateway Mall | 1403 Central Avenue | Prince Albert | SK | Fishman Holdings |
| Georgetown Market Place | 280 Guelph Street | Georgetown | ON | McCOR Management |
| Georgian Mall | 509 Bayfield St. | Barrie | ON | RioCan |
| Grasslands at Harbour Landing | 4548 Gordon Road | Regina | SK | Harvard |
| Guelph Power Centre | 49 Woodlawn Road West | Guelph | ON | Smart!Centres |
| Guildford Town Centre | 10355 152 Street | Surrey | BC | Ivanhoe Cambridge |
| Guildford Town Centre | 10355 152 Street | Surrey | BC | Ivanhoe Cambridge |
| Halifax Shopping Centre | 7001 Mumford Road | Halifax | NS | 20 Vic |
| Halifax Shopping Centre | 7001 Mumford Road | Halifax | NS | 20 Vic |
| Halifax Shopping Centre | 7001 Mumford Road | Halifax | NS | 20 Vic |
| Hamilton SE Power Centre | 2180 Rymal Road | Hannon | ON | RioCan |
| Haney Place Mall | 11900 Haney Place | Maple Ridge | BC | Narland Properties |
| Haney Place Mall | 11900 Haney Place | Maple Ridge | BC | Narland Properties |
| Heartland Town Centre | 6075 Mavis Road | Mississauga | ON | Orlando |
| Heartland Town Centre | 6075 Mavis Road | Mississauga | ON | Orlando |
| Hillside Centre | 1644 Hillside Avenue | Victoria | BC | Bentall Kennedy (Canada) LP |
| Hillside Centre | 1644 Hillside Avenue | Victoria | BC | Bentall Kennedy (Canada) LP |

| Shopping Centre | Street Address | Location City | Location Province | Landlord |
|-----------------------------------|--------------------------------|---------------|-------------------|---------------------------------------|
| Hillside Centre | 1644 Hillside Avenue | Victoria | BC | Bentall Kennedy (Canada) LP |
| Huntsville Place Mall | 70 King William Street | Huntsville | ON | Effort Trust |
| Huntsville Place Mall | 70 King William Street | Huntsville | ON | Effort Trust |
| Innes Rd & Mer Bleue Power Centre | 2006 Mer Bleue Road | Orleans | ON | Smart!Centres |
| Intercity Shopping Centre | 1000 Fort William Road | Thunder Bay | ON | Morguard |
| Intercity Shopping Centre | 1000 Fort William Road | Thunder Bay | ON | Morguard |
| Kenaston Power Centre | 1569 Kenaston Blvd. | Winnipeg | MB | Smart!Centres |
| Kildonan Place | 1555 Regent Avenue West | Winnipeg | MB | Primaris Retail REIT |
| Kings Crossing | 97 Dalton Ave. | Kingston | ON | Knightstone Capital Management Inc. |
| Kingsway Mall | 109 St. & Princess Elizabeth A | Edmonton | AB | Oxford |
| Kingsway Mall | 109 St. & Princess Elizabeth A | Edmonton | AB | Oxford |
| Kingsway Mall | 109 St. & Princess Elizabeth A | Edmonton | AB | Oxford |
| Lambton Mall | 1380 London Road | Sarnia | ON | 20 Vic |
| Lambton Mall | 1380 London Road | Sarnia | ON | 20 Vic |
| Lansdowne Place | 645 Lansdowne Street West | Peterborough | ON | 20 Vic |
| Lansdowne Place | 645 Lansdowne Street West | Peterborough | ON | 20 Vic |
| Lawson Heights | 134 Primrose Drive | Saskatoon | SK | Morguard |
| Lawson Heights | 134 Primrose Drive | Saskatoon | SK | Morguard |
| Lawson Heights | 134 Primrose Drive | Saskatoon | SK | Morguard |
| l'Esplanade Laurier | 171-181 Bank Street | Ottawa | ON | Public Works and Gov. Services Canada |
| Lime Ridge Mall | 999 Upper Wentworth St. | Hamilton | ON | Cadillac |
| Lindsay Square | 401 Kent Street West | Lindsay | ON | Davpart |
| Lindsay Square | 401 Kent Street West | Lindsay | ON | Davpart |
| Lloyd Mall | 5211-44th Street | Lloydminster | AB | Triovest |

| Shopping Centre | Street Address | Location City | Location Province | Landlord |
|----------------------------------|------------------------------|---------------|-------------------|--------------------------------|
| | | r | | |
| Lloyd Mall | 5211-44th Street | Lloydminster | AB | Triovest |
| London North Power Centre | 113 - 1965 Hyde Park Road | London | ON | Calloway |
| Londonderry Mall | 137 Avenue & 66th Street | Edmonton | AB | 20 Vic. |
| Londonderry Mall | 137 Avenue & 66th Street | Edmonton | AB | 20 Vic |
| Londonderry Mall | 137 Avenue & 66th Street | Edmonton | AB | 20 Vic |
| Lougheed Mall | 9855 Austin Avenue | Burnaby | BC | Shape Property Mgmt Corp. |
| Lynden Park Mall | 84 Lynden Road | Brantford | ON | CentreCorp |
| Lynden Park Mall | 84 Lynden Road | Brantford | ON | CentreCorp |
| Maple Park Shopping Centre | 2222 Maple Drive | Quesnel | BC | Canreal Management Corporation |
| Maple Park Shopping Centre | 2222 Maple Drive | Quesnel | BC | Canreal Management Corporation |
| Mapleview Centre | 900 Maple Ave. | Burlington | ON | Ivanhoe Cambridge |
| Market Mall | 2325 Preston Avenue | Saskatoon | SK | Fishman Holdings |
| Masonville Place | 1680 Richmond Street N. | London | ON | Cadillac |
| Masonville Place | 1680 Richmond Street N. | London | ON | Cadillac |
| Mayfield Common | 144 Mayfield Common | Edmonton | AB | RioCan |
| Mayflower Mall | 800 Grand Lake Road | Sydney | NS | McCOR Management |
| | | | | |
| Meadowlands Entertainment Centre | 803 Golf Links Road | Hamilton | ON | Noumont Ancaster Inc. |
| Medicine Hat Mall | 3292 Dunmore Road South East | Medicine Hat | AB | Primaris Retail REIT. |
| Medicine Hat Mall | 3292 Dunmore Road | Medicine | AB | Primaris |

| Shopping Centre | Street Address | Location City | Location Province | Landlord |
|-----------------------------------|---------------------------------|---------------|-------------------|-----------------------------------|
| | South East | Hat | | Retail REIT |
| Medicine Hat Mall | 3292 Dunmore Road South East | Medicine Hat | AB | Primaris Retail REIT |
| Metropolis at Metrotown | 4700 The Kingsway | Burnaby | BC | Ivanhoe Cambridge |
| | | | | |
| | | | | |
| Midtown Plaza | 1st Avenue & 21st Street E. | Saskatoon | SK | 20 Vic |
| Midtown Plaza | 1st Avenue & 21st Street E. | Saskatoon | SK | 20 Vic |
| Midtown Plaza | 1st Avenue & 21st Street E. | Saskatoon | SK | 20 Vic |
| Milton Crossroads Shopping Centre | 1250 Steeles Avenue E. | Milton | ON | First Gulf |
| Milton Crossroads Shopping Centre | 1250 Steeles Avenue E. | Milton | ON | First Gulf |
| New Sudbury Centre | 1349 Lasalle Blvd | Sudbury | ON | Morguard |
| New Sudbury Centre | 1349 Lasalle Blvd | Sudbury | ON | Morguard |
| New Sudbury Centre | 1349 Lasalle Blvd | Sudbury | ON | Morguard |
| Northgate Mall | 489 Albert Street North | Regina | SK | Westdale |
| Northgate Mall | 489 Albert Street North | Regina | SK | Westdale |
| Northgate Mall | 489 Albert Street North | Regina | SK | Westdale |
| Northumberland Mall | 1111 Elgin Street West | Cobourg | ON | Bayfield |
| Northumberland Mall | 1111 Elgin Street West | Cobourg | ON | Bayfield |
| Orangeville Mall | 150 First Street | Orangeville | ON | Arcturus Realty Corp. |
| Orchard Park | 2271 Harvey Avenue | Kelowna | BC | Primaris Retail REIT |
| Orchard Park | 2271 Harvey Avenue | Kelowna | BC | Primaris Retail REIT |
| Orchard Park | 2271 Harvey Avenue | Kelowna | BC | Primaris Retail REIT |
| Oshawa Centre | 419 King Street W. | Oshawa | ON | Ivanhoe Cambridge |
| Oshawa Centre | 419 King Street W. | Oshawa | ON | Ivanhoe Cambridge |
| Oshawa South Power Centre | 560 Laval Drive | Oshawa | ON | Smart!Cent res |
| Ottawa Train Yards | 100 Trainyards Drive | Ottawa | ON | Geoffrey L. Moore and Assoc. Ltd. |
| Ottawa Train Yards | 100 Trainyards Drive | Ottawa | ON | Geoffrey L. |

| Shopping Centre | Street Address | Location City | Location Province | Landlord |
|----------------------------|--------------------------------|----------------|-------------------|---------------------------|
| | | | | Moore and Assoc. Ltd. |
| Park Place | 501 - 1st Avenue S. | Lethbridge | AB | Primaris Retail REIT |
| Park Place | 501 - 1st Avenue S. | Lethbridge | AB | Primaris Retail REIT |
| Park Place | 501 - 1st Avenue S. | Lethbridge | AB | Primaris Retail REIT |
| Parkland Mall | 277 Broadway St. E. | Yorkton | SK | RioCan REIT |
| Parkland Mall | 277 Broadway St. E. | Yorkton | SK | RioCan REIT |
| Parkland Mall | 277 Broadway St. E. | Yorkton | SK | RioCan REIT |
| Parkland Mall (AB) | 4747-67th Street | Red Deer | AB | Morguard |
| Parkland Mall (AB) | 4747-67th Street | Red Deer | AB | Morguard |
| Parkland Mall (AB) | 4747-67th Street | Red Deer | AB | Morguard |
| Parks West Mall | 480-900 Carmichael Lane | Hinton | AB | Anthem Parks West Ltd. |
| Pembroke Mall | 1100 Pembroke Street East | Pembroke | ON | Fishman Holdings |
| Pembroke Mall | 1100 Pembroke Street East | Pembroke | ON | Fishman Holdings |
| Pen Centre | Glendale Avenue At Highway 406 | St. Catharines | ON | 20 Vic |
| Pen Centre | Glendale Avenue At Highway 406 | St. Catharines | ON | 20 Vic |
| Pen Centre | Glendale Avenue At Highway 406 | St. Catharines | ON | 20 Vic |
| Peter Pond Shopping Centre | 9713 Hardin Street | Fort McMurray | AB | Primaris Retail REIT |
| Peter Pond Shopping Centre | 9713 Hardin Street | Fort McMurray | AB | Primaris Retail REIT |
| Piccadilly Place Mall | 1151-10th Avenue S.w. | Salmon Arm | BC | Piccadilly Place Mall Inc |
| Piccadilly Place Mall | 1151-10th Avenue S.w. | Salmon Arm | BC | Piccadilly Place Mall Inc |
| Pickering Town Centre | 1355 Kingston Road | Pickering | ON | 20 Vic |
| Pickering Town Centre | 1355 Kingston Road | Pickering | ON | 20 Vic |
| Pine Centre Mall | 3055 Massey Drive | Prince George | BC | Morguard |
| Pine Centre Mall | 3055 Massey Drive | Prince | BC | Morguard |

| Shopping Centre | Street Address | Location City | Location Province | Landlord |
|---------------------------|---------------------------|----------------|-------------------|-----------------------------|
| | | George | | |
| Place d'Orleans | 110 Place d'Orleans Drive | Orleans | ON | Primaris Retail REIT |
| Place d'Orleans | 110 Place d'Orleans Drive | Orleans | ON | Primaris Retail REIT |
| Polo Park | 1485 Portage Avenue | Winnipeg | MB | Cadillac |
| Polo Park | 1485 Portage Avenue | Winnipeg | MB | Cadillac |
| Polo Park | 1485 Portage Avenue | Winnipeg | MB | Cadillac |
| Prairie Mall | 11801 - 100 Street | Grande Prairie | AB | Morguard |
| Prairie Mall | 11801 - 100 Street | Grande Prairie | AB | Morguard |
| Quinte Mall | 390 North Front Street | Belleville | ON | 20 Vic |
| Quinte Mall | 390 North Front Street | Belleville | ON | 20 Vic |
| Quinte Mall | 390 North Front Street | Belleville | ON | 20 Vic |
| Regent Mall | 1381 Regent St. | Fredericton | NB | Primaris Retail REIT |
| Regent Mall | 1381 Regent St. | Fredericton | NB | Primaris Retail REIT |
| Regent Mall | 1381 Regent St. | Fredericton | NB | Primaris Retail REIT |
| Riocan Durham Centre I | 40 Kingston Road East | Ajax | ON | RioCan REIT |
| RioCan Green Lane Centre | 18170 YONGE STREET, RR#1 | Newmarket | ON | RioCan |
| Seaway Mall | 800 Niagara Street North | Welland | ON | Doral Holdings |
| Seaway Mall | 800 Niagara Street North | Welland | ON | Doral Holdings |
| Seaway Mall | 800 Niagara Street North | Welland | ON | Doral Holdings |
| Sevenoaks Shopping Centre | 32900 South Fraser Way | Abbotsford | BC | Morguard |
| Sevenoaks Shopping Centre | 32900 South Fraser Way | Abbotsford | BC | Morguard |
| Sevenoaks Shopping Centre | 32900 South Fraser Way | Abbotsford | BC | Morguard |
| Sheridan Centre | 2225 Erin Mills Parkway | Mississauga | ON | Bentall Kennedy (Canada) LP |
| Sheridan Centre | 2225 Erin Mills Parkway | Mississauga | ON | Bentall Kennedy (Canada) LP |

| Shopping Centre | Street Address | Location City | Location Province | Landlord |
|---------------------------|----------------------------|---------------|-------------------|-------------------------------|
| Sherwood Park Mall | 2020 Sherwood Drive | Sherwood Park | AB | Primaris Retail REIT |
| Sherwood Park Mall | 2020 Sherwood Drive | Sherwood Park | AB | Primaris Retail REIT |
| Sherwood Park Mall | 2020 Sherwood Drive | Sherwood Park | AB | Primaris Retail REIT |
| Signal Hill Centre | 5518 Signal Hill Centre SW | Calgary | AB | RioCan REIT |
| Skeena Mall | 4741 Lakelse Avenue | Terrace | BC | Loon Properties (Skeena) Inc. |
| SmartCentres Barrie South | 29 Mapleview Drive West | Barrie | ON | Calloway REIT (Barrie) Inc. |
| SmartCentres Barrie South | 29 Mapleview Drive West | Barrie | ON | Calloway REIT (Barrie) Inc. |
| SmartCentres Oakville | 202 Oak Walk Drive | Oakville | ON | Smart!Centres |
| SmartCentres Oakville | 202 Oak Walk Drive | Oakville | ON | Smart!Centres |
| SmartCentres Scarborough | 1900 Eglinton Avenue East | Scarborough | ON | Smart!Centres |
| SmartCentres Scarborough | 1900 Eglinton Avenue East | Scarborough | ON | Smart!Centres |
| South Edmonton Common | 1443 99th Street NW | Edmonton | AB | Cameron |
| South Edmonton Common | 9735 19th Avenue | Edmonton | AB | Cameron |
| South Edmonton Common. | 1610 99th Street NW | Edmonton | AB | Cameron |
| South Trail Crossing | 4307 - 130 Ave. S. W. | Calgary | AB | RioCan |
| Southcentre Mall | 100 Anderson Road S.E. | Calgary | AB | Oxford |
| Southcentre Mall | 100 Anderson Road S.E. | Calgary | AB | Oxford |
| Southcentre Mall | 100 Anderson Road S.E. | Calgary | AB | Oxford |
| Southland Mall | 2965 Gordon Road | Regina | SK | Arcturus Realty Corp. |
| Southland Mall | 2965 Gordon Road | Regina | SK | Arcturus Realty Corp. |
| Southland Mall | 2965 Gordon Road | Regina | SK | Arcturus |

| Shopping Centre | Street Address | Location City | Location Province | Landlord |
|-----------------------------|-----------------------------|------------------|-------------------|-------------------------|
| | | | | Realty Corp. |
| Square One Shopping Centre | 100 City Centre Drive | Mississauga | ON | Oxford |
| St. Albert Centre | 375 St. Albert Road | St. Albert | AB | Primaris Retail REIT |
| St. Albert Centre | 375 St. Albert Road | St. Albert | AB | Primaris Retail REIT |
| St. John's East SmartCentre | 89 Aberdeen Avenue East | St. John's | NL | Smart!Cent res |
| St. John's East SmartCentre | 89 Aberdeen Avenue East | St. John's | NL | Smart!Cent res |
| St. Laurent Shopping Centre | 1200 St. Laurent Blvd. | Ottawa | ON | Morguard REIT |
| St. Laurent Shopping Centre | 1200 St. Laurent Blvd. | Ottawa | ON | Morguard REIT |
| St. Vital Centre | 1225 St. Mary's Road | Winnipeg | MB | 20 Vic |
| St. Vital Centre | 1225 St. Mary's Road | Winnipeg | MB | 20 Vic |
| St. Vital Centre | 1225 St. Mary's Road | Winnipeg | MB | 20 Vic |
| Station Mall | 293 Bay Street | Sault Ste. Marie | ON | Algoma Central |
| Station Mall | 293 Bay Street | Sault Ste. Marie | ON | Algoma Central |
| | | | | |
| Stone Road Mall | 435 Stone Road West | Guelph | ON | Primaris Retail REIT |
| Stone Road Mall | 435 Stone Road West | Guelph | ON | Primaris Retail REIT |
| Suncoast Mall | 397 Bayfield Road | Goderich | ON | 1865099 Ontario Limited |
| Suncoast Mall | 397 Bayfield Road | Goderich | ON | 1865099 Ontario Limited |
| Sunridge Mall | 2525-36th Street North East | Calgary | AB | Primaris Retail REIT |
| Sunridge Mall | 2525-36th Street North East | Calgary | AB | Primaris Retail REIT |
| Sunridge Mall | 2525-36th Street North East | Calgary | AB | Primaris Retail REIT |
| Sunrise Shopping Centre | 1400 Ottawa Street South | Kitchener | ON | Voisin |
| Sunrise Shopping Centre | 1400 Ottawa Street South | Kitchener | ON | Voisin |
| Swift Current Mall | 1 Springs Drive | Swift | SK | CREIT |

| Shopping Centre | Street Address | Location City | Location Province | Landlord |
|--------------------------|-----------------------------|---------------|-------------------|-------------------------------|
| | | Current | | |
| Swift Current Mall | 1 Springs Drive | Swift Current | SK | CREIT |
| Tamarack Shopping Centre | 1500 Cranbrook Street North | Cranbrook | BC | Bentall Kennedy (Canada) LP |
| Tamarack Shopping Centre | 1500 Cranbrook Street North | Cranbrook | BC | Bentall Kennedy (Canada) LP |
| TD Square | 317-7th Avenue South West | Calgary | AB | 20 Vic |
| Tecumseh Mall | 7672 Tecumseh Road East | Windsor | ON | 20 Vic |
| Boardwalk at Ira Needles | 210 The Boardwalk | Kitchener | ON | Voisin |
| The Village | 430 Topsail Road | St. John's | NL | Plazacorp |
| | | | | |
| Timmins Square | 1500 Riverside Drive | Timmins | ON | RioCan |
| Timmins Square | 1500 Riverside Drive | Timmins | ON | RioCan |
| Toronto-Dominion Centre | 66 Wellington Street West | Toronto | ON | Cadillac |
| Totem Mall | 9600 - 93rd Avenue | Fort St. John | BC | Edgecombe |
| Town Centre Mall | 7100 Alberni Street | Powell River | BC | Powell River Town Centre Ltd. |
| Tricity Mall | 6503 51st Street | Cold Lake | AB | West Horizon |
| Tricity Mall | 6503 51st Street | Cold Lake | AB | West Horizon |
| Upper Canada Mall | 17600 Yonge Street | Newmarket | ON | Oxford |
| Vaughan Mills | 1 Bass Pro Mills Drive | Vaughan | ON | Ivanhoe Cambridge |
| Victoria Square Mall | 2223 Victoria Avenue E. | Regina | SK | Bentall Kennedy (Canada) LP |
| Victoria Square Mall | 2223 Victoria Avenue E. | Regina | SK | Bentall Kennedy (Canada) LP |
| Village Green Mall | 4900-27th Street | Vernon | BC | Bentall Kennedy (Canada) |

| Shopping Centre | Street Address | Location City | Location Province | Landlord |
|-----------------------------|----------------------------|---------------|-------------------|-----------------------------|
| | | | | LP |
| Waneta Plaza | 8100 Rock Island Hwy | Trail | BC | Anthem Properties |
| Waneta Plaza | 8100 Rock Island Hwy | Trail | BC | Anthem Properties |
| West Edmonton Mall | 8882-170 Street | Edmonton | AB | West Ed Prop |
| West Edmonton Mall | 8882-170 Street | Edmonton | AB | West Ed Prop |
| West Edmonton Mall | 8882-170 Street | Edmonton | AB | West Ed Prop |
| West Edmonton Mall | 8882-170 Street | Edmonton | AB | West Ed Prop |
| Westland Market Mall | 70 Mcleod Avenue | Spruce Grove | AB | Strathallen |
| Westland Market Mall | 70 Mcleod Avenue | Spruce Grove | AB | Strathallen |
| Westland Market Mall | 70 Mcleod Avenue | Spruce Grove | AB | Strathallen |
| Westshore Town Centre | 2945 Jacklin Road | Victoria | BC | Bentall Kennedy (Canada) LP |
| Westshore Town Centre | 2945 Jacklin Road | Victoria | BC | Bentall Kennedy (Canada) LP |
| White Oaks Mall | 1105 Wellington Road South | London | ON | Bentall Kennedy (Canada) LP |
| White Oaks Mall | 1105 Wellington Road South | London | ON | Bentall Kennedy (Canada) LP |
| White Oaks Mall | 1105 Wellington Road South | London | ON | Bentall Kennedy (Canada) LP |
| Willowbrook Shopping Centre | 19705 Fraser Highway | Langley | BC | Bentall Kennedy (Canada) LP |
| Willowbrook Shopping Centre | 19705 Fraser Highway | Langley | BC | Bentall Kennedy |

| Shopping Centre | Street Address | Location City | Location Province | Landlord |
|----------------------------------|---------------------------|---------------|-------------------|--------------------------------------|
| | | | | (Canada) LP |
| Willowbrook Shopping Centre | 19705 Fraser Highway | Langley | BC | Bentall Kennedy (Canada) LP |
| Windsor Crossing Premium Outlets | 1555 Talbot Street | LaSalle | ON | Bentall Kennedy (Canada) LP |
| Woodgrove Centre | 6631 Island Highway North | Nanaimo | BC | Ivanhoe Cambridge |
| Woodgrove Centre | 6631 Island Highway North | Nanaimo | BC | Ivanhoe Cambridge |
| Woodgrove Centre | 6631 Island Highway North | Nanaimo | BC | Ivanhoe Cambridge |

SCHEDULE 1.1(c): MATERIAL CONTRACTS

| Contract | Parties | Date |
|--|---|--------------------|
| Master Communications Agreement – Tariffed (Retail) | Bell Canada & Comark Inc. | July 1, 2009 |
| Master Communications Agreement – Non-Tariffed (Retail) | Bell Canada & Comark Inc. | July 1, 2009 |
| Parcel Services Agreement Supplement | Canada Post Corporation & Comark Inc. | November 27, 2012 |
| Amended and Restated Outsourcing Services Agreement | CGI Information Systems and Management Consultants Inc. & Comark Inc. | March 1, 2012 |
| Contempo Agency Agreement | Contempo Limited & Comark Inc. | May 10, 2012 |
| Master Subscription and Services Agreement | Demandware Inc. & Comark Inc. | March 28, 2013 |
| Email Program Quote | Inbox Marketer Corporation & Comark Inc. | October 28, 2014 |
| Master Agreement for Transportation Services | Kintetsu World Express (Canada) Inc. & Comark Inc. | September 21, 2011 |
| Oracle Master Agreement | Oracle Canada ULC & Comark Inc. | May 20, 2015 |
| Global Support Services Agreement #1443 | Datavantage Corporation & Comark Inc. | April 15, 2009 |
| Management Application Support Program Agreement | Momentum Digital Solutions Inc. & Comark Inc. | May 6, 2014 |
| Management Application Support Program Agreement Renewal | Momentum Digital Solutions Inc. & Comark Inc. | May 31, 2015 |
| Professional Services Agreement | Momentum Digital Solutions Inc. & | May 12, 2014 |

| | | |
|--|---|--------------------|
| | Comark Inc. | |
| Services Pricing Agreement | Purolator Inc. & Comark Inc. | March 1, 2015 |
| Staples Advantage Master Purchasing Agreement | Staples Contract & Commercial Inc. & Comark Inc. | January 1, 2012 |
| Total Document Solutions Agreement | Xerox Canada Ltd. & Comark Inc. | September 29, 2010 |
| Offshore Program | CRSA Logistics Ltd. & Comark Inc. | March 21, 2007 |
| Inland Service Agreement | Ryder CRSA Logistics & Comark Inc. | June 1, 2009 |
| STS Software Maintenance Agreement | STS Systems Ltd. & Comark Services Inc. | October 3, 1984 |
| Software Implementation Agreement | STS Systems Ltd. & Comark Services Inc. | October 3, 1984 |
| Master Agreement for the Supply of Equipment and Services | Fujitsu Transaction Solutions Canada Inc. & Comark Inc. | November 25, 2008 |
| Stored Value Card Agreement | ValueLink LLC & Comark Inc. | May 7, 2012 |
| Trust Agreement for the Deferred Profit Sharing Plan for Employees of Comark Inc. and Participating Affiliates | Sun Life Financial Trust Inc. & Comark Inc. | April 1, 2009 |
| Investment Management and Record Keeping Agreement | Sun Life Assurance Company of Canada & Beutel, Goodman & Company Ltd. & Comark Inc. | April 1, 2008 |
| Benefits Service Agreement | The Williamson Group Inc. & Comark Inc. | March 1, 2006 |
| Demand Operating Facility Agreement | The Toronto-Dominion Bank & Comark Inc. | October 29, 2014 |
| Merchant Services Corporate Agreement | The Toronto-Dominion Bank & Comark Inc. | October 1, 2011 |
| AeroplanPlus Corporate Card Joint & Several Account Agreement | Amex Bank of Canada & Comark Inc. | May 25, 2007 |

| | | |
|--|---|-------------------|
| Lawson Software Americas, Inc. Master Services Agreement | Lawson Software Americas, Inc. & Comark Inc. | November 14, 2007 |
| Beanstream Application Form | Beanstream & Comark Inc. | August 22, 2012 |
| Enterprise Customer Agreement | Rogers Wireless Partnership & Comark Inc. | March 17, 2006 |
| Manulife Group Benefits Policies G008309, G0039204 | Manulife Financial & Comark Inc. | June 1, 2015 |
| RMS Services Contract | Prodco International Inc. & Comark Inc. | March 10, 2010 |
| Hardware Extended Warranty and Support Agreement | Prodco International Inc. & Comark Inc. | January 1, 2010 |
| Software Implementation Agreement Addendum | NSB Retail Solutions Inc. & Comark Services Mississauga | February 26, 2010 |
| Software Order Addendum to the Master Agreement | Epicor Retail Solutions Corporation & Comark Services Mississauga | June 26, 2013 |

SCHEDULE 1.1(d): TECHNOLOGY

Trademarks:

| Trademark | Status | App. No. | Owner |
|---|-------------------------|----------|--|
| 1) <u>71</u> | Registered TMA665604 | 1259093 | COMARK INC. |
| 2) <u>27639</u> | Registered TMA666422 | 1261445 | COMARK INC. |
| 3) <u>ACCESSORY PLACE</u> | Registered TMA438380 | 0730926 | COMARK INC. |
| 4) <u>BOOTLEGGER</u> | Registered TMA261525 | 0433200 | COMARK INC. |
| 5) <u>BOOTLEGGER</u> <u>JEANEOLOGIST</u> | Registered TMA704379 | 1335425 | COMARK INC. |
| 6) <u>BOOTLEGGER SPEAKEASY</u> | Allowed Application | 1482494 | COMARK INC. |
| 7) <u>BRODY & DESIGN</u> | Registered TMA370626 | 0617092 | COMARK INC. |
| 8) <u>CAKE</u> | Registered TMA669698 | 1271840 | COMARK INC. |
| 9) <u>CAPE COMFORT</u> <u>CLOTHING COMPANY</u> | Registered TMA386723 | 0610782 | COMARK INC., OPERATING THROUGH ITS BOOTLEGGER DIVISION |
| 10) <u>CLEO</u> | Registered TMA466193 | 0780499 | COMARK INC. |
| 11) <u>CLEO & RICKI'S FASHION</u> <u>CATALOGUE</u> (This registration has been expunged and is no longer active) | Expunged TMA464447 | 0790998 | COMARK INC. |
| 12) <u>CLEO EASY CASUAL</u> <u>STYLE & DESIGN</u> | Registered TMA529884 | 0880395 | COMARK INC. |
| 13) <u>CLEO JUST RIGHT</u> (This mark is now registered) | Registered TMA645080 | 1222717 | COMARK INC. |
| 14) <u>CLEO PETITES</u> (This mark is now registered) | Registered TMA644065 | 1204240 | COMARK INC. |
| 15) <u>CLOTHES LINE</u> | Registered TMA304680 | 0531638 | COMARK INC. |
| 16) <u>COMARK</u> | Registered TMA275702 | 0485783 | COMARK INC. |
| 17) <u>COMARK LOGO DESIGN</u> (Officially Called the LINKS Design) | Registered TMA313136 | 0538511 | COMARK INC. |
| 18) <u>CONTROL YOURSELF</u> | Registered TMA699173 | 1326606 | COMARK INC. |
| 19) <u>D'ALLAIRD</u> | Registered TMA567563 | 1077093 | COMARK INC. |
| 20) <u>D'ALLAIRD'S</u> | Registered TMA247650 | 0438106 | COMARK INC. |
| 21) <u>D'ALLAIRD'S</u> | Registered TMA192287 | 0358028 | COMARK INC. |
| 22) <u>D'ALLAIRD'S & DESIGN</u> | Registered TMA192286 | 0358027 | COMARK INC. |
| 23) <u>DISTILLERY APPAREL</u> (This mark is now registered) | Registered TMA810070 | 1477332 | COMARK INC. |
| 24) <u>DOCKSIDE ADVENTURE</u> <u>WEAR & DESIGN</u> (Typo in Mark has been corrected) | Registered TMA366674 | 0575379 | COMARK INC. |

| Trademark | Status | App. No. | Owner |
|--|--------------------------|----------|-------------|
| 25) <u>EASY CASUAL STYLE CLEO & DESIGN</u> | Registered TMA521826 | 0880394 | COMARK INC. |
| FASHION THAT WORKS | Registered TMA 765495 | 1427491 | COMARK INC. |
| 26) <u>FINALLY</u> (Expunged – no longer active) | Registered TMA452003 | 0773231 | COMARK INC. |
| 27) <u>FINALLY & DESIGN</u> (Expunged – no longer active) | Registered TMA466054 | 0790214 | COMARK INC. |
| 28) <u>FIND YOUR FIT</u> | Registered TMA635952 | 1228695 | COMARK INC. |
| 29) <u>IRENE HILL & DESIGN</u> | Registered TMA258825 | 0459470 | COMARK INC. |
| 30) <u>JUST PETITES & DESIGN</u> | Registered TMA278989 | 0480241 | COMARK INC. |
| 31) <u>KISMET</u> | Registered TMA665739 | 1261296 | COMARK INC. |
| 32) <u>MANNEQUIN</u> | Registered TMA311768 | 0538701 | COMARK INC. |
| 33) <u>NATURAL RESOURCES</u> | Registered TMA399169 | 0672939 | COMARK INC. |
| 34) <u>OAKLAND</u> | Registered TMA441452 | 0738258 | COMARK INC. |
| 35) <u>OAKLAND & DESIGN</u> | Registered TMA438917 | 0647509 | COMARK INC. |
| 36) <u>OFF BROADWAY</u> | Registered TMA275003 | 0482598 | COMARK INC. |
| 37) <u>PELICAN COVE</u> | Registered TMA387234 | 0632895 | COMARK INC. |
| 38) <u>PETITS & DESIGN</u> | Registered TMA275641 | 0459609 | COMARK INC. |
| 39) <u>R.W.BRODY & SONS</u> | Registered TMA313332 | 0537590 | COMARK INC. |
| 40) <u>R.W. BRODY & SONS & DESIGN</u> | Registered TMA313331 | 0537589 | COMARK INC. |
| 41) <u>REVOLUTION BY RICKI'S & DESIGN</u> | Registered TMA753772 | 1406750 | COMARK INC. |
| R/DESIGN (not yet registered, the application has been filed) | | 1569023 | |
| 42) <u>RICKI'S</u> | Registered TMA270962 | 0478974 | COMARK INC. |
| 43) <u>RICKI'S & DESIGN</u> | Registered TMA278268 | 0478975 | COMARK INC. |
| 44) <u>RIZER</u> | Registered TMA435623 | 0717871 | COMARK INC. |
| 45) <u>ROBINSON'S</u> | Registered TMA406013 | 0653562 | COMARK INC. |
| 46) <u>SEAFARER</u> (Expunged – no longer active) | Registered TMA216014 | 0355055 | COMARK INC. |
| 47) <u>SEAFARER & ANCHOR DESIGN</u> (Expunged – no longer active) | Registered TMA416473 | 0710817 | COMARK INC. |
| 48) <u>SOLO VOYCE & DESIGN</u> (expired, will not renew) | Registered TMA494616 | 0785696 | COMARK INC. |
| 49) <u>TEMPERANCE</u> (This mark is now registered) | Registered TMA823984 | 1482493 | COMARK INC. |
| 50) <u>THE ORIGINAL WATER STREET CLOTHING CO, & DESIGN</u> | Registered TMA523615 | 0841705 | COMARK INC. |

| Trademark | Status | App. No. | Owner |
|--|-----------------------|----------|-------------|
| 51) THE ORIGINAL WATER STREET CLOTHING CO. & FIRE TRUCK DESIGN | Registered TMA523614 | 0841704 | COMARK INC. |
| 52) THE ORIGINAL WATER STREET CLOTHING COMPANY | Registered TMA523671 | 0836965 | COMARK INC. |
| 53) THE WATER STREET CLOTHING COMPANY | Registered TMA523670 | 0836966 | COMARK INC. |
| WORKWARE ESSENTIALS | Registered TMA 833028 | 1536177 | COMARK INC. |

Trade Names

| Registered Business Name | Province | Expiration Date | Liens |
|--------------------------|----------|-----------------|-------|
| BOOTLEGGER | ALBERTA | NO EXPIRY | |
| CLEO | ALBERTA | NO EXPIRY | |
| RICKI'S | ALBERTA | NO EXPIRY | |

| Registered Business Name | Province | Expiration Date | Liens |
|-------------------------------|------------------|-----------------|-------|
| BOOTLEGGER | BRITISH COLUMBIA | NO EXPIRY | |
| CAPE COMFORT CLOTHING COMPANY | BRITISH COLUMBIA | NO EXPIRY | |
| CLEO | BRITISH COLUMBIA | NO EXPIRY | |
| D'ALLAIRD'S | BRITISH COLUMBIA | NO EXPIRY | |
| IRENE HILL | BRITISH COLUMBIA | NO EXPIRY | |

| Registered Business Name | Province | Expiration Date | Liens |
|--------------------------|------------------|-----------------|-------|
| JUSTPETITES | BRITISH COLUMBIA | NO EXPIRY | |
| OFF BROADWAY | BRITISH COLUMBIA | NO EXPIRY | |
| RICKI'S | BRITISH COLUMBIA | NO EXPIRY | |
| BOOTLEGGER | MANITOBA | JUNE 22, 2017 | |
| CLEO | MANITOBA | JUNE 22, 2017 | |

| Registered Business Name | Province | Expiration Date | Liens |
|--------------------------|---------------|-----------------|-------|
| CLEO PETITES | MANITOBA | JUNE 22, 2017 | |
| RICKI'S | MANITOBA | JUNE 22, 2017 | |
| BOOTLEGGER | NEW BRUNSWICK | MAY 25, 2018 | |
| CLEO | NEW BRUNSWICK | MAY 25, 2018 | |
| RICKI'S | NEW BRUNSWICK | MAY 25, 2018 | |

| Registered Business Name | Province | Expiration Date | Liens |
|--------------------------|-----------------------|--------------------|-------|
| BOOTLEGGER | NEWFOUNDLAND | NO REGISTRY | |
| RICKI'S | NEWFOUNDLAND | NO REGISTRY | |
| CLEO | NEWFOUNDLAND | NO REGISTRY | |
| BOOTLEGGER | NORTHWEST TERRITORIES | NO EXPIRY | |
| BOOTLEGGER | NOVA SCOTIA | SEPTEMBER 30, 2016 | |

| Registered Business Name | Province | Expiration Date | Liens |
|--------------------------|-------------|--------------------|-------|
| CLEO | NOVA SCOTIA | SEPTEMBER 30, 2016 | |
| CLEO PETITES | NOVA SCOTIA | SEPTEMBER 30, 2016 | |
| RICKI'S | NOVA SCOTIA | SEPTEMBER 30, 2016 | |
| ACCESSORY PLACE | ONTARIO | MAY 31, 2019 | |
| BOOTLEGGER | ONTARIO | MAY 31, 2019 | |

| Registered Business Name | Province | Expiration Date | Liens |
|--------------------------|----------|-----------------|-------|
| CLEO | ONTARIO | MAY 31, 2019 | |
| CLEO PETITES | ONTARIO | MAY 31, 2019 | |
| COMARK SERVICES | ONTARIO | MAY 31, 2019 | |
| D'ALLAIRD'S | ONTARIO | MAY 31, 2019 | |
| IRENE HILL | ONTARIO | MAY 31, 2019 | |

| Registered Business Name | Province | Expiration Date | Liens |
|--------------------------|----------|-------------------|-------|
| JUST PETITES | ONTARIO | MAY 31, 2019 | |
| OFF BROADWAY | ONTARIO | MAY 31, 2019 | |
| RICKI'S | ONTARIO | MAY 31, 2019 | |
| RICKI'S | P.E.I. | DECEMBER 16, 2015 | |
| BOOTLEGGER | P.E.I. | DECEMBER 16, 2015 | |

| Registered Business Name | Province | Expiration Date | Liens |
|--------------------------|----------|-----------------|-------|
| BOOTLEGGER | QUEBEC | NO EXPIRY | |
| CLEO | QUEBEC | NO EXPIRY | |
| CLEO PETITES | QUEBEC | NO EXPIRY | |
| D'ALLAIRD'S | QUEBEC | NO EXPIRY | |
| IRENE HILL | QUEBEC | NO EXPIRY | |

| Registered Business Name | Province | Expiration Date | Liens |
|--------------------------|--------------|--------------------|-------|
| JUST. PETITES | QUEBEC | NO EXPIRY | |
| RICKI'S | QUEBEC | NO EXPIRY | |
| BOOTLEGGER | SASKATCHEWAN | DECEMBER 31, 2015 | |
| CLEO | SASKATCHEWAN | SEPTEMBER 30, 2015 | |
| IRENE HILL | SASKATCHEWAN | MARCH 31, 2016 | |

| Registered Business Name | Province | Expiration Date | Liens |
|--------------------------|--------------|------------------|-------|
| JUST PETITES | SASKATCHEWAN | MARCH 31, 2016 | |
| RICKI'S | SASKATCHEWAN | MARCH 31, 2016 | |
| BOOTLEGGER | YUKON | FEBRUARY 4, 2016 | |
| RICKI'S | YUKON | FEBRUARY 4, 2016 | |

SCHEDULE 1.1(e): INDICATIVE WORKING CAPITAL CALCULATIONS

See Attached

REDACTED

SCHEDULE 1.1(f): PERMITTED ENCUMBRANCES

- (a) Inchoate statutory liens for Taxes, assessments, governmental or utility charges or levies not due as at the Closing Date (including the Liens of public utilities, workers, suppliers of materials, builders, contractors, architects and unpaid vendors of moveable property);
- (b) Rights of equipment lessors pursuant to Assigned Contracts;
- (c) Any privilege in favour of any lessor, licensor or permitter for rent to become due or for other obligations or acts, the performance of which is required under any Assigned Contract;
- (d) All Encumbrances affecting a landlord's freehold interest in any Leased Real Property pursuant to any Lease;

SCHEDULE 1.1(g): FORM OF APPROVAL AND VESTING ORDER

See Attached

Court File No. CV15-10920-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

| | | |
|-------------------------|---|-------------------|
| THE HONOURABLE REGIONAL |) | ●, THE ● |
| SENIOR JUSTICE MORAWETZ |) | DAY OF JULY, 2015 |
| |) | |

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 INC.

Applicant

APPROVAL AND VESTING ORDER

THIS MOTION, made by Comark Inc. (the "**Applicant**"), pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "CCAA") for an Order approving the sale transaction (the "**Transaction**") contemplated by an agreement of purchase and sale (the "**Sale Agreement**") between the Applicant and Pacific West Commercial Corporation and its permitted assignees (collectively, the "**Purchaser**") dated July ●, 2015 and appended to the Motion Record of the Applicant and vesting in the Purchaser the Applicant's right, title and interest in and to the assets described in the Sale Agreement (the "**Purchased Assets**"), was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Affidavit of Neville Lewis sworn July ●, 2015, the Fourth Report of Alvarez & Marsal Canada Inc., in its capacity as court-appointed monitor of the Applicant (the "**Monitor**") dated July ●, 2015 and on hearing the submissions of counsel for the Applicant, the Purchaser, Salus Capital Partners, LLC, the Monitor and such other counsel as were present and on being advised that the Service List was served with the Motion Record herein;

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 Sale Agreement.

TRANSACTION

3. THIS COURT ORDERS AND DECLARES that the Transaction is hereby approve and ratified, and that the execution of the Sale Agreement by the Applicant is hereby authorized, approved and ratified, with such minor amendments as the Applicant, in consultation with the Monitor and the Purchaser may agree to in writing. The Applicant is hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Transaction in accordance with the terms of the Sale Agreement, including for the conveyance, assignment and transfer by the Applicant of its right, title and interest in and to the Purchased Assets to the Purchaser.
4. THIS COURT ORDERS that on Closing, the Monitor shall hold back from the Closing Payment, an amount equal to \$5 million (the “**Holdback Amount**”), such amount to be held by the Monitor in trust and dealt with in accordance with this paragraph 3 as follows:
 - (a) in the event that the Working Capital is less than the Estimated Working Capital, as determined pursuant to and in accordance with section 3.5(h) of the Sale Agreement, the Monitor shall, on behalf of the Vendor, wire transfer the amount from the balance of the Holdback Amount (as may be reduced pursuant to subparagraph 4(b)) that is the lesser of: (i) the amount by which the Working Capital is less than the Estimated Working Capital; and (ii) the balance of the Holdback Amount, to the Purchaser within two (2) Business Days after the Settlement Date and following such transfer, the Holdback Amount shall be reduced accordingly and the balance, if any, shall be held by the Monitor in trust and dealt with in accordance with this paragraph 3; and

- (b) the Monitor shall, on behalf of the Vendor, wire transfer the amount from the balance of the Holdback Amount (as may be reduced pursuant to subparagraph 4(a)(b)) that is the lesser of (i) the Tier B Lease Adjustment Amount, if any; and (ii) the balance of the Holdback Amount, to the Purchaser by wire transfer of immediately available funds to an account specified by the Purchaser within two (2) Business Days of the Tier B Lease Deadline and following such transfer, the Holdback Amount shall be reduced accordingly and the balance, if any, shall be held by the Monitor in trust and dealt with in accordance with this paragraph 3,

within two (2) Business Days after the Settlement Date, or the Tier B Lease Deadline, whichever is later, the Monitor may remit the remainder of the Holdback Amount, if any, to the Vendor.

5. THIS COURT ORDERS that the Monitor shall be authorized to take such additional steps in furtherance of its responsibilities under the Sale Agreement.

6. THIS COURT ORDERS AND DECLARES that upon the delivery of a certificate of the Monitor to the Purchaser substantially in the form attached as Schedule A hereto (the "**Monitor's Certificate**"), all of the Applicant's right, title and interest in and to the Purchased Assets (which for greater certainty do not include any Contract excluded from the Sale Agreement in accordance with Section 2.9 thereof) shall vest absolutely in the Purchaser, free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the "**Claims**") including, without limiting the generality of the foregoing:

- (a) the Administration Charge, the KERP Charge, the Directors' Charge, the DIP Lender's Charge, the Bridging Charge (as such terms are defined in the Initial Order);
- (b) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario), the *Alberta Personal Property Security Act*, the *British Columbia Personal Property Security Act*, the *Personal Property Security Act* (Saskatchewan), the *Personal Property Security Act* (Manitoba), the

Register of Personal and Movable Rights (Quebec) or any other personal property registry system; and;

- (c) those Claims under the heading “Encumbrances to be Expunged/Deleted on Schedule “B” hereto.

(all of which are collectively referred to as the "**Encumbrances**") other than any personal property leases and those Permitted Encumbrances listed on Schedule "C" hereto and, for greater certainty, this Court orders that all of the Claims and Encumbrances affecting or relating to the Purchased Assets other than the Permitted Encumbrances are hereby expunged and discharged as against the Purchased Assets, other than any registrations made at the applicable land registry of the Leases forming part of the Purchased Assets and any memorials of lease, summaries of lease, notices of lease, assignments of lease and any amendments or other registrations pertaining to the Leases forming part of the Purchased Assets, provided however that, except as may otherwise be agreed to by the applicable landlord to such Lease (a "**Landlord**") and the Purchaser, nothing herein shall affect the rights and remedies of such Landlord against the Purchaser that may exist or arise under or in respect of any Lease that is ultimately assigned to the Purchaser in connection with the Transaction.

7. THIS COURT ORDERS that notwithstanding anything contained in this Order, nothing shall derogate from the obligations of the Purchaser to assume the Assumed Liabilities and to perform its obligations under the Assigned Contracts, as set out in the Sale Agreement.

8. THIS COURT ORDERS that: (a) nothing in this Order shall amend or vary, or be deemed to amend or vary, the terms of a Lease; and (b) none of the Leases shall be transferred conveyed, assigned or vested in the Assignee by operation of this Order.

9. THIS COURT ORDERS that upon the registration in the Canadian Intellectual Property Office of a certified copy of this Order, the applicable Registrar is hereby directed to transfer all Applicant's right, title and interest in and to the Purchased Assets that is Intellectual Property as described in the Sale Agreement, including the Intellectual Property listed on Schedule 1.1(d) to the Purchaser, free and clear of and from any and all Claims.

10. THIS COURT ORDERS that upon the registration in the applicable land registry office of a certified copy of this Order in the manner prescribed by the applicable land registry

office, the applicable Land Registrar is hereby directed to specifically discharge, cancel, delete and expunge from title to the applicable real or immovable property described in Schedule "B" all of the Encumbrances listed in Schedule "B" hereto.

11. THIS COURT ORDERS that for the purposes of determining the nature and priority of Claims, the net proceeds from the sale of the Purchased Assets shall stand in the place and stead of the Purchased Assets, and that from and after the delivery of the Monitor's Certificate all Claims and Encumbrances shall attach to the net proceeds from the sale of the Purchased Assets with the same priority as they had with respect to the Purchased Assets immediately prior to the sale, as if the Purchased Assets had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale.

12. THIS COURT ORDERS THIS COURT ORDERS that, pursuant to clause 7(3)(c) of the *Canada Personal Information Protection and Electronic Documents Act*, and any similar Provincial Legislation (the "**Privacy Legislation**"), the Applicant is authorized and permitted to disclose and transfer to the Purchaser all human resources and payroll information and any customer information in the Applicant's records pertaining to the Applicant's past and current employees and customers. The Purchaser shall be entitled to use the personal information provided to it in accordance with the Privacy Legislation. The Purchaser shall maintain and protect the privacy of such information and shall be entitled to use the personal information provided to it in a manner which is in all material respects identical to the prior use of such information by the Applicant.

13. THIS COURT ORDERS AND DIRECTS the Monitor to file with the Court a copy of the Monitor's Certificate, forthwith after delivery thereof.

14. THIS COURT ORDERS that the Monitor may rely on written notice from the Applicant and the Purchaser regarding fulfillment of conditions to closing under the Sale Agreement and shall incur no liability with respect to the delivery of the Monitor's Certificate, save and except for any gross negligence or wilful misconduct on its part.

15. THIS COURT ORDERS that, notwithstanding:

- (a) the pendency of these proceedings;

- (b) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) in respect of the Applicant and any bankruptcy order issued pursuant to any such applications; and
- (c) any assignment in bankruptcy made in respect of the Applicant;

the vesting of the Purchased Assets in the Purchaser pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of the Applicant and shall not be void or voidable by creditors of the Applicant, nor shall it constitute nor be deemed to be a fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue, or other reviewable transaction under the *Bankruptcy and Insolvency Act* (Canada) or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

THIS COURT ORDERS AND DECLARES that the Transaction is exempt from the application of the *Bulk Sales Act* (Ontario), the *Retail Sales Tax Act* (Ontario) and any legislation of similar effect in any other province of Canada in which all or any part of the Purchased Assets are located.

16. THIS COURT ORDERS that: (i) on or after the Closing Date, the Applicant is hereby permitted to execute and file articles of amendment or such other documents or instruments as may be required to change its corporate and business names in accordance with the Sale Agreement, and such articles, documents or other instruments shall be deemed to be duly authorized, valid and effective and shall be accepted by the applicable Governmental Authority without the requirement (if any) of obtaining director or shareholder approval pursuant to any federal or provincial legislation.

SEALING

17. THIS COURT ORDERS that an unredacted Sale Agreement be sealed, kept confidential and not form part of the public record, but rather shall be placed, separate and apart from all other contents of the Court file, in a sealed envelope attached to a notice that sets out the title of these proceedings and a statement that the contents are subject to a sealing order and shall only be opened upon further Order of the Court.

GENERAL PROVISIONS

18. 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 Applicant and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Applicant and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Applicant, the Monitor and its agents in carrying out the terms of this Order.

SCHEDULE A – Form of Monitor’s Certificate

Court File No. CV15-10920-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

| | | |
|-------------------------|---|-------------------|
| THE HONOURABLE REGIONAL |) | ●, THE ● |
| SENIOR JUSTICE MORAWETZ |) | DAY OF JULY, 2015 |
| |) | |

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 INC.

Applicant

RECITALS

- A. All undefined terms in this Monitor’s Certificate have the meanings ascribed to them in the Order of the Court dated July ●, 2015 (the “**Approval Order**”) approving the Sale Agreement entered into among Comark Inc. (“**Comark**”) and Pacific West Commercial Corporation (the “**Purchaser**”) dated July ●, 2015 (as amended from time to time, the “**Sale Agreement**”).
- B. Pursuant to the Approval Order, the Court approved the Sale Agreement and provided for the vesting in and sale, assignment and transfer to the Purchaser of Comark’s right, title and interest in and to the Purchased Assets, which vesting, sale, assignment and transfer is to be effective with respect to the Purchased Assets upon the delivery by the Monitor to the Purchaser and Comark of a certificate confirming: (i) the conditions to Closing as set out the Sale Agreement have been satisfied or waived by the Purchaser and Comark, as applicable; and (ii) the Transaction has been completed to the satisfaction of the Monitor.

C. As of the date hereof, Comark and the Purchaser, with the consent of the Monitor, have agreed to effect the sale, assignment and transfer of the Purchased Assets in accordance with the provisions of the Sale Agreement and the Approval Order.

THE MONITOR CERTIFIES the following:

1. The conditions to Closing with respect to the Purchased Assets as set out in Articles 7 and 8 of the Sale Agreement have been satisfied or waived by the Purchaser and Comark, as applicable; and

2. The Transaction with respect to the Purchased Assets has been completed to the satisfaction of the Monitor.

This Monitor's Certificate was delivered by the Monitor at _____ on _____, 2015.

ALVAREZ & MARSAL CANADA INC., in its capacity as Court-appointed Monitor of Comark Inc. and not in its personal or corporate capacity

Per: _____

Name:

Title:

SCHEDULE "B"

| Province | Land Registry Office | Legal Description | Encumbrances to be Expunged/ Deleted |
|------------------------|--------------------------------------|--|---|
| Georgian Mall, Ontario | Simcoe Land Registry Office (No. 51) | PIN: 58928-1969 (LT) PT LT 19 CON 4 VESPRA PTS 4, 5, 6 & 13 51R12305; BARRIE PIN: 58928-2249 (LT) PT LT 19 CON 4 VESPRA PTS 7 & 9 51R12305; BARRIE | Construction Lien registered as Instrument No. SC1200209 on March 26, 2015 |
| Vaughan Mills, Ontario | York Land Registry Office (No. 65) | PIN: 03280-0533 (LT) BLK 1, PL 65M3696, EXCEPT PTS 1 TO 29 INCL., 42 & 43, 65R26825, PTS 71, 72, 73, 74, 75, 78, 79, 80, 99, 100, 101 & 105, 65R27637, PTS 1 TO 8 INCL., 65R28663 & EXCEPT PTS 9, 10, 11, 12, 13, 24, 25, 30, 35, 36, 37, 38 & 39, 65R29976 , VAUGHAN | Construction Lien registered as Instrument No. YR2276519 on April 9, 2015 Certificate of Action registered as Instrument No. YR2302036 on June 8, 2015 |

SCHEDULE "C" - PERMITTED ENCUMBRANCES

"Permitted Encumbrances" means, collectively: (a) any Encumbrances (as defined in the Sale Agreement) encumbering the freehold or other ownership interest in the Leased Real Property (as defined in the Sale Agreement) or any other landlord's interest in the Leased Real Property (b) Encumbrances resulting from the Purchaser's actions or omissions; and (c) the items identified in Schedule "1.1(g)" of the Sale Agreement.

**IN THE MATTER OF 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 INC.**

APPLICANT

Court File No.

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

**PROCEEDING COMMENCED AT
TORONTO**

APPROVAL AND VESTING ORDER

OSLER, HOSKIN & HARCOURT LLP

Box 50, 1 First Canadian Place
Toronto, Canada M5X 1B8

Marc Wasserman (LSUC #: 44066M)
Tel: 416.862.4908

Caitlin Fell (LSUC #: 60091H)
Tel: 416.862.6690
Fax: 416.862.6666

Lawyers for the Applicant

Matter No: 1163824

SCHEDULE 1.1(h): FORM OF ASSIGNMENT ORDER

See Attached

|Court File No. CV15-10920-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

THE HONORABLE REGIONAL SENIOR)
 JUSTICE MORA WETZ)
)

●, THE ●
 DAY OF AUGUST, 2015

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 INC.

Applicant

ORDER APPROVING ASSIGNMENT OF CONTRACTS

THIS MOTION, made by Comark Inc. (the "**Applicant**"), pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**") for an Order approving the assignment of certain leases and contracts (the "**Assignment**") to the Purchaser as contemplated by an agreement of purchase and sale (the "**Sale Agreement**") between the Applicant and Pacific West Commercial Corporation and its permitted assignees (collectively, the "**Purchaser**") dated July ●, 2015 and appended to the Motion Record of the Applicant, was heard this day at 330 University Avenue, Toronto, Ontario.

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 Sale Agreement.

APPROVAL OF ASSIGNMENT OF CONTRACTS

3. THIS COURT ORDERS AND DECLARES that immediately upon the delivery of a monitor's certificate to the Purchaser substantially in the form attached as Schedule "B" hereto, all of the rights and obligations of the Vendor under the contracts and real property leases/occupation agreements (the "**Real Property Leases**") listed in Schedule "A" hereto (collectively, the "**Contracts**") shall be assigned, conveyed and transferred to the Purchaser pursuant to section 11.3 of the *Companies' Creditors Arrangement Act* (Canada) ("**CCAA**"). As and from the Closing Time, the Purchaser shall be entitled and subject to all of the rights and obligations as tenant pursuant to the terms of the Real Property Leases and registrations thereof and may enter into and upon and hold and enjoy each premises contemplated by the Real Property Leases and, if applicable, any renewals thereof, for its own use and benefit, all in accordance with the terms of the Real Property Leases, without any interruption from the Vendor, the landlords under the Real Property Leases or any person whomsoever claiming through or under any of the Vendor or the landlords under the Real Property Leases.

4. THIS COURT ORDERS that the assignment and transfer of the Contracts shall further be subject to the provision of this Court's Approval and Vesting Order dated ● directing that the Vendor's rights and obligations under the Contracts shall vest in the Purchaser free and clear of all Encumbrances other than the Permitted Encumbrances.

5. THIS COURT ORDERS that the assignment of the Contracts is valid and binding upon all of the counterparties to the Contracts, notwithstanding any restriction or prohibition contained in any such Contract relating to the assignment thereof, including, but not limited to, any provision requiring the consent of any party to the transfer, conveyance, or assignment of the Contracts.

6. THIS COURT ORDERS that no counterparty under any Contract, nor any other person, upon the assignment and transfer to, and assumption by, the Purchaser of the Contracts hereunder shall make or pursue any demand, Claim, action or suit or exercise any right or remedy under any Contract against the Purchaser relating to:

- (a) the Vendor having sought or obtained relief under the CCAA;
- (b) the insolvency of the Vendor; or
- (c) any failure by the Vendor to perform a non-monetary obligation under any Contract;

and all such counterparties and persons shall be forever barred and estopped from taking such action. For greater certainty, nothing herein shall limit or exempt the Purchaser in respect of obligations accruing, arising or continuing after the date hereof, under the Contracts other than in respect of items (a) - (c) above.

7. THIS COURT ORDERS that all existing monetary defaults in relation to any of the Contracts, if applicable, other than those arising by reason only of the Vendor's insolvency, the commencement of these CCAA proceedings or failure to perform a non-monetary obligation under any Contract; on or before the Closing Date, shall be paid in accordance with Section 2.4(b) of the Sale Agreement.

8. THIS COURT ORDERS that notwithstanding anything contained in this Order, nothing shall derogate from the obligations of the Purchaser to assume the Assumed Liabilities and to perform its obligations under the Assigned Contracts, as set out in the Sale Agreement.

9. THIS COURT ORDERS AND DIRECTS that the Monitor is hereby authorized and directed to take such actions as it deems necessary or appropriate in the circumstances to assist the Vendors in the assignment and transfer of the Contracts.

GENERAL

10. 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 Applicant and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Applicant and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Applicant, the Monitor and its agents in carrying out the terms of this Order.

11. The Vendor, the Purchaser, the Monitor and any counterparty to any Contract being assigned may apply to this Court for advice and direction, or to seek relief in respect of any matters arising from or under this Order, including without limitation, as necessary, to effect the transfer of the Contracts (including any transfer of title registrations in respect of such Contracts), the interpretation of this Order or the implementation thereof, and for any further order that may be required, on notice to any party likely to be affected by the order sought or on such notice as this Court requires.

SCHEDULE A
Contracts

| Store No. | Store Name | Shopping Centre | Property Manager / Landlord | Address | City, Province, Postal Code | Date of Lease and Amendments |
|------------------|-------------------|------------------------|------------------------------------|----------------|------------------------------------|-------------------------------------|
| | | | | | | |
| | | | | | | |

SCHEDULE B

SCHEDULE 1.1(i): TIER A and TIER B LEASES**See Attached**

REDACTED

SCHEDULE 2.8: GOVERNMENTAL AUTHORIZATIONS

Competition Act Approval

SCHEDULE 4.7: INVENTORY

See Attached

REDACTED

SCHEDULE 8.4: GUARANTEES UNDER BRIDGING AGREEMENT

REDACTED

Tab B

**THIS IS EXHIBIT "B" TO THE AFFIDAVIT OF
NEVILLE LEWIS SWORN BEFORE ME
THIS 20TH DAY OF JULY, 2015**



A Commissioner for taking Affidavits

Strictly Private and Confidential

June 9, 2015

●

Attention: ●

Re: Comark Inc.– Submission of Final Bid

Dear Sirs and Mesdames:

We appreciate your continued interest in Comark Inc. (the “Company” or “Comark”). As you are aware, on March 26, 2015 the Company was granted an initial order (as amended and restated or modified from time to time, the “Initial Order”) pursuant to the *Companies’ Creditors Arrangement Act* (“CCAA”) from the Ontario Superior Court of Justice (Commercial List) (the “Court”) that, among other things, authorized the Company to conduct a sale and investor solicitation process (the “SISP”) to solicit offers to purchase all or part of the Property or invest in the Business of the Company. Pursuant to the Initial Order, Alvarez & Marsal Canada Inc. was appointed as the monitor (“Monitor”) of the Company to oversee its CCAA proceeding and the SISP, and Houlihan Lokey Capital Inc. (“Houlihan”) was appointed as the Company’s financial advisor to assist the Company with the implementation of the SISP. Capitalized terms not otherwise defined herein shall have the meaning ascribed thereto in the SISP.

In accordance with the terms of the SISP, you were invited to participate in Phase 2 of the SISP to further your business investigation activities leading to the submission of a final, binding proposal for the acquisition or investment in the Company (“Final Bid”). Your Final Bid shall constitute an irrevocable and binding offer, subject only to the conditions stated therein.

In accordance with the terms of the SISP, in addition to this letter, you are now receiving a proposed form of a definitive asset purchase agreement (the “Definitive Agreement”). The Company shall provide the forms of the schedules to the Definitive Agreement through the virtual data room. Any proposed revisions to the Definitive Agreement should reflect the exact language for the change you propose. A mark-up of the Definitive Agreement, including a blackline reflecting all changes you are seeking to complete the transaction, as well as a complete list of your remaining due diligence items should be submitted electronically no later than **5:00 p.m. Eastern Daylight Time on Monday, June 22, 2015** to the attention of Derek Pitts at Houlihan (dpitts@hl.com) and Adam Zalev at the Monitor (azalev@alvarezandmarsal.com). Please contact Houlihan if you believe that it would be helpful to discuss aspects of the draft Definitive Agreement with Comark’s counsel prior to your submission on June 22, 2015 and Houlihan will arrange appropriate contact.

The Company, the Monitor, their respective legal advisors and Houlihan will review your submission and, where appropriate, have discussions with you and provide feedback on your revisions to the Definitive Agreement in advance of the Phase 2 Bid Deadline (as defined below).

Pursuant to the terms of the SISP, the Monitor, in consultation with the Company, the Financial Advisor and the Lenders have extended Phase 2 of the SISP by an additional twelve (12) days such that your Final Bid must be submitted in writing by no later than **5:00 p.m. Eastern Daylight Time on Monday, June 29, 2015** (“Phase 2 Bid Deadline”) and addressed as follows:

Derek Pitts
Managing Director
Houlihan Lokey, Special Situations
Tel: (212) 497 4161
dpitts@hl.com

Adam Zalev
Managing Director
Alvarez & Marsal, Corporate Finance
Tel: (416) 847 5154
azalev@alvarezandmarsal.com

Your Final Bid should reflect your best and final offer and you should not assume that you will be given an opportunity to rebid, renegotiate, or improve any terms of your Final Bid. Your Final Bid must also include a letter that includes, without limitation, the following:

1. Transaction Summary: A description of the proposed transaction contemplated in your Final Bid, including a clear indication of whether the Final Bid is offering to acquire all, substantially all or a portion of the Property relating to a Division or any combination of Divisions of Comark, including a description of the assets and/or business operations to be purchased and liabilities to be assumed;
2. Purchase Price and Form of Consideration: The enterprise value, expressed in Canadian dollars, that you would be prepared to offer to purchase all or that portion of the Company which is contemplated in your Final Bid, on a debt-free, cash-free basis (the “Purchase Price”), as well as the proposed form of consideration. Your Final Bid should provide for a fixed amount of consideration that is a single number and not a range of values.

Your Final Bid should include a sources and uses table and clearly show the build-up of Purchase Price, including:

- I. The enterprise value, expressed in Canadian dollars, on a debt-free, cash-free basis, based on an average level of non-cash working capital for the business, which the Company estimates to be approximately \$** million (the “Working Capital Target”);
 - II. The amount by which the estimated working capital of Comark as at closing of the transaction (the “Estimated Working Capital”), exceeds the Working Capital Target. Houlihan will post in the data room, as soon as practicable, the Estimated Working Capital for the purposes of calculating this amount; and
 - III. Any other adjustments for liabilities that will be assumed under your Final Bid.
3. Identity and Contact Information: The identity of all parties that will be sponsoring or participating in the Final Bid (collectively, the “Purchaser”) including the names, titles

and contact information of key individuals from your organization with respect to the transaction. To the extent you will be relying on external sources of financing, provide a list of contacts and contact information for each such source with whom financing arrangements and commitment letters can be discussed and authorize Houlihan, the Monitor and the respective counsel to the Company and the Monitor to have such discussions;

4. Sources of Financing: Your Final Bid must not be conditional upon obtaining financing and should be made on the basis that you have secured adequate and irrevocable financing to complete the transaction. If you will be relying on internally generated funds, provide evidence of sufficiency of funds to complete the transaction. If you intend to access external financing (debt and/or equity), your Final Bid must be accompanied by fully executed copies of commitment letters from parties evidencing the irrevocable commitment of such parties to invest or lend sufficient funds to complete the transaction and satisfy all of the obligations of the Purchaser under the Definitive Agreement;
5. Due Diligence: The Company has provided you with a significant amount of confidential information. The Company will consider and facilitate additional due diligence requests you deem necessary prior to submission of your Final Bid. It is expected that you will have completed all of your due diligence investigation by the Phase 2 Bid Deadline and that your Final Bid will not be conditional on any further due diligence. In addition, to the extent you will be relying on external sources of financing, your Final Bid must confirm that such financing is not conditional upon completion of further due diligence;
6. Conditionality: The level of conditionality will be a material consideration in evaluating Final Bids received. Your Final Bid should have no conditions to closing other than those in the Definitive Agreement and must not be subject to a financing or due diligence condition;
7. Regulatory Approvals: Your Definitive Agreement should identify all required regulatory approvals or other consents, if any, under applicable laws that must be obtained or complied by you prior to closing of the transaction and your Final Bid must include a detailed discussion of the expected timing and process for obtaining such approvals or consents to permit closing and any anticipated impediments for obtaining such approval or consents.

Your Final Bid must also include an explanation of any regulatory approvals required as a result of the circumstances of your organization, and the expected process and timing thereof. In addition, from a competition law perspective, your Final Bid should also include a description of all interests (e.g. voting / non-voting, board representations, or any other business interests) that could potentially raise an issue under these laws in any relevant jurisdiction;

8. Other Approvals: All required internal, corporate or other approvals and consents should be obtained prior to submitting your Final Bid. Please include a statement in your Final Bid confirming that all such consents and approvals necessary to permit you to close the transaction have been obtained prior to submitting the Final Bid;

9. Expected Timing of Closing: Your Final Bid must include a description of the expected time frame to complete the transaction, including key milestones as well as any other relevant information which may influence your ability to consummate the transaction by the Outside Date contemplated in the SISP, being August 15, 2015;
10. Employees: Provide details of any contemplated changes to the current terms and conditions of employment for continuing employees;
11. Expiration: Your Final Bid must remain open for acceptance by the Company and be irrevocable until the earlier of: (a) the approval by the Court of a Successful Bid and (b) 10 days following the Phase 2 Bid Deadline, provided that if you are selected as the successful bidder, your Final Bid will remain irrevocable until the earlier of the closing of the transaction with you and the termination of the Definitive Agreement in accordance with its terms; and
12. Other: Any other factors you believe may be relevant to the Monitor, the Company or Houlihan in evaluating your Final Bid.

Notwithstanding anything to the contrary, your Final Bid and Definitive Agreement must comply with the requirements of the SISP including, without limitation, the requirements set forth in paragraph 29 of the SISP.

As mentioned above, your Final Bid should reflect your best and final offer and you should not assume that you will be given an opportunity to rebid, renegotiate, or improve any terms of your Final Bid. Final Bids that, among other factors, maximize value for Comark's stakeholders, satisfy the Lender Claims pursuant to paragraph 29(o) of the SISP, are submitted in accordance with the requirements of the SISP, provide for execution certainty and speed (including any regulatory approvals required to close the transaction), have minimal conditionality and demonstrate an ability and willingness to complete the transaction in an expeditious manner will be favoured.

Following the Phase 2 Bid Deadline, the Monitor, in consultation with Houlihan, Comark and the Lenders, will evaluate the Final Bids received and determine the process by which the Company moves forward in accordance with the SISP and Initial Order.

Comark will not have any liability or obligation whatsoever to any interested party in connection with the SISP, including, but not limited to, as a result of the rejection of any or all of the Final Bids, the acceptance of another interested party's Final Bid or the termination of the SISP. No party will be entitled for any reason (including, without limitation, any modification of the procedures contemplated herein) to reimbursement for any costs or expenses incurred in reliance upon the procedures set forth in this letter, as such procedures may be modified from time to time. No broker's fees, finder's fees, commissions, expenses or other compensation will be paid by the Company, the Monitor or Houlihan to agents, consultants, advisors or other intermediaries of any party. The Company and Houlihan reserve the right to amend any information which has been made available to interested parties whether by way of addition, deletion, amendment or otherwise.

In submitting a Final Bid, a prospective purchaser acknowledges that it is relying solely on its own investigation and evaluation of the Company and its business. Comark, the Monitor and

Houlihan expressly disclaim any and all liability for representations, warranties or statements contained in this letter or in any other written material furnished or information orally transmitted to a potential purchaser, except only those particular representations and warranties of the Company made to the actual purchaser in the Definitive Agreement when, as and if such Definitive Agreement is ultimately executed by Comark and subject to such limitations and restrictions as may be contained therein. Until a Definitive Agreement is executed by Comark, none of the Company, the Monitor or Houlihan will have any obligations whatsoever to any potential purchaser.

The terms and content of this letter are subject to the terms of the non-disclosure agreement (the "Non-Disclosure Agreement") previously executed by you, which, among other things, unless specifically authorized, prohibits disclosure to third parties of any confidential information related either to the Company or to your interest or lack thereof in a transaction with the Company. Pursuant to the Non-Disclosure Agreement, unless otherwise permitted thereunder, under no circumstances are you permitted to contact any of the Company's executives, employees, directors, trustees, unitholders, lenders, customers, or suppliers with respect to the SISP unless such contact has been prearranged with and approved by Houlihan. All communications or inquiries regarding the SISP or any other matters relating to this letter should be directed to either Derek Pitts (212) 497 4161 or Adam Zalev at (416) 847 5154.


Once again, we appreciate your interest in Comark and look forward to receiving your Final Bid.

Yours truly,

Derek Pitts

Tab C

**THIS IS CONFIDENTIAL EXHIBIT "C" TO THE AFFIDAVIT OF
NEVILLE LEWIS SWORN BEFORE ME
THIS 20TH DAY OF JULY, 2015**



A Commissioner for taking Affidavits

Confidential

Exhibit “C”

**IN THE MATTER OF 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 INC.**

APPLICANT

Court File No. CV15-10920-00CL

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

PROCEEDING COMMENCED AT
TORONTO

**MOTION RECORD
(Sale Approval and Stay Extension)**

OSLER, HOSKIN & HARCOURT LLP

Box 50, 1 First Canadian Place
Toronto, Canada M5X 1B8

Marc Wasserman (LSUC#: 44066M)
Tel: 416.862.4908

Caitlin Fell (LSUC #: 60091H)
Tel: 416.862.6690
Fax: 416.862.6666

Lawyers for the Applicant

Matter No: 1163824