



This is the 1st affidavit of Kelly Ma in this case and was made on November 12, 2020

No. S-209201
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

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

AND

IN THE MATTER OF MOUNTAIN EQUIPMENT CO-OPERATIVE
AND 1314625 ONTARIO LIMITED

Petitioners

AFFIDAVIT #1 OF KELLY MA

I, Kelly Ma, paralegal, of 777 Hornby Street, in the Province of British Columbia affirm that:

1. I am an administrative assistant at Victory Square Law Office and as such I have personal knowledge of the facts and matters referred to by me except where indicated on information and belief and where so stated I verily believe them to be true.
2. I am informed by Colin Gusikoski that our office has been contacted by the administrator of a Facebook group called Former MEC Staffers, which is comprised of employees who have been terminated by Petitioners in this action ("Facebook Group").
3. I am informed by Colin Gusikoski that our office has been in contact with at least 35 individuals who are members of the Facebook Group ("Concerned Individuals").
4. I am informed by Colin Gusikoski, that many of the Concerned Individuals have expressed anxiety about their termination and the CCAA process and most wish to remain anonymous at this point in the proceedings.
5. I am informed by Colin Gusikoski, that many of the Concerned Individuals have no or no valid written contract and are therefore their contracts are governed by the common law.
6. I am informed by Colin Gusikoski, that many of the Concerned Individuals have or had contractual provisions as follows:

TERMINATION: MEC may terminate your employment at any time for just cause without notice or any payment in lieu of notice. This employment contract may be terminated at any time without just cause by either party. In the event of termination by MEC without cause, you agree that the appropriate and reasonable notice of termination and/ or severance pay is as set out in the Employment Standards legislation of your province of

employment. You shall give MEC a minimum of fourteen (14) days notice if you terminate this contract without cause. Refer to MEC Policy B.7 Termination.

A copy of a contract which contains this provision is attached as **exhibit "A"**.

7. I am informed by Colin Gusikoski, that many of the Concerned Individuals have or had contractual provisions as follows:

Termination Without Cause: MEC may terminate your employment at any time upon providing you with only such minimum notice of termination, or pay in lieu thereof, and severance pay (if applicable) as may be required by the applicable employment standards legislation in your province. You will also be paid any outstanding wages and any vacation pay owing to you as of the date of termination and as required by the applicable employment standards legislation in your province. Where required by such employment standards legislation, MEC will continue to make its employer contributions to the benefit plans in which you participate at the time of the termination of your employment for the minimum period required by law.

A copy of a contract which contains this provision is attached as **exhibit "B"**.

8. I am informed by Colin Gusikoski, that many of the Concerned Individuals have contractual provisions as follows:

Termination Without Cause: MEC may terminate your employment without cause at any time upon providing you with the following:

- a. Such minimum notice of termination, or pay in lieu thereof, benefits and if applicable, severance pay, prescribed by the applicable employment standards legislation in the province in which you are employed.
- b. Inclusive of the above-mentioned statutory entitlements, you will also be entitled to the equivalent of 2 weeks of your base salary (calculated as at the time of termination) per year of completed service, up to a maximum of 26 weeks, with 15% of such amount added in lieu of benefits continuance.

You acknowledge and agree that the provision of such notice, or pay in lieu of notice, is reasonable and shall constitute full and final satisfaction of all rights, any claim or entitlement that you may have from or against the Co-op arising from or related to your employment or its termination, whether pursuant to statute, contract, common law or otherwise. For further clarity, you specifically acknowledge and agree that the termination provisions of this paragraph are intended to override any entitlement to reasonable notice under the common law and that the Co-op shall have no other obligations to you. Any payment made in accordance with this paragraph will: (a) be subject to deductions required by law; (b) be inclusive of termination pay or notice required under all applicable employment standards legislation; and (c) any payment made that is over and above the amount required by any applicable employment standards legislation, including the amount set out above, shall be conditional on you signing a full release and indemnity in a form satisfactory to the Co-op in consideration of such payment.

A copy of a contract which contains this provision is attached as **exhibit "C"**.

9. I am informed by Colin Gusikoski, that many of the Concerned Individuals have contractual provisions as follows:

ii. You will receive such minimum notice of termination, or pay in lieu thereof, continuation of benefits, continuation of vacation pay accrual and statutory severance pay (if applicable), as required by the employment standards legislation in the province in which you work, as amended from time to time. For greater certainty, on termination of your employment without cause, you will receive any and all entitlements for which you are eligible and are required by the employment standards legislation in the province where you work. Also, in the provinces where it is required by applicable employment standards legislation, and only for the duration required by such legislation, MEC will continue to make its premium contributions on your behalf so as to provide for your participation in the MEC's benefit program in which you participate at the time of the termination of your employment.

iii. Subject to your termination and return of a Release, MEC will pay you an additional Separation Payment equal to the sum of (A) one (1) week of base salary for each year worked up to five (5) years of continuous service; plus (B) two (2) weeks' base salary for each year worked without interruption after five (5) years of continuous service. Partial years of service will be pro-rated by the completed month of service. The maximum Separation Payment to which you will be entitled based on the service calculation above will be forty-four (44) weeks' base salary.

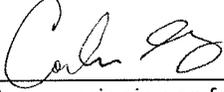
A copy of a contract which contains this provision is attached as **exhibit "D"**.

10. I am informed by Colin Gusikoski that there are various iterations of severance entitlements for the contract at appendix D. Some of those are as follows:

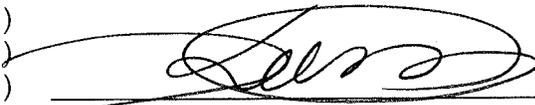
- a. 2 weeks per year to a maximum of 26 weeks plus 15% in lieu of benefits, all inclusive of statutory entitlements.
- b. Employment standards plus 1 week salary for first 5 years, and an additional 2 weeks salary for each additional year (pro-rated if partial) to a maximum of 44 weeks.
- c. Statutory entitlements, plus 3 weeks per year, to a maximum of 9 months with an additional 15% in lieu of benefits.
- d. In addition, there were some individuals who negotiated an assurance that severance provisions would be unresolved (Frederic Richard)

11. A copy of MEC's "Termination" policy is attached as exhibit "E".

AFFIRMED BEFORE ME at Vancouver,
British Columbia, this 12th day of November,
2020

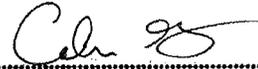


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British Columbia

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 **VICTORY SQUARE**
LAW OFFICE LLP
Colin Gusikowski, Lawyer
Suite 710-777 Hornby Street
Vancouver, BC V6Z 1S4
604-684-8421

This is Exhibit "A" referred to in the Affidavit of Kelly Ma Sworn before me at Vancouver This 12 day of November 2020



A Commissioner for taking Affidavits within British Columbia

PERMANENT EMPLOYMENT AGREEMENT

Terms and conditions of employment

1. **Commencement** Employment commences _____
2. **Probationary status** Employment includes a probationary period of three (3) months, ending _____

During your probationary period, your performance and suitability for continued employment will be monitored and evaluated by Mountain Equipment Co-op (hereafter "MEC") If at any time during this probationary period, MEC determines, at its absolute discretion, that your performance is not satisfactory or that you are not suitable for continued employment. MEC may terminate your employment without any notice or severance payment to you Refer to MEC Policy B 9 Probationary Period

3. **Duties** You shall perform your duties and responsibilities honestly, faithfully, and with good effort MEC may require you to perform the duties of other positions from time to time, or alter the present duties at any time Refer to MEC Policies B.1 Code of Business Conduct and B.12 Terms of Employment

4. **Vacation (time and pay) and statutory holidays**

You will accumulate vacation time and vacation pay as follows:

First year	4%
After 1 year of service	6%
After 5 years service	8%
After 10 years service	10%
After 15 years service	12%

You may not take vacation time during your probationary period and may only take a vacation during your first six months of employment with the written permission of your supervisor. Time off and payment for statutory holidays will be in accordance with the Employment Standards legislation of your province of employment.

5. **Staff discounts** The MEC staff discount is 35% off MEC brand Apparel (not including MEC hardgoods) and 25% off all brand partners. This discount is given to employees, their spouses and dependants for personal purchases and gifts only. Refer to MEC Policy E 4 Staff Discount for more details and information.
6. **Policies and procedures** You shall observe existing and future MEC policies and procedures as set out in the MEC Policy Manual. You are responsible for making yourself familiar with all of the details of MEC's policies and procedures as a condition of your employment A current copy of the MEC Policy Manual is available on Mondo MEC's policies and procedures constitute an integral part of the Employment Agreement and violation of these will be subject to discipline, up to and including termination.
7. **Health and Safety** Adherence to MEC Health and Safety standards is mandatory. Prior to starting work, you must complete the Health and Safety Orientation, as well as understand MEC's policies around harassment, safe work and security. A complete copy of the MEC Health and safety Manual and other resources are available on Mondo.
8. **Absenteeism and Illness** Punctual attendance is necessary, MEC has the right to require you to provide proof of illness in the form of a doctor's certificate or other form satisfactory to MEC. Refer to MEC Policies H 1 Absenteeism and H 2 Care Days.
9. **Dealing with the public** Your employment requires that you maintain a neat and presentable appearance to the public. All dealings with customers/members must be conducted in a courteous and friendly fashion. These requirements are equally applicable to the maintenance of your desk or working area Refer to MEC Policy B 4 Interactions with the Public.

10. **Outside activities** Simultaneous employment elsewhere is prohibited if it creates a conflict of interest with your current duties and responsibilities As well, unauthorized use of MEC time for other activities or the undertaking of any projects creating a conflict of interest are prohibited Refer to MEC Policies B 2 Conflict of Interest and B 10 Outside Employment.

11. **Termination** MEC may terminate your employment at any time for just cause without notice or any payment in lieu of notice. This employment contract may be terminated at any time without just cause by either party. In the event of termination by MEC without cause, you agree that the appropriate and reasonable notice of termination and/or severance pay is as set out in the Employment Standards legislation of your province of employment. You shall give MEC a minimum of fourteen (14) days notice if you terminate this contract without cause, Refer to MEC Policy B7 Termination.

Signed,
MOUNTAIN EQUIPMENT CO-OP

x _____
SUPERVISOR/MANAGER SIGNATURE

DATE

NAME OF SUPERVISOR/MANAGER (PLEASE PRINT)

I acknowledge that this agreement as well as the MEC Policy Manual represent the terms and conditions of my employment with MEC. I have been given a copy of this Agreement and acknowledge that I have read, understand, and accept its terms and conditions I further acknowledge that in order to pass my probationary period, I will have read the MEC Policy Manual, and have understood and accepted its terms and conditions.

x _____
SIGNATURE OF EMPLOYEE

DATE

NAME OF EMPLOYEE (PLEASE PRINT)

LOCATION

This is Exhibit "B" referred to in the
Affidavit of Kelly Ma
Sworn before me at Vancouver
This 12 day of November 2020



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within British Columbia

Terms and Conditions of Employment (the "Agreement")

1. **Conditions of Job Offer:** This offer is subject to you providing MEC with satisfactory proof that you have the legal right to work in Canada.
2. **Base Salary:** You will receive a salary of \$80,000.00 salary per annum, payable on MEC's regular pay dates. Keep in mind you may be eligible for an annual performance review increase.
3. **Incentive Compensation Plan:** You will be eligible for an annual Incentive Compensation Plan (ICP) Bonus of up to 18% of your annual base salary earnings, based on criteria established annually with your Manager. The ICP is reviewed annually by the Executive Team and is subject to change, with notice, at any time.
4. **Vacation (time and pay) and Statutory Holidays:** You will accrue vacation time and vacation pay in accordance with MEC's vacation policy. You may not take vacation time during your induction period. Time off and payment for statutory holidays will be in accordance with the employment standards legislation in the province in which you are employed.
5. **Benefits:** MEC offers a comprehensive benefits program to its employees and their families. MEC reserves its right to alter, amend or discontinue the benefits program at any time in its sole discretion.
6. **Hours of Work:** Your regular work hours and work days will be determined in accordance with established shifts and schedules. Hours and days of work may be changed based on the business needs of MEC. Please talk to your manager for more information.
7. **Staff Discounts:** The MEC staff discount is 35% off MEC brand apparel and 25% off all brand partners and MEC hardgoods. This discount is given to employees, their spouses and dependents for personal purchases and gifts only. Abuse of the Staff Discount Policy is considered serious misconduct that will be subject to disciplinary action and may result in cancellation of the discount, suspension or termination of employment with MEC for cause.
8. **Promises and Procedures:** It is a term and condition of your employment with MEC that you make yourself familiar with and agree to comply with the promises and procedures of MEC which may be amended from time to time by MEC. A current copy of the MEC Promises Manual is available on Mondo. Violation of any of these promises and procedures will result in discipline up to and including termination of your employment for cause.
9. **Outside Employment:** Simultaneous employment elsewhere is prohibited if it creates a conflict of interest with your MEC duties and responsibilities. As well, unauthorized use of MEC time for other activities or the undertaking of any projects creating a conflict of interest is prohibited.
10. **Layoff:** You understand and agree that MEC has the right to implement temporary layoffs as business needs dictate and as permitted by applicable employment standards legislation in the province in which you are employed, if temporary layoff is contemplated by such legislation. Such



temporary layoff does not constitute termination of your employment, except as and where mandated by applicable employment standards legislation.

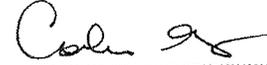
11. Termination:

- *Termination For Cause:* MEC may terminate your employment at any time for cause, in which you will not be entitled to any notice of termination, benefits continuation or payment of any kind.
- *Termination Without Cause:* MEC may terminate your employment at any time upon providing you with only such minimum notice of termination, or pay in lieu thereof, and severance pay (if applicable) as may be required by the applicable employment standards legislation in your province. You will also be paid any outstanding wages and any vacation pay owing to you as of the date of termination and as required by the applicable employment standards legislation in your province. Where required by such employment standards legislation, MEC will continue to make its employer contributions to the benefit plans in which you participate at the time of the termination of your employment for the minimum period required by law.
- *Resignation By You:* You may terminate your employment at any time by providing MEC with fourteen (14) days' notice of resignation. MEC in its sole discretion may waive all or a portion of the resignation notice period by providing you with the base salary you would have received during the waived portion of the resignation notice period and by maintaining your benefits for the waived portion of the resignation notice period.
- *Fair and Reasonable:* You hereby confirm that the notice and pay instead of notice provisions set out above in this "Termination of Employment" section are fair and reasonable, and satisfy any and all common law, contractual and statutory entitlements you may have on termination of your employment. You agree that upon any termination of your employment in accordance with this section you will have no action, cause of action, claim, complaint or demand against MEC or any other person as a result of such termination. You further agree that this "Termination of Employment" section will apply to you throughout your employment with MEC, regardless of any changes to your position, compensation or duties.

12. Future Changes: As business needs change, MEC may change your title, duties and/or responsibilities, compensation, benefits, reporting arrangements and location. You understand and agree that such changes will not breach the terms of your employment agreement with MEC or cause the termination of your employment, constructively or otherwise.

13. Acknowledgement and Acceptance: By my signature below, I acknowledge that I have reviewed this offer letter and agree to be bound by its terms as well as the MEC Promises Manual. I specifically acknowledge that I have reviewed and agree to the provisions of the "Termination of Employment" section of this letter.

This is Exhibit "C" referred to in the
Affidavit of Kelly Ma
Sworn before me at Vancouver
This 12 day of November 2020



A Commissioner for taking Affidavits
within British Columbia

Terms and Conditions of Employment (the "Agreement"):

1. **Fresh Consideration:** In consideration for the terms set out in this Agreement, you will receive increased pay, authority, and responsibilities as detailed in this Agreement.
2. **Effective Date and Term:** Your new role with the Co-op will commence effective June 30th, 2020 continuing indefinitely unless otherwise terminated in accordance with the terms of this Agreement.
3. **Title and Position:** You will be employed in the position of Workforce Expert. You will perform your duties and responsibilities for MEC consistent with your position and the terms of this Agreement, and as may be assigned to you. The Co-op reserves the right to change your assignments, duties and reporting relationships, as may be required from time to time, without notice, and such change shall not constitute a fundamental change to your employment. If your position and/or the duties performed by you with the Co-op changes, the terms and conditions set out in this Agreement will continue to apply unless the Co-op agrees to the change in writing.
4. **Reporting Relationship:** In the position of Workforce Expert you will report to the Workforce Planner. MEC may change the reporting relationship at its discretion from time to time.
5. **Base Salary:** Your annual salary will be \$48,000, subject to deductions required by law, or authorized by you. Your salary will be paid in accordance with MEC's payroll policies and procedures. Any increases are strictly discretionary and based on factors such as individual performance and performance of the Co-op as a whole.
6. **Vacation and Statutory Holidays:** You will continue to accrue vacation time at 5 weeks per year, pro-rated for partial calendar years, and increases will be in accordance with MEC's vacation policy. Vacation times must be approved by the Co-op in advance in order to avoid potential conflicts with responsibilities and other absences within the Co-op. The Co-op will attempt to accommodate the scheduling of vacation in accordance with your wishes; however, it reserves the right to unilaterally schedule vacations where necessary. Reasonable time off without pay may be approved depending on the operational needs of the Co-op. Statutory holidays and statutory holiday pay will be in accordance with applicable employment standards legislation.
7. **Hours of Work:** Your regular work hours and workdays will be determined in accordance with established shifts and schedules. Hours and days of work may be changed based on the business needs of MEC and in accordance with applicable employment standards legislation. Please talk to your manager for more information.
8. **Overtime:** This position is eligible for overtime pay and sometimes you will be required to work overtime hours. However, all overtime must be approved in advance by your supervisor prior to it being worked. Working overtime without authorization or refusing to work overtime hours without a reasonable explanation, may result in disciplinary action, up to and including termination of employment for cause, and can result in any unauthorized overtime hours worked being uncompensated. Hours of work will be paid at straight time until exceeding the overtime thresholds established by applicable employment standards legislation.

9. **Staff Discounts:** The MEC staff discount is 35% off MEC brand apparel and 25% off all brand partners and MEC hardgoods, subject to change at MEC's discretion. This discount is given to employees, their spouses and dependents for personal purchases and gifts only. Abuse of the Staff Discount Policy is considered serious misconduct that will be subject to disciplinary action and may result in cancellation of the discount and discipline up to and including suspension or termination of employment with MEC for cause. The Co-op reserves the right to modify, suspend, or discontinue its Staff Discount program at any time, and such discounts will cease immediately upon the end of your active employment with MEC and will not continue during any applicable notice period, unless otherwise authorized in writing by MEC.
10. **Policies and Procedures:** You agree to abide by all applicable laws. You also agree to abide by the terms of MEC's policies and procedures, which may be amended by MEC, in its sole discretion, from time to time. A current copy of the MEC Policy Manual is available on SharePoint. Violation of any of these policies or procedures may result in discipline up to and including termination of your employment for cause. If there is a conflict between the Co-op's policies and the express terms of this Agreement, the express terms of this Agreement shall prevail.
11. **Personal Employee Information:** Please be aware that the Co-op will collect, use and disclose personal employee information reasonably required by the Co-op to establish, manage, or terminate the employment relationship or post-employment relationship. The Co-op may collect, use, disclose and retain your personal employee information only for those purposes, or as otherwise permitted or required by law. It may be necessary for the Co-op to provide personal information to a third party, such as an insurer or benefit provider, for the purpose of administering your employment relationship. By signing this Agreement you explicitly consent to the processing of your personal information for those purposes. Should you have any questions about the Co-op's collection, use or disclosure of your personal employee information, please contact privacy@mec.ca.
12. **Confidentiality:** You acknowledge and agree that in the course of your employment with the Co-op, you will have access to and will be entrusted with confidential information belonging to the Co-op, its customers and members. You acknowledge that any disclosure or improper use of the confidential information would be highly detrimental to the Co-op's interest and will result in irreparable harm. As such, you agree that any information concerning the Co-op shall be kept in strict confidence and that you shall abide by any and all applicable privacy legislation and workplace policies of the Co-op. You agree that you shall not, either during the term of your employment with the Co-op, or any time thereafter, use, divulge, communicate or otherwise disclose or cause to be disclosed, to any person or entity whatsoever, unless required by law, any confidential information of the Co-op, the Co-op's customers, members, or any confidential information of any entity with which the Co-op is or may hereafter become affiliated.

You further agree that you will not install, copy, or receive any confidential information on any computer or computer system not owned and/or controlled by the Co-op without the express written consent of the Co-op. In the event that your employment ceases for any reason, you agree to immediately return to the Co-op all confidential information, including any and all copies,

reproductions and computer data of any kind in your possession or control, and to delete or destroy any remaining copies or reproductions that cannot be returned.

13. **Non-Disparagement:** You agree that you will not, directly or indirectly, engage in any conduct, verbal, written, electronic or otherwise, which disparages or damages or could disparage or damage the reputation, goodwill, or standing of the Co-op, its employees, directors, officers, customers or members. You further understand and agree that this includes any and all offensive public remarks, whether orally, in writing, or via electronic means (i.e. internet/social media based medium).
14. **Duties of Good Faith and Outside Employment:** You will, to the best of your ability, diligently and faithfully devote your full working time and attention to the performance of your duties and responsibilities under this Agreement, which shall take precedence over any outside employment and shall be your primary employment. You shall not undertake any employment activities which will interfere with your duties or responsibilities, or which may be competitive, with the Co-op.

You may engage in employment activities such as conferences, workshops or teaching, provided that you have obtained the written consent of the Co-op prior to engaging in such activities or undertakings and the activities or undertakings do not compromise your ability to fulfill your duties and responsibilities to the Co-op.

You will be expected to conduct yourself, at all times, in a professional, business-like manner, appropriate to the Co-op's image, and to use best efforts to promote the interests and goodwill of the Co-op.

15. **Temporary Layoff:** You understand and agree that MEC has the right to implement temporary layoffs at the Co-op's sole discretion to meet business needs and objectives. Where temporary layoff is contemplated by applicable employment standards legislation, any temporary layoffs will be carried out in accordance with applicable legislative requirements. Temporary layoff will not constitute termination of your employment, except as and where mandated by applicable employment standards legislation.

16. Termination:

Termination Generally: Upon termination of your employment for any reason, you will be paid any outstanding wages and earned entitlements owing to you as of the date of termination and as required by applicable employment standards legislation. All Co-op sponsored benefits, including all group benefits coverage, if any, will end effective the termination date, being the last date of active employment, regardless of the reason for the termination of your employment, unless otherwise required by applicable employment standards legislation.

Termination for Cause: MEC may terminate your employment at any time for just cause, without notice or pay in lieu of notice. For the purposes of this Agreement, "just cause" shall include, without in any way limiting its interpretation under the common law, any conduct by you that: (a) violates a provincial or federal criminal law involving the commission of a crime; (b) is contrary to material terms or provisions of this Agreement or the Co-op's policies or procedures; (c) constitutes insubordination, poor performance, violence, harassment, theft, deception, fraud, misrepresentation or dishonesty; (d) constitutes misuse of the Co-op's media, services, property or premises; (e) wilfully allows your

duty to the Co-op and your personal interest to come into conflict in a material way; or (f) has, or is reasonably likely to have, a material adverse effect on MEC's business, goodwill or reputation.

Termination Without Cause: MEC may terminate your employment without cause at any time upon providing you with the following:

- a. Such minimum notice of termination, or pay in lieu thereof, benefits and if applicable, severance pay, prescribed by the applicable employment standards legislation in the province in which you are employed.
- b. Inclusive of the above-mentioned statutory entitlements, you will also be entitled to the equivalent of 2 weeks of your base salary (calculated as at the time of termination) per year of completed service, up to a maximum of 26 weeks, with 15% of such amount added in lieu of benefits continuance.

You acknowledge and agree that the provision of such notice, or pay in lieu of notice, is reasonable and shall constitute full and final satisfaction of all rights, any claim or entitlement that you may have from or against the Co-op arising from or related to your employment or its termination, whether pursuant to statute, contract, common law or otherwise. For further clarity, you specifically acknowledge and agree that the termination provisions of this paragraph are intended to override any entitlement to reasonable notice under the common law and that the Co-op shall have no other obligations to you. Any payment made in accordance with this paragraph will: (a) be subject to deductions required by law; (b) be inclusive of termination pay or notice required under all applicable employment standards legislation; and (c) any payment made that is over and above the amount required by any applicable employment standards legislation, including the amount set out above, shall be conditional on you signing a full release and indemnity in a form satisfactory to the Co-op in consideration of such payment.

Job Abandonment: In the event of an unanticipated absence, it is your responsibility to contact the Co-op before your scheduled shift. Should you fail to follow this process, the time off will be considered a no-show and may result in disciplinary action, up to and including termination of employment for cause. Employees who are absent for more than 3 consecutive scheduled shifts without notifying and receiving approval from the Co-op are considered to have voluntarily resigned their employment. The effective date of termination will be the last day the employee reported for work

Resignation by You: You may terminate this Agreement and your employment with the Co-op at any time by providing not less than 14 days written notice to the Co-op of your intention to do so. The Co-op reserves the right to waive any or all part of such notice and to require you to refrain from further attendance at the workplace during any part of such notice period. You will be paid base salary for any portion of the notice period waived, less statutory deductions, up to a maximum of 14 days and the Co-op will have no further obligation to you.

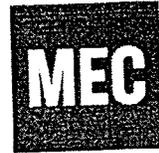
You further agree that this "Termination After Probationary Period" section will apply to you throughout your employment with MEC, regardless of any changes to your position, compensation or duties.

17. **Assignment and Enurement:** The Co-op may assign any or all of its rights and duties under this Agreement at any time and for any reason, at its sole discretion. This Agreement shall also enure to the benefit of, and be binding upon, the parties hereto and their respective heirs, legal personal representatives, successors and permitted assigns.
18. **Survival of Clauses:** You agree that the covenants of Confidentiality and Non-Disparagement set out above, shall survive the termination of your employment for any reason. You further acknowledge that the restrictions contained in the Agreement are reasonable and valid and are essential in order to allow the Co-op to adequately protect its business interests.
19. **Severable:** The provisions of this Agreement shall be deemed severable. If any provisions of this Agreement shall be held unenforceable by any court of competent jurisdiction, such provision shall be modified to the extent necessary to be enforceable or severed from the Agreement if such modification is not possible, and the remaining provisions shall remain in full force and effect.
20. **Entire Offer:** This Agreement, together with the documents, workplace policies and procedures referenced in it, constitute the entire agreement between you and MEC relating to the subject matter of this Agreement. No verbal or written agreements, promises or representations not specifically stated in this Agreement are or will be binding upon the Co-op. The terms may not be modified or amended except in writing, signed by you and an authorized representative of the Co-op. If any provisions of this Agreement shall be held unenforceable by any court of competent jurisdiction, such provision shall be modified to the extent necessary to be enforceable or severed from the Agreement if such modification is not possible, and the remaining provisions shall remain in full force and effect.
21. **Confidential Agreement:** This Letter Agreement is confidential as between you and the Co-op. Disclosure of the contents of this Letter Agreement may result in disciplinary action up to and including termination for cause.

If you agree with the terms and conditions of this Agreement, please sign where indicated below, and return one originally signed copy of this Letter Agreement to James Mason on or before June 29th 2020.

Acknowledgement and Acceptance: I, Mark Harvey, have reviewed, understand and voluntarily accept the terms of this offer as set out above, and agree to be bound by its terms, including the "Termination After Probationary Period" provisions as well as the MEC Policy Manual. I also acknowledge that I have had an adequate opportunity to consult with a lawyer for independent legal advice before signing this Agreement. By accepting this offer, I confirm that my employment with MEC will not conflict with or violate any employment agreement, non-competition agreement or other legal obligation binding on me, and I further acknowledge that I have provided MEC with a copy of any such agreement.

This is Exhibit "D" referred to in the
Affidavit of Kelly Ma
Sworn before me at Vancouver
This 12 day of November 20, 20



Cathy
A Commissioner for taking Affidavits
within British Columbia

- Terms and Conditions of Employment (the "Agreement")**
- 1. Conditions of Job Offer:** This offer is subject to you providing MEC with satisfactory proof that you have the legal right to work in Canada.
 - 2. Base Salary:** You will receive a salary of **\$77,702.62** salary per annum, payable on MEC's regular pay dates. Keep in mind you may be eligible for an annual performance review increase.
 - 3. Incentive Compensation Plan (1):** You will be eligible for an annual Incentive Compensation Plan (ICP) Bonus of up to 18% of your annual base salary earnings, based on criteria established annually with your Manager. The ICP is reviewed annually by the Executive Team and is subject to change, with notice, at any time.
 - 4. Vacation (time and pay) and Statutory Holidays:** You will accrue vacation time and vacation pay in accordance with MEC's vacation policy. Time off and payment for statutory holidays will be in accordance with the employment standards legislation in the province in which you are employed.
 - 5. Benefits:** MEC offers a comprehensive benefits program to its employees and their families. MEC reserves its right to alter, amend or discontinue the benefits program at any time in its sole discretion.
 - 6. Hours of Work:** Your regular work hours and work days will be determined in accordance with established shifts and schedules. Hours and days of work may be changed based on the business needs of MEC. Please talk to your manager for more information.
 - 7. Staff Discounts:** The MEC staff discount is 35% off MEC brand apparel and 25% off all brand partners and MEC hardgoods. This discount is given to employees, their spouses and dependents for personal purchases and gifts only. Abuse of the Staff Discount Policy is considered serious misconduct that will be subject to disciplinary action and may result in cancellation of the discount, suspension or termination of employment with MEC for cause.
 - 8. Promises and Procedures:** It is a term and condition of your employment with MEC that you make yourself familiar with and agree to comply with the promises and procedures of MEC which may be amended from time to time by MEC. A current copy of the MEC Promises Manual is available on Mondo. Violation of any of these promises and procedures will result in discipline up to and including termination of your employment for cause.
 - 9. Outside Employment:** Simultaneous employment elsewhere is prohibited if it creates a conflict of interest with your MEC duties and responsibilities. As well, unauthorized use of MEC time for other activities or the undertaking of any projects creating a conflict of interest is prohibited.
 - 10. Layoff:** You understand and agree that MEC has the right to implement temporary layoffs as business needs dictate and as permitted by applicable employment standards legislation in the province in which you are employed, if temporary layoff is contemplated by such legislation. Such



temporary layoff does not constitute termination of your employment, except as and where mandated by applicable employment standards legislation.

11. Termination:

- *Termination For Cause:* MEC may terminate your employment at any time for cause, in which you will not be entitled to any notice of termination, benefits continuation or payment of any kind.
- *Termination Without Cause:* MEC may terminate your employment without cause upon providing you with a Separation Package as follows:
 - i. You will be paid any outstanding wages and vacation pay owed to you as of the date of termination.
 - ii. You will receive such minimum notice of termination, or pay in lieu thereof, continuation of benefits, continuation of vacation pay accrual and statutory severance pay (if applicable), as required by the employment standards legislation in the province in which you work, as amended from time to time. For greater certainty, on termination of your employment without cause, you will receive any and all entitlements for which you are eligible and are required by the employment standards legislation in the province where you work. Also, in the provinces where it is required by applicable employment standards legislation, and only for the duration required by such legislation, MEC will continue to make its premium contributions on your behalf so as to provide for your participation in the MEC's benefit program in which you participate at the time of the termination of your employment.
 - iii. Subject to your termination and return of a Release, MEC will pay you an additional Separation Payment equal to the sum of (A) one (1) week of base salary for each year worked up to five (5) years of continuous service; plus (B) two (2) weeks' base salary for each year worked without interruption after five (5) years of continuous service. Partial years of service will be pro-rated by the completed month of service. The maximum Separation Payment to which you will be entitled based on the service calculation above will be forty-four (44) weeks' base salary.
- *Resignation By You:* You may terminate your employment at any time by providing MEC with fourteen (14) days' notice of resignation. MEC in its sole discretion may waive all or a portion of the resignation notice period by providing you with the base salary you would have received during the waived portion of the resignation notice period and by maintaining your benefits for the waived portion of the resignation notice period.
- *Fair and Reasonable:* You hereby confirm that the notice and pay instead of notice provisions set out above in this "Termination of Employment" section are fair and



reasonable, and satisfy any and all common law, contractual and statutory entitlements you may have on termination of your employment. You agree that upon any termination of your employment in accordance with this section you will have no action, cause of action, claim, complaint or demand against MEC or any other person as a result of such termination. You further agree that this "Termination of Employment" section will apply to you throughout your employment with MEC, regardless of any changes to your position, compensation or duties.

12. **Future Changes:** As business needs change, MEC may change your title, duties and/or responsibilities, compensation, benefits, reporting arrangements and location. You understand and agree that such changes will not breach the terms of your employment agreement with MEC or cause the termination of your employment, constructively or otherwise.

13. **Acknowledgement and Acceptance:** By my signature below, I acknowledge that I have reviewed this offer letter and agree to be bound by its terms as well as the MEC Promises Manual. I specifically acknowledge that I have reviewed and agree to the provisions of the "Termination of Employment" section of this letter.

I acknowledge that I can request and receive a copy of all the contents of my personnel file including this Agreement.

I am aware that if, at any time, I have questions regarding MEC's promises and procedures, I should direct them to my direct supervisor, store/department manager or the PX Team pxis@mec.ca.

I understand and agree that I have had the opportunity to consult with a lawyer before signing this Agreement. I represent that I have read this Agreement and understand its contents and I agree to be bound by the terms of this Agreement as my own free act.

Print Employee Name: _____

Employee Signature: _____

Date of Signature: _____

B.7 Termination

Use of this page

Termination of Employment - Voluntary resignation
Termination of Employment - Just Cause
Termination of Employment - Termination without Cause
Termination of Employment - Termination without Cause

Forms & Procedures, Related Policies, Employment Standards Authority

Created by



Published Jan 20, 2011
Updated Jan 24, 2016

B.7 Termination & subpages

View 0/0/0/1

Overview and Policy

Termination by the Employee - Voluntary resignation

Termination by MEC - Termination Without Cause

Termination by MEC - Termination for Just Cause

Procedural Termination

Forms & Procedures, Related Policies, Employment Standards Authority

This is Exhibit "E" referred to in the
Affidavit of Kelly Ma
Sworn before me at Vancouver
This 12 day of November 2020


A Commissioner for taking Affidavits
within British Columbia

Overview and Policy

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Overview

Mountain Equipment Co-op strives to provide all employees with fair and reasonable conditions of employment and the opportunity to succeed in their employment. Any decision made by MEC to terminate employment will be made in consultation with Human Resources, with full deliberation in a fair and equitable manner after other avenues have been explored.

Policy

Employment at MEC may be terminated by either the employee or MEC.

- An employee may terminate his or her own employment through a voluntary resignation.
- MEC may terminate the employment of an employee with just cause or alternatively, without just cause if the appropriate severance pay in lieu of notice of termination is given to the employee. MEC may also terminate a probationary employee without just cause and without notice.

No employee should be terminated for non-performance or non-compliance with MEC's policies and rules unless the employee has previously been given a warning and an opportunity to correct the problem (exceptions will be allowed with approval of Human Resources i.e. a sufficiently serious single incident may result in a "just cause" dismissal). Procedure on disciplinary actions should be followed (see policy [G.2 Managing Unsatisfactory Performance](#)).

Termination by MEC - Termination Without Cause

Published Jan 20, 2011
Updated Aug 30, 2012

Home » Employment Standards Act, 2000 » Termination Without Cause

Termination by MEC - Termination Without Cause

Upon terminating an employee without just cause, MEC must either pay the employee the minimum amount of pay in lieu of notice required by the applicable provincial employment standards legislation or allow the employee to continue to work throughout the period of notice required by the applicable employment standards legislation. Consult the current Provincial employment standards legislation for length of notice requirements (see Appendix A Employment Standards)

Termination by MEC -
Termination Without Cause

1/20/2011

1/20/2011

Termination by MEC - Termination for Just Cause

Termination by MEC - Termination for Just Cause

An employee who is dismissed for just cause will be terminated immediately and has no entitlement to notice of termination or pay in lieu of notice. Human Resources and the responsible Service Manager will have the final authority in any decision to terminate for just cause.

A termination for "just cause" arises from the serious misconduct of an employee who damages the employment relationship so severely that the employer can not reasonably be expected to provide the employee with another chance to continue the employment. Conduct resulting in just cause excuses the employer from the requirement to give notice of termination or pay in lieu of notice when terminating an employee.

Just cause may result from a single incident, or from a "culminating incident." A culminating incident is an incident that subjects an employee to discipline where that employee has previously been disciplined for the same or a similar type of conduct in the past.

Usually, employees at MEC will not be terminated for poor performance or non-compliance with MEC's policies and rules unless the employee has previously been given a warning and an opportunity to correct the problem. With the approval of Human Resources, exceptions may be made where a single incident of misconduct is sufficiently serious to warrant a dismissal. Any warnings given to employees should be in writing. A copy of every warning letter should be signed by the employee and their manager and kept in the employee's personnel file at both the site/department location and Human Resources. See procedure in Policy

01 - Managing Insubordination - 4) Insubordination

A sufficiently serious single incident may also result in a "just cause" dismissal. Some examples of conduct during working hours or on the premises of MEC considered sufficiently serious for consideration of dismissal for just cause include:

- wilful misconduct, disobedience or insubordination;
- wilful or habitual neglect of duty or significant violations of MEC rules, policies, or core values;
- abuse or harassment of an employee, volunteer or member of the public;
- intoxication or impairment by drugs or alcohol (subject to MEC's duty to accommodate a legitimate drug or alcohol dependency illness);
- a breach of MEC's policy 01-01 (Confidential Information);
- a breach of MEC's policy 01-02 (Conflict of Interest);
- unethical, dishonest or criminal actions (including, but not limited to, theft) from MEC, employees, members, volunteers or the public;

Termination by MEC
Termination for Just Cause

Revised: 01/27/2017
Approved: 01/27/2017