

**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  
GRAFTON-FRASER INC.**

**(the "Applicant")**

**MOTION RECORD OF THE APPLICANT  
RE: SALE APPROVAL  
(Returnable April 20, 2017)**

April 12, 2017

**FASKEN MARTINEAU DuMOULIN LLP**

Barristers and Solicitors  
333 Bay Street, Suite 2400  
Bay Adelaide Centre, Box 20  
Toronto, ON M5H 2T6

**Stuart Brotman (LSUC 43430D)**

Tel: 416 865 5419  
Email: sbrotman@fasken.com

**Dylan Chochla (LSUC 62137I)**

Tel: 416 868 3425  
Email: dchochla@fasken.com  
Fax: 416 364 7813

Lawyers for the Applicant

**To: The Attached Service List**

**SERVICE LIST**  
**(as of April 12, 2017)**

**GENERAL**

**TO: FASKEN MARTINEAU DuMOULIN LLP**

Bay Adelaide Centre  
333 Bay Street, Suite 2400  
P.O. Box 20  
Toronto, ON M5H 2T6

**Stuart Brotman**

Tel: 416.865.5419  
Fax: 416.364.7813  
Email: sbrotman@fasken.com

**Natasha De Cicco**

Tel: 416.868.7856  
Fax: 416.364.7813  
Email: ndecicco@fasken.com

**Dylan Chochla**

Tel: 416.868.3425  
Fax: 416.364.7813  
E-mail: dchochla@fasken.com

*Lawyers for the Applicant*

**AND TO: LAX O'SULLIVAN LISUS GOTTLIEB LLP**

145 King Street West  
Suite 2750  
Toronto, ON M5H 1J8

**Mathew Gottlieb**

Tel: 416 644 5353  
Email: mgottlieb@counsel-toronto.com

**Andrew Winton**

Tel: 416.598.1744  
Email: awinton@counsel-toronto.com

*Lawyers for the Board of Directors of the Applicant*

**AND TO: CASSELS BROCK & BLACKWELL LLP**

Scotia Plaza  
40 King Street West, Suite 2100  
Toronto, ON M5H 3C2

**Jane Dietrich**

**Tel:** 416.860.5223  
**Fax:** 416-640-3144  
**Email:** jdietrich@casselsbrock.com

**Monique Sassi**

**Tel:** 416.860.6886  
**Fax:** 416 640-3005  
**E-mail:** msassi@casselsbrock.com

*Lawyers for Richter Advisory Group Inc., in its capacity as Court-Appointed  
Monitor of the Applicant*

**AND TO: RICHTER ADVISORY GROUP INC.**

1981, McGill College  
Montreal, QUE H3A 0G6

**Gilles Benchaya**

**Tel:** 514.934.3496  
**Email :** gbenchaya@richterconsulting.com

**Adam Sherman**

**Tel:** 416.488.2345  
**E-mail:** asherman@richter.ca

*Court-Appointed Monitor*

**AND TO: NORTON ROSE FULBRIGHT CANADA LLP**

Royal Bank Plaza, South Tower  
200 Bay Street, Suite 3800  
P.O. Box 84  
Toronto, ON M5J 2Z4

**Evan Cobb**

**Tel:** 416.216.1929  
**Fax:** 416.216.3930  
**Email:** evan.cobb@nortonrosefulbright.com

*Lawyers for the Canadian Imperial Bank of Commerce*

**AND TO: DAVIES WARD PHILLIPS & VINEBERG LLP**  
155 Wellington Street West, 40<sup>th</sup> Floor  
Toronto, ON M5V 3J7

**Robin B. Schwill**  
Tel: 416.863.5502  
Email : rschwill@dwpv.com

**Natalie Renner**  
Tel: 416.367.7489  
Email: nrenner@dwpv.com

*Lawyers for GSO Capital Partners, LP (the Proposed DIP Lender and Stalking Horse Bidder)*

**AND TO: OSLER, HOSKIN & HARCOURT LLP**  
1000 rue De La Gauchetière Ouest  
Bureau 2100  
Montréal, QC H3B 4W5

**Sandra Abitan**  
Tel: 514.904.5648  
Email: sabitan@osler.com

*Lawyers for a joint venture composed of Gordon Brothers Canada ULC and Merchant Retail Solutions ULC*

**AND TO: TORYS LLP**  
79 Wellington Street West  
30th Floor, Box 270, TD South Tower  
Toronto, ON  
M5K 1N2

**David Bish**  
Tel: 416 865-7353  
Email: dbish@torys.com

**Lily Coodin**  
Tel: 416 865-7541  
Email: lcoodin@torys.com

*Lawyers for the Cadillac Fairview Corporation Limited and its affiliates*



**AND TO: GOWLING WLG (CANADA) LLP**  
Suite 1600, 1 First Canadian Place  
100 King Street West  
Toronto, ON  
M5X 1G5

**Frank Lamie**  
Tel: 416 862-3609  
Fax: 416 862-7661  
Email: frank.lamie@gowlingwlg.com

**Stephen Pike**  
Tel: 416 814-5646  
Fax: 416 862-7661  
Email: stephen.pike@gowlingwlg.com

*Lawyers for Jaytex of Canada Ltd.*

**AND TO: BRANNAN MEIKLEJOHN BARRISTERS**  
Rosedale Square  
1055 Yonge Street Suite 200  
Toronto, ON  
M4W 2L2

**Gordon A. Meiklejohn**  
Tel: 416 926 3797 Ext: 225  
Fax: 416-926-3712  
Email: gam@bmbarristers.com

*Lawyers for Tradex Global Inc.*

**AND TO: BORDEN LADNER GERVAIS**  
1000 De La Gauchetière St W  
Suite 900  
Montréal, QC  
H3B 5H4

**Eugénie Lefebvre**  
Tel: 514-954-2502  
Fax: 514-954-1905  
Email: ELefebvre@blg.com

*Lawyers for Bell Canada*

**OTHER PPSA REGISTRANTS**

**AND TO: XEROX CANADA LTD.**  
2901-155 Wellington St. W  
Toronto, ON  
M5V 3H1

**Heather McGregor**  
Tel: 416.997.6686  
Email: heather.mcgregor@xerox.com

**AND TO: CANADIAN DEALER LEASE SERVICES INC.**  
Canadian Dealer Lease Services Inc.  
250 Yonge Street  
Suite 2601, Box 50  
Toronto, ON  
M5B 2L7

**AND TO: BANK OF NOVA SCOTIA-DLAC**  
Bank of Nova Scotia-DLAC  
Scotia Plaza, 44 King Street West  
Toronto, ON  
M5H 1H1

**LANDLORDS**

**AND TO: MCLEAN & KERR LLP**  
130 Adelaide Street West, Suite 2800  
Toronto, ON M5H 3P5

**Linda Galessiere**  
Tel: 416.369.6609  
Email: lgalessiere@mcleankerr.com

**Walter Stevenson**  
Tel: 416.369.6602  
E-mail: wstevenson@mcleankerr.com

*Lawyers for 20 VIC Management Inc. (on behalf of various landlords), Morguard Investments Limited (on behalf of various landlords), Ivanhoe Cambridge Inc. (on behalf of various landlords), Triovest Realty Advisors Inc. (on behalf of various landlords), Brookfield Properties (PI) Inc. (on behalf of various landlords), RioCan Real Estate Investment Trust (on behalf of various landlords) Smart Real Estate Investment Trust (on behalf of various landlords), Crombie REIT (on behalf of various landlords), Crombie Developments Ltd., Stockyards (Prince Albert) Limited Partnership, by its general partner, Stockyards (Prince Albert) GP Ltd. (the "Landlord")*

**AND TO: Oxford Properties Group**  
Royal Bank Plaza, North Tower  
200 Bay Street, Suite 900  
Toronto, ON  
M5J 2J2

**Karen Tsang**, Director, Legal – Real Estate Management  
Tel: 416.865.8447  
Fax: 416.868.3751  
Email: [ktsang@oxfordproperties.com](mailto:ktsang@oxfordproperties.com)

**AND TO: CREIT MGMT. L.P. IN TRUST FOR CANADIAN PROPERTY HOLDINGS  
(NOVA SCOTIA) INC.**  
1801 Hollis St., Suite 2210,  
Halifax, NS  
B3J 3N4

Tel: 514.344.1300  
Email: [bhobson@creit.ca](mailto:bhobson@creit.ca)

**AND TO: WESTFIELD UNIVERSITY PARK**  
c/o Ax Property Mgmt LP  
13245 140 Avenue, Unit 101  
Edmonton, AB  
T6V 0E4

Tel: 780.476.0642  
Email: [edmonton@artisreit.com](mailto:edmonton@artisreit.com)

**AND TO: DAOUST VUKOVICH LLP**  
Barristers & Solicitors  
3000 – 20 Queen Street West  
Toronto, ON  
M5H 3R3

**Gasper Galati**  
Tel: 416 598-7050  
Fax: 416 597-8897  
Email: ggalati@dv-law.com

**Wolfgang Kaufmann**  
Tel: 416 597-3952  
Fax: 416 597-8897  
Email: wolfgang@dv-law.com

**Daniel Waldman**  
Tel: 416 597-9306  
Fax: 416 597-8897  
Email: dwaldman@dv-law.com

*Lawyers for Kanata Entertainment Holdings Inc.*

**AND TO: MONTEX (CORNER BROOK) INC**  
c/o Westcliff Management Ltd.  
600 De Maisonneuve Blvd., Suite 2600  
Montreal, QC  
H3A 3J2

Tel: 709.634.3874  
Email: lgreene@cornerbrookmall.com

**AND TO: 73420 MANITOBA LTD.**  
c/o Shindico Realty Inc.  
1355 Taylor Avenue, Unit 200  
Winnipeg, MB  
R3M 3Y9

**Justin Zarnowski**  
Tel: 204 928-8212  
Email: jzarnowski@shindico.com

**Bob Peters**  
Email: bpeters@shindico.com

**AND TO: WESTGATE SHOPPING CENTRE**

c/o Ronmor Developers Inc.  
5920 1A St. S.W., Unit 250  
Calgary, AB  
T2H 0G3

Tel: 403.253.8180  
Email: [accounting@ronmor.ca](mailto:accounting@ronmor.ca)

**AND TO: GUTMAN INVESTMENTS LTD**

**c/o Henry M. Gutman**  
509-70 Avenue S.W.  
Calgary, AB  
T2V OP5

Email: [raucan@aol.com](mailto:raucan@aol.com)

**AND TO: ROY RAUSER, REAL ESTATE**

515 W. Pender St., Suite 236  
Vancouver, BC  
V6B 6H5

Tel: 604.687.8989  
Email: [raucan@aol.com](mailto:raucan@aol.com)

**AND TO: OXFORD PRO. RETAIL HOLD. INC**

Re: Southcentre Mall  
100 Anderson Rd. S.E., Unit 142  
Calgary, AB  
T2J 3V1

Tel: 403.225.9100  
Email: [info@southcentremall.com](mailto:info@southcentremall.com)

**AND TO: ORLANDO CORPORATION**

Re: Heartland T.C.  
6205B Airport Rd, 5<sup>th</sup> Flr  
Mississauga, ON  
L4V 1E3

**Joy Okpara**

Fax: 905.677.2824  
Email: [okparaj@orlandocorp.com](mailto:okparaj@orlandocorp.com)

**AND TO: PRIMARIS MANAGEMENT INC.**

1 Adelaide Street East  
Suite 900, P.O. Box 194  
Toronto, ON  
M5C 2V9

**Mordecai Bobrowsky**

Tel: 416 642-7851  
Email: mbobrowsky@primarisreit.com

**AND TO: PRIMARIS MANAGEMENT INC.**

ITF Stone Road  
435 Stone Rd, Suite 204  
Guelph, ON  
N1G 2X6

Tel: 519.821.5780  
Email: GTurner@primarisreit.com

**AND TO: GORDON ROAD PROPERTY HOLDINGS INC.**

2965 Gordon Rd.  
Regina, SK  
S4S 6H7

Tel: 306.584.1910  
Email: southlandmall@onereit.ca

**AND TO: GUILDFORD TOWN CENTRE LP**

10355 152<sup>nd</sup> St, Suite 2695,  
Surrey, BC  
V3R 7C1

Tel: 604.587.4245  
Email: sales@guildfordtowncentre.com

**AND TO: PRIMARIS MANAGEMENT INC.**

ITF Dufferin Mall  
900 Dufferin St., Unit 217  
Toronto, ON  
M6H 4B1

Email: KBinio@primarisreit.com

**AND TO: PRIMARIS MANAGEMENT INC.**  
Re: Tiptop Cataraqui Town Centre  
945 Gardiners Road,  
Kingston, ON  
K7M 7H4

Tel: 613.389.7950  
Email: cfobert@primarisreit.com

**AND TO: PRIMARIS MANAGEMENT INC.**  
Re: St. Albert Centre  
300-375 St. Albert Rd.,  
St. Albert, AB  
T8N 3K8

Tel: 403.225.5368  
Email: SDalrymple@primarisreit.com

**AND TO: RPS ITF-TRINITY COMMON**  
499 Main Street South, Suite 56  
Brampton, ON  
L6Y 1N7

Tel: 905.459.1337 ext. 236  
Email: accounting@ronmor.ca

**AND TO: CHARTER ACQUISITION CORP**  
Cornwall Square  
1 Waster Street East  
Cornwall, ON  
K6H 6M2

Tel: 613.938.2118  
Email: ejodoin@epicrealtypartners.com

**AND TO: PRIMARIS MANAGEMENT INC.**  
ITF Park Place Mall  
501-1st Ave. S, Unit 131,  
Lethbridge, AB  
T1J 4L9

Tel: 403.320.0008  
Email: GBates@primarisreit.com

**AND TO: Blaney McMurtry LLP**  
2 Queen Street East  
Suite 1500  
Toronto, ON  
M5C 3G5

**John C. Wolf**  
Tel: 416-593-2994  
Fax: 416-596-2044  
Email: [jwolf@blaney.com](mailto:jwolf@blaney.com)

*Lawyers to the Bentall Kennedy Landlords (Hillside Centre, Eglinton Square, White Oaks Mall)*

**AND TO: OXFORD IN TRUST FOR SQUARE ONE**  
c/o Omers Realty Management Corporation  
Re: Square One Shopping Centre  
100 City Centre Dr.,  
Mississauga, ON  
L5B 2C9

Tel: 905.270.7771  
Email: [sales.sq1@oxfordproperties.com](mailto:sales.sq1@oxfordproperties.com)

**AND TO: 2467847 ONTARIO INC.**  
**o/a WINDSOR CROSSING PREMIUM OUTLETS**  
170 Industrial Parkway North  
Aurora, ON  
L4G 4C3

Tel: 905.503.6633  
Email: [accounting@royalcourtyards.com](mailto:accounting@royalcourtyards.com)  
[kerry@royalcourtyards.com](mailto:kerry@royalcourtyards.com)

**AND TO: ORANGEVILLE MALL PROPERTY HOLDINGS INC.**  
1 Yorkgate Blvd, Suite 210,  
Toronto, ON  
M3N 3A1

Tel: 416.739.6968 ext. 23  
Email: [TFoulds@onereit.ca](mailto:TFoulds@onereit.ca)

**AND TO: OXFORD GROUP DIV. OF ORMC**  
109<sup>th</sup> St. & Prince Elizabeth Avenue,  
Edmonton, AB  
T5G 3A6

Email: [kingswayadmin@oxfordproperties.com](mailto:kingswayadmin@oxfordproperties.com)



**AND TO: GANDER SHOPPING CENTRE LTD.**

1 Westmount Square, Suite 1900  
Westmount, QC  
H3Z 2P9

Tel: 514.938.2266  
Fax: 514.938.2457  
Email: Frances@econo-malls.com

**AND TO: SHERWOOD PARK MALL LTD.**

2020 Sherwood Drive, Suite 103  
Sherwood Park, AB  
T8A 3H9

Email: spmadmin@primarisreit.com

**AND TO: SCARBOROUGH T.C. M.A.**

300 Borough Drive, Suite 26,  
Scarborough, ON  
M1P 4P5

Tel: 416.296.5490  
Email: mkehr@oxfordproperties.com

**AND TO: YORKDALE S.C. HOLDINGS INC.**

1 Yorkdale Road, Suite 500  
Toronto, ON  
M6A 3A1

Tel: 416.256.5066  
Email: Yorkdale\_Sales@oxfordproperties.com

**AND TO: AVISON YOUNG ITF**

2055190 Ontario Inc.  
2325 Preston Ave., Unit 68,  
Saskatoon, SK  
S7J 2G2

Tel: 306.343.3838  
Email: cwong@strathallen.com

**AND TO: WEST EDMONTON MALL PROPERTY INC.**  
#3000, 8882 170 Street NW  
Edmonton, Alberta  
T5T 4M2

**John Colbert**  
Tel: 780 444-8138  
Email: john.colbert@wem.ca

**Theresa Paquette**  
Tel: 780 444-5245  
Email: theresa.paquette@wem.ca

**Dean Shaben**  
Tel: 780 444-8126  
Email: dean.shaben@wem.ca

**AND TO: VILLAGE SHOPPING CENTRE (NL) INC.**  
c/o Administration Office  
Box 92,430 Topsail Road  
St. John's, NL  
A1E 4N1

Tel: 514.457.7007  
Email: Joanne.Blyde@plaza.ca

**AND TO: KILDONAN PLACE S.C. LTD.**  
Attention: Mall Administration Office  
1555 Regent Ave. West  
Winnipeg, MB  
R2C 4J2

Tel: 204.661.6116  
Email: BFrolick@primarisreit.com

**AND TO: PRIMARIS MANAGEMENT INC.**  
Sunridge Mall, Suite 118a,  
2525 - 36th Street NE,  
Calgary, AB  
T1Y 5T4

Tel: 403.293.8215  
Email: skremidas@primarisreit.com  
SAdmin@primarisreit.com

**AND TO: PRIMARIS MANAGEMENT INC.**

ITF Orchard Park  
2271 Harvey Ave., Unit 0180,  
Kelowna, BC  
V1Y 6H2

Tel: 250.860.3742  
Email: orchardparksales@primarisreit.com

**AND TO: PRIMARIS MANAGEMENT INC.**

Place D'Orleans  
110 Place D'Orleans Dr., Box 130,  
Orleans, ON  
K1C 2L9

**Attention: General Manager**  
Tel: 613.824.9468  
Email: EDeacon@primarisreit.com

**AND TO: SHAPE PROPERTY MANAGEMENT CORP.**

As agent for Lougheed TC  
#106-9855 Austin Ave.  
Burnaby, BC  
V3J 1N4

Tel: 604.681.2338  
Email: hill@Shapepm.com

**AND TO: HILLCREST MALL MANAGEMENT INC.**

Attention: Emily Skinner  
9350 Yonge St, Suite 205,  
Richmond Hill, ON  
L4C 5G2

**Attention: General Manager**  
Tel: 905.883.1403  
E-mail: missa@oxfordproperties.com

**AND TO: PRIMARIS MANAGEMENT INC.**

1381 Regent Street,  
Fredericton, NB  
E3C 1A2

Tel: 506.452.1005  
Email: EMcKay@primarisreit.com

**AND TO: 511398 NEW BRUNSWICK INC.**  
File #938 Exploits Valley Mall Inc.  
1 Westmount Square, Suite 1900,  
Westmount, QC  
H3Z 2P9

Tel: 514.938.2266  
Fax: 514.938.2457  
Email: Frances@econo-malls.com

**AND TO: PURPLE KNIGHTS DEVELOPMENT (2000)**  
c/o First Gulf Corporation  
3751 Victoria Park Ave.,  
Westmount, QC  
H3Z 2P9

**Attention: Vice President Retail**  
Tel: 416.491.7778  
Email: mgrant@firstgulf.com

**AND TO: AVISON YOUNG**  
c/o of 2058790 Ontario Limited  
Administration Office  
500 Rexdale Blvd.  
Etobicoke, ON  
M9W 6K5

**Attention: General Manager**  
Tel: 416.674.6240 Ext. 307  
Email: karen.a@woodbinemall.com

**AND TO: CANADIAN PROPERTY HOLDINGS (WHEELER) INC.**  
c/o Creit Management Limited  
1801 Hollis Street, Suite 2210,  
Halifax, NS  
B3J 3N4

Tel: 902.453.2665  
Email: bhobson@creit.ca

**AND TO: CANADIAN PROPERTY HOLDINGS (ONTARIO) INC.**  
c/o Creit Management L.P.  
175 Bloor St. East,  
North Tower, Ste. N500,  
Toronto, ON  
M4W 3R8

**Attention: CFO**  
Tel: 416.628.7868  
Fax: 416.628.7777  
Email: amuere@creit.ca

**AND TO: KENNEDY COMMONS INC.  
151516 CANADA INC.**  
c/o First Gulf Corporation  
3751 Victoria Park Ave.,  
Toronto, ON  
M1W 3Z4

**Attention: Vice President Retail**  
Tel: 416.491.7778  
Email: mgrant@firstgulf.com

**AND TO: DAOUST VUKOVICH LLP**  
Barristers & Solicitors  
3000 – 20 Queen Street West  
Toronto, ON  
M5H 3R3

**Gasper Galati**  
Tel: 416 598-7050  
Fax: 416 597-8897  
Email: ggalati@dv-law.com

**Wolfgang Kaufmann**  
Tel: 416 597-3952  
Fax: 416 597-8897  
Email: wolfgang@dv-law.com

**Daniel Waldman**  
Tel: 416 597-9306  
Fax: 416 597-8897  
Email: dwaldman@dv-law.com

*Lawyers for Hullmark (Avenue Eglinton) Ltd.*

**AND TO: LONDON CROSSROADS CENTRE HOLDINGS INC.**

By mail:  
PO BOX 982  
Barrie, ON  
L4M 5E1

By courier:  
158 Dunlop Street East, Suite 201,  
Barrie, ON  
L4M 1B1

Tel: 705.737.1057 ext. 101  
Fax: 705.737.0484  
Email: ashleyvarcoe@rogers.com

**AND TO: FIRST MILTON SHOPPING CENTRES LIMITED**

3751 Victoria Park Ave,  
Toronto, ON  
M1W 3Z4

Tel: 905.363.3064  
Email: mgrant@firstgulf.com

**AND TO: CONTROLEX CORPORATION**

223 Colonnade Road S., Suite 100,  
Ottawa, ON  
K2E 7K3

Tel: 613.723.7490 ext. 102  
Email: COconnor@controlex.ca

**AND TO: OPGI MGMNT LP O/A OXF. ITF**

Upper Canada Mall  
17600 Yonge St, Box 256  
Newmarket, ON  
L3Y 4Z1

Tel: 905.895.1961  
Email: kcook@oxfordproperties.com

**AND TO: LYNDEN PARK MALL LIMITED**

Lynden Park Mall  
84 Lynden Road  
Brantford, ON  
N3R 6B8

Email: lwhite@centrecorp.com

**AND TO: ANTHEM CRESTPOINT NORTH**

Town S.C C/P Anthem Prop.  
255,9450-137 Avenue Nw  
Edmonton, AB  
T5E 6C2

Tel: 780.475.1673  
Email: CCastonguay@AnthemProperties.com

**AND TO: GWL REALTY ADVISO. INC. ITF**

13575 Commerce Parkway, Suite 150,  
Richmond, BC  
V6V 2L1

Email: rachel.oommen@gwlra.com

**AND TO: MARINE PROMENADE PROPERTIES INC.**

1067 West Cordova Street, Suite 501,  
Vancouver, BC  
V6C 1C7

Tel: 604.893.1725  
Fax: 604.893.1708  
Email: xinna@westbankcorp.com

**AND TO: MARINE PROMENADE PROPERTIES INC.**

1067 West Cordova Street, Suite 501,  
Vancouver, BC  
V6C 1C7

Tel: 604.893.1725  
Fax: 604.893.1708  
Email: eimon@westbankcorp.com

**AND TO: PRIMARIS MANAGEMENT INC.**

Re: Carry Drive Plaza  
3292 Dumore Rd, SE, Unit 160,  
Medicine Hat, AB  
T1B 2R4

Email: dhenly@primarisreit.com

**AND TO: PLAZA MASTER G.P LIMITED**

Bedford Commons Plaza  
98 Main Street,  
Fredericton, NB  
E3A 9N6

Tel: 504.451.1826  
Email: margie.loisel@plaza.ca

**AND TO: NORTHLAND VILLAGE MALL HOLDINGS INC.**

c/o Primaris Management Inc.  
Northland Village,  
5111 Nothland Drive NW, Suite 440,  
Calgary, AB  
T2L 2J8

**Attention: General Manager**

Tel: 403.974.0050  
Email: cseymour@primarisreit.com

**AND TO: KCAP KINGSTON INC.**

45 St. Clair Avenue W., Suite 1001,  
Toronto, ON  
M4V 1K9

Tel: 416.306.2287 ext. 227  
Email: lclosenberg@k-cap.com

**AND TO: ALGOMA CENTRAL PROPERTIES INC.**

Station Tower  
421 Bay St., Suite 608,  
Sault Ste. Marie, ON  
P6A 1X3

**Attention: Vice President, Real Estate**

Tel: 705.946.7245  
Email: joann.king@algonet.com

**AND TO: LETHBRIDGE COLLEGE CENTRE LTD.**

c/o Ronmor Developers Inc.  
5920-1A Street S. W., Suite 250,  
Calgary, AB  
T2H 0G3

Tel: 403.692.4644  
403.253.8180  
Fax: 403.255.2516  
Email: accounting@ronmor.ca

**AND TO: FIRST GULF**

Milton West Development  
3751 Victoria Park Ave,  
Toronto, ON  
M1W 3Z4

Tel: 905.363.3064  
Email: mgrant@firstgulf.com



**AND TO: EAST POINT INC.**  
479 Rothesay Avenue,  
P.O. Box 1289,  
Saint John, NB  
E2L 4G7

**Robert Crowley, VP Finance**  
Tel: 506.634.3402  
Fax: 506.634.2236  
Email: rcrowley@northrupgroup.ca

**AND TO: COX & PALMER**  
Brunswick Square, Suite 1500  
1 Germain Street  
Saint John, NB  
E2L 4V1

Mailing address:  
PO Box 1324 Stn Main  
Saint John, NB  
E2L 4H8

**Josh McElman**  
Tel: 506 633 2708  
Fax: 506 632 8809  
Email: jmcelman@coxandpalmer.com

*Lawyers for East Point Inc.*

**AND TO: PRIMARIS MANAGEMENT INC.**  
Re: Medicine Hat Mall  
3292 Dunmore Rd. S.E, Unit 160,  
Medicine Hat, AB  
T1B 2R4

Tel: 403.526.48888  
Email: dhenly@primarisreit.com

**AND TO: GEORGETOWN MARKET PLACE CORP.**  
c/o High Peak Realities Inc  
#1201-21 St. Clair Ave East,  
Toronto, ON  
M4T 1L9

Tel: 647.722.6472  
Email: kori@georgetownmarketplace.com

**AND TO: GEORGETOWN MARKET PLACE CORP.  
2042170 ONTARIO INC.**  
c/o McCOR Management  
21 St. Clair Avenue East, Suite 1201,  
Toronto, ON  
M4T 1L9

**Greg Fera**  
Email: gfera@mccor.ca

**AND TO: OPGI MGMT LTD PARTNERSHIP**  
Attention: Loas Mcelwain  
Suite 1700, Oxford Tower,  
Edmonton, AB  
T5J 2Z2

Tel: 780.426.8463  
Email: edmontoncitycentre@oxfordproperties.com

**AND TO: COMINAR REAL ESTATE INVESTMENT TRUST**  
1250 South Service Road,  
Mississauga, ON  
L5E 1V4

Tel: 905.278.3494  
Email: sales@dixieoutletmall.com

**AND TO: 2526497 ONTARIO LTD.**  
10 Beauvista Court,  
Woodbridge, ON  
L4H 3G6

Anthony Colalillo  
Tel: 416.577.0800  
Email: acolalillo@rogers.com

**AND TO: WESTDALE CONSTRUCTION CO. LIMITED**  
Management Office  
489 Albert Street North  
Regina, SK  
S4R 3C4

**Attention: Shopping Centre Manager**  
Email: CeceliaL@westdaleproperties.com

**AND TO: HIGH PEAK LEASEHOLD LD.**  
Re: Promotional Fund  
800 Grand Lake Road,  
Sydney, NS  
B1P 6S9

**AND TO: PLAZA MASTER LIMITED PARTNERSHIP**  
106 Ave Gun  
Pointe-Claire QC  
H9R 3X3

**Linda Sénat**

Tel: 514-457-7007 x 2233  
Email: linda.senat@plaza.ca

**AND TO: JETBRO INVESTMENTS LTD.**  
53 Tycos Drive,  
Toronto, ON  
M6B 1W3

**AND TO: CENTRECORP MGMT SERVICES**  
LYNDEN PARK MALL MGMT OFF  
84 LYNDEN ROAD  
Brantford, ON  
N3R 6B8

**AND TO: RANCHO REALTY (1975) LTD.**  
5528-1 Street S.E., Suite 1,  
Calgary, AB  
T2H 2W9

Tel: 403.253.7642

**AND TO: 552861 ALBERTA LTD.,**  
#822-470 Granville Street  
Vancouver, BC  
V6C 1V5

Tel: 604.688.8103 ext. 1  
Fax: 604.688.6302

**AND TO: 552861 ALBERTA LTD.,**  
#1011-470 Granville Street  
Vancouver, BC  
V6C 1V5

**AND TO: THE EGLINTON TOWN CENTRE INC.**  
12045 McCowan Road,  
Stouffville, ON  
L4A 8A2

**Joseph Lebovic, President**

Tel: 905.640.7361  
Fax: 905.640.7369

**AND TO: WEST EDMONTON MALL PROMO.**  
8882-170 Street, Suite 3000,  
Edmonton, AB  
T5T 4M2

**AND TO: SHAPE PROPERTY MGMNT CORP**  
901-64th.Avenue N.E.  
Calgary, AB  
T2E 7P4

Tel: 403.274.7024  
Email: haynes@Shapepm.com

**AND TO: HOOPP REALTY INC.**  
c/o 1 Queen Street East, Suite 300, Box 88  
Toronto, ON  
M5C 2W5

Tel: 416.681.9320  
Fax: 416.955.0569

**AND TO: BOCA LP**  
c/o Maurizio Puzo  
44 Apex Road,  
Toronto, ON  
M6A 2V2

Tel: 416.780.9922

**AND TO: YORKDALE MERCHANTS ASSCN**  
1 Yorkdale Road, Suite 500  
Toronto, ON  
M6A 3A1

**AND TO: YORKDALE SHOPPING CENTRE HOLDINGS INC.**  
c/o OMERS Realty Management Corporation  
Oxford Realty Group,  
130 Adelaide Street West, 11<sup>th</sup> Floor,  
Toronto, ON  
M5H 2P5

**AND TO: KINGSWAY GARDEN MALL**  
320 Kingsway Garden  
Prince Elizabeth A. & 109 Street,  
Edmonton, AB  
T5G 3A6

**AND TO: Steiner Properties Ltd.**

470 Granville St  
Vancouver, BC  
V6C 1V5

**Chelsea Harding, Asset Manager**

Tel: 604-688-8103  
Email: charding@steinerproperties.ca

**OTHER POTENTIALLY INTERESTED PARTIES:**

**AND TO: WERKER LAW**

393 University Avenue, Suite 200  
Toronto, ON M5G 1E6

**Ian Werker**

Tel: 416.593.7552  
Fax: 416.593.0668  
Email: ian@werkerlaw.com

*Lawyer to David McGregor*

**AND TO: WOOLGAR VAN WIECHEN COSGRIFFE DUCOFFE LLP**

70 The Esplanade, Suite 401  
Toronto, ON  
M5E 1R2

**Christopher J. Cosgriffe**

Tel: 416.867.1666  
Fax: 416.867.1434  
E-mail: ccosgriffe@woolvan.com

**Ryan R. Watkins**

Email: rwatkins@woolvan.com

*Lawyers to 9148655 Canada Inc.*

**AND TO: BOURGON LAW PROFESSIONAL CORPORATION**

St. Lawrence Professional Centre  
614 Second Street East, Suite 1  
Cornwall, ON  
K6H 1Z8

**Andre B. Bourgon**

Tel: 613.933.0059  
Fax: 613.933.1159  
Email: andre.bourgon@bellnet.ca

*Lawyers to Marianne Gardner*

**AND TO: ABG-JONES, LLC**  
1411 Broadway, 4<sup>th</sup> Floor  
New York, NY  
10018

**Noah P. Rosen**  
Tel: 646.694.9682  
Fax: 212.760.2419  
Email: nrosen@abg-nyc.com

**AND TO: Borden Ladner Gervais LLP**  
1000 De La Gauchetière Street West  
Suite 900  
Montréal, QC  
H3B 5H4

**Isabelle Desharnais**  
Tel: 514.954.3176  
Fax: 514.954.1905  
Email: IDesharnais@blg.com

*Lawyers for Société Internationale de promotion et de création S.A.S.*

**AND TO: S.I.P.C.**  
4 Ter, avenue Hoche  
75008 Paris, France

Email: tmulliez@daniel-hechter.fr

**AND TO: DOMINIC BELLISSIMO FASHIONS INC.**  
84 Wingold Avenue  
Toronto, ON  
M6B 1P5

**AND TO: CANADA REVENUE AGENCY**  
c/o Department of Justice  
The Exchange Tower  
130 King Street West  
Suite 3400, P.O. Box 36  
Toronto, ON  
M5X 1K6

**Diane Winters**  
Tel: 416.973.3172  
Fax: 416.973.0810  
Email: diane.winters@justice.gc.ca

*Counsel to Canada Revenue Agency*

**AND TO: CANADA POST CORPORATION**  
2701 Riverside Drive Suite B0260  
Ottawa, ON  
K1A 0B1

**Julie Lahaie**

Tel: 1-800-267-7651

Email: [julie.lahaie@canadapost.postescanada.ca](mailto:julie.lahaie@canadapost.postescanada.ca)

# INDEX



## INDEX

### TAB

1. Notice of Motion
  - A Draft Sale Approval Order
2. Affidavit of Mark Sun sworn April 12, 2017
  - A Amended and Restated Initial Order
  - B Stalking Horse and SISP Order & Liquidation Consulting Agreement Approval Order
  - C First Stay Extension Order
  - D Purchase Agreement (with final schedules)

# TAB 1

**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  
GRAFTON-FRASER INC.**

**(the "Applicant")**

**NOTICE OF MOTION  
(returnable April 20, 2017)  
(Re Sale Approval)**

**GRAFTON-FRASER INC.**, the Applicant in these proceedings (referred to herein as the "**Company**"), will make a motion to a judge of the Commercial List on Thursday, April 20, 2017 at 10:00 a.m., or as soon after that time as the motion can be heard, at the Court House at 330 University Avenue, Toronto, Ontario.

**PROPOSED METHOD OF HEARING:** The motion is to be heard orally.

**THE MOTION IS FOR:**

- (a) an Order substantially in the form attached hereto as Schedule "A" (the "**Sale Approval and Vesting Order**"), *inter alia*:
  - (i) abridging the time for service of the Notice of Motion and the Motion Record herein, if necessary, and validating service thereof;

- (ii) approving the transaction (the “**Transaction**”) contemplated by the asset purchase agreement between the Company and 1104307 B.C. Ltd. (now GSO GF Acquisition B.C. Ltd.) (the “**Purchaser**”) dated January 24, 2017, as amended from time to time, and as may be further supplemented or amended (the “**Purchase Agreement**”) and vesting all of the Company’s rights, title and interest in and to the Purchased Assets, as set out and described in the Purchase Agreement, in the Purchaser, free and clear of and from all Claims (as defined in the Sale Approval and Vesting Order), except for those permitted encumbrances, easements and restrictive covenants listed on Schedule “C” to the Sale Approval and Vesting Order;
  - (iii) approving the third report of Richter Advisory Group Inc., (“**Richter**”), in its capacity as monitor (the “**Monitor**”) of the Company (the “**Third Report**”), to be filed, and approving the activities of the Monitor as described therein;
  - (iv) approving the Monitor’s fees and disbursements and those of the Monitor’s counsel, Cassels Brock & Blackwell LLP as set out in the Third Report; and
- (b) such further and other relief as this Honourable Court may deem just.

**THE GROUNDS FOR THE MOTION ARE:**

- (a) on January 25, 2017, the Company sought and obtained the Initial Order under the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the

“CCAA”), as amended and restated by the Amended and Restated Initial Order. The Amended and Restated Initial Order granted an initial stay of proceedings in favour of the Company until and including February 23, 2017;

- (b) the Company served a motion contemporaneously with its application for the Initial Order, returnable on January 30, 2017, for orders (the “**Stalking Horse & SISP Order**” and the “**Liquidation Consulting Agreement Approval Order**”) approving, among other things, (i) a sale and investment solicitation process (“SISP”) for its business and assets, (ii) the execution of a stalking horse agreement to serve as the minimum bid under the SISP (which, as described below, is now the Purchase Agreement), and (iii) a liquidation consulting agreement with a contractual joint venture composed of Gordon Brothers Canada ULC and Merchant Retail Solutions ULC (together, the “**Liquidation Consultant**”) dated January 24, 2017 (the “**Liquidation Consulting Agreement**”) pursuant to which the Company has engaged the Liquidation Consultant as its exclusive consultant to advise the Company with respect to the liquidation of inventory and owned furniture, fixtures and equipment at certain of its under-performing stores;
- (c) on January 30, 2017, the Court granted the Stalking Horse & SISP Order and the Liquidation Consulting Agreement Approval Order;
- (d) on February 22, 2017, the Company sought and obtained an extension of the stay of proceedings until and including June 15, 2017;
- (e) there were no offers received pursuant to the SISP;

- (f) the Purchaser is the “successful bidder” under the SISP and the Company is seeking the Sale Approval and Vesting Order in respect of the Transaction contemplated by the Purchase Agreement;
- (g) the Purchaser delivered to the Company the list of the store locations it will acquire, totalling 140 Purchased Locations (as defined in the Purchase Agreement), subject to obtaining Court approval of, and closing of, the Transaction contemplated by the Purchase Agreement;
- (h) the parties are working to close the Transaction on or before May 31, 2017;
- (i) the Purchase Agreement provides for the continuation of a substantial portion of the Company’s business, thereby assuring a customer for suppliers, a tenant for landlords, employment for a majority of the Company’s employees, and an ongoing business for its many customers;
- (j) the Monitor, and the Company’s lenders, Canadian Imperial Bank of Commerce and GSO Capital Partners, LP (and its affiliates) are each supportive of the Transaction;
- (k) those grounds set out in the Affidavit of Mark Sun sworn April 12, 2017, and the exhibits thereto (the “**April 12 Affidavit**”);
- (l) those grounds set out in the Third Report, and the Appendices thereto, filed;
- (m) the provisions of the CCAA and the inherent and equitable jurisdiction of this Court;

- (n) Rules 1.04, 1.05, 2.01, 2.03, 3.02, 16 and 37 of the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194, as amended; and
- (o) such further other grounds as counsel may advise and this Court may permit.

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

- (a) the April 12, 2017 Affidavit;
- (b) the Third Report, and the Appendices thereto; and
- (c) such other material as counsel may advise and this Honourable Court may permit.

April 12, 2017

**FASKEN MARTINEAU DUMOULIN LLP**  
Barristers and Solicitors  
333 Bay Street, Suite 2400  
Bay Adelaide Centre, Box 20  
Toronto, ON M5H 2T6

**Stuart Brotman (LSUC#43430D)**  
Tel: 416 865 5419  
Fax: 416 364 7813  
sbrotman@fasken.com

**Dylan Chochla (LSUC#62137I)**  
Tel: 416 868 3425  
Fax: 416 364 7813  
dchochla@fasken.com

Lawyers for the Applicant, Grafton-Fraser Inc.

**TO:** THE ATTACHED SERVICE LIST

# **SCHEDULE “A”**



ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST

THE HONOURABLE

)

THURSDAY, THE 20TH

JUSTICE

)

DAY OF APRIL, 2017

)

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 Grafton-Fraser Inc.

**Applicant**

**APPROVAL AND VESTING ORDER**

THIS MOTION, made by the Applicant for an order approving the sale transaction (the "Transaction") contemplated by an agreement of purchase and sale between the Applicant and GSO GF Acquisition B.C. Ltd. (formerly 1104307 B.C. Ltd.) (the "Purchaser") dated January 24, 2017, as amended by amending agreements on February 16, 2017, March 3, 2017 and March 14, 2017 (as amended, the "Sale Agreement") and appended to the Affidavit of Mark Sun dated April 12, 2017 (the "Affidavit"), 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 and the Report of Richter Advisory Group Inc., in its capacity as the court appointed monitor of the Applicant (the "Monitor"), dated ■ (the "Report") and on hearing the submissions of counsel for the Applicant, the Monitor, the

Purchaser, Canadian Imperial Bank of Commerce, no one appearing for any other person on the service list, although properly served as appears from the affidavit of <@> sworn April 12, 2017 filed:

1. THIS COURT ORDERS AND DECLARES that the Transaction is hereby approved, and the execution of the Sale Agreement by the Applicant is hereby authorized and approved, with such minor amendments as the Applicant may deem necessary. 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 and for the conveyance of the Purchased Assets to the Purchaser.

2. THIS COURT ORDERS AND DECLARES that upon the delivery of the Monitor's certificate to the Purchaser substantially in the form attached as Schedule A hereto (the "Monitor's Certificate"), all of the Purchased Assets described in the Sale Agreement 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: (i) any encumbrances or charges created by the Order of the Honourable Justice Hainey in these proceedings dated January 25, 2017, as amended and restated by the Order of the Honourable Justice Wilton-Siegel in these proceedings dated January 30, 2017; (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal property registry system; and (iii) those Claims listed on Schedule B hereto (all of which are collectively referred to as the "Encumbrances", which term shall not include the permitted encumbrances, easements and restrictive covenants listed on Schedule C) and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Purchased Assets are hereby expunged and discharged as against the Purchased Assets, *provided, however*, that notwithstanding anything contained in this

Order, nothing shall derogate from the obligations of the Purchaser to assume and be responsible for and honour, perform, discharge and pay as and when due the Assumed Liabilities, as set out in the Sale Agreement.

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

4. THIS COURT ORDERS that, pursuant to clause 7(3)(c) of the Canada *Personal Information Protection and Electronic Documents Act*, the Applicant is authorized and permitted to disclose and transfer to the Purchaser all human resources and payroll information in the Applicant's records pertaining to the Applicant's past and current employees, including personal information of those employees listed on Schedule "4.1" to the Sale Agreement. 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.

5. 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.

6. 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, as may be necessary or desirable to give effect to this Order or to assist the Applicant and its agents in carrying out the terms of this Order.

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**Schedule A – Form of Monitor’s Certificate**

Court File No. CV-11677-00CL

**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 Grafton-Fraser Inc.

**Applicant**

**MONITOR’S CERTIFICATE**

RECITALS

A. Pursuant to an Order of the Honourable Justice Hainey of the Ontario Superior Court of Justice (the “Court”) dated January 25, 2017, as amended and restated by the Order of the Honourable Justice Wilton-Siegel in these proceedings dated January 30, 2017, the Applicant was granted protection from its creditors pursuant to the *Companies’ Creditors Arrangement Act* and Richter Advisory Group Inc. was appointed as the monitor (the “Monitor”) of the Applicant.

B. Pursuant to an Order of the Court dated April 20, 2017, the Court approved the agreement of purchase and sale made as of January 24, 2017, as amended by amending agreements on February 16, 2017, March 3, 2017 and March 14, 2017 (as amended, the “Sale Agreement”) between the Applicant and GSO GF Acquisition B.C. Ltd. (formerly 1104307 B.C. Ltd.) (the “Purchaser”) and provided for the vesting in the Purchaser of the Purchased Assets, which vesting is to be effective with respect to the Purchased Assets upon the delivery by the Monitor to the Purchaser of a certificate

confirming (i) that the conditions to Closing as set out in sections 6.4 and 6.5 of the Sale Agreement have been satisfied or waived by the Applicant and the Purchaser; and (ii) the Transaction has been completed to the satisfaction of the Monitor.

C. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Sale Agreement.

THE MONITOR CERTIFIES the following:

1. The Applicant has received the Purchase Price for the Purchased Assets payable on the Closing Date pursuant to the Sale Agreement;
2. The conditions to Closing as set out in sections 6.4 and 6.5 of the Sale Agreement have been satisfied or waived by the Applicant and the Purchaser; and
3. The Transaction has been completed to the satisfaction of the Monitor.
4. This Certificate was delivered by the Monitor at \_\_\_\_\_ [TIME] on \_\_\_\_\_ [DATE].

**Richter Advisory Group Inc., in its capacity  
as court-appointed monitor of Grafton-  
Fraser Inc. and not in its personal capacity**

Per:

\_\_\_\_\_  
Name:

Title:

## Schedule B – Encumbrances

### PPSA British Columbia

<u>Registration Number</u>	<u>Secured Party</u>	<u>Registration Date/ Registration Period</u>	<u>Collateral</u>
1. 673469D	GSO Capital Partners, LP, as Administrative Agent	Registration Date: May 15, 2007  Registration Period: 8 years  Expiry Date: May 15, 2023	All of the Applicant's present and after-acquired personal property of the Applicant and, without limitation, all fixtures, crops, and licenses.
2. 006240J	Canadian Imperial Bank of Commerce, as Agent	Registration Date: December 11, 2015  Registration Period: 7 years  Expiry Date: December 11, 2022	All of the Applicant's present and after-acquired personal property including without limitation fixtures (and terms used herein that are defined in the Personal Property Security Act of British Columbia or the regulations made thereunder have those defined meanings).

### PPSA Alberta

<u>Registration Number</u>	<u>Secured Party</u>	<u>Registration Date/ Registration Period</u>	<u>Collateral</u>
1. 15121123969	Canadian Imperial Bank of Commerce, as Agent	Registration Date: December 11, 2015  Registration Period: 7 years  Expiry Date: December 11, 2022	All present and after- acquired personal property of the Applicant.
2. 07051518194	GSO Capital Partners, LP, as Administrative Agent	Registration Date: May 15, 2007  Registration Period: 16 years  Expiry Date: May 15, 2023	All present and after- acquired personal property of the Applicant. Proceeds: Goods, inventory, chattel paper, documents of title, instruments, money, intangibles, accounts and investment property (all as

<u>Registration Number</u>	<u>Secured Party</u>	<u>Registration Date/ Registration Period</u>	<u>Collateral</u>
3. 07051518228	GSO Capital Partners, LP, as Administrative Agent	Registration Date: May 15, 2007  Registration Period: Infinity	defined in the Personal Property Security Act (Alberta) and insurance proceeds. Land charge.

**PPSA Manitoba**

<u>Registration Number</u>	<u>Secured Party</u>	<u>Registration Date/ Registration Period</u>	<u>Collateral</u>
1. 201523726507	Canadian Imperial Bank of Commerce, as Agent	Registration Date: December 11, 2015  Registration Period: 7 years  Expiry Date: December 11, 2022	The security interest is taken in all of the Applicant's present and after-acquired personal property.
2. 200708558108	GSO Capital Partners, LP, as Administrative Agent	Registration Date: May 7, 2007  Registration Period: 16 years  Expiry Date: May 15, 2023	The security interest is taken in all of the Applicant's present and after-acquired personal property.

**PPSA Ontario**

<u>Registration File Number</u>	<u>Secured Party</u>	<u>Registration Date/ Registration Period</u>	<u>Collateral</u>
1. 712571193	Canadian Imperial Bank of Commerce, as Agent	Registration Date: December 11, 2015  Registration Period: 7 years  Expiry Date: December 11, 2022	Inventory, Equipment, Accounts, Other, Motor Vehicle
2. 635312304	GSO Capital Partners, LP, as Administrative Agent	Registration Date: May 15, 2007	Inventory, Equipment, Accounts, Other, Motor



<u>Registration File Number</u>	<u>Secured Party</u>	<u>Registration Date/ Registration Period</u>	<u>Collateral</u>
		Registration Period: 8 years	Vehicle Included
		Expiry Date: May 05, 2013	

**PPSA Nova Scotia**

	<u>Registration Number</u>	<u>Secured Party</u>	<u>Registration Date/ Registration Period</u>	<u>Collateral</u>
1.	25531898	GSO Capital Partners, LP, as Administrative Agent	Registration Date: February 8, 2016  Registration Period: 7 years  Expiry Date: February 8, 2023	A security interest is taken in all of the Applicant's present and after-acquired personal property
2.	25333881	Canadian Imperial Bank of Commerce, as Agent	Registration Date: December 14, 2015  Registration Period: 7 years Expiry Date: December 14, 2022	A security interest is taken in all of the Applicant's present and after-acquired personal property

1. The following *Bank Act* security:

<u>Type</u>	<u>Registration Name and Address</u>	<u>Date</u>	<u>Expires</u>	<u>Number</u>	<u>Bank</u>
(2)	Grafton-Fraser Inc. 44 Apex Road Toronto ON M6A 2V2	2016/01/25	2021/12/31	01304227	0010 – CANADIAN IMPERIAL BANK OF COMMERCE 00002 – MAIN BRANCH – COMMERCE COURT 199 BAY ST CCW CONCOURSE LEVEL MAIN BRANCH – COMMERCE COURT TORONTO, ON M5L1G9

2. Security interests recorded against all of the Canadian trademarks owned by the Applicant, in favour of:

- GSO Special Situations Fund LP (pursuant to a security agreement placed on file on October 11, 2007);
- GSO CP Holdings LP (pursuant to an amended security agreement placed on file on October 14, 2008); and

Canadian Imperial Bank of Commerce, as Agent (pursuant to a security agreement placed on file on March 11, 2016).

## Schedule C – Permitted Encumbrances

### PPSA Ontario

	<u>Registration File Number</u>	<u>Secured Party</u>	<u>Registration Date/ Registration Period</u>	<u>Collateral</u>
1.	719663706	Canadian Dealer Lease Service Inc. and Bank of Nova Scotia - DLAC	Registration Date: August 16, 2016  Registration Period: 3 years  Expiry Date: August 16, 2019	Inventory, Accounts, Other, Motor Vehicle Included  2016 Maza CX09, JM3TCBDY6G0111704  Amount: \$55,145  Date of Maturity: August 11, 2019
3.	675686367	Xerox Canada Ltd.	Registration Date: January 17, 2012  Registration Period: 6 years  Expiry Date: January 17, 2018	Equipment, Other

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 GRAFTON-FRASER INC.

(the "Applicant")

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

**Proceedings commenced in Toronto**

**NOTICE OF MOTION  
(RETURNABLE APRIL 20, 2017)  
(RE: SALE APPROVAL)**

**FASKEN MARTINEAU DUMOULIN LLP**

Barristers and Solicitors  
333 Bay Street, Suite 2400  
Bay Adelaide Centre, Box 20  
Toronto, ON M5H 2T6

**Stuart Brotman (LSUC#43430D)**

Tel: 416 865 5419  
Fax: 416 364 7813  
sbrotman@fasken.com

**Dylan Chochla (LSUC#62137I)**

Tel: 416 868 3425  
Fax: 416 364 7813  
dchochla@fasken.com

Lawyers for the Applicant, Grafton-Fraser Inc.

# **TAB 2**

**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  
GRAFTON-FRASER INC.**

**(the "Applicant")**

**AFFIDAVIT OF MARK SUN  
(SALE APPROVAL)  
(SWORN APRIL 12, 2017)**

I, Mark Sun, Executive, of the City of Brampton, in the Province of Ontario, Canada, **MAKE OATH AND SAY:**

1. I am the Vice-President and Chief Financial Officer of the Applicant Grafton-Fraser Inc. (the "**Company**"), and as such I have knowledge of the matters set out herein. I have also reviewed the books and records of the Company and have spoken with certain of the directors, officers and/or employees of the Company, as necessary. Where information has been received from other sources, I have stated the source of the information and believe it to be true.

**I. OVERVIEW**

2. I swear this affidavit in support of a motion by the Company for an order (the "**Sale Approval and Vesting Order**"), among other things, approving the transaction (the "**Transaction**") contemplated by the asset purchase agreement between the Company and

1104307 B.C. Ltd. (now GSO GF Acquisition B.C. Ltd.) (the “**Purchaser**”) dated January 24, 2017, as amended from time to time, and as may be further supplemented or amended (the “**Purchase Agreement**”) and vesting all of the Company’s rights, title and interest in and to the Purchased Assets, as set out and described in the Purchase Agreement, in the Purchaser, free and clear of and from all Claims (as defined in the Sale Approval and Vesting Order), except for those permitted encumbrances, easements and restrictive covenants listed on Schedule “C” to the Sale Approval and Vesting Order.

## II. BACKGROUND

3. The Company is a leading Canadian retailer of men’s clothing that, prior to the commencement of its proceedings under the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the “**CCAA**”), operated 158 stores in Canada under the “Tip Top Tailors”, “George Richards Big and Tall”, “Mr. Big and Tall” and “Kingsport Big and Tall Clothier” banners.

4. The Company faced a liquidity crisis as a result of, among other things, financial consequences arising from the insolvency of its wholly-owned subsidiary 2473304 Ontario Inc., lower than expected retail sales, increased overhead costs, delays in receipt of seasonal inventory and turnover of key personnel.

5. The Company entered into amended and restated forbearance agreements with its operating lender Canadian Imperial Bank of Commerce (“**CIBC**”), and with its term lender GSO Capital Partners, LP (“**GSO**”), respectively. The Company has also entered into a DIP facility loan agreement with GSO, among others (the “**DIP Agreement**”), pursuant to which certain entities related to GSO have advanced the Company interim financing in the amount of \$5.5

million to provide additional funding for the Company's operations during its proceedings under the CCAA.

6. The amended and restated forbearance agreements and the DIP Agreement each contemplate, among other things, the Company pursuing a sale and investment solicitation process ("**SISP**") for its business and assets to be carried out in conjunction with an orderly liquidation of certain of the Company's inventory and owned furniture, fixtures and equipment ("**FF&E**") in the context of proceedings under the CCAA.

7. On January 25, 2017 the Company sought and obtained an initial order under the CCAA (the "**Initial Order**"), as amended and restated by Order dated January 30, 2017 (the "**Amended and Restated Initial Order**"). The Amended and Restated Initial Order granted an initial stay of proceedings in favour of the Company until and including February 23, 2017 and appointed Richter Advisory Group Inc. as monitor (the "**Monitor**") in these CCAA proceedings. Among other terms, the Amended and Restated Initial Order approved a lease consulting agreement with Oberfeld Snowcap Inc. (the "**Lease Consultant**") dated January 24, 2017 pursuant to which the Company engaged the Lease Consultant to assist the Company to renegotiate the lease terms for certain of its retail locations in an effort to make those leases more attractive to participants in the SISP. Attached hereto and marked as Exhibit "A" is a true copy of the Amended and Restated Initial Order.

8. The Company served a motion contemporaneously with its application for the Initial Order, returnable on January 30, 2017, for orders approving, among other things, (i) the SISP, (ii) the execution of a stalking horse agreement to serve as the minimum bid under the SISP (which, as described below, is now the Purchase Agreement), and (iii) a liquidation



consulting agreement with a contractual joint venture composed of Gordon Brothers Canada ULC and Merchant Retail Solutions ULC (together, the “**Liquidation Consultant**”) dated January 24, 2017 (the “**Liquidation Consulting Agreement**”) pursuant to which the Company has engaged the Liquidation Consultant as its exclusive consultant to advise the Company with respect to the liquidation of inventory and FF&E at certain of its under-performing stores. Attached hereto and marked as Exhibit “B” is a true copy of the Stalking Horse & SISP Order and the Liquidation Consulting Agreement Approval Order.

9. On February 22, 2017, the Company sought and obtained an order extending the stay of proceedings until and including June 15, 2017 (the “**First Stay Extension Order**”). Attached hereto and marked as Exhibit “C” is a true copy of the First Stay Extension Order.

10. Further details regarding the background to this CCAA proceeding are set out in my affidavit sworn January 25, 2017 in support of the Company’s application for the Initial Order (the “**Initial Order Affidavit**”) and, unless relevant to the present motion, are not repeated herein.

11. The Initial Order Affidavit and other materials filed in connection with this CCAA proceeding are available on the Monitor’s website at: <http://www.richter.ca/folder/insolvency-cases/g/grafon-fraser-inc>

### **III. SISP, LIQUIDATION & LEASE NEGOTIATIONS**

12. The SISP contemplated that the Purchase Agreement would serve as the “stalking horse credit bid” under the SISP.

13. There were no offers received pursuant to the SISP and the Purchaser is therefore the “successful bidder” under the SISP. As described in greater detail below, the Company is seeking the Sale Approval and Vesting Order in respect of the Transaction contemplated by the Purchase Agreement.

14. The liquidation of the Company’s inventory and FF&E at certain of its stores pursuant to the Liquidation Consulting Agreement commenced on or about February 15, 2017 and will be complete on or before April 30, 2017 (the “**Liquidation Period**”).

15. The Liquidation Consulting Agreement permits the Company to, among other things, increase or decrease the number of stores involved in the liquidation process at any time up to March 15, 2017 (subsequently extended to April 3, 2017). This mechanism was put in place so that if the lease terms in respect of certain stores designated as Closing Stores under the Liquidation Consulting Agreement could be renegotiated during the Liquidation Period such that a store location originally considered for closure may become desirable to a potential investor or purchaser, including the successful bidder under the SISP, such stores could be removed from the liquidation process, placed into the SISP, and subject to the closing of a transaction, kept open following completion of such transaction.

16. Similarly, the Purchase Agreement provided that the Purchaser could add or remove Purchased Locations (as defined in the Purchase Agreement) from the list of stores that the Purchaser would acquire until March 3, 2017 (subsequently extended until March 31, 2017).

17. The Company, with the assistance of the Lease Consultant, successfully negotiated rent concessions in respect of a majority of its store locations. The Company and the various landlords that provided rent concessions have agreed that those rent concessions will

continue to apply (for varying terms as negotiated with each landlord) if the lease in question is assigned to the Purchaser.

18. On or about April 5, 2017, the Purchaser delivered to the Company the list of the store locations it will acquire, totalling 140 Purchased Locations, subject to obtaining Court approval of, and closing of, the Transaction contemplated by the Purchase Agreement.

19. The Company has delivered disclaimer notices in accordance with the provisions of the CCAA and the Amended and Restated Initial Order to various landlords in respect of 14 leases that the Purchaser will not acquire under the Purchase Agreement. The Company has also delivered disclaimer notices to the Toronto Blue Jays in respect of certain promotional agreements that the Company had entered into with the baseball team. These disclaimer notices are effective as of April 30, 2017.

#### **IV. PURCHASE AGREEMENT**

20. Pursuant to the terms of the Purchase Agreement, the Purchaser has agreed to purchase substantially all of the Company's assets necessary to operate the business. Attached hereto and marked as Exhibit "D" is a redacted true copy of the Purchase Agreement, including final versions of all of the schedules attached thereto. The only redaction relates to the schedule of Grafton's supplier liabilities, which has been redacted to protect commercially sensitive information.

21. The Purchase Agreement contemplates that the Purchaser will continue to operate the business as a going concern, which will result in the preservation of a significant number of jobs in Canada (at least 1,100 jobs).

22. The parties are working to close the Transaction on or before May 31, 2017.

23. I provided a detailed description of the other terms of the Purchase Agreement in the Initial Order Affidavit (a copy of which was attached as an Exhibit to the Initial Order Affidavit, without final versions of all of the schedules) and have therefore not repeated it herein.

24. The Purchase Agreement provides for the continuation of a substantial portion of the Company's business, thereby assuring a customer for suppliers, a tenant for landlords, employment for a majority of the Company's employees, and an ongoing business for its many customers.

25. I understand that the Monitor, GSO and CIBC are each supportive of the Transaction.

## **V. CONTRACT ASSIGNMENTS**

26. The Purchase Agreement contemplates that certain store leases and contracts held in the name of the Company will be assigned to and assumed by the Purchaser on closing. The Purchase Agreement requires that the Company use all reasonable commercial efforts to obtain the landlords' and contract counterparties' consent to assignment where required under the leases or contracts to be assigned. In the event that the Company is unable to obtain any such landlord or contract counterparty's consents, the Purchase Agreement requires that the Company apply for an order of the Court assigning the leases or contracts for which consents were refused.

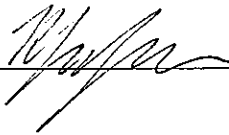
27. The Company has already obtained certain of the required consents and is working with the Purchaser to obtain those consents that are outstanding. If such consents are not forthcoming before the scheduled closing of the Transaction, the Company expects to bring a


motion, returnable before the scheduled closing date, for an order assigning the outstanding leases and contracts to the Purchaser pursuant to section 11.3 of the CCAA.

**VI. PURPOSE OF AFFIDAVIT**

28. I swear this Affidavit in support of the Company's Motion for approval of the Transaction.

SWORN BEFORE ME at the )  
City of Toronto, in the )  
Province of Ontario, this )  
12<sup>th</sup> day of April, 2017 )

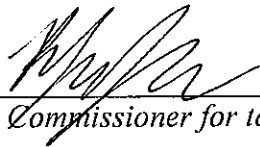
  
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\_\_\_\_\_  
Mark Sun

**Russell Moses Lindzon,  
a Commissioner, etc., Province of Ontario,  
while a Student-at-Law.  
Expires February 11, 2018.**

# **EXHIBIT "A"**

***THIS IS EXHIBIT "A"***  
***referred to in the Affidavit of***  
***Mark Sun sworn before me on***  
***April 12, 2017***



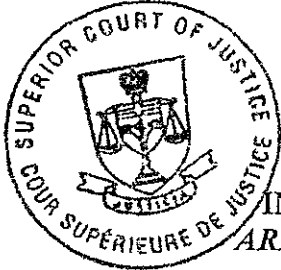
*A Commissioner for taking Affidavits*

Russell Moses Lindzon,  
a Commissioner, etc., Province of ~~Ontario~~,  
while a Student-at-Law.  
Expires February 11, 2018.

ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST

THE HONOURABLE MR. )  
JUSTICE WILTON - SIEGEL )

WEDNESDAY, THE 25<sup>th</sup> )  
DAY OF JANUARY, 2017 )



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  
GRAFTON-FRASER INC.

(the "Applicant")

AMENDED AND RESTATED INITIAL ORDER

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

ON READING the affidavit of Mark Sun sworn January 25, 2017 and the Exhibits thereto (the "Sun Affidavit"), the report of Richter Advisory Group Inc. ("Richter") as the proposed monitor dated January 25, 2017 (the "Pre-Filing Report"), and on being advised that the secured creditors who are likely to be affected by the charges created herein were given notice, and on hearing the submissions of counsel for the Applicant, counsel for Richter, in its capacity as the proposed monitor (the "Monitor") of the Applicant in these CCAA proceedings, counsel for the directors of the Applicant, counsel for Canadian Imperial Bank of Commerce ("CIBC"), counsel for GSO Capital Partners LP ("GSO") and such other parties as were present, no one else appearing although duly served as appears from the affidavit of service of Irene



Artuso sworn January 25, 2017, filed, and on reading the consent of Richter to act as the Monitor.

## **SERVICE**

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

## **APPLICATION**

2. THIS COURT ORDERS AND DECLARES that the Applicant is a company to which the CCAA applies.

## **PLAN OF ARRANGEMENT**

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

## **POSSESSION OF PROPERTY AND OPERATIONS**

4. THIS COURT ORDERS that the Applicant shall remain in possession and control of its current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof (the "**Property**"). Subject to further Order of this Court, the Applicant shall continue to carry on business in a manner consistent with the preservation of its business (the "**Business**") and Property. The Applicant is authorized and empowered to continue to retain and employ the employees, consultants, agents, experts, accountants, counsel and such other persons (collectively "**Assistants**") currently retained or employed by it, with liberty to retain such further Assistants as it deems reasonably necessary or desirable in the ordinary course of business or for the carrying out of the terms of this Order.

5. THIS COURT ORDERS that the Applicant shall be entitled to continue to utilize the central cash management system currently in place, in accordance with the DIP Agreement and the ABL DIP Forbearance Agreement (each as hereinafter defined), as described in the Sun Affidavit or replace it with another substantially similar central cash management system (the

"Cash Management System") and that any present or future bank providing the Cash Management System shall not be under any obligation whatsoever to inquire into the propriety, validity or legality of any transfer, payment, collection or other action taken under the Cash Management System, or as to the use or application by the Applicant of funds transferred, paid, collected or otherwise dealt with in the Cash Management System, shall be entitled to provide the Cash Management System without any liability in respect thereof to any Person (as hereinafter defined) other than the Applicant, pursuant to the terms of the documentation applicable to the Cash Management System, and shall be, in its capacity as provider of the Cash Management System, an unaffected creditor under the Plan with regard to any claims or expenses it may suffer or incur in connection with the provision of the Cash Management System.

6. THIS COURT ORDERS that, subject to the terms of the DIP Agreement and the Forbearance Agreements (as hereinafter defined) that require the Applicant to comply with the Approved Cash Flow (as defined in the DIP Agreement and in the Forbearance Agreements) the Applicant shall be entitled but not required to pay the following expenses whether incurred prior to or after this Order:

- (a) all outstanding and future wages, salaries, employee benefits, vacation pay and expenses payable on or after the date of this Order, in each case incurred in the ordinary course of business and consistent with existing compensation policies and arrangements including any and all cheques for such employee obligations which have been issued, but not cleared prior to the date of this Order;
- (b) the fees and disbursements of any Assistants retained or employed by the Applicant in respect of these proceedings, at their standard rates and charges; and
- (c) amounts owing to vendors determined by the Applicant to be necessary in order to ensure an uninterrupted supply of goods and/or services to the Applicant that are material to the continued operation of the Business, provided that such payments shall not exceed an aggregate amount of \$1 million and are approved in advance by the Monitor or by further Order of the Court.

7. THIS COURT ORDERS that, except as otherwise provided to the contrary herein and subject to the terms of the DIP Agreement and the Forbearance Agreements that require the Applicant to comply with the Approved Cash Flow, the Applicant shall be entitled but not required to pay all reasonable expenses incurred by the Applicant in carrying on the Business in the ordinary course after this Order, and in carrying out the provisions of this Order, which expenses shall, subject to the Approved Cash Flow, include, without limitation:

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

8. THIS COURT ORDERS that the Applicant shall remit, in accordance with legal requirements, or pay:

- (a) any statutory deemed trust amounts in favour of the Crown in right of Canada or of any Province thereof or any other taxation authority which are required to be deducted from employees' wages, including, without limitation, amounts in respect of (i) employment insurance, (ii) Canada Pension Plan, (iii) Quebec Pension Plan, and (iv) income taxes;
- (b) all goods and services or other applicable sales taxes (collectively, "**Sales Taxes**") required to be remitted by the Applicant in connection with the sale of goods and services by the Applicant, but only where such Sales Taxes are accrued or collected after the date of this Order, or where such Sales Taxes were accrued or collected prior to the date of this Order but not required to be remitted until on or after the date of this Order, and
- (c) any amount payable to the Crown in right of Canada or of any Province thereof or any political subdivision thereof or any other taxation authority in respect of municipal realty, municipal business or other taxes, assessments or levies of any

nature or kind which are entitled at law to be paid in priority to claims of secured creditors and which are attributable to or in respect of the carrying on of the Business by the Applicant.

9. THIS COURT ORDERS that the Applicant is hereby authorized to transfer to an account of the Monitor, on a weekly basis, in advance, such amount as the Applicant determines, in consultation with the Monitor, is appropriate and required to remit or pay projected Sales Taxes relating to the sale of goods and services by the Applicant in such week in accordance with applicable law, and the Monitor is hereby authorized to hold such funds and transfer such funds to the Applicant for remittance or payment by the Applicant of such Sales Taxes as required pursuant to applicable law. In the event the Monitor determines, in its discretion, to return any portion of such funds to the Applicant as a result of the Applicant having transferred more than is appropriate or required to pay or remit Sales Taxes as aforesaid, the funds so returned shall form part of the Property.

10. THIS COURT ORDERS that until a real property lease is disclaimed in accordance with the CCAA, the Applicant shall pay all amounts constituting rent or payable as rent under real property leases (including, for greater certainty, common area maintenance charges, utilities and realty taxes and any other amounts payable to the landlord under the lease) or as otherwise may be negotiated between the Applicant and the landlord from time to time ("**Rent**"), for the period commencing from and including the date of this Order, twice monthly in equal payments on the first and fifteenth day of each month, in advance (but not in arrears). On the date of the first of such payments, any Rent relating to the period commencing from and including the date of this Order shall also be paid.

11. THIS COURT ORDERS that, except as specifically permitted (i) herein or (ii) in the DIP Agreement and the Forbearance Agreements, the Applicant is hereby directed, until further Order of this Court: (a) to make no payments of principal, interest thereon or otherwise on account of amounts owing by the Applicant to any of its creditors as of this date; (b) to grant no security interests, trust, liens, charges or encumbrances upon or in respect of any of its Property; and (c) to not grant credit or incur liabilities except in the ordinary course of the Business.

## RESTRUCTURING

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

- (a) subject to obtaining the prior written consent of the Term DIP Lenders pursuant to the DIP Agreement and Term DIP Forbearance Agreement (each as defined below) and the ABL Agent and ABL Lender pursuant to the ABL Forbearance Agreement (as defined below), unless otherwise permitted by the provisions of the DIP Agreement and Term DIP Forbearance Agreement or by further Order of the Court:
  - (i) permanently or temporarily cease, downsize or shut down any of its business or operations, provided that, with respect to any leased premises, the Applicant may permanently but not temporarily cease, downsize or shut down unless provided for in the applicable lease; and
  - (ii) dispose of redundant or non-material assets not exceeding \$15,000 in any one transaction or \$75,000 in the aggregate;
  
- (b) subject to such applicable covenants as may be contained in the DIP Agreement, the Term DIP Credit Documents (as defined below), or the Forbearance Agreements, as applicable:
  - (i) terminate the employment of such of its employees or temporarily lay off such of its employees as it deems appropriate; and
  - (ii) pursue all avenues of refinancing of its Business or Property, in whole or in part, subject to prior approval of this Court being obtained before any material refinancing;

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

13. THIS COURT ORDERS that the Applicant shall provide each of the relevant landlords with notice of the Applicant's intention to remove any fixtures from any leased premises at least seven (7) days prior to the date of the intended removal. The relevant landlord shall be entitled

to have a representative present in the leased premises to observe such removal and, if the landlord disputes the Applicant's entitlement to remove any such fixture under the provisions of the lease, such fixture shall remain on the premises and shall be dealt with as agreed between any applicable secured creditors, such landlord and the Applicant, or by further Order of this Court upon application by the Applicant on at least two (2) days' notice to such landlord and any such secured creditors. If the Applicant disclaims the lease governing such leased premises in accordance with Section 32 of the CCAA, it shall not be required to pay Rent under such lease pending resolution of any such dispute (other than Rent payable for the notice period provided for in Section 32(5) of the CCAA), and the disclaimer of the lease shall be without prejudice to the Applicant's claim to the fixtures in dispute.

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

#### **NO PROCEEDINGS AGAINST THE APPLICANT OR THE PROPERTY**

15. THIS COURT ORDERS that, subject to paragraph 16(v) hereof, until and including February 23, 2017, or such later date as this Court may order (the "**Stay Period**"), no proceeding or enforcement process in any court or tribunal (each, a "**Proceeding**") shall be commenced or continued against or in respect of the Applicant or the Monitor, or affecting the Business or the Property, except with the written consent of the Applicant and the Monitor, or with leave of this Court, and any and all Proceedings currently under way against or in respect of the Applicant or affecting the Business or the Property are hereby stayed and suspended pending further Order of this Court.

## **NO EXERCISE OF RIGHTS OR REMEDIES**

16. THIS COURT ORDERS that during the Stay Period, all rights and remedies of any individual, firm, corporation, governmental body or agency, or any other entities (all of the foregoing, collectively being "Persons" and each being a "Person") against or in respect of the Applicant or the Monitor, or affecting the Business or the Property, are hereby stayed and suspended except with the written consent of the Applicant and the Monitor, or leave of this Court, provided that nothing in this Order shall (i) empower the Applicant to carry on any business which the Applicant is not lawfully entitled to carry on, (ii) affect such investigations, actions, suits or proceedings by a regulatory body as are permitted by Section 11.1 of the CCAA, (iii) prevent the filing of any registration to preserve or perfect a security interest, (iv) prevent the registration of a claim for lien, or (v) subject to paragraphs 43, 52 and 53 hereof, prevent the Lenders (as hereinafter defined) from exercising any rights or remedies in accordance with the DIP Agreement or their respective Forbearance Agreements.

## **NO INTERFERENCE WITH RIGHTS**

17. THIS COURT ORDERS that during the Stay Period, no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by the Applicant, except with the written consent of the Applicant and the Monitor, or leave of this Court.

## **CONTINUATION OF SERVICES**

18. THIS COURT ORDERS that during the Stay Period, all Persons having oral or written agreements with the Applicant or statutory or regulatory mandates for the supply of goods and/or services, including without limitation all computer software, intellectual property licenses, communication and other data services, centralized banking services, payroll services, insurance, transportation services, utility or other services to the Business or the Applicant, are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the Applicant, and that the Applicant shall be entitled to the continued use of its current premises, telephone numbers, facsimile numbers, internet addresses, domain names, trademarks and trade names, provided in each case that the normal prices or charges for all such goods or services received after the date

of this Order are paid by the Applicant in accordance with normal payment practices of the Applicant or such other practices as may be agreed upon by the supplier or service provider and each of the Applicant and the Monitor, or as may be ordered by this Court.

#### **NON-DEROGATION OF RIGHTS**

19. THIS COURT ORDERS that, notwithstanding anything else in this Order, no Person shall be prohibited from requiring immediate payment for goods, services, use of leased or licensed property or other valuable consideration provided on or after the date of this Order, nor shall any Person be under any obligation on or after the date of this Order to advance or re-advance any monies or otherwise extend any credit to the Applicant. Nothing in this Order shall derogate from the rights conferred and obligations imposed by the CCAA.

#### **PROCEEDINGS AGAINST DIRECTORS AND OFFICERS**

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

#### **DIRECTORS' AND OFFICERS' INDEMNIFICATION AND CHARGE**

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

22. THIS COURT ORDERS that the directors and officers of the Applicant shall be entitled to the benefit of and are hereby granted a charge (the "**Directors' Charge**") on the Property, which charge shall not exceed an aggregate amount of \$800,000 as security for the indemnity



provided in paragraph 21 of this Order. The Directors' Charge shall have the priority set out in paragraphs 57 and 59 herein.

23. THIS COURT ORDERS that, notwithstanding any language in any applicable insurance policy to the contrary, (a) no insurer shall be entitled to be subrogated to or claim the benefit of the Directors' Charge, and (b) the Applicant's directors and officers shall only be entitled to the benefit of the Directors' Charge to the extent that they do not have coverage under any directors' and officers' insurance policy, or to the extent that such coverage is insufficient to pay amounts indemnified in accordance with paragraph 21 of this Order.

24. THIS COURT ORDERS and directs the Applicant to deposit with the Monitor, in trust, the sum of \$772,597 (the "**Directors' Escrow**"), which funds shall be held by the Monitor in trust and stand as collateral for the indemnity contemplated in paragraph 21 hereof and subject to the Directors' Charge, to be released only with the consent of the Monitor and the beneficiaries of the Directors' Charge (which consent may be communicated by counsel to the directors) or upon further Order of the Court made on notice to the Monitor and counsel to the directors; provided the indemnification obligations in respect of which the Directors' Escrow stands as collateral shall be limited to those relating to statutory obligations and liabilities of the directors and officers of the Applicant. Notwithstanding the provisions of paragraph 57 hereof, the Directors' Charge shall rank in priority to all other Charges and Encumbrances over the Directors' Escrow.

#### **APPOINTMENT OF MONITOR**

25. THIS COURT ORDERS that Richter is hereby appointed pursuant to the CCAA as the Monitor, an officer of this Court, to monitor the business and financial affairs of the Applicant with the powers and obligations set out in the CCAA or set forth herein and that the Applicant and its shareholders, officers, directors, and Assistants shall advise the Monitor of all material steps taken by the Applicant pursuant to this Order, and shall co-operate fully with the Monitor in the exercise of its powers and discharge of its obligations and provide the Monitor with the assistance that is necessary to enable the Monitor to adequately carry out the Monitor's functions.

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

- (a) monitor the Applicant's receipts and disbursements;
- (b) report to this Court at such times and intervals as the Monitor may deem appropriate with respect to matters relating to the Property, the Business, and such other matters as may be relevant to the proceedings herein;
- (c) assist the Applicant, to the extent required by the Applicant, in its dissemination to the Lenders and their respective counsel of financial and other information as agreed to between the Applicant and each Lender which may be used in these proceedings including reporting on a basis to be agreed with each Lender;
- (d) advise the Applicant in its preparation of the Applicant's cash flow statements and reporting required by the Lenders, which information shall be reviewed with the Monitor and delivered to the Lenders as required pursuant to the DIP Agreement and the Forbearance Agreements;
- (e) advise the Applicant in its development of the Plan and any amendments to the Plan;
- (f) assist the Applicant, to the extent required by the Applicant, with the holding and administering of creditors' or shareholders' meetings for voting on the Plan;
- (g) have full and complete access to the Property, including the premises, books, records, data, including data in electronic form, and other financial documents of the Applicant, to the extent that is necessary to adequately assess the Applicant's business and financial affairs or to perform its duties arising under this Order;
- (h) be at liberty to engage independent legal counsel or such other persons as the Monitor deems necessary or advisable respecting the exercise of its powers and performance of its obligations under this Order; and
- (i) perform such other duties as are required by this Order or by this Court from time to time.

27. THIS COURT ORDERS that the Monitor shall not take possession of the Property and shall take no part whatsoever in the management or supervision of the management of the

Business and shall not, by fulfilling its obligations hereunder, be deemed to have taken or maintained possession or control of the Business or Property, or any part thereof.

28. THIS COURT ORDERS that nothing herein contained shall require the Monitor to occupy or to take control, care, charge, possession or management (separately and/or collectively, "**Possession**") of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the *Ontario Environmental Protection Act*, the *Ontario Water Resources Act*, or the *Ontario Occupational Health and Safety Act* and similar legislation in other provinces and territories, and regulations thereunder (the "**Environmental Legislation**"), provided however that nothing herein shall exempt the Monitor from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Monitor shall not, as a result of this Order or anything done in pursuance of the Monitor's duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any *Environmental Legislation*, unless it is actually in possession.

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

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

31. THIS COURT ORDERS that the Monitor, counsel to the Monitor, counsel to the Applicant, and counsel to the directors of the Applicant shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges, whether incurred prior to or after the date of this Order, by the Applicant as part of the costs of these proceedings, subject to any assessment by the Court. The Applicant is hereby authorized and directed to pay the accounts of the Monitor, counsel to the Monitor, counsel to the Applicant, and counsel to the directors of the Applicant on a weekly basis or on such other basis agreed by the Applicant and the applicable payee and, in addition, the Applicant is hereby authorized, *nunc pro tunc*, to pay to the Monitor, counsel to the Monitor, and counsel to the Applicant, and counsel to the directors of the Applicant retainers in the amounts of \$100,000, \$50,000, \$100,000 and \$25,000, respectively, to be held by them as security for payment of their respective fees and disbursements outstanding from time to time.

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

33. THIS COURT ORDERS that the Monitor, counsel to the Monitor, the Applicant's counsel, and counsel for the directors of the Applicant shall be entitled to the benefit of and are hereby granted a charge (the "**Administration Charge**") on the Property, which charge shall not exceed an aggregate amount of \$500,000, as security for their professional fees and disbursements incurred at the standard rates and charges of the Monitor and such counsel, both before and after the making of this Order in respect of these proceedings. The Administration Charge shall have the priority set out in paragraphs 57 and 59 hereof.

#### **KEY EMPLOYEE RETENTION PAYMENTS**

34. THIS COURT ORDERS that the key employee retention payments ("**KERPs**") offered by the Applicant to certain of its remaining employees and executive officers, as set out and described in the Sun Affidavit, be and are hereby approved, and the Applicant be and is hereby authorized and empowered to make the KERPs in accordance with the terms set out in the Sun Affidavit.

35. THIS COURT ORDERS that the employees of the Applicant who are the beneficiary of the KERPs shall be entitled to the benefit of and are hereby granted a charge (the “**KERP Charge**”) on the Property, which charge shall not exceed an aggregate amount of \$190,000, as security for the Applicant’s obligations in respect of the KERPs. The KERP Charge shall have the priority set out in paragraphs 57 and 59 hereof.

## **SECOND LEASE CONSULTING AGREEMENT**

36. THIS COURT ORDERS that the execution, delivery, entry into, compliance with, and performance by the Applicant of the Second Lease Consulting Agreement (as defined in the Sun Affidavit) be and is hereby authorized and approved.

## **DIP FINANCING & FORBEARANCE AGREEMENTS**

### ***A) DIP AGREEMENT***

37. THIS COURT ORDERS that the Applicant is hereby authorized and empowered to obtain and borrow under a credit facility from the lenders that are parties to the DIP Agreement (as defined below) (in such capacity, collectively referred to herein as the “**Term DIP Lenders**”) in order to finance the Applicant's working capital requirements and other general corporate purposes and capital expenditures, provided that borrowings under such credit facility shall not exceed \$5.5 million unless permitted by further Order of this Court.

38. THIS COURT ORDERS THAT such credit facility shall be on the terms and subject to the conditions set forth in the DIP facility term sheet between the Applicant, the Term DIP Lenders, GSO, as administrative agent for itself and for the Term DIP Lenders (in such capacity, the “**Term DIP Agent**”) and Wilmington Trust, National Association, as servicing agent (the “**Term DIP Servicing Agent**”), dated as of January 24, 2017 (the “**DIP Agreement**”), filed.

39. THIS COURT ORDERS THAT that the execution, delivery, entry into, compliance with, and performance by the Applicant of the DIP Agreement is hereby ratified and approved and the Applicant is hereby directed to comply with and perform the provisions of the DIP Agreement.

40. THIS COURT ORDERS that the Applicant is hereby authorized and empowered to execute and deliver the DIP Security, the Servicing Agent Fee Agreement (each as defined in the

DIP Agreement) and such other documents (collectively, the "**Term DIP Credit Documents**"), as are contemplated by the DIP Agreement or as may be reasonably required by the Term DIP Agent and the Term DIP Lenders pursuant to the terms thereof, and the Applicant is hereby authorized and directed to pay and perform all of its indebtedness, interest, fees, liabilities and obligations to the Term DIP Agent, the Term DIP Lenders and the Term DIP Servicing Agent under and pursuant to the DIP Agreement and the Term DIP Credit Documents as and when the same become due and are to be performed, notwithstanding any other provision of this Order.

41. THIS COURT that, as security for all of the obligations of the Applicant under or in connection with the DIP Facility (as defined in the DIP Agreement), the DIP Agreement and the other Term DIP Credit Documents from and after the date of this Order, the Term DIP Agent on behalf of and for the benefit of itself, the Term DIP Lenders and the Term DIP Servicing Agent, shall be entitled to the benefit of and is hereby granted a charge (the "**Term Lenders' DIP Charge**") on the Property (excluding the ABL Priority Collateral to the extent of the ABL Obligations (each as defined in the Intercreditor Agreement (as hereinafter defined))), which Term Lenders' DIP Charge shall not secure an obligation that exists before this Order is made. The Term Lenders' DIP Charge shall have the priority set out in paragraphs 57 and 59 hereof.

42. THIS COURT ORDERS that, notwithstanding any other provision of this Order, the Term DIP Agent on behalf of and for the benefit of itself, the Term DIP Lenders and the Term DIP Servicing Agent, may take such steps from time to time as it may deem necessary or appropriate to file, register, record or perfect the Term Lenders' DIP Charge or any of the Term DIP Credit Documents.

43. THIS COURT ORDERS that, notwithstanding any other provision of this Order, upon the occurrence of an event of default under the DIP Agreement, the Term DIP Credit Documents or the Term Lenders' DIP Charge, or following the Maturity Date (as defined in the DIP Agreement), the Term DIP Lenders may:

- (a) immediately cease making advances to the Applicant, provided that, if there are funds available under the DIP Agreement, the Term DIP Lenders shall, to the extent of the funds available only, fund the payment by the Applicant of 50% of the Priority Payables (as defined in the DIP Agreement, but, for greater certainty, excluding HST and all Sales Taxes) for a period of not less than five (5) business days following

written notice to the Applicant, the Monitor and the ABL Lender (as defined below) of the event of default or the Maturity Date; and

- (b) set off and/or consolidate any amounts owing by the Term DIP Lenders to the Applicant against the obligations of the Applicant to the Term DIP Lenders under the DIP Agreement, the Term DIP Credit Documents or the Term Lenders' DIP Charge, and make demand, accelerate payment and give other notices; and
- (c) upon not less than five (5) business days' written notice to the Applicant, the Monitor and the ABL Lender, subject to the terms of the Intercreditor Agreement and paragraphs 43(a) and 54 of this Order, exercise any and all of their rights and remedies against the Applicant or the Property (other than the ABL Priority Collateral to the extent of the ABL Obligations) under or pursuant to the DIP Agreement, the Term DIP Credit Documents, the Term Lenders' DIP Charge, or the *Personal Property Security Act* (Ontario) or similar legislation of any other applicable jurisdiction, including without limitation, to apply to this Court for the appointment of a receiver, receiver and manager or interim receiver in respect of the Property (other than the ABL Priority Collateral to the extent of the ABL Obligations), or for a bankruptcy order against the Applicant and for the appointment of a trustee in bankruptcy of the Applicant and the foregoing rights and remedies of the Term DIP Lenders shall be enforceable against any trustee in bankruptcy, interim receiver, receiver or receiver and manager of the Applicant or the Property (other than the ABL Priority Collateral to the extent of the ABL Obligations).

44. THIS COURT ORDERS AND DECLARES that the Term DIP Agent, the Term DIP Servicing Agent and the Term DIP Lenders shall be treated as unaffected in any plan of arrangement or compromise filed by the Applicant under the CCAA, or any proposal filed by the Applicant under the *Bankruptcy and Insolvency Act* of Canada (the "BIA"), with respect to any advances made under the DIP Agreement or the Term DIP Credit Documents.

45. THIS COURT ORDERS AND DECLARES that the payments made by the Applicant pursuant to this Order, the DIP Agreement, the Term DIP Credit Documents, and the granting of the Term Lender's DIP Charge, do not and will not constitute preferences, fraudulent

conveyances, transfers at undervalue, oppressive conduct, or other challengeable or voidable transactions under any applicable law.

**B) FORBEARANCE AGREEMENTS**

46. THIS COURT ORDERS that the execution, delivery, entry into, compliance with, and performance by the Applicant of the following amended and restated forbearance agreements (together, the “**Forbearance Agreements**”) is hereby ratified and approved:

- (a) the Forbearance Agreement dated as of January 24, 2017 (the “**ABL DIP Forbearance Agreement**”) among the Applicant and 2473304 Ontario Inc. (“**247**”), as borrowers, and CIBC, as lender and as agent (in that capacity, the “**ABL Lender**”); and
- (b) the Forbearance Agreement dated as of January 24, 2017 (the “**Term Forbearance Agreement**”) among the Applicant, as borrower, 247, as guarantor, and the lenders that are parties to the Existing Credit Agreement (as defined in the Term Forbearance Agreement), as lenders (in such capacity, collectively referred to herein as the “**GSO Lenders**”), and GSO, as administrative agent for itself and the GSO Lenders (GSO and the GSO Lenders being collectively referred to as the “**Term Lenders**”, and together with the ABL Lender, the Term DIP Lenders and the Term DIP Agent, the “**Lenders**”);

and the Applicant is hereby directed to comply with and perform the provisions of (i) the ABL DIP Forbearance Agreement and the credit agreement dated as of February 12, 2016 by and among, the Applicant and 247, as borrowers, and the ABL Lender, as amended, including by the ABL DIP Forbearance Agreement (the “**ABL Credit Agreement**”), and (ii) the Term Forbearance Agreement and the Existing Credit Agreement, as amended, including by the Term Forbearance Agreement.

47. THIS COURT ORDERS that the Applicant’s compliance with and performance of the Blocked Account Agreements (as defined in the ABL Credit Agreement) from and after the date of this Initial Order, as required pursuant to Section 4.1.8 of the ABL DIP Forbearance Agreement, is hereby authorized and approved and the Applicant is hereby directed to comply



with the provisions of the Blocked Account Agreements in accordance with the terms of the ABL DIP Forbearance Agreement.

48. THIS COURT ORDERS that the Applicant shall be entitled, subject to the terms of the ABL Credit Agreement and the ABL DIP Forbearance Agreement, to continue to obtain and borrow, repay and re-borrow additional monies under the credit facility (the “**ABL Facility**”) from the ABL Lender pursuant to the ABL Credit Agreement and the ABL DIP Forbearance Agreement, in order to finance the Applicant’s working capital requirements, provided that borrowings by the Applicant under the ABL Facility shall not exceed the amounts contemplated in the ABL DIP Forbearance Agreement. For greater certainty, the ABL Lender shall be entitled to apply receipts and deposits made to the Applicant’s bank accounts, whether directly or pursuant to the Blocked Account Agreements, against the indebtedness of the Applicant to the ABL Lender in accordance with the ABL Credit Agreement, the ABL DIP Forbearance Agreement and the Blocked Account Agreements, whether such indebtedness arose before or after the date of this Initial Order.

49. THIS COURT ORDERS that subject to the provisions of the Forbearance Agreements, the Applicant is hereby authorized and directed to pay and perform all of its indebtedness, interest, fees, liabilities and obligations to the Lenders under and pursuant to the ABL Credit Agreement, the Existing Credit Agreement, the Forbearance Agreements and the Term DIP Credit Documents as and when the same become due and are to be performed, notwithstanding any other provision of this Order.

50. THIS COURT ORDERS that in addition to the existing liens, charges, mortgages and encumbrances in favour of the ABL Lender, as security for all of the obligations of the Applicant to the ABL Lender relating to advances made to the Applicant under the ABL Facility from and after the date of this Order, the ABL Lender shall be entitled to the benefit of and is hereby granted a charge (the “**ABL Lender’s DIP Charge**”) on the Property (excluding the Term Priority Collateral to the extent of the Term Obligations (each as defined in the Intercreditor Agreement (as hereinafter defined))). The ABL Lender’s DIP Charge shall have the priority set out in paragraphs 57 and 59 hereof.

51. THIS COURT ORDERS that, notwithstanding any other provision of this Order, the ABL Lender may take such steps from time to time as it may deem necessary or appropriate to file, register, record or perfect the ABL Lender's DIP Charge.

52. THIS COURT ORDERS that, upon the earlier of the occurrence of a Terminating Event or the last day of the Forbearance Period (in each case as defined in the ABL DIP Forbearance Agreement), the ABL Lender may,

- (a) immediately cease making advances to the Applicant, provided that, if there are funds available under the ABL Facility, the ABL Lender shall, to the extent of the funds available only, fund the payment by the Applicant of 50% of the Specified Priority Payables (as defined in the ABL DIP Forbearance Agreement, but, for greater certainty, excluding HST and Sales Taxes) for a period of not less than five (5) business days following written notice to the Applicant, the Monitor and the Term DIP Lenders of the Terminating Event or the Termination Date;
- (b) set off and/or consolidate any amounts owing by the ABL Lender to the Applicant against the obligations of the Applicant to the ABL Lender under the ABL Credit Agreement, the Blocked Account Agreements, the ABL DIP Forbearance Agreement or any other Loan Document (as defined in the ABL Credit Agreement) and make demand, accelerate payment and give other notices; and
- (c) upon not less than five (5) business days' written notice to the Applicant, the Monitor, the Term Lenders and the Term DIP Agent on behalf of the Term DIP Lenders, subject to the terms of the Intercreditor Agreement and paragraphs 52(a) and 54 of this Order, exercise any and all of its rights and remedies against the Applicant or the Property (other than the Term Priority Collateral to the extent of the Term Obligations) under or pursuant to the ABL Credit Agreement, the ABL DIP Forbearance Agreement, the Blocked Account Agreements or the other Loan Documents, the ABL Lender's DIP Charge, or the *Personal Property Security Act* (Ontario) or similar legislation in any other applicable jurisdiction, including without limitation, to apply to this Court for the appointment of a receiver, receiver and manager or interim receiver in respect of the Property (other than the Term Priority Collateral to the extent of the Term Obligations), or for a bankruptcy order against the

Applicant and for the appointment of a trustee in bankruptcy of the Applicant and the foregoing rights and remedies of the ABL Lender shall be enforceable against any trustee in bankruptcy, interim receiver, receiver or receiver and manager of the Applicant or the Property (other than the Term Priority Collateral to the extent of the Term Obligations).

53. THIS COURT ORDERS that, upon the occurrence of a Terminating Event (as defined in the Term Forbearance Agreement), the Term Lenders may,

- (a) immediately set off and/or consolidate any amounts owing by the Term Lenders to the Applicant against the obligations of the Applicant to the Term Lenders under the Existing Credit Agreement, the Term Forbearance Agreement or any security agreements, mortgages, deeds of trust, hypothecs or other collateral documents executed and delivered by the Applicant in favour of the Term Lender (the “**Term Security Documents**”), and make demand, accelerate payment and give other notices; and
- (b) upon not less than five (5) business days’ written notice to the Applicant, the Monitor, the ABL Lender and the Term DIP Agent on behalf of the Term DIP Lenders, subject to the terms of the Intercreditor Agreement and paragraphs 53 and 54 of this Order, exercise any and all of its rights and remedies against the Applicant or the Property (other than the ABL Priority Collateral to the extent of the ABL Obligations) under or pursuant to the Existing Credit Agreement, the Term Forbearance Agreement, or the Term Security Documents, or the *Personal Property Security Act* (Ontario) or similar legislation of any other applicable jurisdiction, including without limitation, to apply to this Court for the appointment of a receiver, receiver and manager or interim receiver in respect of the Property (other than the ABL Priority Collateral to the extent of the ABL Obligations), or for a bankruptcy order against the Applicant and for the appointment of a trustee in bankruptcy of the Applicant and the foregoing rights and remedies of the Term Lenders shall be enforceable against any trustee in bankruptcy, interim receiver, receiver or receiver and manager of the Applicant or the Property (other than the ABL Priority Collateral to the extent of the ABL Obligations).

54. THIS COURT ORDERS that nothing in this Order shall amend, override or relieve the Lenders of any of the provisions of the intercreditor agreement among them dated as of February 12, 2016 (the "Intercreditor Agreement") and when determining

- (a) the priorities of the claims of the ABL Lender, the Term Lenders and the Term DIP Lenders,
- (b) the priorities of the Term Lenders' DIP Charge, the ABL Lender's DIP Charge and the Liens granted to the Term Secured Parties and the ABL Secured Parties (each as defined in the Intercreditor Agreement), and
- (c) the enforcement rights of the Term DIP Lenders, the ABL Secured Parties and the Term Secured Parties,

the ABL Lender's DIP Charge and the Term Lenders' DIP Charge, and the obligations secured by those charges, shall be treated in a manner consistent with Liens granted to, and obligations owing to, the ABL Secured Parties and the Term Secured Parties, respectively for the purposes of the Intercreditor Agreement.

55. THIS COURT ORDERS AND DECLARES that each of the ABL Lender and the Term Lenders shall be treated as unaffected in any plan of arrangement or compromise filed by the Applicant under the CCAA, or any proposal filed by the Applicant under the BIA, with respect to any obligations outstanding as of the date of this Order or arising hereafter under (i) the ABL Credit Agreement or the ABL DIP Forbearance Agreement, and (ii) the Existing Credit Agreement or the Term Forbearance Agreement, respectively.

56. THIS COURT ORDERS AND DECLARES that the payments made by the Applicant pursuant to this Order, the ABL Credit Agreement, the ABL DIP Forbearance Agreement, the Blocked Account Agreements or the Term Forbearance Agreement, and the granting of the ABL Lender's DIP Charge, do not and will not constitute preferences, fraudulent conveyances, transfers at undervalue, oppressive conduct, or other challengeable or voidable transactions under any applicable law.

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

57. THIS COURT ORDERS that the priorities of the Directors' Charge, the Administration Charge, the Term Lenders' DIP Charge, the ABL Lender's DIP Charge and the KERP Charge and the Liens granted to the Term Secured Parties and the ABL Secured Parties over the Property so charged by them, as among them, shall be as follows:

(a) With respect to the ABL Priority Collateral:

First – Administration Charge;

Second – ABL Lender's DIP Charge;

Third – Liens granted to the ABL Secured Parties;

Fourth – Term Lenders' DIP Charge;

Fifth – Liens granted to the Term Secured Parties;

Sixth – KERP Charge; and

Seventh – Directors' Charge.

(b) With respect to the Term Priority Collateral:

First – Administration Charge;

Second – Term Lenders' DIP Charge;

Third – Liens granted to the Term Secured Parties;

Fourth – ABL Lender's DIP Charge;

Fifth – Liens granted to the ABL Secured Parties;

Sixth – KERP Charge; and

Seventh – Directors' Charge.

58. THIS COURT ORDERS that the filing, registration or perfection of the Directors' Charge, the Administration Charge, the Term Lenders' DIP Charge, the ABL Lender's DIP Charge or the KERP Charge (collectively, the "Charges") shall not be required, and that the Charges shall be valid and enforceable for all purposes, including as against any right, title or interest filed, registered, recorded or perfected subsequent to the Charges coming into existence, notwithstanding any such failure to file, register, record or perfect.

59. THIS COURT ORDERS that each of the Charges (all as constituted and defined herein) shall constitute a charge on the Property so charged by them and, subject to the provisions of the Intercreditor Agreement, such Charges shall rank (except as expressly provided herein) in priority to all other security interests, trusts, liens, charges and encumbrances, claims of secured creditors, statutory or otherwise (collectively, "Encumbrances") in favour of any Person, other than (subject to further Order of the Court) validly perfected and enforceable security interests, if any, in favour of Xerox Canada Ltd. (File No. 675686367), and Canadian Dealer Lease Services Inc. and Bank of Nova Scotia-DLAC (File No. 719663706), in each case under the *Personal Property Security Registry* (Ontario)).

60. THIS COURT ORDERS that except as otherwise expressly provided for herein or in the Intercreditor Agreement, or as may be approved by this Court, the Applicant shall not grant any Encumbrances over any Property that rank in priority to, or *pari passu* with, any of the Charges, unless the Applicant also obtains the prior written consent of the Monitor, the Lenders, and the beneficiaries of the Directors' Charge, the Administration Charge and the KERP Charge, or further Order of this Court.

61. THIS COURT ORDERS that the Charges, the DIP Agreement, the Term DIP Credit Documents and the Forbearance Agreements shall not be rendered invalid or unenforceable and the rights and remedies of the chargees entitled to the benefit of the Charges (collectively, the "Chargees") and/or the Term DIP Lenders or the ABL Lender thereunder shall not otherwise be limited or impaired in any way by (a) the pendency of these proceedings and the declarations of insolvency made herein; (b) any application(s) for bankruptcy order(s) issued pursuant to the BIA, or any bankruptcy order made pursuant to such applications; (c) the filing of any assignments for the general benefit of creditors made pursuant to the BIA; (d) the provisions of any federal or provincial statutes; or (e) any negative covenants, prohibitions or other similar

provisions with respect to borrowings, incurring debt or the creation of Encumbrances, contained in any existing loan documents, lease, sublease, offer to lease or other agreement (collectively, an "Agreement") which binds the Applicant, and notwithstanding any provision to the contrary in any Agreement:

- (a) neither the creation of the Charges nor the execution, delivery, perfection, registration or performance of the DIP Agreement, the Term DIP Credit Documents or the Forbearance Agreements shall create or be deemed to constitute a breach by the Applicant of any Agreement to which it is a party; and
- (b) none of the Chargees shall have any liability to any Person whatsoever as a result of any breach of any Agreement caused by or resulting from the Applicant entering into the DIP Agreement, the Term DIP Credit Documents or the Forbearance Agreements or the creation of the Charges or the execution, delivery or performance of such documents.

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

### **SERVICE AND NOTICE**

63. THIS COURT ORDERS that the Monitor shall (i) without delay, publish in *The Globe and Mail* (National Edition; English) a notice containing the information prescribed under the CCAA, (ii) within five days after the date of this Order, (A) make this Order publicly available in the manner prescribed under the CCAA, (B) send, in the prescribed manner, a notice to every known creditor who has a claim against the Applicant of more than \$1000, and (C) prepare a list showing the names and addresses of those creditors and the estimated amounts of those claims, and make it publicly available in the prescribed manner, all in accordance with Section 23(1)(a) of the CCAA and the regulations made thereunder.

64. THIS COURT ORDERS that the E-Service Protocol of the Commercial List (the "Protocol") is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Protocol (which can be found on the Commercial List website at <http://www.ontariocourts.ca/scj/practice/practice-directions/toronto/eservice-commercial/>) shall be valid and effective service. Subject to Rule 17.05 this Order shall

constitute an order for substituted service pursuant to Rule 16.04 of the *Rules of Civil Procedure*. Subject to Rule 3.01(d) of the *Rules of Civil Procedure* and paragraph 21 of the Protocol, service of documents in accordance with the Protocol will be effective on transmission. This Court further orders that a Case Website shall be established in accordance with the Protocol with the following URL: <https://www.richter.ca/en/folder/insolvency-cases/g/grafon-fraser-inc>

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

#### **GENERAL**

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

67. THIS COURT ORDERS that nothing in this Order shall prevent the Monitor from acting as an interim receiver, a receiver, a receiver and manager, or a trustee in bankruptcy of the Applicant, the Business or the Property.

68. 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, the Monitor and their respective agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Applicant and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Monitor in any foreign proceeding, or to assist the Applicant and the Monitor and their respective agents in carrying out the terms of this Order.



69. THIS COURT ORDERS that each of the Applicant and the Monitor be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and that the Monitor is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

70. THIS COURT ORDERS that any interested party (including the Applicant and the Monitor) may apply to this Court to vary or amend this Order on not less than seven (7) days' notice to any other party or parties likely to be affected by the order sought or upon such other notice, if any, as this Court may order; provided, however, that the Term DIP Lenders and the ABL Lender shall be entitled to rely on this Order as issued for all advances made and payments received under the DIP Agreement, the ABL Credit Agreement or the ABL DIP Forbearance Agreement up to and including the date this order may be varied or amended.


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



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ON / BOOK NO:  
LE / DANS LE REGISTRE NO:

JAN 30 2017

PER / PAR: 

Court File No.: CV-17-11677-00CL

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 GRAFTON-FRASER INC.

(the "Applicant")

**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**  
**[COMMERCIAL LIST]**

**Proceedings commenced in Toronto**

**AMENDED AND RESTATED INITIAL ORDER**  
**(INITIAL CCAA APPLICATION)**  
**(Returnable January 25, 2017)**

**FASKEN MARTINEAU DuMOULIN LLP**  
333 Bay Street – Suite 2400  
Bay Adelaide Centre, Box 20  
Toronto, ON M5H 2T6

**Stuart Brotman (LSUC#43430D)**  
Tel: 416 865 5419  
Fax: 416 364 7813  
sbrotman@fasken.com

**Dylan Chochla (LSUC#62137I)**  
Tel: 416 868 3425  
Fax: 416 364 7813  
dchochla@fasken.com

Lawyers for the Applicant, Grafton-Fraser Inc.

# **EXHIBIT "B"**

***THIS IS EXHIBIT "B"***  
***referred to in the Affidavit of***  
***Mark Sun sworn before me on***  
***April 12, 2017***

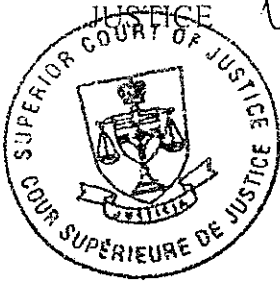
  
A Commissioner for taking Affidavits

Russell Moses Lindzon,  
a Commissioner, etc., Province of Ontario,  
witness a Student-at-Law.  
Expires February 11, 2018.

ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST

THE HONOURABLE MR. )  
JUSTICE WELTON - SIEGEL )

MONDAY, THE 30<sup>th</sup> )  
DAY OF JANUARY, 2017 ) *MS*



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  
GRAFTON-FRASER INC.

(the "Applicant")

ORDER  
(Stalking Horse & SISP)

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

ON READING the affidavit of Mark Sun sworn January 25, 2017 and the Exhibits thereto (the "Sun Affidavit"), the report of Richter Advisory Group Inc. ("Richter"), in its capacity as the proposed monitor of the Applicant, dated January 25, 2017, and the Appendices thereto, the first report of Richter, in its capacity as monitor of the Applicant (the "Monitor"), dated January 26, 2017, and the Appendices thereto, and on hearing the submissions of counsel for the Applicant, counsel for the Monitor, counsel for Canadian Imperial Bank of Commerce ("CIBC"), counsel for GSO Capital Partners LP ("GSO"), counsel for The Cadillac Fairview Corporation Limited, and such other parties as were present, no one else appearing for any other party although duly served as appears from the affidavits of service of Dylan Chochla and Irene Artuso sworn January 25, 2017 and January 26, 2017. respectively, filed.

## SERVICE & DEFINITIONS

1. THIS COURT ORDERS that the time for service of the Notice of Motion and the Motion Record is hereby abridged and validated so that this Motion is properly returnable today and hereby dispenses with further service thereof.
2. THIS COURT ORDERS that capitalized terms used in this Order and not otherwise defined shall have the meaning ascribed to them under (i) the asset purchase agreement dated as of January 24, 2017 (the “**Stalking Horse Agreement**”) between the Applicant and 1104307 B.C. Ltd. (the “**Stalking Horse Bidder**”); or (ii) the sale and investment solicitation process attached hereto as Schedule “A” (the “**SISP**”), as the case may be.

## APPROVAL OF STALKING HORSE AGREEMENT

3. THIS COURT ORDERS that the execution, delivery, entry into, compliance with, and performance by the Applicant of the Stalking Horse Agreement be and is hereby ratified, authorized and approved, *provided, however*, that nothing contained in this Order approves the sale or the vesting of the Purchased Assets to the Stalking Horse Bidder pursuant to the Stalking Horse Agreement and that, if the Stalking Horse Agreement is the Successful Bid under the SISP, the approval of the sale and vesting of the Purchased Assets to the Stalking Horse Bidder shall be considered by this Court on a subsequent motion made to this Court following completion of the SISP.
4. THIS COURT ORDERS that the Stalking Horse Agreement be and is hereby approved and accepted solely for the purposes of being the Stalking Horse Bid under the SISP and subject to the further Order of the Court referred to in paragraph 3 above.
5. THIS COURT ORDERS that the Stalking Horse Agreement shall not be rendered invalid or unenforceable and the rights and remedies of the Stalking Horse Bidder thereunder shall not otherwise be limited or impaired in any way by (a) the Applicant’s CCAA proceedings and the declarations of insolvency made in connection therewith; (b) any application(s) for bankruptcy order(s) issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) (the “**BIA**”), or any bankruptcy order made pursuant to such applications; (c) the filing of any assignments for the general benefit of creditors made pursuant to the BIA; (d) the provisions of any federal or provincial statutes; or (e) any negative covenants, prohibitions or other similar provisions with

respect to borrowings, incurring debt or the creation of security interests, liens, charges and encumbrances, claims of secured creditors, statutory or otherwise, contained in any existing loan documents, lease, sublease, offer to lease or other agreement (collectively, an “**Agreement**”) which binds the Applicant, and notwithstanding any provision to the contrary in any Agreement:

- (a) the execution, delivery or performance of the Stalking Horse Agreement shall not create or be deemed to constitute a breach by the Applicant of any Agreement to which it is a party; and
- (b) the Stalking Horse Bidder shall not have any liability to any person whatsoever as a result of any breach of any Agreement caused by or resulting from the Applicant entering into the Stalking Horse Agreement.

#### **APPROVAL OF SISP**

6. THIS COURT ORDERS that the SISP attached hereto as Schedule “A” (subject to such non-material amendments as may be agreed to by the Applicant, the ABL Agent and the DIP Lenders and approved by the Monitor) be and is hereby approved and the Applicant and the Monitor are hereby authorized and directed to take such steps as they deem necessary or advisable (subject to the terms of the SISP) to carry out the SISP, subject to prior approval of this Court being obtained before completion of any transaction(s) under the SISP.

7. THIS COURT ORDERS that the Applicant and the Monitor and their respective affiliates, partners, directors, employees, agents and controlling persons shall have no liability with respect to any and all losses, claims, damages or liability of any nature or kind to any person in connection with or as a result of performing their duties under the SISP, except to the extent of such losses, claims, damages or liabilities resulting from the gross negligence or wilful misconduct of the Applicant or the Monitor, as applicable, as determined by the Court.

8. THIS COURT ORDERS that, pursuant to clause 7(3)(c) of the *Canada Personal Information Protection and Electronic Documents Act*, the Applicant is hereby authorized and permitted to disclose and transfer to each potential bidder (the “**Bidders**”) (including, without limitation, the Stalking Horse Bidder) and to their advisors, if requested by such Bidders, personal information of identifiable individuals, including, without limitation, all human resources and payroll information in the Applicant's records pertaining to the Applicant's past

and current employees, but only to the extent desirable or required to negotiate or attempt to complete a sale of the Assets and/or the Business ("Sale"). Each Bidder to whom such personal information is disclosed shall maintain and protect the privacy of such information and limit the use of such information to its evaluation of the Sale, and if it does not complete a Sale, shall return all such information to the Applicant, or in the alternative destroy all such information. The Successful Bidder(s) shall maintain and protect the privacy of such information and, upon closing of the transaction contemplated in the Successful Bid(s), shall be entitled to use the personal information provided to it that is related to the Assets and/or Business acquired pursuant to the Sale in a manner which is in all material respects identical to the prior use of such information by the Applicant, and shall return all other personal information to the Applicant, or ensure that all other personal information is destroyed.


#### GENERAL

9. 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, the Monitor and their respective agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Applicant and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Monitor in any foreign proceeding, or to assist the Applicant and the Monitor and their respective agents in carrying out the terms of this Order.

10. THIS COURT ORDERS that each of the Applicant and the Monitor be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and that the Monitor is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

ENTERED AT / INSCRIT À TORONTO  
ON / BOOK NO:  
LE / DANS LE REGISTRE NO:

JAN 30 2017





## SCHEDULE "A"

### SALE AND INVESTOR SOLICITATION PROCESS

On January 25, 2017, Grafton-Fraser Inc. (the "**Company**") filed an application for an Initial Order under the *Companies' Creditors Arrangement Act* (Canada) (the "**CCAA**") and Richter Advisory Group Inc. was appointed as the monitor (the "**Monitor**").

On January 30, 2017, the Ontario Superior Court of Justice (Commercial List) (the "**Court**") made an order, which, among other things: (a) approved this sale and investor solicitation process (the "**SISP**"), and (b) authorized the execution by the Company of the agreement of purchase and sale between the Company and 1104307 B.C. Ltd. dated January 24, 2017 (the "**Stalking Horse Agreement**") as the stalking horse bid for the purpose of conducting the SISP.

The purpose of the SISP is to identify one or more financiers, purchasers of and/or investors in the Company, the Business and/or Assets (each as defined below) to make an offer (each a "**Bid**") that is superior to the offer contemplated by the Stalking Horse Agreement, and to complete the transactions contemplated by any such offer, or by the Stalking Horse Agreement if no other offers are accepted. Set forth below are the procedures (the "**SISP Procedures**") that shall govern the SISP and any transactions consummated as a result thereof.

#### 1. Defined Terms

The following capitalized terms have the following meanings when used in this SISP:

"**Acknowledgment of the SISP**" means an acknowledgment of the SISP in the form attached as Schedule "A" hereto;

"**Additional Confidential Information**" means information required to match the financial information of a retail store operated by the Company with the location of such a store;

"**Aggregate Bid**" means a combination of Portion Bids that do not overlap for Assets sought to be purchased, and which, when totalled, equal or exceed the Minimum Bid Amount;

"**Assets**" means the assets, undertakings and property of the Company;

"**Auction**" has the meaning given to it in Section 13(b);

"**Auction Procedure**" has the meaning given to it in Section 13(b);

"**Back-Up Bid Expiration Date**" has the meaning given to it in Section 16;

"**Back-Up Bid**" has the meaning given to it in Section 13(a)(ii);

“**Back-Up Bidder**” has the meaning given to it in Section 13(a)(ii);

“**Bid**” has the meaning given to it in the introduction;

“**Business**” means the business of retailing men’s apparel and accessories carried on by the Company;

“**Business Day**” means any day, other than a Saturday, Sunday or statutory holiday in the Province of Ontario, on which commercial banks in Toronto, Ontario are open for business;

“**CCAA**” has the meaning given to it in the introduction;

“**Company**” has the meaning given to it in the introduction;

“**Confidentiality Agreement**” means the confidentiality agreement, with terms satisfactory to the Monitor and the Company, entered into between the Company and an Interested Party;

“**Court**” has the meaning given to it in the introduction;

“**Data Room**” means an electronic data room compiled by the Company containing confidential information in respect of the Company, the Business and the Assets;

“**Deposit**” has the meaning given to it in Section 9(j);

“**Dollars**” or means Canadian dollars;

“**Form Purchase Agreement**” means the template agreement of purchase and sale posted in the Data Room;

“**Guaranteed Purchase Price**” has the meaning given to it in the Stalking Horse Agreement;

“**Interested Party**” has the meaning given to it in Section 2;

“**Investment Proposal**” has the meaning given to it in Section 7;

“**Management**” has the meaning given to it in Section 4;

“**Minimum Bid Amount**” means in the case of a Sale Proposal or Investment Proposal, an overall result or value which the Company in consultation with the Monitor considers equivalent or better than 102% of an amount required to repay the Secured Debt and the ABL Obligations (in each case as defined in the Stalking Horse Agreement) and any amounts payable in priority to those obligations in full which sum is estimated to be \$65,000,000 to be updated by the Monitor at least 5 days before the Phase I Bid Deadline;

“**Monitor**” has the meaning given to in the introduction;

“**Outside Date**” means June 15, 2017 or such other date as the Company, the Monitor and Successful Bidder(s) and the Back-Up Bidder may agree, acting reasonably;

“**Participation Notice**” has the meaning given to it in Section 4;

“**Phase I Bid**” means an initial bid submitted by an Interested Party pursuant to Section 7 hereof;

“**Phase I Bid Deadline**” as the meaning given to it in Section 7 hereof;

“**Phase I Bidder**” means a bidder submitting a Phase I Bid;

“**Phase I Participant Requirements**” has the meaning given to it in Section 8 hereof;

“**Phase II Bid**” means a Bid submitted by a Qualified Phase I Bidder;

“**Phase II Bidder**” means a bidder submitting a Phase II Bid;

“**Phase II Bid Deadline**” has the meaning given to it in Section 7;

“**Portion Bid**” means a Bid for less than all or substantially all of the Assets that is otherwise a Qualified Phase I Bid or a Qualified Phase II Bid;

“**Portion Bidder**” means a Qualified Phase I Bidder and/or a Qualified Phase II Bidder that submits a Portion Bid;

“**Purchase Price**” has the meaning given to it in Section 9(b)(i);

“**Qualified Phase I Bid**” means a Phase I Bid that satisfies the conditions set out in Section 9 hereof. A Portion Bid may be a Qualified Phase I Bid;

“**Qualified Phase I Bidder**” means a bidder submitting a Qualified Phase I Bid;

“**Qualified Phase II Bid**” means a Phase II Bid that satisfies the conditions set out in Section 12 hereof. A Portion Bid may be a Qualified Phase II Bid;

“**Qualified Phase II Bidder**” means bidder submitting a Qualified Phase II Bid;

“**Qualified Investment Bid**” is an Investment Proposal that is determined to be a Qualified Phase II Bid by the Company and the Monitor pursuant to Section 12;

“**Qualified Sale Bid**” is a Sale Proposal that is determined to be a Qualified Phase II Bid by the Company and the Monitor pursuant to Section 12;

“**Sale Proposal**” has the meaning given to it in Section 7;

“**Secured Lenders**” means the GSO Capital Partners LP and Canadian Imperial Bank of Commerce in their capacity as secured lenders of the Company;

“**SISP**” has the meaning given to it in the introduction;

“**SISP Procedures**” has the meaning given to it in the introduction;

“**Stalking Horse Agreement**” has the meaning given to it in the introduction;

“**Stalking Horse Bidder**” means 1104307 B.C. Ltd., or an affiliate thereof;

“**Successful Bid**” has the meaning given to it in Section 13(a)(i); and

“**Successful Bidder**” has the meaning given to it in Section 13(a)(i).

## 2. The SISP Procedures

The SISP shall consist of two phases. In the first phase, any interested party (an “**Interested Party**”) that meets the preliminary participant requirements set out herein, including having executed a Confidentiality Agreement and an Acknowledgment of the SISP, shall be provided with access to the Data Room in order to prepare and submit a Phase I Bid by the Phase I Bid Deadline. Phase I Bidders that are determined by the Company, in consultation with the Monitor, to be Qualified Phase I Bidders shall be invited to participate in the second phase wherein they will be given access to the Additional Confidential Information in order to complete diligence prior to submitting a Phase II Bid by the Phase II Bid Deadline.

The Company, in consultation with the Monitor, shall supervise the SISP Procedures and each will generally consult with the other in respect of all matters arising out of these SISP Procedures. The Monitor shall direct and preside over the Auction, if applicable. In the event that there is disagreement as to the interpretation or application of these SISP Procedures, the Court will have the jurisdiction to hear and resolve such dispute.

## 3. “As Is, Where Is”

The sale of the Business or any part of the Assets or investment in the Company will be on an “as is, where is” basis and without surviving representations or warranties of any kind, nature or description by the Company, the Monitor or any of their employees, officers, directors, agents or advisors, except to the extent set forth in the relevant definitive sale or investment agreement with a Successful Bidder.

By participating in this process, each Interested Party is deemed to acknowledge and represent that it has had an opportunity to conduct any and all due diligence regarding the Business, the Assets or the Company prior to making its Bid, that it has relied solely on its own independent review, investigation, and/or inspection of any documents and/or regarding the Business, the Assets or the Company in making its Bid, and that it did not rely on any written or oral statements, representations, promises, warranties, conditions

or guaranties whatsoever, whether express, implied, by operation of law or otherwise, regarding the Business, the Assets or the Company or the completeness of any information provided in connection therewith, except as expressly stated in the terms of any definitive transaction documents.

4. **Role of Management of the Company**

In the event that any party or parties involved in the management of the Company (“**Management**”) intends to submit a Bid pursuant to the SISP, any such party or parties must advise the Monitor of such intention in writing by February 15, 2017 (the “**Participation Notice**”). Upon receipt of a Participation Notice, the Monitor will assume the role of the Company in the SISP Procedures with such modifications as are necessary, and Management will be excluded from any participation in the SISP that might create an unfair advantage or jeopardize the integrity of the SISP. For greater certainty, any such party or parties delivering a Participation Notice will be subject to the SISP Procedures as an Interested Party.

5. **Role of the Monitor**

The Monitor’s responsibilities pursuant to the SISP include:

- (a) Consulting with the Company in connection with the bidding procedures included in this SISP and the closing of the transaction contemplated in the Successful Bid(s);
- (b) Overseeing the SISP Procedures;
- (c) Reporting to the Court in connection with the SISP Procedures including the bidding procedures included in this SISP and the closing of the transaction contemplated in the Successful Bid(s);
- (d) Conducting an Auction if necessary in accordance with the Auction Procedures attached hereto as Schedule “C”; and
- (e) Assisting the Company to facilitate information requests including assisting the Company in preparing or modifying financial information to assist with the bidding procedures included in this SISP and the closing of the transaction contemplated in the Successful Bid(s) (including the Stalking Horse Agreement).

6. **Access to Due Diligence Materials**

Only Interested Parties that satisfy the Phase I Participant Requirements will be eligible to receive access to the Data Room. If the Company, in consultation with the Monitor, determines that a Phase I Bidder does not constitute a Qualified Phase I Bidder, then such Phase I Bidder shall not be eligible to receive the Additional Confidential Information.

The Company, with the assistance of the Monitor, will be responsible for the coordination of all reasonable requests for additional information and due-diligence

access from Interested Parties. Neither the Company nor the Monitor shall be obligated to furnish any due diligence information after the Phase I Bid Deadline other than the Additional Confidential Information to Qualified Phase I Bidders before the Phase II Bid Deadline. Neither the Company nor the Monitor shall be obligated to furnish any due diligence information after the Phase II Bid Deadline, provided however that the Company and Monitor may, but are not obligated to, provide further information including, without limitation, financial information to the Successful Bidder (including the Stalking Horse Bidder). Neither the Company nor the Monitor is responsible for, and will bear no liability with respect to, any information obtained by any party in connection with the sale of the Assets and the Business.

7. **Bid Deadlines**

An Interested Party that wishes to make a Bid to (a) acquire the Business or all, substantially all or any part of the Assets, including any offer to acquire some or all of the Company's retail store leases, intellectual property and furniture, fixtures and equipment (a "Sale Proposal"), or (b) make an investment in the Company by way of private issuances, sale or placement of newly issued or treasury equity, equity-linked or debt securities, instruments or obligations of the Company with one or more lenders and/or investors or security holders (an "Investment Proposal"), must deliver an executed copy of a Phase I Bid to the Monitor, at the address specified in Schedule "B" hereto (including by email) so as to be received by it **not later than 5:00 p.m. (Eastern Time) on March 13, 2017**, or such other later date or time as may be agreed by the Company and the Monitor with the consent of the Secured Lenders (the "Phase I Bid Deadline").

All Phase II Bids must be submitted to the Monitor, at the address specified in Schedule "B" hereto (including by email) so as to be received by it **not later than 5:00 p.m. (Eastern Time) on March 24, 2017**, or such other later date or time as may be agreed by the Company and the Monitor with the consent of the Secured Lenders (the "Phase II Bid Deadline").

**PHASE I**

8. **Phase I Participant Requirements.**

To participate in Phase I of the SISP and to otherwise be considered for any purpose hereunder, each Interested Party must provide the Company with an executed copy of each of the following prior to being provided with access to the Data Room: (i) a Confidentiality Agreement; and (ii) an Acknowledgement of the SISP (collectively, the "Phase I Participant Requirements").

9. **Qualified Phase I Bids**

Only Qualified Phase I Bidders shall be allowed to participate in Phase II of the SISP. In order for the Company to determine whether an Interested Party is a Qualified Phase I Bidder, the Interested Party must provide, in form and substance satisfactory to the Company, in consultation with the Monitor, each of the following on or before the Phase I Bid Deadline:

- (a) Irrevocable Bid: A cover letter stating that the Phase I Bid is irrevocable until Court approval of the Successful Bid(s), provided that if such Phase I Bidder is selected as the Successful Bidder or the Back-Up Bidder, its Phase I Bid shall remain irrevocable until the Back-Up Bid Expiration Date (as defined below);
- (b) which includes:
  - (i) Sale Proposal: in the case of a Sale Proposal, a duly authorized and executed definitive purchase agreement together with all completed schedules thereto substantially in the form of the Form Purchase Agreement containing the detailed terms and conditions of the proposed transaction, including identification of the Business or the Assets proposed to be acquired, the obligations to be assumed, the purchase price for the Business or Assets proposed to be acquired (the "**Purchase Price**"), the detailed structure and financing of the proposed transaction, together with a blackline comparing the purchase agreement submitted to the Form Purchase Agreement; and
  - (ii) Investment Proposal: in the case of an Investment Proposal, a duly authorized and executed binding term sheet describing the detailed terms and conditions of the proposed transaction, including details regarding the proposed equity and debt structure of the Company following completion of the proposed transaction, the direct or indirect investment target and the aggregate amount of equity and debt investment (including the sources of such capital, the underlying assumptions regarding the *pro forma* capital structure, as well as anticipated tranches of debt, debt service fees, interest and amortization) to be made in the Company, and the debt, equity, or other securities, if any, proposed to be allocated to creditors of the Company;
- (c) Purchase Price: Evidence that the Purchase Price (in the case of a Sale Proposal) or imputed value (in the case of an Investment Proposal) under the Phase I Bid or Aggregate Bid shall be an amount equal to or greater than the Minimum Bid Amount; provided that any Portion Bidder shall not be subject to the Minimum Bid Amount except to the extent that it forms an Aggregate Bid;
- (d) Proof of Financial Ability to Perform: Written evidence upon which the Company and the Monitor may reasonably conclude that the Interested Party has the necessary financial ability to close the contemplated transaction on or before the Outside Date and provide adequate assurance of future performance of all obligations to be assumed in such contemplated transaction. Such information should include, among other things, the following:
  - (i) evidence of the Interested Party's internal resources and proof of any debt or equity funding commitments that are needed to close the contemplated transaction;

- (ii) contact names and phone numbers for verification of financing sources; and
  - (iii) any such other form of financial disclosure or credit-quality support information or enhancement requested by and reasonably acceptable to the Company and the Monitor demonstrating that such Interested Party has the ability to close the contemplated transaction;
- (e) Unconditional Bid: Evidence that it is not conditioned on (i) the outcome of unperformed due diligence other than review of the Additional Confidential Information and/or (ii) obtaining financing;
- (f) Identification: Full written disclosure of the identity of each person (including any person that controls such person) that will be directly or indirectly sponsoring or participating in the Phase I Bid, including whether any prior or current member of the Company's board, management, any employee or consultant to the Company or any creditor) or shareholder of the Company is involved in any way with the Phase I Bid or assisted with the Phase I Bid, and the complete terms of any such participation as well as evidence of corporate authority to sponsor or participate in the Phase I Bid;
- (g) Acknowledgment: An acknowledgement and representation that the Interested Party: (i) has relied solely upon its own independent review, investigation and/or inspection of any documents regarding the Business and/or the Assets to be acquired, liabilities to be assumed or the Company in making its Phase I Bid; and (ii) did not rely upon any written or oral statements, representations, promises, warranties conditions or guaranties whatsoever, whether express or implied (by operation of law or otherwise) by the Company, the Monitor or any of their respective employees, directors, officers, agents, advisors or other representatives, regarding the Business, Assets to be acquired, liabilities to be assumed, the Company or the completeness of any information provided in connection therewith, except as expressly provided in any definitive transaction documents;
- (h) Authorization: Evidence, in form and substance reasonably satisfactory to the Company and the Monitor, of authorization and approval from the Interested Party's board of directors (or comparable governing body) with respect to the submission, execution, delivery and closing of the transaction contemplated by the Phase I Bid, and identification of any anticipated shareholder, regulatory or other approvals outstanding, and the anticipated time frame and any anticipated impediments for obtaining such approvals;
- (i) Break or Termination Fee: Evidence that it does not include any request for or entitlement to any break or termination fee, expense reimbursement or similar type of payment;
- (j) Deposit: A cash deposit (the "**Deposit**") in an amount equal to 10% of the Purchase Price (in the case of a Sale Proposal) or imputed value (in the case of an



Investment Proposal) that shall be paid to the Monitor in trust, which Deposit shall be held and dealt with in accordance with these SISP Procedures;

- (k) Employees: If applicable, full details of the proposed number of employees of the Company who will become employees of the Phase I Bidder if determined to be the Successful Bidder and the proposed terms and conditions of employment to be offered to those employees;
- (l) Other: Such other information as may reasonably be requested by the Company or the Monitor; and
- (m) Phase I Bid Deadline: It is received by the Monitor, at the address specified in Schedule "B" hereto (including by email) on or before the Phase I Bid Deadline.

The Company, with the approval of the Monitor, may waive any one or more minor and non-material violations of the requirements specified for Qualified Phase I Bids and deem such non-compliant Bids to be Qualified Phase I Bids, provided that, proof of financial ability to perform required pursuant to Section 9(d) cannot be waived without consent of the Secured Lenders.

#### 10. Evaluation of Qualified Phase I Bids and Designation as Qualified Phase I Bidder

The Company, in consultation with the Monitor, shall evaluate Qualified Phase I Bids on various grounds including, but not limited to, the Purchase Price or imputed or projected value, the treatment of creditors and related implied recovery for creditors (in each case, as applicable), the assumed liabilities, the certainty of closing the transactions contemplated by the Phase I Bid on or before the Outside Date and any delay or other risks (including closing risks) in connection with the Qualified Phase I Bids.

The Company, with the approval of the Monitor, shall have the option, in its discretion, to aggregate Portion Bids.

The Company shall be under no obligation to accept the highest or best offer or any offer (other than the offer contained in the Stalking Horse Agreement if no other higher or better offer is accepted).

As soon as practical after the Phase I Bid Deadline, the Company, in consultation with the Monitor, will advise an Interested Party whether or not its Phase I Bid constitutes a Qualified Phase I Bid and that it is a Qualified Phase I Bidder and, if such Phase I Bidder is a Qualified Phase I Bidder, that it is invited to participate in Phase II of the SISP. For certainty, the Stalking Horse Agreement is a Qualified Phase I Bid and the Stalking Horse Bidder is a Qualified Phase I Bidder for all purposes of these SISP Procedures.

#### 11. No Qualified Phase I Bids

If no Qualified Phase I Bid other than a Bid pursuant to the Stalking Horse Agreement is received by the Phase I Bid Deadline, the Stalking Horse Bidder shall be declared the

Successful Bidder and the Stalking Horse Agreement shall be declared the Successful Bid.

## PHASE II

### 12. Qualified Phase II Bid Requirements

Only Qualified Phase I Bidders shall be entitled to submit a Phase II Bid. In order to be considered a Qualified Phase II Bid, as determined by the Company, in consultation with the Monitor, a Phase II Bid must: (i) satisfy all of the requirements for a Qualified Phase I Bid contained in Section 9; and (ii) shall not be conditional in any way on the outcome of unperformed due diligence including with respect to the Additional Confidential Information. For certainty, the Stalking Horse Agreement is a Qualified Phase II Bid and the Stalking Horse Bidder is a Qualified Phase II Bidder for all purposes of these SISF Procedures.

### 13. Evaluation of Qualified Phase II Bids and Subsequent Actions

The Company, in consultation with the Monitor, shall evaluate Qualified Phase II Bids on various grounds including, but not limited to, the Purchase Price or imputed or projected value, the treatment of creditors and related implied recovery for creditors (in each case, as applicable), the assumed liabilities, the certainty of closing the transactions contemplated by the Qualified Phase II Bid on or before the Outside Date and any delay or other risks (including closing risks) in connection with the Qualified Phase II Bids.

Following such evaluation, the Company, with the approval of the Monitor, may:

- (a) In the case of a Qualified Sale Bid or Qualified Investment Bid, including to the extent such Qualified Phase II Bids are Portion Bids:
  - (i) Accept, subject to Court approval, one (or more than one, if for distinct and compatible transactions) of the Qualified Phase II Bids (each, a “**Successful Bid**” and the offeror(s) making such Successful Bid being a “**Successful Bidder**”) and take such steps as may be necessary to finalize definitive transaction documents for the Successful Bid(s) with Successful Bidder(s); or
  - (ii) Conditionally accept one (or more than one, if for distinct and compatible transactions) of the Qualified Phase II Bids, which acceptance will be conditional upon the failure of the transaction(s) contemplated by the Successful Bid to close (the “**Back-up Bid**” and offeror(s) making such Back-up Bid being the “**Back-Up Bidder**”); and
- (b) If more than one Qualified Sale Bids have been received, pursue an auction (an “**Auction**”) in accordance with the procedures set out in the attached Schedule “C” (the “**Auction Procedure**”) or if the Company in consultation with

the Monitor otherwise determines that an Auction is appropriate under the circumstances.

The Company, with the approval of the Monitor, shall have the option, in its discretion, to aggregate Portion Bids. Notwithstanding anything to the contrary herein, the Company, with the approval of the Monitor, shall be permitted to include Qualified Investment Bids or Qualified Sale Bids in the Auction, including to the extent such Qualified Phase II Bids are Portion Bids.

The Company shall be under no obligation to accept the highest or best offer or any offer (other than the offer contained in the Stalking Horse Agreement if no higher or better offer is accepted) or to pursue or hold an Auction or to select any Successful Bidder(s) and any Back-Up Bidder(s). For greater certainty, any accepted offer, whether at the Auction or otherwise, must provide consideration sufficient to satisfy the Minimum Bid Amount requirements.

No later than five Business Days after the Phase II Bid Deadline, the Company shall advise the Qualified Phase II Bidders if Successful Bid(s) and Back-Up Bid(s) have been accepted, or conditionally accepted, as the case may be. If the Company, with the approval of the Monitor, determines to conduct an Auction pursuant to the SISP Procedures, the Company or the Monitor will advise the Qualified Phase II Bidders of the date, time, location and the rules (if any) of the Auction in accordance with the Auction Procedure.

14. **No Qualified Phase II Bids**

If no Qualified Phase II Bid other than a Bid pursuant to the Stalking Horse Agreement is received by the Phase II Bid Deadline, then the Stalking Horse Bidder shall be declared the Successful Bidder and the Stalking Horse Agreement shall be declared the Successful Bid.

**APPROVAL MOTION**

15. **Approval Motion**

The Company shall use reasonable efforts to make a motion to the Court to approve the Successful Bid(s) and Back-Up Bid(s) as soon as practical following the determination by it and the Monitor of the Successful Bidder(s). The Company will be deemed to have accepted the Successful Bid(s) only when it has been approved by the Court. All Qualified Phase II Bids (other than the Successful Bid(s) and the Back-Up Bid(s)) shall be deemed rejected by the Company on and as of the date of approval of the Successful Bid(s) by the Court.

16. **Back-Up Bidder**

If a Successful Bidder fails to close the transaction contemplated by the Successful Bid(s) on or before the Outside Date for any reason, then the Company will be deemed to have accepted the Back-Up Bid(s) and will proceed with the transaction pursuant to the terms

thereof. The Back-Up Bid(s) shall remain open for acceptance until the closing of the Successful Bid(s), or such other later date as the Company and the Back-Up Bidder may agree, acting reasonably (the “**Back-Up Bid Expiration Date**”).

## **MISCELLANEOUS**

### **17. Information From Interested Parties**

Each Interested Party shall comply with all reasonable requests for additional information by the Company regarding such Interested Party and its contemplated transaction. Failure by an Interested Party to comply with requests for additional information will be a basis for the Company to determine that the Interested Party is not a Qualified Phase I Bidder or a Qualified Phase II Bidder, as applicable.

### **18. Deposits**

All Deposits shall be held by the Monitor in a single interest bearing account designated solely for such purpose. A Deposit paid by a Successful Bidder shall be dealt with in accordance with the definitive documents for the transactions contemplated by the Successful Bid. Deposits, and any interest earned thereon, paid by Phase I Bidders not selected as either a Qualified Phase I Bidder or a Qualified Phase II Bidder shall be returned to such Phase I Bidder within three Business Days of being advised that it is not a Qualified Phase I Bidder or a Qualified Phase II Bidder, as the case may be. Deposits, and any interest thereon, paid by Qualified Phase II Bidders not selected as either a Successful Bidder or a Back-Up Bidder shall be returned to such Qualified Phase II Bidders within three Business Days of Court approval of the Successful Bid. In the case of Back-Up Bid(s), the Deposit and any interest earned thereon shall be retained by the Monitor until the Back-Up Bid Expiration Date and returned to the Back-Up Bidder within three Business Days thereafter or, if a Back-Up Bid becomes a Successful Bid, shall be dealt with in accordance with the definitive documents for the Back-Up Bid.

### **19. Modifications and Termination**

The Company, in consultation with the Monitor, and subject to Section 20, the Secured Lenders, shall have the right to adopt such other rules for the SISP Procedures (including rules that may depart from those set forth herein) that will better promote the sale of the Business or all or any part of the Assets or investment in the Company under these SISP Procedures. The Company, in consultation with the Monitor, shall apply to the Court if it wishes to materially modify or terminate the process set out in these SISP Procedures. For certainty, any amendments to the Phase I Bid Deadline or the Phase II Deadline or other dates set out in these SISP Procedures, including those relating to the Auction, shall not constitute a material modification but shall require the consent of the Secured Lenders.

### **20. Consultation with the Secured Lenders**

The Company, in consultation with the Monitor, shall, as appropriate, consult with the Secured Lenders throughout the SISP; provided that, to the extent the Secured Lender is

related to a Bidder, including the Stalking Horse Bidder, the Company and the Monitor shall not provide such Secured Lender with information that might create an unfair advantage or jeopardize the integrity of the SISP.

21. Other

Neither the Company nor the Monitor shall be liable for any claim for a brokerage commission, finder's fee or like payment in respect of the consummation of any of the transactions contemplated under the SISP arising out of any agreement or arrangement entered into by the parties that submitted the Successful Bid(s) and Back-Up Bid(s). Any such claim shall be the sole liability of the parties that submitted such Successful Bid(s) and Back-Up Bid(s).

**SCHEDULE "A"**

**Acknowledgement of the SISP**

The undersigned hereby acknowledges receipt of the Sale and Investor Solicitation Process approved by the Order of the Honourable Justice ● of the Ontario Superior Court of Justice (Commercial List) dated January ●, 2017 (the "SISP") and that compliance with the terms and provisions of the SISP is required in order to participate in the SISP and for any Bids to be considered by the Company.

This \_\_\_\_ day of \_\_\_\_\_, 2017.

[NAME]

By:

\_\_\_\_\_  
[Signing Officer]

**SCHEDULE "B"**  
**ADDRESS PARTICULARS**

**Richter Advisory Group Inc.**  
181 Bay Street, Suite 3320  
Bay Wellington Tower  
Toronto, ON M5J 2T3

Attention: Gilles Benchaya/ Adam Sherman  
Phone: 514.934.3496/ 416.642.4836  
Fax: 514.934.3504/ 416.488.3765  
Email: [gbenchaya@richterconsulting.com](mailto:gbenchaya@richterconsulting.com)/ [asherman@richter.ca](mailto:asherman@richter.ca)

## SCHEDULE "C" AUCTION PROCEDURES

### Auction

1. If the Company, with the approval of the Monitor, determines to conduct an Auction pursuant to the SISP Procedures, the Company or the Monitor will notify the Qualified Phase II Bidders who made a Qualified Phase II Bid that the Auction will be held at the offices of Fasken Martineau DuMoulin LLP, 333 Bay Street, Suite 2400, Toronto, Ontario at 9:00 a.m. (Eastern Time) on date that is determined by the Company or the Monitor, provided that it is a date that is not later than seven Business Days after the Phase II Bid Deadline, or such other place, date and time as the Company or the Monitor may advise. Capitalized terms used but not defined herein have the meaning given to them in the SISP Procedures. The Auction shall be conducted in accordance with the following procedures:
  - (a) Participation At the Auction. Only a Qualified Phase II Bidder is eligible to participate in the Auction. Each Qualified Phase II Bidder must inform the Company and the Monitor whether it intends to participate in the Auction no later than 12:00 p.m. (Eastern Time) on the Business Day prior to the Auction. Only the authorized representatives of each of the Qualified Phase II Bidders, the Monitor and the Company and the Secured Lenders and their respective counsel and other advisors and any other parties acceptable to the Company in consultation with the Monitor shall be permitted to attend the Auction.
  - (b) Bidding at the Auction. Bidding at the Auction shall be conducted in rounds. The highest Qualified Phase II Bid at the beginning of the Auction shall constitute the "**Opening Bid**" for the first round and the highest Overbid (as defined below) at the end of each round shall constitute the "**Opening Bid**" for the following round. In each round, a Qualified Phase II Bidder may submit no more than one Overbid. Only Qualified Phase II Bidder who bids in a round (including the Qualified Phase II Bidder that submitted the Opening Bid for such round) shall be entitled to participate in the next round of bidding at the Auction. For greater certainty, an Aggregate Bid may be determined to be the Opening Bid for any round including the opening round.
  - (c) Monitor Shall Conduct the Auction. The Monitor and its advisors shall direct and preside over the Auction. At the start of the Auction, the Monitor shall provide the terms of the Opening Bid to all participating Qualified Phase II Bidders at the Auction. The determination of which Qualified Phase II Bid constitutes the Opening Bid for each round shall take into account any factors that the Monitor reasonably deems relevant to the value of the Qualified Phase II Bid, including, among other things, the following: (i) the amount and nature of the consideration, including the value of any non-cash consideration; (ii) the proposed assumption of any liabilities and the related implied impact on recoveries for creditors; (iii) the Monitor's reasonable assessment of the certainty of the Qualified Phase II Bidder to close the proposed transaction on or before the Outside Date; (iv) the likelihood, extent and impact of any potential delays in closing; (v) the impact of



the contemplated transaction on any actual or potential litigation; (vi) the net economic effect of any changes from the Opening Bid of the previous round; (vii) the net after-tax consideration to be received by the Company; and (viii) such other considerations as the Monitor deems relevant in its reasonable business judgment (collectively, the “**Bid Assessment Criteria**”). For greater certainty, the Monitor may ascribe monetary values to non-monetary terms in Overbids for the purposes of assessing and valuing such Overbids, including without limitation, the value to be ascribed to any liabilities or contracts to be assumed. All Bids made after the Opening Bid shall be Overbids, and shall be made and received on an open basis, and all material terms of the highest and best Overbid shall be fully disclosed to all other Qualified Phase II Bidders that are participating in the Auction. The Monitor shall maintain a record of the Opening Bid and all Overbids made and announced at the Auction, including the Successful Bid and the Back-Up Bid.

- (d) Terms of Overbids. An “**Overbid**” is any Bid made at the Auction subsequent to the Monitor’s announcement of the Opening Bid. To submit an Overbid, in any round of the Auction, a Qualified Phase II Bidder must comply with the following conditions:
- (i) *Minimum Overbid Increment:* Any Overbid shall be made in such increments as the Monitor may determine in order to facilitate the Auction (the “**Minimum Overbid Increment**”). The amount of the cash purchase price consideration or value of any Overbid shall not be less than the cash purchase price consideration or value of the Opening Bid, plus the Minimum Overbid Increment(s) at that time plus any additional Minimum Overbid Increments. In respect of the Stalking Horse Agreement and any Overbid by the Stalking Horse Purchaser, the value shall include the amount of any indebtedness owing to it that is to be deemed repaid or otherwise released and any priority indebtedness to be assumed pursuant to and in accordance with the terms of the Stalking Horse Agreement.
  - (ii) *The Bid Requirements same as for Qualified Phase II Bids:* Except as modified herein, an Overbid must comply with the bid requirements contained herein, provided, however, that the Phase II Bid Deadline shall not apply. Any Overbid made by a Qualified Phase II Bidder must provide that it remains irrevocable and binding on the Qualified Phase II Bidder and open for acceptance until the closing of the Successful Bid(s).
  - (iii) *Announcing Overbids:* At the end of each round of bidding, the Monitor shall announce the identity of the Qualified Phase II Bidder and the material terms of the then highest and/or best Overbid, including the nature of the proposed transaction contemplated by the best Overbid, the assets proposed to be acquired and the obligations proposed to be assumed, the basis for calculating the total consideration offered in such Overbid, and the resulting benefit to the Company based on, among other things, the Bid Assessment Criteria. For greater certainty, an Aggregated Bid may be determined to be the highest and/or best Overbid.

- (iv) *Consideration of Overbids:* The Monitor reserves the right, in consultation with the Company, to make one or more adjournments in the Auction to, among other things: (A) facilitate discussions between the Company and individual Qualified Phase II Bidders; (B) allow individual Qualified Phase II Bidders to consider how they wish to proceed; (C) consider and determine the current highest and/or best Overbid at any given time during the Auction; and (D) give Qualified Phase II Bidders the opportunity to provide the Monitor with such additional evidence as it, or the Company, may require, that the Qualified Phase II Bidder has obtained all required internal corporate approvals, has sufficient internal resources, or has received sufficient non-contingent debt and/or equity funding commitments, to consummate the proposed transaction at the prevailing Overbid amount. The Monitor and Company may have clarifying discussions with a Qualified Phase II Bidder, and the Monitor may allow a Qualified Phase II Bidder to make technical clarifying changes to its Overbid following such discussions.
- (v) *Portion Bids:* Notwithstanding the forgoing, each Portion Bidder entitled to participate in the Auction shall be entitled to submit an Overbid (in a minimum increment to be determined by the Monitor) with respect to the Assets on which it is bidding without being required to submit an Overbid with respect to all Assets or the applicable Opening Bid; provided that any Aggregated Bid that is an Overbid shall be subject to these Auction procedures as any other Overbid, including that such Aggregated Bid that is an Overbid shall be subject to the Minimum Overbid Increment. Portion Bids can be aggregated with any other Qualified Phase II Bid, as determined by the Company and the Monitor.
- (vi) *Failure to Bid:* If at the end of any round of bidding a Qualified Phase II Bidder (other than a Portion Bidder, or the Qualified Phase II Bidder that submitted the then highest and/or best Overbid or Opening Bid, as applicable) fails to submit an Overbid, then such Qualified Phase II Bidder shall not be entitled to continue to participate in the next round of the Auction.
- (e) Discussion with other Bidders. A Qualified Phase II Bidder shall not strategize or discuss with other Qualified Phase II Bidders for the purpose of submitting an Overbid without the consent of the Monitor.
- (f) Additional Procedures. The Monitor may, in consultation with the Company, adopt rules for the Auction at or prior to the Auction that will better promote the goals of the Auction, including rules pertaining to the structure of the Auction, the order of bidding provided they are not inconsistent with any of the provisions of the SISP Procedures and provided further that no such rules may change the requirement that all material terms of the then highest and/or best Overbid at the end of each round of bidding will be fully disclosed to all other Qualified Phase II Bidders.

- (g) Closing the Auction. The Auction shall be closed after the Monitor, with the assistance of the Company and their respective legal counsel, has (i) reviewed the final Overbid of each Qualified Phase II Bidder on the basis of financial and contractual terms and the factors relevant to the sale process, including those factors affecting the speed and certainty of consummating the proposed sale, and (ii) identified the Successful Bid and the Back-Up Bid and advise the Qualified Phase II Bidders participating in the Auction of such determination. One or more Portion Bids can, in the discretion of the Monitor, form part of a Successful Bid and Back-Up Bid so long as such Portion Bids do not overlap in respect of the Assets sought to be purchased and in such case, such Portion Bid shall be included in the definition of Successful Bidder or Back-Up Bid, as applicable.
- (h) Finalizing Documentation. Promptly following a Bid of a Qualified Phase II Bidder being declared the Successful Bid or the Back-Up Bid, the applicable Qualified Phase II Bidder shall execute and deliver such revised and updated definitive transaction agreements as may be required to reflect and evidence the Successful Bid or Back-Up Bid.
- (i) Qualified Investment Bids. Notwithstanding any other provision of these SISP Procedures, if a Qualified Phase II Bidder submits a Qualified Investment Bid, which the Company or the Monitor considers would result in a greater value being received for the benefit of the Company's creditors than the Qualified Sale Bids, then the Monitor may allow such Qualified Phase II Bidder to participate in the Auction, notwithstanding that such Qualified Investment Bid may not otherwise comply with the terms of these Auction Procedures. In such case, the Monitor may adopt appropriate rules to facilitate such Qualified Phase II Bidder's participation in the Auction.

Court File No.: CV-17-11677-00CL

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 GRAFTON-FRASER INC.

(the "Applicant")

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
[COMMERCIAL LIST]**

**Proceedings commenced in Toronto**

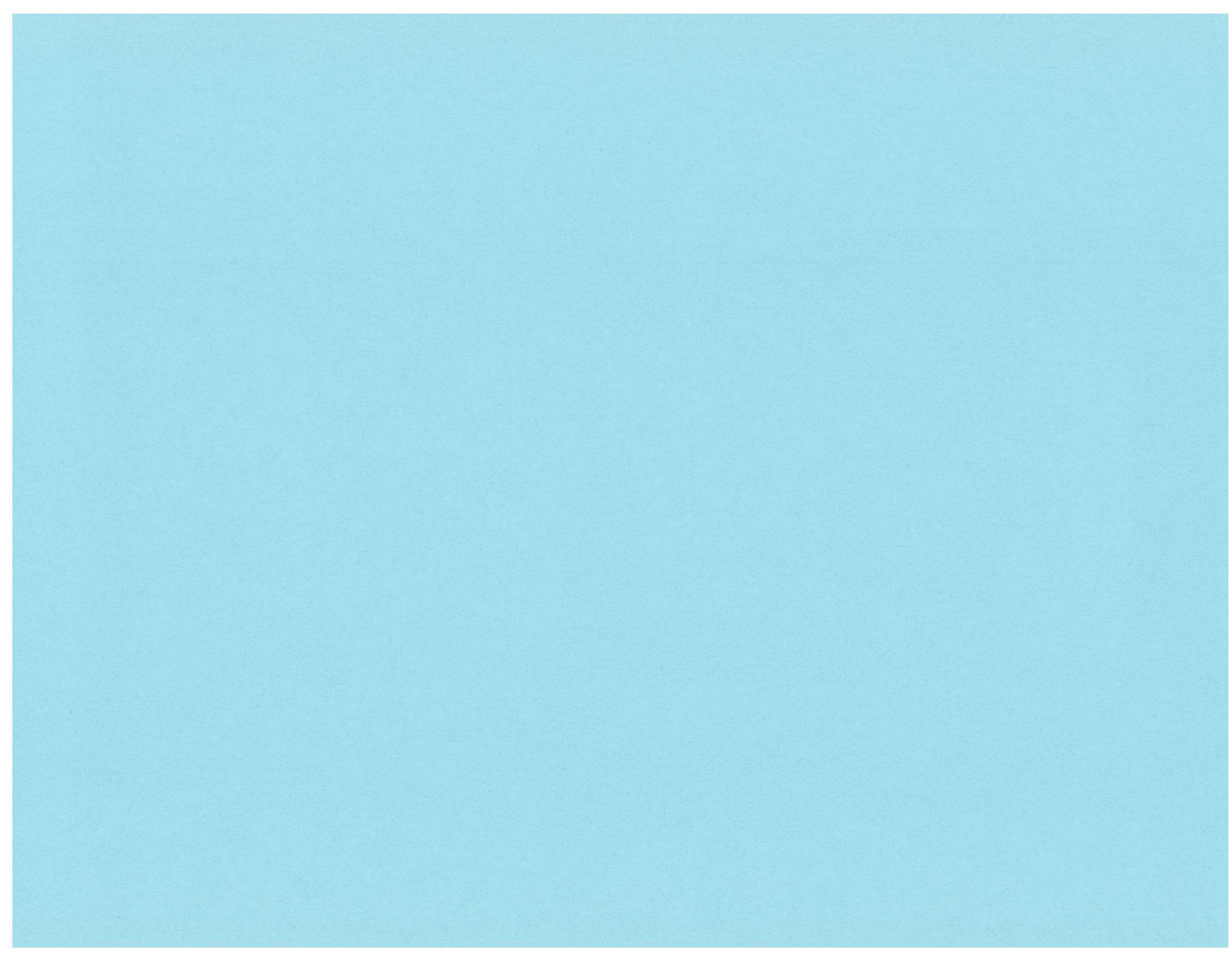
**ORDER  
(STALKING HORSE & SISP)  
(Returnable January 30, 2017)**

**FASKEN MARTINEAU DuMOULIN LLP**  
333 Bay Street – Suite 2400  
Bay Adelaide Centre, Box 20  
Toronto, ON M5H 2T6

**Stuart Brotman (LSUC#43430D)**  
Tel: 416 865 5419  
Fax: 416 364 7813  
sbrotman@fasken.com

**Dylan Chochla (LSUC#62137I)**  
Tel: 416 868 3425  
Fax: 416 364 7813  
dchochla@fasken.com

Lawyers for the Applicant, Grafton-Fraser Inc.



ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)

THE HONOURABLE MR. )  
JUSTICE WILTON-SIEGEL )  
)  
)

MONDAY, THE 30TH  
DAY OF JANUARY, 2017

*Handwritten initials*



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 GRAFTON-FRASER INC. (the "Applicant")

APPROVAL ORDER — CONSULTING AGREEMENT

THIS MOTION made by the Applicant, pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. c-36, as amended (the "CCA") for an order, inter alia, approving: (i) the transactions contemplated under the Consulting Agreement entered into between the Applicant and a contractual joint venture composed of Gordon Brothers Canada ULC and Merchant Retail Solutions ULC (together the "Consultant") on January 24, 2017 (the "Consulting Agreement") and certain related relief; was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Notice of Motion of the Applicant, the Affidavit of Mark Sun sworn on January 25, 2017 including the exhibits thereto (the "Sun Affidavit"), and the Pre-Filing Report and the first report (the "Monitor's First Report") of Richter Advisory Group Inc., in its capacity as Monitor (the "Monitor"), filed, and on hearing the submissions of respective counsel for the Applicant, the Monitor, the Consultant, Canadian Imperial Bank of Commerce, GSO Capital Partners LP, The Cadillac Fairview Corporation Limited, and such other counsel as were present, no one else appearing although duly served as appears from the Affidavits of Service, filed:

## SERVICE AND DEFINITIONS

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion and the Motion Record herein is hereby abridged and validated so that this Motion is properly returnable today and hereby dispenses with further service thereof.
2. **THIS COURT ORDERS** that any capitalized term used and not defined herein shall have the meaning ascribed thereto in the Amended and Restated Initial Order (the "Initial Order") and the Consulting Agreement, as applicable.

## APPROVAL OF THE CONSULTING AGREEMENT

3. **THIS COURT ORDERS** that the Consulting Agreement, including the Sales Guidelines attached hereto as Schedule "A" hereto (the "Sales Guidelines"), and the transactions contemplated thereunder are hereby approved, authorized and ratified and that the execution of the Consulting Agreement by Applicant is hereby approved, authorized, and ratified with such minor amendments as Applicant (with the consent of the Monitor) and the Consultant may agree to in writing. Subject to the provisions of this Order, and the Initial Order, the Applicant is hereby authorized and directed to take any and all actions, including, without limitation, execute and deliver such additional documents, as may be necessary or desirable to implement the Consulting Agreement and each of the transactions contemplated therein.

## THE SALE

4. **THIS COURT ORDERS** that the Applicant with the assistance of the Consultant is authorized to conduct the Sale in accordance with this Order, the Consulting Agreement and the Sales Guidelines and to advertise and promote the Sale within the Closing Stores in accordance with the Sales Guidelines. If there is a conflict between this Order, the Consulting Agreement and the Sales Guidelines, the order of priority of documents to resolve such conflicts is as follows: (1) the Order; (2) the Sales Guidelines; and (3) the Consulting Agreement.
5. **THIS COURT ORDERS** that subject to paragraph 12 of the Initial Order, the Applicant with the assistance of the Consultant, is authorized to market and sell the Merchandise and the FF&E free and clear of all liens, claims, encumbrances, security interests, mortgages, charges, trusts, deemed trusts, executions, levies, financial, monetary or other claims, whether or not such claims have attached or been

perfected, registered or filed and whether secured, unsecured, quantified or unquantified, contingent or otherwise, whensoever and howsoever arising, and whether such claims arose or came into existence prior to the date of this Order or came into existence following the date of this Order, (in each case, whether contractual, statutory, arising by operation of law, in equity or otherwise) (all of the foregoing, collectively "Claims"), including, without limitation the Directors' Charge, the Administration Charge, the Term Lenders' DIP Charge, the ABL Lender's DIP Charge or the KERP Charge, and any other charges hereafter granted by this Court in these proceedings (collectively, the "CCAA Charges"), and all Claims, charges, security interests or liens evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal or movable property registration system (all of such Claims, charges (including the CCAA Charges), security interests and liens collectively referred to herein as "Encumbrances"), which Encumbrances will attach instead to the proceeds of sale of the Merchandise and FF&E other than amounts due and payable to the Consultant by the Applicant under the Consulting Agreement, in the same order and priority as they existed on the Sale Commencement Date and, subject to paragraph 17 of this Order, such proceeds shall be dealt with in accordance with paragraph 48 of the Initial Order.

6. **THIS COURT ORDERS** that subject to the terms of this Order and the Initial Order, the Sales Guidelines and the Consulting Agreement, the Consultant shall have the right to enter and use the Closing Stores and all related Closing Store services and all facilities and all furniture, trade fixtures and equipment, including the FF&E, located at the Closing Stores, and other assets of Applicant as designated under the Consulting Agreement, for the purpose of conducting the Sale and for such purposes, the Consultant shall be entitled to the benefit of the Applicant's stay of proceedings provided under the Initial Order as such stay of proceedings may be extended by further Order of the Court.
7. **THIS COURT ORDERS** that until the applicable Sale Termination Date for each Closing Store (which shall in no event be later than April 30, 2017), the Consultant shall have access to the Closing Stores in accordance with the applicable leases and the Sales Guidelines on the basis that the Consultant is assisting the Applicant and the Applicant has granted the right of access to the applicable Closing Store to the Consultant. To the extent that the terms of the applicable leases are in conflict with



any term of this Order or the Sales Guidelines, the terms of this Order and the Sales Guidelines shall govern.

8. **THIS COURT ORDERS** that nothing in this Order shall amend or vary, or be deemed to amend or vary the terms of the leases for Applicant's leased Closing Stores. Nothing contained in this Order or the Sales Guidelines shall be construed to create or impose upon Applicant or the Consultant any additional restrictions not contained in the applicable lease or other occupancy agreement.
9. **THIS COURT ORDERS** that except as provided for in Section 4 hereof in respect of the advertising and promotion of the Sale within the Closing Stores, subject to, and in accordance with this Order, the Consulting Agreement and the Sales Guidelines, the Consultant is authorized to advertise and promote the Sale, without further consent of any Person other than the Applicant and the Monitor as provided under the Consulting Agreement or a Landlord as provided under the Sales Guidelines.
10. **THIS COURT ORDERS** that the Consultant shall have the right to use, without interference by any intellectual property licensor, the Applicant's trademarks and logos, as well as all licenses and rights granted to the Applicant to use the trade names, trademarks, and logos of third parties, relating to and used in connection with the operation of the Closing Stores solely for the purpose of advertising and conducting the Sale of the Merchandise or FF&E in accordance with the terms of the Consulting Agreement, the Sales Guidelines, and this Order, provided that the Consultant provides the Applicant with a copy of any advertising prior to its use in the Sale.

#### **CONSULTANT LIABILITY**

11. **THIS COURT ORDERS** that the Consultant shall act solely as an independent consultant to Applicant and that it shall not be liable for any claims against Applicant other than as expressly provided in the Consulting Agreement (including the Consultant's indemnity obligations thereunder) or the Sales Guidelines. More specifically:
  - (a) the Consultant shall not be deemed to be an owner or in possession, care, control or management of the Closing Stores, of the assets located therein or

associated therewith or of Applicant's employees (including the Closing Store Employees) located at the Closing Stores or any other property of Applicant;

- (b) the Consultant shall not be deemed to be an employer, or a joint or successor employer or a related or common employer or payor within the meaning of any legislation governing employment or labour standards or pension benefits or health and safety or other statute, regulation or rule of law or equity for any purpose whatsoever, and shall not incur any successorship liabilities whatsoever; and
- (c) Applicant shall bear all responsibility for any liability whatsoever (including without limitation losses, costs, damages, fines or awards) relating to claims of customers, employees and any other persons arising from events occurring at the Closing Stores during and after the Sale Term in connection with the Sale, except to the extent such claims are the result of events or circumstances caused or contributed to by the gross negligence or wilful misconduct of the Consultant, its employees, agents or other representatives, or otherwise in accordance with the Consulting Agreement.

12. **THIS COURT ORDERS** to the extent the Landlords (or any of them) may have a claim against Applicant arising solely out of the conduct of the Consultant in conducting the Sale for which Applicant has claims against the Consultant under the Consulting Agreement, Applicant shall be deemed to have assigned free and clear such claims to the applicable Landlord (the "**Assigned Landlord Rights**").

**CONSULTANT AN UNAFFECTED CREDITOR**

13. **THIS COURT ORDERS** that the Consulting Agreement shall not be repudiated, *resiliated or disclaimed by Applicant nor shall the claims of the Consultant pursuant to the Consulting Agreement be compromised or arranged pursuant to any plan of arrangement or compromise among Applicant and its creditors (a "Plan")*. The Consultant shall be treated as an unaffected creditor in these proceedings and under any Plan.
14. **THIS COURT ORDERS** that Applicant is hereby authorized to remit, in accordance with the Consulting Agreement, all amounts that become due to the Consultant thereunder.

15. **THIS COURT ORDERS** that, no Encumbrances shall attach to any amounts payable or to be credited or reimbursed to, or retained by, the Consultant pursuant to the Consulting Agreement and, at all times, the Consultant will retain such amounts, free and clear of all Encumbrances, notwithstanding any enforcement or other process or Claims, all in accordance with the Consulting Agreement.
16. **THIS COURT ORDERS** that notwithstanding (a) the pendency of these proceedings; (b) any application for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* ("BIA") in respect of Applicant or any bankruptcy order made pursuant to any such applications; (c) any assignment in bankruptcy made in respect of Applicant; (d) the provisions of any federal or provincial statute; or (e) any negative covenants, prohibitions or other similar provisions with respect to borrowings, incurring debt or the creation of encumbrances, contained in any existing loan documents, lease, mortgage, security agreement, debenture, sublease, offer to lease or other document or agreement (collectively "**Agreement**") which binds Applicant:
- (i) the Consulting Agreement and the transactions and actions provided for and contemplated therein, including without limitation, the payment of amounts due to the Consultant, and
  - (ii) the Assigned Landlord Rights,
- shall be binding on any trustee in bankruptcy that may be appointed in respect to Applicant and shall not be void or voidable by any Person, including any creditor of Applicant, nor shall they, or any of them, constitute or be deemed to be a preference, fraudulent conveyance, transfer at undervalue or other challengeable reviewable transaction, under the BIA or any applicable law, nor shall they constitute oppressive or unfairly prejudicial conduct under any applicable law.

#### **FF&E PROCEEDS**

17. **THIS COURT ORDERS** that the Applicant is hereby authorized to transfer on a regular basis, as determined is appropriate in consultation with the Monitor, to an account of the Monitor the sale proceeds, on a motion supported by the Borrower, from the disposition of the FF&E and the Monitor is hereby authorized to hold such

funds in trust for the Applicant in an account opened at a Canadian chartered bank for this purpose, subject to further Order of the Court authorizing and directing the distribution of such proceeds. Any distribution of the sale proceeds generated from the sale of the FF&E shall be net of the fees and the out of pocket expenses related to the disposition of such FF&E reimbursed by the Applicant in accordance with the Consulting Agreement and approved by the Monitor.

**BULK SALES ACT AND OTHER LEGISLATION**

18. **THIS COURT ORDERS AND DECLARES** that the transactions contemplated under the Consulting Agreement shall be exempt from the application of the *Bulk Sales Act* (Ontario) and any other equivalent federal or provincial legislation.
19. **THIS COURT ORDERS** that this Order shall have full force and effect in all provinces and territories in Canada.
20. **THIS COURT HEREBY REQUESTS** the aid and recognition of any Court, tribunal, regulatory or administrative bodies, having jurisdiction in Canada or in the United States of America, to give effects to this Order and to assist Applicant, the Monitor and their respective agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to Applicant and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Monitor in any foreign proceeding, or to assist Applicant and the Monitor and their respective agents in carrying out the terms of this Order.

**SEALING ORDER**

21. **THIS COURT ORDERS** that Confidential Appendix "1" of the Monitor's First Report, filed separately with the Court, shall be sealed in the Court File pending further Order of the Court.

ENTERED AT / INSCRIT À TORONTO  
ON / BOOK NO:  
LE / DANS LE REGISTRE NO:

JAN 30 2017

  
\_\_\_\_\_

## SCHEDULE A

### SALES GUIDELINES

The following procedures shall apply to the Sale to be conducted at the Closing Stores of Grafton-Fraser Inc. (the "Merchant"). All terms not herein defined shall have the meaning set forth in the Consulting Agreement by and between a contractual joint venture composed of Gordon Brothers Canada ULC and Merchant Retail Solutions ULC (together the "Consultant") and the Merchant dated as of January 24, 2017 (the "Consulting Agreement").

1. Except as otherwise expressly set out herein, and subject to: (i) the Approval Order or any further Order of the Court; or (ii) any subsequent written agreement between the Merchant and the applicable landlord(s) (individually, a "Landlord" and, collectively, the "Landlords") and approved by Consultant, or (iii) as otherwise set forth herein, the Sale shall be conducted in accordance with the terms of the applicable leases/or other occupancy agreements to which the affected landlords are privy for each of the affected Closing Stores (individually, a "Lease" and, collectively, the "Leases"). However, nothing contained herein shall be construed to create or impose upon the Merchant or the Consultant any additional restrictions not contained in the applicable Lease or other occupancy agreement.
2. The Sale shall be conducted so that each of the Closing Stores remain open during their normal hours of operation provided for in the respective Leases for the Closing Stores until the respective Sale Termination Date of each Closing Store. The Sale at the Closing Stores shall end by no later than April 30, 2017. Rent payable under the respective Leases shall be paid as provided in the Initial Order.
3. The Sale shall be conducted in accordance with applicable federal, provincial and municipal laws and regulations, unless otherwise ordered by the Court.
4. All display and hanging signs used by the Consultant in connection with the Sale shall be professionally produced and all hanging signs shall be hung in a professional manner. Notwithstanding anything to the contrary contained in the Leases, the Consultant may advertise the Sale at the Closing Stores as a "everything on sale", "everything must go", "store closing" or similar theme sale at the Closing Stores (provided however that no signs shall advertise the Sale as a "bankruptcy", a "going out of business" or a "liquidation" sale it being understood that the French equivalent of "clearance" is "liquidation" and is permitted to be used). Forthwith upon request from a Landlord, the Landlord's counsel, the Merchant or the Monitor, the Consultant shall provide the proposed signage packages along with the proposed dimensions and number of signs (as approved by the Merchant pursuant to the Consulting Agreement) by e-mail or facsimile to the applicable Landlords or to their counsel of record. Where the provisions of the Lease conflict with these Sales Guidelines, these Sales Guidelines shall govern. The Consultant shall not use neon or day-glow or handwritten signage (save that handwritten "you pay" and "topper" signs may be used). In addition, the Consultant shall be permitted to utilize exterior banners/signs at stand alone or strip mall Closing Stores or enclosed mall Closing Stores with a

separate entrance from the exterior of the enclosed mall, provided, however, that where such banners are not explicitly permitted by the applicable Lease and the Landlord requests in writing that the banners are not to be used, no banners shall be used absent further Order of the Court, which may be sought on an expedited basis on notice to the Service List. Any banners used shall be located or hung so as to make clear that the Sale is being conducted only at the affected Closing Store and shall not be wider than the premises occupied by the affected Closing Store. All exterior banners shall be professionally hung and to the extent that there is any damage to the façade of the premises of a Closing Store as a result of the hanging or removal of the exterior banner, such damage shall be professionally repaired at the expense of the Consultant. If a Landlord is concerned with "store closing" signs being placed in the front window of a Closing Store or with the number or size of the signs in the front window, the Consultant and the Landlord will discuss the Landlord's concerns and work to resolve the dispute.

5. The Consultant shall be permitted to utilize sign walkers and street signage; provided, however, such sign walkers and street signage shall not be located on the shopping centre or mall premises.
6. Conspicuous signs shall be posted in the cash register areas of each Closing Store to the effect that all sales are "final".
7. The Consultant shall not distribute handbills, leaflets or other written materials to customers outside of any of the Closing Stores on any Landlord's property, unless permitted by the applicable Lease or, if distribution is customary in the shopping centre in which the Closing Store is located. Otherwise, the Consultant may solicit customers in the Closing Stores themselves. The Consultant shall not use any giant balloons, flashing lights or amplified sound to advertise the Sale or solicit customers, except as permitted under the applicable Lease, or agreed to by the Landlord.
8. At the conclusion of the Sale in each Closing Store, the Merchant shall arrange that the premises for each Closing Store are in "broom-swept" and clean condition, and shall arrange that the Closing Stores are in the same condition as on the commencement of the Sale, ordinary wear and tear excepted. No property of any Landlord of a Closing Store shall be removed or sold during the Sale. No permanent fixtures (other than FF&E which for clarity is owned by the Applicant) may be removed without the Landlord's written consent unless otherwise provided by the applicable Lease. Any fixtures or personal property left in a Closing Store after the Sale Termination Date in respect of which the applicable Lease has been disclaimed by the Merchant shall be deemed abandoned, with the applicable Landlord having the right to dispose of the same as the Landlord chooses, without any liability whatsoever on the part of the Landlord.
9. Subject to the terms of paragraph 8 above and the Consulting Agreement, the Consultant may sell FF&E which is located in the Closing Stores during the Sale. The Merchant and the Consultant may advertise the sale of FF&E consistent with these guidelines on the understanding that any Landlord may require that such signs be placed in discreet locations within the Closing Stores acceptable to the Landlord, acting reasonably. Additionally, the purchasers of any FF&E sold during the Sale shall only be permitted to remove the FF&E either through the back shipping areas designated by the Landlord, or through other areas after regular store business hours, or through the front door of the Closing Store during store business hours if the

FF&E can fit in a shopping bag, with Landlord's supervision as required by the Landlord. The Consultant shall repair any damage to the Closing Stores resulting from the removal of any FF&E by Consultant or by third party purchasers of FF&E from Consultant.

10. The Consultant shall not make any alterations to interior or exterior Closing Store lighting, except as authorized pursuant to the applicable Lease. The hanging of exterior banners or other signage, where permitted in accordance with the terms of these guidelines, shall not constitute an alteration to a Closing Store.
11. The Merchant hereby provides notice to the Landlords of the Merchant and the Consultant's intention to sell and remove FF&E from the Closing Stores. The Consultant will arrange with each Landlord represented by counsel on the service list and with any other Landlord that so requests, a walk through with the Consultant to identify the FF&E subject to the sale. The relevant Landlord shall be entitled to have a representative present in the Closing Store to observe such removal. If the Landlord disputes the Consultant's entitlement to sell or remove any FF&E under the provisions of the Lease, such FF&E shall remain on the premises and shall be dealt with as agreed between the Merchant, the Consultant and such Landlord, or by further Order of the Court upon application by the Merchant on at least two (2) days' notice to such Landlord. If the Merchant has disclaimed or resiliated the Lease governing such Closing Store in accordance with the CCAA and the Initial Order, it shall not be required to pay rent under such Lease pending resolution of any such dispute (other than rent payable for the notice period provided for in the CCAA and the Initial Order), and the disclaimer or resiliation of the Lease shall be without prejudice to the Merchant's or Consultant's claim to the FF&E in dispute.
12. If a notice of disclaimer or resiliation is delivered pursuant to the CCAA and the Initial Order to a Landlord while the Sale is ongoing and the Closing Store in question has not yet been vacated, then: (a) during the notice period prior to the effective time of the disclaimer or resiliation, the landlord may show the affected leased premises to *prospective tenants during normal business hours, on giving the Merchant and the Consultant 24 hours' prior written notice*; and (b) at the effective time of the disclaimer or resiliation, the relevant Landlord shall be entitled to take possession of any such Closing Store without waiver of or prejudice to any claims or rights such landlord may have against the Merchant in respect of such Lease or Closing Store, provided that nothing herein shall relieve such Landlord of its obligation to mitigate any damages claimed in connection therewith.
13. The Consultant and its agents and representatives shall have the same access rights to the Closing Stores as the Merchant under the terms of the applicable Lease, and the Landlords shall have the rights of access to the Closing Stores during the Sale provided for in the applicable Lease (subject, for greater certainty, to any applicable stay of proceedings).
14. The Merchant and the Consultant shall not conduct any auctions of Merchandise or FF&E at any of the Closing Stores.
15. The Consultant shall designate a party to be contacted by the Landlords should a dispute arise concerning the conduct of the Sale. The initial contact person for Consultant shall be Sandra Abitan who may be reached by phone at 514-904-5648 or

email at [sabitan@osler.com](mailto:sabitan@osler.com). If the parties are unable to resolve the dispute between themselves, the Landlord or Merchant shall have the right to schedule a "status hearing" before the Court on no less than two (2) days written notice to the other party or parties, during which time the Consultant shall cease all activity in dispute other than activity expressly permitted herein, pending the determination of the matter by the Court; provided, however, subject to para. 4 of these Sales Guidelines, that if a banner has been hung in accordance with these Sale Guidelines and is thereafter the subject of a dispute, the Consultant shall not be required to take any such banner down pending determination of the dispute.

16. Nothing herein is, or shall be deemed to be a consent by any Landlord to the sale, assignment or transfer of any Lease, or to grant to the Landlord any greater rights than already exist under the terms of any applicable Lease.
17. These Sale Guidelines may be amended by written agreement between the Merchant, the Consultant and any applicable Landlord (provided that such amended Sale Guidelines shall not affect or bind any other Landlord not privy thereto without further Order of the Court approving the amended Sales Guidelines



Court File No.: CV-17-11677-00CL

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 GRAFTON-FRASER INC.

(the "Applicant")

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
[COMMERCIAL LIST]**

Proceedings commenced in Toronto

**ORDER  
(Liquidation Consulting Agreement)  
(Returnable January 30, 2017)**

**FASKEN MARTINEAU DuMOULIN LLP**

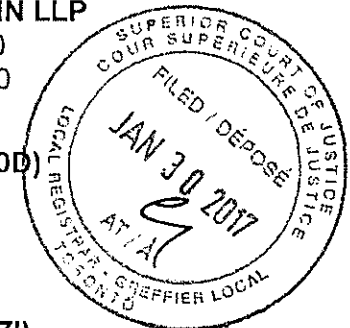
333 Bay Street – Suite 2400  
Bay Adelaide Centre, Box 20  
Toronto, ON M5H 2T6

**Stuart Brotman (LSUC#43430D)**

Tel: 416 865 5419  
Fax: 416 364 7813  
sbrotman@fasken.com

**Dylan Chochla (LSUC#62137I)**


Tel: 416 868 3425  
Fax: 416 364 7813  
dchochla@fasken.com



Lawyers for the Applicant, Grafton-Fraser Inc.

# **EXHIBIT "C"**

***THIS IS EXHIBIT "C"***  
*referred to in the Affidavit of*  
*Mark Sun sworn before me on*  
*April 12, 2017*

  
\_\_\_\_\_  
*A Commissioner for taking Affidavits*

Russell Moses Lindzon,  
a Commissioner, etc., Province of Ontario,  
while a Student-at-Law.  
Expires February 11, 2018.

ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST



THE HONOURABLE MR. )  
JUSTICE WILTON-SIDOR )  
)

WEDNESDAY, THE 22<sup>nd</sup>  
DAY OF FEBRUARY, 2017 *WWS*

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  
GRAFTON-FRASER INC.

(the "Applicant")

ORDER  
(FIRST STAY EXTENSION)

THIS MOTION made by the Applicant, pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "CCAA") for an Order, *inter alia*, extending the Stay Period (as defined in paragraph 15 of the Initial Order of the Honourable Justice Hailey dated January 25, 2017, as amended and restated by Order dated January 30, 2017 (the "Initial Order")) to and including June 15, 2017, was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Notice of Motion of the Applicant, the Affidavit of Mark Sun sworn February 14, 2017, and the exhibits thereto, the pre-filing report of Richter Advisory Group Inc. ("Richter"), in its capacity as proposed monitor of the Applicant (the "Proposed Monitor"), and the appendices thereto (the "Pre-Filing Report"), the first report of Richter, in its capacity as the monitor of the Applicant (the "Monitor") and the appendices thereto (the "First Report"), and the second report of the Monitor, and the appendices thereto, to be filed (the "Second Report"), and on hearing the submissions of counsel for the Applicant, counsel for the

Monitor, counsel for CIBC, counsel for ~~GSO Capital Partners LP~~, and such other parties as were present, no one else appearing although duly served as appears from the affidavit of service of Irene Artuso sworn February 15, 2017, filed;

### SERVICE AND DEFINITIONS

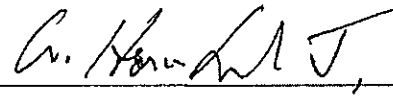
1. **THIS COURT ORDERS** that the time for service of the Notice of Motion and the Motion Record herein be and is hereby abridged and validated so that the Motion is properly returnable today.
2. **THIS COURT ORDERS** that any capitalized term used and not defined herein shall have the meaning ascribed thereto in the Initial Order.

### STAY EXTENSION

3. **THIS COURT ORDERS** that the Stay Period be and is hereby extended until and including June 15, 2017.

### APPROVAL OF MONITOR'S REPORTS

4. **THIS COURT ORDERS** that the Pre-filing Report, the First Report and the Second Report, and the activities of the Proposed Monitor and the Monitor, as applicable, referred to therein, be and are hereby approved.



ENTERED AT / INSCRIT A TORONTO  
ON / BOOK NO:  
LE / DANS LE REGISTRE NO:

FEB 22 2017

PER / PAR:



Court File No.: CV-17-11677-00CL

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 GRAFTON-FRASER INC.

(the "Applicant")

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
[COMMERCIAL LIST]**

**Proceedings commenced in Toronto**

**ORDER  
(STAY EXTENSION)  
(Returnable February 22, 2017)**

**FASKEN MARTINEAU DuMOULIN LLP**  
333 Bay Street – Suite 2400  
Bay Adelaide Centre, Box 20  
Toronto, ON M5H 2T6

**Stuart Brotman (LSUC#43430D)**  
Tel: 416 865 5419  
Fax: 416 364 7813  
sbrotman@fasken.com

**Dylan Chochla (LSUC#62137I)**  
Tel: 416 868 3425  
Fax: 416 364 7813  
dchochla@fasken.com

Lawyers for the Applicant, Grafton-Fraser Inc.

# **EXHIBIT "D"**

***THIS IS EXHIBIT "D"***  
*referred to in the Affidavit of*  
*Mark Sun sworn before me on*  
*April 12, 2017*

  
\_\_\_\_\_  
*A Commissioner for taking Affidavits*

Russell Moses Lindzon,  
a Commissioner, etc., Province of Ontario,  
while a Student-at-Law.  
Expires February 11, 2018.



# ASSET PURCHASE AGREEMENT

GRAFTON-FRASER INC.

- and -

1104307 B.C. LTD.

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JANUARY 24, 2017

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## TABLE OF CONTENTS

Page

### ARTICLE 1 DEFINITIONS AND PRINCIPLES OF INTERPRETATION

1.1	Definitions.....	2
1.2	Certain Rules of Interpretation.....	9
1.3	Entire Agreement.....	10
1.4	Appendices.....	10
1.5	Schedules.....	10
1.6	Conflict.....	11
1.7	Recitals.....	11

### ARTICLE 2 PURCHASE AND SALE

2.1	Purchase and Sale of Purchased Assets.....	11
2.2	Excluded Assets.....	13
2.3	Assumed Liabilities.....	14
2.4	Excluded Liabilities.....	15
2.5	Third Party Consents.....	16
2.6	Final Schedules.....	16

### ARTICLE 3 PURCHASE PRICE AND ALLOCATION

3.1	Purchase Price.....	16
3.2	Satisfaction of Purchase Price.....	17
3.3	Guaranteed Purchase Price Allocation.....	17

### ARTICLE 4 EMPLOYEE MATTERS

4.1	Offers to Employees.....	17
4.2	Employee Liability.....	18

### ARTICLE 5 TAX MATTERS

5.1	Transfer Taxes.....	18
5.2	ETA Elections.....	19
5.3	Other Tax Elections.....	19

### ARTICLE 6 CLOSING AND CLOSING CONDITIONS

6.1	Closing.....	19
6.2	Seller's Deliveries.....	19
6.3	Purchaser's Deliveries.....	20
6.4	Conditions of Closing in Favour of Purchaser.....	21
6.5	Conditions of Closing in Favour of Seller.....	23

6.6	Monitor's Certificate .....	25
6.7	Possession of Assets and Risk of Loss .....	25

**ARTICLE 7**  
**REPRESENTATIONS AND WARRANTIES**

7.1	Representations and Warranties of Seller .....	26
7.2	Representations and Warranties of Purchaser.....	27

**ARTICLE 8**  
**COVENANTS OF THE PARTIES**

8.1	Covenants of Seller .....	28
8.2	Covenant of Purchaser in respect of Wind-Down Amount .....	29
8.3	General Covenants of Purchaser .....	29

**ARTICLE 9**  
**STALKING HORSE AND SISP**

9.1	Stalking Horse and SISP .....	29
-----	-------------------------------	----

**ARTICLE 10**  
**CONFIDENTIALITY**

10.1	Confidentiality .....	30
------	-----------------------	----

**ARTICLE 11**  
**TERMINATION**

11.1	Termination.....	30
11.2	Effect of Termination.....	31

**ARTICLE 12**  
**AS IS WHERE IS**

12.1	Acquisition of Assets on "As Is, Where Is" Basis .....	31
------	--	----

**ARTICLE 13**  
**GENERAL**

13.1	Disputes.....	32
13.2	Notices .....	32
13.3	Assignment .....	33
13.4	Time of the Essence .....	34
13.5	Enurement.....	34
13.6	Amendment.....	34
13.7	Further Assurances.....	34
13.8	Survival.....	34
13.9	Personal Information.....	34
13.10	Benefit of Agreement.....	35
13.11	Severability .....	35
13.12	Governing Law .....	35

13.13 Execution and Delivery..... 35

2017                      THIS ASSET PURCHASE AGREEMENT is made the 24<sup>th</sup> day of January,

**BY AND AMONG:**

**GRAFTON-FRASER INC.**,  
a corporation existing under the laws of  
the Province of Ontario,

(hereinafter referred to as "**Seller**"),

- and -

**1104307 B.C. LTD.**  
a corporation existing under the laws of  
the Province of British Columbia,

(hereinafter referred to as "**Purchaser**").

**RECITALS:**

- A. Seller operates a men's retail business under the Tip Top, George Richards, Big & Tall, Mr. Big and Tall and Kingsport banners (the "**Business**");
- B. Seller intends to obtain protection from its creditors and certain relief under the *Companies' Creditors Arrangement Act* (Canada) (the "**CCAA**") pursuant to the Initial Order (as defined below) and seek the appointment of Richter Advisory Group Inc. as the court-appointed monitor of Seller (the "**Monitor**");
- C. Subject to approval of the Ontario Superior Court of Justice (Commercial List) (the "**Court**"), Seller has agreed to sell, transfer and assign to Purchaser and Purchaser has agreed to purchase certain of Seller's assets used in connection with, and assume certain liabilities and obligations of, the Business, upon the terms and subject to the conditions set forth herein; and
- D. Purchaser has agreed that its offer contained in this Agreement will act as a "stalking horse bid" and will continue to be open for acceptance in accordance with the Court approved sale process appended to this Agreement.

**THEREFORE** in consideration of the foregoing and their respective representations, warranties, covenants and agreements herein contained, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound hereby, the Parties (as defined herein) hereby 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:

"**ABL Agent**" means Canadian Imperial Bank of Commerce, in its capacity as administrative agent on its own behalf and on behalf of the Lenders under the Revolving Facility;

"**ABL Obligations**" has the meaning given to that term in the Intercreditor Agreement;

"**ABL Priority Collateral**" has the meaning given to that term in the Intercreditor Agreement;

"**Additional Advance**" has the meaning given to that term in the GSO Facility Amendment;

"**Administration Charge**" has the meaning given to that term in the Initial Order;

"**Affiliate**" of any Person means, at the time such determination is being made, any other Person controlling, controlled by or under common control with such first Person, where "control" means the possession, directly or indirectly, of the power to direct the management and policies of such Person, whether through the ownership of voting securities or otherwise;

"**Agreement**" means this asset purchase agreement, including all appendices, schedules, and all amendments or restatements, as permitted, and references to "**Article**", "**Section**", "**Appendix**" or "**Schedule**" mean the specified Article or Section of, Appendix or Schedule to, this Agreement;

"**Approved Cash Flow**" means the 13-week period detailed cash flow attached to the DIP Agreement as it may be substituted pursuant to the terms of the DIP Agreement;

"**Assumed Contracts**" has the meaning set out in Section 2.1(e);

"**Assumed Liabilities**" has the meaning set out in Section 2.3;

"**Assumed Real Property Leases**" has the meaning set out in Section 2.1(d);

"**Authorization**" means, with respect to any Person, any order, permit, approval, consent, waiver, licence or similar authorization of any Governmental Authority related to the Purchased Assets or the Business;

"**Back-Up Bid**" has the meaning set out in the SISP;

"**Books and Records**" has the meaning set out in Section 2.1(k);

"**Business**" has the meaning set out in the recitals;

"**Business Day**" means any day other than a Saturday, Sunday or statutory holiday in the Province of Ontario or the State of New York;

"**Cash**" has the meaning set out in Section 2.1(l);

"**CCAA**" has the meaning set out in the recitals;

"**CCAA Assignment Order**" means an order of the Court made pursuant to section 11.3 of the CCAA, in form and substance satisfactory to Purchaser and Seller, and obtained on application made on notice to, such Persons as Purchaser and Seller determine, acting reasonably, to be sought by Seller assigning the rights and obligations of Seller under an Assumed Contract for which a consent, approval or waiver necessary for the assignment of such Assumed Contract has not been obtained prior to the Closing Time to Purchaser;

"**CCAA Proceeding**" means the proceedings under the CCAA to which Seller will be subject pursuant to the Initial Order;

"**Closing**" means the successful completion of the Transaction pursuant to the terms of this Agreement;

"**Closing Date**" means the date that is four Business Days following the date on which all of the conditions in Sections 6.4 and 6.5 have been satisfied or waived, except for those conditions that by their nature can only be satisfied on the Closing Date, or such earlier or later date as agreed to by the Parties;

"**Closing Time**" means 10:00 a.m. (Toronto time) on the Closing Date, or such other time on the Closing Date as Seller and Purchaser may agree;

"**Commissioner**" means the Commissioner of Competition, appointed pursuant to the *Competition Act* (Canada);

"**Computers**" has the meaning set out in Section 2.1(c);

"**Confidentiality Agreement**" means the confidentiality agreement between Seller and GSO dated November 29, 2016;

"**Consulting Agreement**" means the agreement between Seller and an agent engaged by Seller for the purpose of conducting the Liquidation;

"**Contracts**" means all contracts, licences, leases, agreements, obligations, promises, undertakings, understandings, arrangements, documents, commitments, entitlements or engagements to which Seller is a party, by which Seller is bound or under which Seller has, or will have, any liability, whether actual or contingent (in each case, whether written or oral, express or implied) relating to the Purchased Assets and/or the Business, as same may be amended and/or restated, and including any and all related quotations, orders, proposals, tenders

or bookings which remain open for acceptance, warranties, guarantees and documents ancillary thereto relating to the Business;

"**Court**" has the meaning set out in the recitals;

"**Cure Costs**" means, in respect of any Assumed Contract, amounts, if any, that must be paid by Purchaser pursuant to section 11.3(4) of the CCAA;

"**DIP Agreement**" means the agreement dated January , 2017 among Seller, GSO, as agent, Willmington Trust, National Association, as servicing agent and the DIP Lenders, as such agreement may be amended, supplemented or otherwise modified;

"**DIP Facility**" means the \$5.5 million debtor-in-possession credit facility made available to Seller for use during the CCAA Proceeding pursuant to the DIP Agreement;

"**DIP Financing Order**" means an order of the Court in form and substance satisfactory to Purchaser obtained on application made on notice to such persons as Purchaser and Seller determine, acting reasonably, approving the DIP Facility, the Encumbrances contemplated therein and the priority thereof, which order may be part of the Initial Order;

"**DIP Lenders**" means the lenders from time to time party to the DIP Facility;

"**Employee Plans**" means the following benefit plans sponsored by Seller, comprised of Sun Life Group Policy No. 87050 for all Regular Employees (Class 1), Sun Life Group Policy No. 87050 for Executives (Class 2) and Sun Life Group Policy No. 87050 for Senior Management (Class 3), as such plans may be amended and restated from time to time;

"**Employees**" means any and all (a) employees or independent contractors of Seller who are actively at work (including full-time, part-time or temporary employees), and (b) employees or independent contractors of Seller who are on lay-off or other leaves of absence (including pregnancy leave, parental leave, disability leave, sickness leave, workers' compensation and other statutory leaves);

"**Encumbrances**" means any encumbrance, lien, charge, hypothec, pledge, mortgage, title retention agreement, security interest of any nature, adverse claim, exception, reservation, easement, encroachment, servitude, restriction on use, right of occupation, any matter capable of registration against title, option, right of first offer or refusal or similar right, restriction on voting (in the case of any voting or equity interest), right of pre-emption or privilege or any contract to create any of the foregoing;

"**Equipment**" has the meaning set out in Section 2.1(b);

"**ETA**" means Part IX of the *Excise Tax Act* (Canada), as amended from time to time;

"**Excluded Assets**" has the meaning set out in Section 2.2;



"**Excluded Contracts**" has the meaning set out in Section 2.2(c);

"**Excluded Equipment and Fixtures**" has the meaning set out in Section 2.2(g);

"**Excluded Inventory**" has the meaning set out in Section 2.2(f);

"**Excluded Liabilities**" has the meaning set out in Section 2.4;

"**Excluded Locations**" means Seller's retail store locations, distribution centers, storage facilities and warehouses, other than the Purchased Locations;

"**Filing Date**" means " the date the Initial Order is made granting Seller protection under the CCAA;

"**Governmental Authority**" means any government, regulatory authority, governmental department, agency, commission, bureau, official, minister, Crown corporation, court, body, board, tribunal or dispute settlement panel or other law or regulation-making organization or entity: (a) having or purporting to have jurisdiction on behalf of any nation, province, territory, state or other geographic or political subdivision thereof; or (b) exercising, or entitled or purporting to exercise, any administrative, executive, judicial, legislative, policy, regulatory or taxing authority or power;

"**GSO**" means GSO Capital Partners LP;

"**GSO Facility**" means the non-revolving credit facility dated as of June 16, 2009 made available to Seller pursuant to the amended and restated credit agreement entered into by Seller, as borrower, Wilmington Trust, National Association, as servicing agent, GSO, as administrative agent, Guarantor, as guarantor, and GSO Domestic Capital Funding (Luxembourg) S.A.R.L. and GSO Offshore Multicurrency Facility (Luxembourg) S.A.R.L., as lenders, as amended on April 12, 2010, June 11, 2010, March 18, 2011, December 31, 2012, June 17, 2014, July 7, 2015, July 23, 2015, February 12, 2016, June 6, 2016, August 3, 2016, September 26, 2016, November 29, 2016, December 15, 2016, December 23, 2016 and January 23, 2017 as it may be further amended, supplemented or otherwise modified;

"**GSO Facility Amendment**" means the amending agreement dated as of December 23, 2016 entered into by Seller, as borrower, Wilmington Trust, National Association, as servicing agent, GSO, as administrative agent, Guarantor, as guarantor, and GSO Domestic Capital Funding (Luxembourg) S.A.R.L. and GSO Offshore Multicurrency Facility (Luxembourg) S.A.R.L., as lenders, amending the GSO Facility to, among other things, increase the availability under the GSO Facility by \$2,500,000;

"**Guaranteed Purchase Price**" has the meaning set out in Section 3.1;

"**Guarantor**" means 2473304 Ontario Inc.;

"HST" means all Taxes payable under the ETA, including goods and services Taxes and any harmonized sales Taxes in applicable provinces, or under any provincial legislation similar to the ETA, and any reference to a specific provision of the ETA or any such provincial legislation shall refer to any successor provision thereto of like or similar effect;

"Initial Order" means an order of the Court, in form and substance satisfactory to Seller and Purchaser, and obtained on application made on notice to, such Persons as Purchaser and Seller determine, acting reasonably, to be sought by Seller with respect to the appointment of the Monitor and with respect to the CCAA Proceeding, as may be amended;

"Intellectual Property" has the meaning set out in Section 2.1(f);

"Intercreditor Agreement" means the intercreditor agreement dated as of February 12, 2016 entered into by the ABL Agent and GSO, as it may be amended, supplemented or otherwise modified;

"Inventory" has the meaning set out in Section 2.1(a);

"ITA" means the *Income Tax Act* (Canada);

"Law" means any federal, provincial, county, territorial, district, municipal, local, foreign, supranational or international law, statute, ordinance, regulation, by-law, rule, code, treaty or rule of common law or otherwise of, or any order, judgment, injunction, decree or similar authority enacted, issued, promulgated, enforced or entered by, any Governmental Authority;

"Lenders" means the lenders from time to time party to the Revolving Facility;

"Liquidation" means the sale and liquidation of certain of the Excluded Assets, including the Excluded Inventory and Excluded Equipment and Fixtures by Seller, or an agent engaged by Seller, including pursuant to the transaction contemplated in the Consulting Agreement;

"Monitor" has the meaning set out in the recitals;

"Monitor's Certificate" means the certificate filed with the Court by the Monitor certifying that the Monitor has received written confirmation from the Parties that all conditions of Closing have been satisfied or waived by the applicable Parties;

"New Revolving Facility" means an asset-based revolving credit facility provided by the ABL Agent and the Lenders to Purchaser to meet the working capital needs of the Business from and after the Closing Date and to repay the Revolving Facility, on terms acceptable to Purchaser;

"No-Action Letter" means written confirmation from the Commissioner confirming that the Commissioner does not, at that time, intend to make an application under section 92 of the *Competition Act* (Canada) in respect of the Transaction;

"Parties" means Seller and Purchaser and "Party" means any one of them;

"**Permitted Encumbrances**" means the Encumbrances listed in Schedule 1.1(a), provided that, in the case of the Encumbrances on the ABL Priority Collateral, such Encumbrances are limited to the extent of the ABL Obligations;

"**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;

"**Priority Payables**" means HST, sales Tax and any amount payable or accrued by Seller which is secured by an Encumbrance which ranks or is capable of ranking prior to or *pari passu* with the Encumbrances created in connection with the Secured Debt, (other than the Permitted Encumbrances and the Administration Charge) including amounts accrued or owing for wages, vacation pay, termination pay (only where it is a priority payable), employee deductions, or Taxes, and other statutory or other claims that have or may have priority over, or rank *pari passu* with, the Encumbrances created in connection with the Secured Debt;

"**Purchase Price**" has the meaning set out in Section 3.1;

"**Purchased Assets**" has the meaning set out in Section 2.1;

"**Purchased Locations**" means Seller's retail store locations, distribution centres and warehouses identified on Schedule 1.1(b);

"**Purchased Shares**" has the meaning set out in Section 2.1(r);

"**Revolving Facility**" means the asset-based revolving credit facility dated as of February 12, 2016 made available to Seller pursuant to the credit agreement entered into by Seller and Guarantor, as co-borrowers, the ABL Agent and the Lenders, as it may be amended, supplemented or otherwise modified;

"**Richter**" means Richter Advisory Group Inc., Richter Consulting Canada Inc. or any Affiliate thereof;

"**Secured Debt**" means all indebtedness, liabilities and obligations owing by Seller and Guarantor under the GSO Facility and any security or other documents or instruments granted or entered into in connection therewith to the agents and lenders thereunder, together with all accrued and accruing interest, fees, costs and expenses;

"**Seller**" has the meaning set out in the recitals;

"**SISP**" means the sales and investor solicitation process substantially in the form attached as Appendix "A" or such other form as Seller and Purchaser may agree;

"**Software**" means any computer program, operating system, application, system, firmware or software of any nature, point-of-entry system, peripherals, and data whether operational, active,

under development or design, nonoperational or inactive, including all object code, source code, comment code, algorithms, processes, formulae, interfaces, navigational devices, menu structures or arrangements, icons, operational instructions, scripts, commands, syntax, screen designs, reports, designs, concepts, visual expressions, technical manuals, tests scripts, user manuals and other documentation therefor, whether in machine-readable form, virtual machine-readable form, programming language, modeling language or any other language or symbols, and whether stored, encoded, recorded or written on disk, tape, film, memory device, paper or other media of any nature, and all databases necessary or appropriate in connection with the operation or use of any such computer program, operating system, application, system, firmware or software;

**"Stalking Horse and SISP Order"** has the meaning set out in Section 9.1;

**"Stalking Horse Bid"** has the meaning set out in Section 9.1;

**"Successful Bid"** has the meaning set out in the SISP;

**"Supplier"** has the meaning set out in Section 2.3(e);

**"Supplier Agreements"** has the meaning set out in Section 6.4(k);

**"Supplier Liabilities"** has the meaning set out in Section 2.3(e);

**"Tax"** and **"Taxes"** means any taxes, duties, fees, premiums, assessments, imposts, levies and other charges of any kind whatsoever imposed by any Governmental Authority, 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, income, gross receipts, profits, capital, transfer, land transfer, sales, goods and services, harmonized sales, use, excise, withholding, business, franchising, property, development, occupancy, payroll, health, social services, education, employment and all 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, and other government pension plan premiums or contributions;

**"Term Priority Collateral"** has the meaning set out in the Intercreditor Agreement;

**"Termination Date"** means June 15, 2017, or such other date as Seller and Purchaser may agree, acting reasonably;

**"Third Party Consents"** means the Authorization and/or consents, approvals and/or authorizations as may be required for the assignment of the Assumed Real Property Leases and the other Assumed Contracts to Purchaser;

**"Transaction"** means the transaction of purchase and sale contemplated by this Agreement;

**"Transfer Taxes"** has the meaning set out in Section 5.1;

"**Transferred Employees**" has the meaning set out in Section 4.1;

"**Vesting Order**" means an order of the Court, in form and substance satisfactory to Purchaser and Seller, and obtained on application made on notice to, such Persons as Purchaser and Seller determine, acting reasonably, to be sought by Seller approving this Agreement and the Transaction and vesting in and to Purchaser the Purchased Assets free and clear of all Encumbrances (other than Permitted Encumbrances), substantially in the form attached at Schedule 1.1(c) subject to such amendments as Seller and Purchaser may mutually agree acting reasonably; and

"**Wind-Down Amount**" has the meaning set out in Section 8.2.

## 1.2 Certain Rules of Interpretation

In this Agreement:

- (a) **Currency** – All references to dollar amounts are to lawful currency of Canada unless otherwise stated;
- (b) **Headings** – Headings of Articles and Sections are inserted for convenience of reference only and shall not affect the construction or interpretation of this Agreement;
- (c) **Including** – Where the word "including" or "includes" is used in this Agreement, it means "including (or includes) without limitation";
- (d) **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;
- (e) **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;
- (f) **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; and
- (g) **Legislation** – A reference to any legislation or to any provision of any legislation shall include any amendment to, and any modification or re-enactment thereof, any legislative provision substituted therefore and all regulations and statutory instruments issued thereunder or pursuant thereto.

1.3 Entire Agreement

This Agreement, the Confidentiality Agreement, the DIP Facility and the agreements and other documents required to be delivered pursuant hereto and thereto, constitute the entire agreement between the Parties and set out all the covenants, promises, warranties, representations, conditions, understandings and agreements between the Parties relating to the subject matter of this Agreement, the Confidentiality Agreement and the DIP Facility and supersede all prior agreements, understandings, negotiations and discussions, whether oral or written. There are no covenants, promises, warranties, representations, conditions, understandings or other agreements, oral or written, express, implied or collateral between the Parties in connection with the subject matter of Agreement, the Confidentiality Agreement or the DIP Facility, except as specifically set forth in this Agreement, the Confidentiality Agreement and the DIP Facility.

1.4 Appendices

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

<u>Appendix</u>	<u>Description</u>
Appendix A	- Sales and Investor Solicitation Process

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)	- Permitted Encumbrances
Schedule 1.1(b)	- Purchased Locations
Schedule 1.1(c)	- Vesting Order
Schedule 2.1(e)	- Assumed Contracts
Schedule 2.1(f)	- Intellectual Property
Schedule 2.2(a)	- Excluded Assets
Schedule 2.2(c)	- Excluded Contracts
Schedule 2.3(e)	- Assumed Accounts Payable
Schedule 3.3	- Guaranteed Purchase Price Allocation
Schedule 6.4(l)	- Assumed Contracts Conditional to Closing
Schedule 9.1	- Stalking Horse and SISP Order

1.6 **Conflict**

In the event of any conflict between the provisions of the body of this Agreement and the Appendices and Schedules, the provisions of the body of this Agreement shall prevail. To the extent there is any inconsistency between this Agreement, the Confidentiality Agreement, the DIP Agreement and the DIP Facility, the DIP Agreement shall prevail.

1.7 **Recitals**

The Recitals to this Agreement are an integral part of this Agreement.

**ARTICLE 2**  
**PURCHASE AND SALE**

2.1 **Purchase and Sale of Purchased Assets**

Subject to the provisions of this Agreement, at the Closing Time, Seller shall transfer, sell, convey, assign and deliver unto Purchaser, and Purchaser shall purchase, acquire and accept from Seller all right, title and interest of Seller in and to the following property and assets (collectively, the "Purchased Assets"):

- (a) **Inventory**. All inventories manufactured by Seller or purchased from third party vendors, including raw materials, work-in-process and packaging materials and all finished goods inventory saleable in the ordinary course of the Business or any item of merchandise that is not first quality, not saleable in the ordinary course, worn, faded, torn, mismatched, or affected by other similar defects rendering it not first quality in each case located at the Purchased Locations from and after the date of this Agreement or in transit to a Purchased Location (collectively, the "**Inventory**"), other than Inventory that is sold in the ordinary course of the Business between the date of this Agreement and the Closing Time;
- (b) **Equipment, Fixtures and Furniture**. All equipment, fixtures, furniture, displays and signage in each case located at the Purchased Locations as at the date of this Agreement (collectively, the "**Equipment**");
- (c) **Computers and Software**. All computer hardware and Software owned by or licensed by Seller and used in connection with the Business (collectively, the "**Computers**");
- (d) **Leased Real Property**. All rights of Seller as lessee of real property for the Purchased Locations and all leasehold improvements related thereto (collectively, the "**Assumed Real Property Leases**");
- (e) **Assumed Contracts**. All Contracts, including the Assumed Real Property Leases and the Contracts listed on Schedule 2.1(e) (collectively, the "**Assumed Contracts**");

- (f) Intellectual Property. All right, title and interest of Seller in and to intellectual property of any nature owned by Seller and relating to the Business, including, customer lists, supplier lists, trademarks, proposed trademarks, certification marks, distinguishing guises, industrial designs, copyrights, formulae, processes, research data, technical expertise, know-how, trade secrets, inventions, patent rights, patent registrations, patent continuations or patents, whether domestic or foreign and whether registered or unregistered, and all applications for registration in respect thereof, including the intellectual property listed on Schedule 2.1(f) (collectively, the "**Intellectual Property**");
- (g) Business and Domain Names. All rights of Seller to all trade names, business names and domain names, including the domain names and business names listed on Schedule 2.1(f) and any derivation thereof or any trademarks or trade names incorporating such business names;
- (h) Goodwill. The goodwill of the Business, together with the exclusive right of Purchaser to represent itself as carrying on the Business in continuation of and in succession to Seller, including all choses in action where Seller is the plaintiff or moving party and other intangibles relating to the Business that do not form part of the Intellectual Property;
- (i) Prepaid Expenses. All prepaid expenses;
- (j) Authorizations. All Authorizations, owned, held or used by Seller in connection with the Business to the extent that they are transferable;
- (k) Books and Records. All books and records (other than those required by Law to be retained by Seller, copies of which will be made available to Purchaser), including customer lists, sales records, price lists and catalogues, sales literature, advertising material, manufacturing data, production records, employee manuals, personnel records, supply records, inventory records and correspondence files (together with, in the case of any such information which is stored electronically, the media on which the same is stored) but for greater certainty, excluding corporate and Tax records in respect of Seller (collectively, the "**Books and Records**");
- (l) Cash. All cash on hand, cash equivalents, bank deposits, proceeds from the sale of gift cards by Seller and cash floats and petty cash (the "**Cash**");
- (m) DIP Facility. All rights of Seller as borrower under the DIP Facility;
- (n) GSO Facility. All rights of Seller as borrower under the GSO Facility;
- (o) Proceeds. All right, title and interest of Seller in and to the net proceeds, if any, from the sale of any Excluded Equipment and Fixtures or rights of Seller as lessee



of real property for the Excluded Locations, including proceeds from the sale of such assets arising from the Liquidation;

- (p) Receivables. All accounts receivables of Seller relating to the Business;
- (q) Taxes. Income Tax instalments paid by Seller and the right to receive any refund of income Taxes paid by Seller;
- (r) Purchased Shares. All shares of Gailwood Investments Limited owned by Seller (the "Purchased Shares");
- (s) Employee Plans. All rights and interests of Seller in and to the Employee Plans in respect of the Transferred Employees; and
- (t) Express Consents – Canada's Anti-Spam Law. All express consents obtained by Seller under applicable privacy and anti-spam Laws from any person to (i) send or cause to be sent an electronic message to such person, (ii) alter or cause to be altered the transmission data in an electronic message so that the message is delivered to a destination other than or in addition to that specified by such person.

## 2.2 Excluded Assets

Notwithstanding any provision of this Agreement the Purchased Assets shall not include any assets (other than the Purchased Assets) used or held for use in connection with the Business (collectively, the "**Excluded Assets**") including:

- (a) the property and assets described in Schedule 2.2(a);
- (b) the rights of Seller under this Agreement, the Consulting Agreement and each other document and agreement contemplated hereby and thereby;
- (c) the rights of Seller under the Contracts listed in Schedule 2.2(c) and any Contracts that are not assignable as contemplated in Section 2.5 (collectively, the "**Excluded Contracts**");
- (d) the rights of Seller as borrower under the Revolving Facility;
- (e) all Books and Records required by Law to be retained by Seller, including personnel records, corporate minute books and Tax records;
- (f) all inventories manufactured by Seller or purchased from third party vendors, including raw materials, work-in-process and packaging materials and all finished goods inventory saleable in the ordinary course of the Business or any item of merchandise that is not first quality, not saleable in the ordinary course, worn, faded, torn, mismatched, or affected by other similar defects rendering it not first

quality that is sold as part of the Liquidation (collectively, the "**Excluded Inventory**");

- (g) all equipment, fixtures, furniture, displays and signage in each case located at the Excluded Locations as at the date of this Agreement (collectively, the "**Excluded Equipment and Fixtures**"); and
- (h) all rights of Seller as lessee of real property for the Excluded Locations and all leasehold improvements related thereto.

### 2.3 Assumed Liabilities

On the terms and subject to the conditions of this Agreement, Purchaser agrees, effective at the Closing Time to assume and be responsible for and thereafter honour, perform, discharge and pay as and when due the following obligations and liabilities of Seller:

- (a) all debts, liabilities and obligations with respect to the Purchased Assets from and after the Closing Time, including all debts, liabilities and obligations and services to be rendered in connection with the Business solely in relation to the Purchased Assets accrued from and after the Closing Time;
- (b) subject to subsection 2.5(a), all debts, liabilities and obligations under the Assumed Contracts accrued from and after the Closing Time;
- (c) subject to subsection 2.5(a), all Cure Costs in respect of the Assumed Contracts;
- (d) operational expenses incurred by Seller after the Filing Date in connection with the operation and wind-down of the Business, to the extent reflected in the Approved Cash Flows and not paid at the Closing Time;
- (e) all debts, liabilities and obligations of Seller relating to the Business owing to the Persons that are listed on Schedule 2.3(e) as of the Closing Time (each, a "**Supplier**"), which are incurred in connection with the purchase of goods or services for the Purchased Locations in the ordinary course of the Business (the "**Supplier Liabilities**"), to be paid over the course of a period of six months commencing on the Closing Date and provide that the applicable Supplier has entered into a Supplier Agreement with Seller and Purchaser on terms acceptable to Purchaser and the ABL Agent, acting reasonably;
- (f) any Transfer Taxes payable by Purchaser pursuant to Section 5.1;
- (g) all liabilities and obligations of Seller in respect of the gift card program established and administered for customers of Seller;
- (h) all liabilities and obligations of Seller to Transferred Employees assumed by Purchaser pursuant to Section 4.2;

- (i) all debts, liabilities and obligations of Seller for the principal, plus accrued interest and fees outstanding under the Revolving Facility as of the Closing Time;
- (j) all debts, liabilities and obligations of Seller under the DIP Facility;
- (k) all debts, liabilities and obligations of Seller under the GSO Facility after giving effect to the release and acknowledgement referred to in Section 6.3(g);
- (l) the Priority Payables outstanding at the Closing Time, to the extent such Priority Payables are reflected in the Approved Cash Flow;
- (m) all debts, liabilities and obligations of Seller associated with customer deposits received by Seller prior to the Closing Time; and
- (n) any other obligations and liabilities expressly assumed under this Agreement, (collectively, the "**Assumed Liabilities**").

#### 2.4 Excluded Liabilities

Other than the Assumed Liabilities, Purchaser shall not assume and shall not be liable for any debts, liabilities or obligations of Seller (the "**Excluded Liabilities**") which, for greater certainty, shall include:

- (a) all debts, liabilities and obligations related to any Excluded Assets, including any Excluded Contracts;
- (b) all debts, liabilities and obligations arising from the ownership or use of the Purchased Assets prior to the Closing Date, other than those that are specified as liabilities and obligations to be assumed by Purchaser under Section 2.3;
- (c) all debts, liabilities and obligations of Seller in respect of any actions, causes of action, litigation proceedings, lawsuits, court proceedings or proceedings before any Governmental Authority against Seller or arising from Seller's ownership or use of the Purchased Assets or conduct of the Business prior to the Closing Time;
- (d) any Taxes payable or remittable by Seller, other than Transfer Taxes payable by Purchaser pursuant to Section 5.1;
- (e) Encumbrances, other than Permitted Encumbrances; and
- (f) other than Assumed Liabilities in respect of Transferred Employees, all liabilities and obligations of Seller and any of its Affiliates to the Employees.

## 2.5 Third Party Consents

(a) Notwithstanding anything contained in this Agreement or elsewhere, Purchaser will not assume and will have no obligation to discharge any debt, liability or obligation under any Assumed Contract or Authorization which is not assignable or assumable in whole or in part without a Third Party Consent, unless such Third Party Consent, Authorization or, as applicable, a CCAA Assignment Order, has been obtained.

(b) Following the issuance of the Initial Order and, if this Stalking Horse Bid is the Successful Bid, until the Closing Date, Seller shall use commercially reasonable efforts to obtain all Third Party Consents and Authorizations, and, if any Third Party Consent cannot be obtained, to use commercially reasonable efforts to apply for and obtain a CCAA Assignment Order prior to the Closing Time. Purchaser shall provide its reasonable cooperation to assist the Seller in obtaining any such Third Party Consent and Authorization.

## 2.6 Final Schedules

(a) No later than February 17, 2017, Purchaser shall provide Seller with (a) Schedule 1.1(b) identifying the Purchased Locations that it wishes to acquire, representing not less than 110 of Seller's retail stores, (b) a revised Schedule 2.1(e) identifying the Assumed Contracts associated with the Purchased Locations, (c) to the extent applicable, revised Schedules 2.2(a) and 2.2(c) identifying any additional Excluded Assets and/or Excluded Contracts, (d) a revised Schedule 6.4(l) identifying the Assumed Contracts that are conditional to Closing, and (e) Schedule 2.3(e) identifying the Supplier Liabilities to be assumed by Purchaser in accordance with Section 2.3(e),

(b) The Parties agree that effective immediately upon delivery of the Schedules referred to in Section 2.6(a), without any further action or formality: (i) Schedules 1.1(b), 2.1(e), 2.3(e) and, if applicable, 2.2(a) and 2.2(c) shall be deemed to be amended and replaced, (ii) any Inventory, Equipment or Cash located at the Purchased Locations identified on Schedule 1.1(b) shall be deemed to be Purchased Assets; and (iii) there shall be no adjustment to the Purchase Price.

## **ARTICLE 3** **PURCHASE PRICE AND ALLOCATION**

### 3.1 Purchase Price

The purchase price for the Purchased Assets at the Closing Time, exclusive of all applicable sales and Transfer Taxes shall be the amount of (a) the Secured Debt on the Closing Date, plus (b) the Assumed Liabilities less an amount equal to the Assumed Liabilities referred to in Section 2.3(k) (the "Guaranteed Purchase Price").

**3.2 Satisfaction of Purchase Price**

Purchaser shall satisfy the Guaranteed Purchase Price at the Closing Time as follows:

- (a) subject to subsection 2.5(a), the payment in cash of an amount sufficient to satisfy all Cure Costs in respect of the Assumed Contracts or the assumption of such liabilities effective as at the Closing Time;
- (b) the payment in cash of an amount sufficient to satisfy the Priority Payables reflected in the Approved Cash Flow outstanding at the Closing Time or the assumption of such liabilities effective as at the Closing Time;
- (c) by causing GSO and the other lender and agent parties to the GSO Facility to release Seller and Guarantor from all of their debts, liabilities and obligations under or with respect to the Secured Debt existing at the Closing Time, other than amounts assumed by Purchaser pursuant to Section 2.3(k); and
- (d) by Purchaser's assumption of the remaining Assumed Liabilities effective at the Closing Time after giving effect to Sections 3.2(a) and 3.2(b).

**3.3 Guaranteed Purchase Price Allocation**

Seller and Purchaser agree to allocate the Purchase Price among the Purchased Assets and to report the sale and purchase of the Purchased Assets for all federal, provincial and local tax purposes in a manner consistent with such allocation no later than 10 Business Days after the Closing Date. The Purchase Price shall be allocated using the methodology set out in Schedule 3.3, which schedule shall be provided by Purchaser to Seller no later than February 17, 2017.

**ARTICLE 4  
EMPLOYEE MATTERS**

**4.1 Offers to Employees**

Conditional upon the Closing and with effect as of the Closing Date (or such later date on which those Employees who are on leave return to active service) Purchaser shall offer employment to be made at least seven days prior to the Closing Date to not less than 1,100 of all of the Employees, such offers of employment to be on terms and conditions of employment which are substantially similar in the aggregate to those terms and conditions as are applicable to such Employees as at the date hereof except with respect to recognition of past service. Purchaser shall only be required to recognize such Employees' past service with Seller for purposes of any minimum standards imposed by applicable employment standards legislation and not, for certainty, any notice of termination, pay in lieu of notice, severance pay or any other payment or damages at common law. The Employees who accept Purchaser's offer of employment are collectively referred to as herein as the "Transferred Employees".

4.2 **Employee Liability**

Purchaser shall assume and be responsible for:

- (a) all liabilities for salary, wages, bonuses, commissions, vacation pay, and other compensation and benefits (including accrued vacation and sick days, pension and retirement benefits and pay in lieu thereof, as well as any other benefits and other similar arrangements) relating to the employment of all Transferred Employees from and after the Closing Date;
- (b) all severance payments, payments for notice of termination or payments in lieu of notice of termination, damages for wrongful dismissal and all related costs in respect of the termination by Purchaser of the employment of any Transferred Employee from and after the Closing Date;
- (c) all liabilities for claims for injury, disability, death or workers' compensation arising from or related to employment of the Transferred Employees from and after the Closing Date;
- (d) all employment-related claims, penalties, contributions, premiums and assessments in respect of the Business arising out of matters which occur from and after the Closing Date; and
- (e) the Employee Plans in respect of the Transferred Employees.

**ARTICLE 5**  
**TAX MATTERS**

5.1 **Transfer Taxes**

All amounts payable by Purchaser to Seller pursuant to this Agreement do not include any value-added, sales, use, consumption, multi-staged, personal property, customs, excise, stamp, land transfer, or similar taxes, duties, or charges, (collectively "Transfer Taxes") and all Transfer Taxes are the responsibility and for the account of Purchaser. If Seller is required by Law or by administration thereof to collect any applicable Transfer Taxes from Purchaser, then Purchaser shall pay such Transfer Taxes to Seller at the Closing Time, unless Seller agrees that Purchaser qualifies for an exemption from any such applicable Transfer Taxes, in which case Purchaser shall, in lieu of payment of such applicable Transfer Taxes to Seller, deliver to Seller such certificates, elections, or other documentation required by Law or the administration thereof to substantiate and effect the exemption claimed by Purchaser. Where Seller is not required by Law or by administration thereof to collect applicable Transfer Taxes, Purchaser shall pay such Transfer Taxes directly to the appropriate taxing authority and shall provide evidence of such payment to Seller upon request. Purchaser shall, at all times, indemnify and hold harmless Seller, its directors, officers, and employees against and in respect of any and all amounts assessed by any taxing authority in respect of any failure on the part of Purchaser to pay applicable Transfer Taxes, including all taxes, interest, and penalties assessed

and including all reasonable legal and professional fees incurred by Seller, its directors, officers, and employees as a consequence of or in relation to any such assessment. Notwithstanding anything else in this Agreement, this indemnity shall survive the Closing Time in perpetuity and shall not be subject to any caps, thresholds or other restrictions.

**5.2 ETA Elections**

If the Purchaser and the Seller, acting reasonably, agree that the elections described herein are legally available to be made, Purchaser and Seller shall, on the Closing Date, elect jointly under subsection 167(1) of the ETA and under any similar provision of any applicable provincial legislation, in the form prescribed for the purposes of each such provision, in respect of the sale and transfer of the Purchased Assets hereunder, and Purchaser shall file such elections with Canada Revenue Agency and any other applicable Governmental Authorities within the time and in the manner required by applicable Laws, and provide Seller with proof of receipt by Canada Revenue Agency or such other applicable Governmental Authority of the receipt of such elections. Purchaser shall indemnify and hold Seller harmless from and against any Taxes payable under the ETA or other applicable provincial legislation and any penalty or interest in respect thereof that may be payable by or assessed against Seller as a result of or in connection with Seller's failure to collect the applicable Taxes payable under the ETA or other applicable provincial legislation on the sale of the Purchased Assets hereunder, including any such Taxes, penalties and interest arising as a result of any failure or refusal by any Governmental Authority to accept any such election or on the basis that any such election was inapplicable, invalid or not properly made. Notwithstanding anything else in this Agreement, this indemnity shall survive the Closing Time in perpetuity and shall not be subject to any caps, thresholds or other restrictions.

**5.3 Other Tax Elections**

Purchaser and Seller shall execute and deliver such other Tax elections and forms as they may mutually agree upon.

**ARTICLE 6  
CLOSING AND CLOSING CONDITIONS**

**6.1 Closing**

Subject to compliance with the terms and conditions hereof, the transfer of possession of the Purchased Assets shall be deemed to take effect as at the Closing Time, or such other date and time as may be agreed upon by the Parties. The Closing shall take place at the offices of Davies Ward Phillips & Vineberg LLP, counsel for Purchaser, 155 Wellington Street West, Toronto, Ontario M5V 3J7.

**6.2 Seller's Deliveries**

On or before the Closing Time, Seller shall deliver or cause to be delivered:

- (a) the Purchased Assets, which shall be delivered *in situ* wherever located as of the Closing Time;
- (b) customary deeds, assignments, bills of sale and other conveyancing documents, to be settled between counsel for Seller and counsel for Purchaser, sufficient to transfer the various categories of Purchased Assets on an "as is where is" basis consistent with the terms of this Agreement and the Vesting Order;
- (c) specific assignments of all the right, title and interest of Seller in and to the Intellectual Property as may be required for registration purposes;
- (d) a copy of the issued and entered Vesting Order;
- (e) a certificate by a senior officer of Seller certifying that the representations and warranties of Seller set out herein are true and correct in all material respects at the Closing Time (unless they are expressed to be made only as of an earlier fixed date, in which case they need be true and correct only as of such earlier date);
- (f) a payout letter from the ABL Agent setting out the debts, liabilities and obligation of Seller for the principal, plus accrued interest and fees outstanding under the Revolving Facility as of the Closing Time;
- (g) a share purchase agreement and other authorizing and conveyancing documents, to be settled between counsel for Seller and counsel for Purchaser, sufficient to transfer the Purchased Shares to Purchaser;
- (h) an acknowledgement addressed to the Monitor dated the Closing Date that each of the conditions precedent in Section 6.5 have been fulfilled, performed or waived as of the Closing Time;
- (i) an executed copy of the Monitor's Certificate;
- (j) the elections referred to in Sections 5.2 and 5.3; and
- (k) any other documents required to give effect to this Agreement in form and substance satisfactory to the Parties, each acting reasonably.

### 6.3 Purchaser's Deliveries

On or before the Closing Time, Purchaser shall deliver or caused to be delivered:

- (a) if applicable, payment of the cash portion of the Guaranteed Purchase Price, which shall be paid to the Monitor by cash payment by way of certified cheque on bank draft to or to the order of the Monitor or by wire transfer in immediately available funds to an account which shall be designated by the Monitor to the Purchaser;



- (b) customary deeds, assignments, bills of sale and other conveyancing documents to be settled between counsel for Seller and counsel for Purchaser, sufficient to transfer the various categories of Purchased Assets on an "as is where is" basis consistent with the terms of this Agreement and the Vesting Order;
- (c) instruments evidencing Purchaser's assumption of the Assumed Liabilities;
- (d) a certificate by a senior officer of Purchaser certifying that the representations and warranties of Purchaser set out herein are true and correct at the Closing Time and attaching certified copies of the articles of incorporation and by-laws of Purchaser and the resolution of Purchaser's directors or shareholders approving the subject matter of this Agreement;
- (e) an acknowledgement dated the Closing Date that each of the conditions precedent in Section 6.4 have been fulfilled, performed or waived as of the Closing Time;
- (f) a receipt for the Purchased Assets;
- (g) a (i) release of Seller and Guarantor from the Secured Debt, other than the liabilities and obligations of Seller for the outstanding principal Additional Advance existing at the Closing Time plus accrued interest, fees and expenses and other amounts payable in connection with the Additional Advance, and (ii) an acknowledgement of the outstanding principal Secured Debt remaining after giving effect to the release referred to in subparagraph (i);
- (h) payment of all Transfer Taxes (if any) payable pursuant to Section 5.1;
- (i) the elections referred to in Sections 5.2 and 5.3; and
- (j) any other documents required pursuant to this Agreement in form and substance satisfactory to the Parties, each acting reasonably.

#### **6.4 Conditions of Closing in Favour of Purchaser**

The sale and purchase of the Purchased Assets is subject to the following terms and conditions for the exclusive benefit of Purchaser to be performed or fulfilled at or prior to the Closing Time and which may be waived in whole or in part by Purchaser at any time:

- (a) Representations and Warranties. The representations and warranties of Seller contained in this Agreement shall be true and correct in all material respects at the Closing Time (unless they are expressed to be made only as of an earlier fixed date, in which case they need be true and correct only as of such earlier date);
- (b) Covenants. All of the terms, covenants and conditions of this Agreement to be complied with or performed by Seller at or before the Closing Time shall have been complied with or performed in all material respects;

- (c) No Bankruptcy. Seller shall not have made, or be deemed to have made, an assignment in bankruptcy under the *Bankruptcy and Insolvency Act* or shall not have obtained an order of the Court binding this Transaction on a trustee in bankruptcy;
- (d) Stalking Horse and SISP Order. The Stalking Horse and SISP Order shall have been issued, and the operation and effect of such order shall not have been stayed, amended, modified, reversed, dismissed or appealed (or any such appeal shall have been dismissed with no further appeal therefrom or the applicable appeal periods shall have expired) at the Closing Time;
- (e) Successful Bid. This Agreement is the Successful Bid;
- (f) Vesting Order. The Vesting Order shall have been issued, and the operation and effect of such order shall not have been stayed, amended, modified, reversed, waived, dismissed or appealed (or any such appeal shall have been dismissed with no further appeal therefrom or the applicable appeal periods shall have expired) at the Closing Time;
- (g) DIP Financing Order. The DIP Financing Order shall have been issued, and the operation and effect of such order shall not have been stayed, amended, modified, reversed, dismissed or appealed (or any such appeal shall have been dismissed with no further appeal therefrom or the applicable appeal periods shall have expired) at the Closing Time;
- (h) DIP Facility. The DIP Facility shall have been assumed by Purchaser, with such changes as may be required and agreed between Purchaser and the DIP Lenders;
- (i) Initial Order. All stays of proceedings contained in the Initial Order shall have remained in effect as at the Closing Time except where any such stay is terminated or lifted or amended in a manner which, in Purchaser's opinion, acting reasonably, is not prejudicial to Purchaser or which does not adversely affect Purchaser's rights under this Agreement or in respect of the Purchased Assets and the exercise of rights and Court-ordered Encumbrances contained in the Initial Order have not been amended or modified in any manner materially prejudicial to Purchaser as at the Closing Time;
- (j) New Revolving Facility. All conditions to the effectiveness of the New Revolving Facility shall have been satisfied, other than the delivery of the Monitor's Certificate to the Purchaser pursuant to Section 6.6;
- (k) Supplier Arrangements. Seller and Purchaser shall have entered into settlement agreements (the "**Supplier Agreements**") with the Suppliers on terms acceptable to Purchaser and the ABL Agent, acting reasonably, establishing the terms of continued supply and the payment terms upon which Purchaser has agreed to assume the Supplier Liabilities pursuant to Section 2.3(e);

- (l) Third Party Consents or CCAA Assignment Order. Seller shall have obtained Third Party Consents or a CCAA Assignment Order in respect of the Assumed Real Property Leases and the Assumed Contracts identified on Schedule 6.4(1) on or before the Closing Time;
- (m) Competition Act. To the extent that a notification is required under Part IX of the *Competition Act* (Canada), the Commissioner shall have issued an advance ruling certificate pursuant to section 102 of the *Competition Act* (Canada) in respect of the transactions contemplated by this Agreement, or any applicable waiting period under Section 123 of the *Competition Act* (Canada) shall have expired or been earlier terminated or waived and the Commissioner shall have issued a No-Action Letter satisfactory to Purchaser and Seller, acting reasonably;
- (n) Liquidation. The Liquidation shall have been completed with the result that the proceeds of the Liquidation of ABL Priority Collateral shall have been paid to the ABL Agent and the proceeds of the Liquidation of the Term Priority Collateral shall have been paid to GSO, in each case, in accordance with the priorities set out in the Intercreditor Agreement;
- (o) No Action or Proceeding. No legal or regulatory action or proceeding shall be pending or threatened by any Governmental Authority to enjoin, restrict or prohibit the purchase and sale of the Purchased Assets contemplated hereby;
- (p) Injunctions. There shall be in effect no injunction against closing the Transactions entered by a court of competent jurisdiction;
- (q) No Material Damage. No damage by fire or other hazard to the whole or any material part of the Purchased Assets shall have occurred prior to the Closing Time; and
- (r) Documents. Seller shall have delivered the documents referred to in Section 6.2.

If any of the foregoing conditions in this Section 6.4 has not been fulfilled by the Closing Time, Purchaser may terminate this Agreement by notice to Seller. However, Purchaser may waive compliance with any condition in whole or in part if it sees fit to do so, without prejudice to its rights of termination in the event of non-fulfilment of any other condition, in whole or in part, or to its rights to recover damages, if any, for the breach of any representation, warranty, covenant or condition contained in this Agreement.

#### 6.5 Conditions of Closing in Favour of Seller

The sale and purchase of the Purchased Assets is subject to the following terms and conditions for the exclusive benefit of Seller, to be performed or fulfilled at or prior to the Closing Time and which may be waived in whole or in part by Seller at any time:

- (a) Representations and Warranties. The representations and warranties of Purchaser contained in this Agreement shall be true and correct in all material respects at the Closing Time (unless they are expressed to be made only as of an earlier fixed date, in which case they need be true and correct only as of such earlier date);
- (b) Covenants. All of the terms, covenants and conditions of this Agreement to be complied with or performed by Purchaser at or before the Closing Time shall have been complied with or performed in all material respects;
- (c) No Action or Proceeding. No legal or regulatory action or proceeding shall be pending or threatened by any Governmental Authority to enjoin, restrict or prohibit the purchase and sale of the Purchased Assets contemplated hereby;
- (d) Stalking Horse and SISP Order. The Stalking Horse and SISP Order shall have been issued, and the operation and effect of such order shall not have been stayed, amended, modified, reversed, dismissed or appealed (or any such appeal shall have been dismissed with no further appeal therefrom or the applicable appeal periods shall have expired) at the Closing Time;
- (e) Successful Bid. This Agreement is the Successful Bid;
- (f) Vesting Order. The Vesting Order shall have been issued, and the operation and effect of such order shall not have been stayed, amended, modified, reversed, waived, dismissed or appealed (or any such appeal shall have been dismissed with no further appeal therefrom or the applicable appeal periods shall have expired) at the Closing Time;
- (g) DIP Financing Order. The DIP Financing Order shall have been issued, and the operation and effect of such order shall not have been stayed, amended, modified, reversed, dismissed or appealed (or any such appeal shall have been dismissed with no further appeal therefrom or the applicable appeal periods shall have expired) at the Closing Time;
- (h) Revolving Facility. The ABL Agent and the Lenders under the Revolving Facility shall have released Seller and the Guarantor from any debts, liabilities and obligations under the Revolving Facility, including any Encumbrances granted by Seller and the Guarantor in connection therewith, to take effect immediately after Purchaser satisfies the obligations assumed by it pursuant to Section 2.3(i) using the proceeds of the New Revolving Facility;
- (i) Competition Act. To the extent that a notification is required under Part IX of the *Competition Act* (Canada), the Commissioner shall have issued an advance ruling certificate pursuant to section 102 of the *Competition Act* (Canada) in respect of the transactions contemplated by this Agreement, or any applicable waiting period under Section 123 of the *Competition Act* (Canada) shall have expired or been

earlier terminated or waived and the Commissioner shall have issued a No-Action Letter satisfactory to Purchaser and Seller, acting reasonably;

- (j) Injunctions. There shall be in effect no injunction against closing the Transaction entered by a court of competent jurisdiction; and
- (k) Documents. Purchaser shall have made the payments and delivered the documents referred to in Section 6.3.

If any of the foregoing conditions in this Section 6.5 has not been fulfilled by the Closing Time, Seller may terminate this Agreement by notice to Purchaser. However, Seller may waive compliance with any condition in whole or in part if it sees fit to do so, without prejudice to its rights of termination in the event of non-fulfilment of any other condition, in whole or in part, or to its rights to recover damages, if any, for the breach of any representation, warranty, covenant or condition contained in this Agreement.

#### **6.6 Monitor's Certificate**

When the conditions set out in Sections 6.4 and 6.5 have been satisfied or waived, Purchaser and Seller will each deliver to the Monitor written confirmation of same. The Closing shall be deemed to have occurred upon delivery by the Monitor of an executed copy of the Monitor's Certificate to Purchaser.

#### **6.7 Possession of Assets and Risk of Loss**

(a) The Purchased Assets shall be at the risk of Seller until the Closing Date. If before the Closing Date, all or a material part of the Purchased Assets are lost, damaged or destroyed then Purchaser may terminate this Agreement forthwith upon written notice to Seller to such effect.

(b) At the Closing Time, the Purchaser shall take possession of the Purchased Assets where situate at the Closing Time. The Purchaser acknowledges that the Seller has no obligation to deliver physical possession of the Purchased Assets to the Purchaser. The Purchaser shall promptly notify the Seller of any Excluded Assets which may come into the possession or control of the Purchaser, whether before or after Closing, and thereupon shall promptly release such Excluded Assets to the Seller, or to such other Person as the Seller may direct in writing and, for greater certainty, title shall not be deemed to vest to the Purchaser in respect of any Excluded Assets.

**ARTICLE 7**  
**REPRESENTATIONS AND WARRANTIES**

**7.1 Representations and Warranties of Seller**

Seller hereby represents and warrants to Purchaser as follows and acknowledges that Purchaser is relying on such representation and warranty in connection with its purchase of the Purchased Assets:

- (a) Seller is a corporation duly formed and existing under the laws of Ontario and, subsequent to obtaining the Vesting Order and the CCAA Assignment Order, if applicable, has the power and authority to enter into, and to perform its obligations under, this Agreement.
- (b) The execution, delivery and performance by Seller of this Agreement:
  - (i) upon the granting of the Initial Order and the Stalking Horse and SISP Order and the Vesting Order, is within the powers of Seller;
  - (ii) has been duly authorized, executed and delivered by Seller;
  - (iii) upon the granting of the Initial Order and Stalking Horse and SISP Order and the Vesting Order, constitutes legal, valid and binding obligations of the Seller;
  - (iv) does not (or would not with the giving of notice, the lapse of time or the happening of any other event or condition) require any consent or approval under, result in a breach or a violation of, or conflict with, any of the terms or provisions of its constating documents or by-laws or any material contracts or instruments to which it is a party or pursuant to which any of its assets or property may be affected, other than the consent of the ABL Agent pursuant to the terms of the Revolving Facility, GSO and the other lenders party to the GSO Facility, the Third Party Consents, and the CCAA Assignment Order, if applicable; and
  - (v) subject to the Vesting Order, will not result in the violation of any applicable Law.
- (c) Other than the Stalking Horse and SISP Order, Vesting Order, the DIP Financing Order, the Third Party Consents or CCAA Assignment Order, and in connection with obtaining clearance under the *Competition Act* (Canada) in accordance with Section 6.5(i), if applicable, there is no requirement for Seller to make any filing with, give any notice to or obtain any certificate, registration or Authorization as a condition to the lawful consummation of the transactions contemplated by this Agreement.

- (d) Seller is not a non-resident of Canada for the purposes of the ITA.
- (e) Seller is a registrant for purposes of the ETA whose registration number is 10216 4514 RT0001.
- (f) All of the Assumed Contracts are valid and binding against Seller and to the best of the knowledge of the Seller, (i) there are no outstanding defaults by Seller under the Assumed Contracts and (ii) there exists no outstanding default by the counterparties to the Assumed Contracts.
- (g) Seller does not have any defined benefit pension plans or similar plans and none of the Employees are subject to the terms and conditions of employment with Seller under a collective bargaining agreement and Seller is in material compliance with all applicable Law respecting the Employees' employment with Seller.
- (h) Seller has made all deductions for payroll, employment insurance, Canada Pension Plan and payroll Tax required by applicable Law to be made as at the date hereof from the Employees' remuneration.

## 7.2 Representations and Warranties of Purchaser

Purchaser represents and warrants to Seller as follows and acknowledges and confirms that Seller is relying on such representations and warranties in connection with its sale of the Purchased Assets:

- (a) Purchaser is a corporation duly formed and existing under the laws of British Columbia and has the power and authority to enter into, and to perform its obligations under, this Agreement.
- (b) The execution, delivery and performance by Purchaser of this Agreement:
  - (i) has been duly authorized by all necessary corporate action;
  - (ii) does not (or would not with the giving of notice, the lapse of time or the happening of any other event or condition) require any consent or approval under, result in a breach or a violation of, or conflict with, any of the terms or provisions of its constating documents or by-laws or any contracts or instruments to which it is a party or pursuant to which any of its assets or property may be affected, other than the consent of the ABL Agent pursuant to the terms of the Intercreditor Agreement; and
  - (iii) will not result in the violation of any applicable Law.
- (c) This Agreement has been duly executed and delivered by Purchaser.

- (d) Other than the Stalking Horse and SISP Order, Vesting Order, the DIP Financing Order, the Third Party Consents or CCAA Assignment Order, and in connection with obtaining clearance under the *Competition Act* (Canada) in accordance with Section 6.4(m), if applicable, there is no requirement for Purchaser to make any filing with, give any notice to or obtain any certificate, registration or Authorization as a condition to the lawful consummation of the transactions contemplated by this Agreement.
- (e) Purchaser is a WTO investor for purposes of the *Investment Canada Act*.
- (f) Purchaser will become registered on or prior to Closing for purposes of the ETA.
- (g) Purchaser is not a non-resident of Canada for the purposes of the ITA.
- (h) There are no actions, suits, appeals, claims, applications, orders, investigations, proceedings, grievances, arbitrations or alternative dispute resolution processes in progress, pending, or to Purchaser's knowledge, threatened against Purchaser that could prohibit, restrict or seek to enjoin the Transaction.

**ARTICLE 8**  
**COVENANTS OF THE PARTIES**

**8.1 Covenants of Seller**

Seller covenants and agrees with Purchaser as follows:

- (a) upon request by Purchaser, Seller agrees that it shall change its name to a name which does not include the words "Grafton" or "Fraser" or any part thereof or any similar words; provided that Purchaser acknowledges that any name change cannot take effect until the Closing Time. Seller agrees that if requested to change its name by Purchaser, neither Seller nor any of its Affiliates will use the words "Grafton" or "Fraser" or any part thereof or any similar words;
- (b) until the Closing Time, Seller shall furnish Purchaser and its representatives reasonable access to the Business and the Purchased Assets at all times during normal business hours, as well as such information within the possession or control of Seller regarding the Business as Purchaser and its representatives may reasonably request;
- (c) Seller shall use commercially reasonable efforts to fulfill the conditions set out in Section 6.4 of this Agreement and shall cooperate with Purchaser in its efforts to cause the satisfaction of the conditions set out in Section 6.5 of this Agreement; and



- (d) Subject to the Initial Order, Seller shall ensure it has made all deductions and paid its obligations for Priority Payables as required by applicable Law and is not in arrears in respect of these obligations prior to the Closing Time.

## 8.2 Covenant of Purchaser in respect of Wind-Down Amount

Purchaser covenants and agrees with Seller to pay the Monitor immediately after the Closing the amount of \$200,000 (the "**Wind-Down Amount**") to fund the reasonable costs, fees and disbursements of Seller and its advisors, in each case at their standard rates and charges, to wind down and complete the CCAA Proceeding after the Closing Date, provided that the Monitor confirms in writing prior to the Closing that any portion of the Wind-Down Amount that is not required in connection with the wind down and completion of the CCAA Proceeding shall form the property of Purchaser and be returned to Purchaser on the date of the Monitor's discharge.

## 8.3 General Covenants of Purchaser

Purchaser covenants and agrees with Seller as follows:

- (a) for a period of six years following the Closing Date, Purchaser covenants to use reasonable care to preserve the Books and Records of Seller and to permit Seller and its representatives and successors and assigns and any trustee in bankruptcy access to any such Books and Records that contain information relating to the period prior to the Closing Time, as Seller and its representatives and successors and assigns and any trustee in bankruptcy may reasonably request; and
- (b) Purchaser shall use commercially reasonable efforts to fulfill the conditions set out in Section 6.5 of this Agreement and shall cooperate with Seller in its efforts to cause the satisfaction of the conditions set out in Section 6.4 of this Agreement.

## ARTICLE 9 STALKING HORSE AND SISP

### 9.1 Stalking Horse and SISP

Seller and Purchaser acknowledge that this Agreement and the Transaction are subject to Court approval.

The Parties acknowledge and agree that Seller shall apply to the Court in the CCAA Proceeding as promptly as practicable after execution of this Agreement, for an order substantially in the form attached as Schedule 9.1 or such other form as Seller and Purchaser may agree (the "**Stalking Horse and SISP Order**") recognizing this Agreement, as a "stalking horse bid" (the "**Stalking Horse Bid**") and approving the SISP, and all Parties will use commercially reasonable efforts to have the Stalking Horse and SISP Order issued. Purchaser acknowledges and agrees that the SISP is in contemplation of determining whether a superior bid can be obtained for the Purchased Assets.

**ARTICLE 10**  
**CONFIDENTIALITY**

**10.1**            **Confidentiality**

In addition to the obligations under the Confidentiality Agreement, each of Purchaser and Seller covenants and agrees that neither it nor its respective Affiliates or representatives, will disclose the existence or terms of this Agreement or the fact of its execution and delivery to any third party without the prior written consent of the other party, which consent shall not be unreasonably withheld or delayed, except (a) as and to the extent required by Law, (b) in the case of GSO and the Seller to its directors, officers, employees, agents, managers and their representatives and Affiliates, (c) in the case of GSO, to funds managed, advised, or sub-advised by GSO or its Affiliates, including any limited partners in such funds, (d) to the ABL Agent, (e) in the case of the Seller, as may be required under the CCAA in connection with filing and obtaining the Stalking Horse and SISP Order, the Vesting Order or the CCAA Assignment Order, or (f) as otherwise may be required by the Court. The Parties will cooperate and consult with one another, to the extent reasonably practical, with respect to the issuance of any press release or other public statement regarding this Agreement and the Transaction.

**ARTICLE 11**  
**TERMINATION**

**11.1**            **Termination**

- (a) This Agreement may be terminated at any time prior to the Closing Time:
  - (i) by mutual written agreement of Seller and Purchaser and on consent of the Monitor;
  - (ii) as provided in Sections 6.4 and 6.5, provided that the terminating Party has not breached its obligations under the Agreement in such a manner as to cause a closing condition not to be fulfilled;
  - (iii) by Purchaser as provided in Section 6.7; or
  - (iv) by Seller, if Closing shall not have occurred on or prior to the Termination Date, provided that Seller has not breached its obligations under the Agreement in such a manner as to cause a closing condition not to be fulfilled.
  
- (b) This Agreement shall automatically terminate at any time prior to the Closing Time if:
  - (i) this Agreement is not the Successful Bid or the Back-Up Bid (as determined pursuant to the SISP); or

- (ii) this Agreement is the Back-Up Bid and the transaction contemplated by the Successful Bid is closed.

**11.2 Effect of Termination**

(a) If this Agreement is terminated pursuant to, or due to the occurrence of any of the events set out in Section 11.1 all further obligations of the Parties under or pursuant to this Agreement shall terminate without further liability of any Party to the other except for and subject to the provisions of Section 10.1 and this Section 11.2.

(b) Under no circumstance shall any of the Parties or their respective directors, officers, employees, managers, Affiliates or agents or their respective directors, officers and employees be liable for any special, punitive, exemplary, consequential or indirect damages (including loss of profits) that may be alleged to result, in connection with, arising out of, or relating to this Agreement or the Transaction.

**ARTICLE 12  
AS IS WHERE IS**

**12.1 Acquisition of Assets on "As Is, Where Is" Basis**

Purchaser acknowledges that Seller is selling the Purchased Assets on an "as is, where is" basis as they shall exist on the Closing Date and that, as of the date of this Agreement, Purchaser has had an opportunity to conduct any and all due diligence regarding Seller, the Purchased Assets, the Business and the Assumed Liabilities and that it has relied solely on its own independent review, investigation, and/or inspection of any documents regarding Seller, the Purchased Assets, the Business and the Assumed Liabilities other than the representations contained in Section 7.1. Any information provided by Seller, Richter or the Monitor to Purchaser describing the Purchased Assets, the Business and the Assumed Liabilities has been prepared solely for the convenience of prospective purchasers and is not warranted to be complete, accurate or correct. Unless specifically stated herein, Purchaser acknowledges that it did not rely on any written or oral statements, representations, promises, warranties, conditions or guaranties whatsoever, whether express, implied, by operation of law or otherwise, regarding Seller, the Business, the Purchased Assets or Assumed Liabilities or the completeness of any information provided in connection therewith or in any instrument furnished in connection with this Agreement including, without limitation, the respective rights, titles and interests of Seller, if any, in the Purchased Assets other than the representations contained in Section 7.1. This Section 12.1 shall not merge on the Closing Date and is deemed incorporated by reference in all documents delivered pursuant to the terms of this Agreement.

**ARTICLE 13**  
**GENERAL**

**13.1**            **Disputes**

Any dispute arising out of or in connection with this Agreement shall be submitted to and finally resolved by a motion brought before the Court in the CCAA Proceeding.

**13.2**            **Notices**

Any notice, consent or approval required or permitted to be given in connection with this Agreement 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 email:

- (a)    in the case of a notice to Seller at:

Grafton-Fraser Inc.  
44 Apex Road  
Toronto, ON M6A 2V2

Attention:    Mark Sun, Vice President and Chief Financial Officer  
Email:        msun@graftonfraser.com

with a copy (which shall not constitute notice) to:

Fasken Martineau DuMoulin LLP  
333 Bay Street, Suite 2400  
Bay Adelaide Centre, Box 20  
Toronto, ON M5H 2T6

Attention:    Stuart Brotman / Natasha De Cicco  
Facsimile No.: 416.364.7813  
Email:        sbrotman@fasken.com / ndecicco@fasken.com

- (b)    in the case of a notice to Purchaser at:

c/o GSO Capital Partners LP  
345 Park Avenue, 31st Floor  
New York, NY 10154

Attention:    Marc Baliotti / John Beberus / GSO Legal  
Email:        Marc.Baliotti@gsocap.com / John.Beberus@gsocap.com /  
                  gsolegal@gsocap.com

with a copy (which shall not constitute notice) to:

Davies Ward Phillips & Vineberg LLP  
40th Floor, 155 Wellington Street West  
Toronto, ON M5V 3J7

Attention: Scott Hyman  
Fax No.: 416.863.0871  
Email: shyman@dwpv.com

- (c) in the case with a further copy to the Monitor, as follows:

Richter Advisory Group Inc.  
181 Bay Street, Suite 3320  
Bay Wellington Tower  
Toronto, ON M5J 2T3

Attention: Gilles Benchaya / Adam Sherman  
Email: gbenchaya@richterconsulting.com / asherman@richter.ca

with a copy (which shall not constitute notice) to:

Cassels Brock Blackwell LLP  
Suite 2100, Scotia Plaza  
40 King Street West  
Toronto, ON M5H 3C2

Attention: Jane Dietrich  
Email: jdietrich@casselsbrock.com

Any notice delivered or transmitted to a Party 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 Party in accordance with the provisions of this Section.

### 13.3 Assignment

Neither Party shall assign this Agreement or any rights or obligations arising under this Agreement without the prior written consent of the other Party, provided that (a) Purchaser may assign this Agreement to any of its Affiliates or funds managed, advised or sub-advised by GSO or its Affiliates before the filing of the Vesting Order where (i) prior notice of such assignment is provided to the Seller, and (ii) such assignee agrees to be bound by the terms of this Agreement to the extent of the assignment, or (b) Purchaser may assign its rights under

this Agreement as security for its obligations to its lenders, including under the New Revolving Facility.

**13.4**            **Time of the Essence**

Time shall be of the essence in respect of the obligations of the Parties arising prior to Closing under this Agreement.

**13.5**            **Enurement**

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

**13.6**            **Amendment**

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

**13.7**            **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 Date provided that the reasonable costs and expenses of any actions taken after Closing Date at the request of a Party shall be the responsibility of the requesting Party.

**13.8**            **Survival**

The representations and warranties of the Parties contained in this Agreement shall merge on Closing and the covenants of the Parties contained herein to be performed after the Closing shall survive Closing and remain in full force and effect.

**13.9**            **Personal Information**

Purchaser hereby acknowledges that it is aware, and that it will advise its representatives, that privacy legislation, including the *Personal Information Protection and Electronic Documents Act* (Canada), applies to certain information that may be disclosed to the Purchaser and its representatives pursuant to this Agreement and/or the Transaction. The Purchaser agrees to comply, and cause its representatives to comply, with such privacy legislation in connection with any such information disclosed to it or any of them. To the extent that any personally identifiable information of any customers is transferred from the Seller to the

Purchaser prior to the filing of the Initial Order, the Purchaser agrees to abide by the Seller's privacy policy with respect to such personally identifiable information.

**13.10**            **Benefit of Agreement**

This Agreement shall enure to the benefit of and be binding upon the Parties and their respective successors and permitted assigns. Except as otherwise provided in this Agreement, each Party intends that this Agreement shall not benefit or create any right or cause of action in or on behalf of any Person other than the Parties and their successors and permitted assigns, and no Person other than the Parties and their successors and their permitted assigns shall be entitled to rely on the provisions hereof in any action, suit, proceeding, hearing or other forum.

**13.11**            **Severability**

If any provision of this Agreement is determined by a court of competent jurisdiction to be invalid, illegal or unenforceable in any respect, all other conditions and provisions of this Agreement shall nevertheless remain in full force and effect so long as the economic or legal substance of the transactions contemplated hereby is not affected in any manner materially adverse to any party hereto. Upon such determination that any term or other provision is invalid, illegal or incapable of being enforced, the Parties shall negotiate in good faith to modify this Agreement so as to effect the original intent of the Parties as closely as possible in an acceptable manner to the end that transactions contemplated hereby are fulfilled to the extent possible.

**13.12**            **Governing Law**

This Agreement shall be construed, interpreted and enforced in accordance with, and the respective rights and obligations of the parties shall be governed by, the laws of the Province of Ontario and the federal laws of Canada applicable therein, and each party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts of such province and all courts competent to hear appeals therefrom.

**13.13**            **Execution and Delivery**

This Agreement may be executed by the Parties in counterparts and may be executed and delivered by facsimile or other electronic means and all such counterparts and facsimiles (or other electronic deliveries) shall together constitute one and the same agreement.

[Remainder of page intentionally left blank]

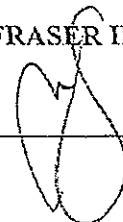
IN WITNESS OF WHICH the Parties have executed this Agreement as of the date first written above.

GRAFTON-FRASER INC.

By: \_\_\_\_\_

Name:

Title:



**Mark G. Sun**  
Vice President & CFO  
Grafton-Fraser Inc.



## Schedule 1.1(a)

### Permitted Encumbrances

1. The following court-ordered charges granted pursuant to, and defined in, the order of the Court granting Seller protection pursuant to the CCAA:
  - (a) Term Lender's DIP Charge;
  - (b) Liens granted to the Term Secured Parties;
  - (c) ABL Lender's DIP Charge; and
  - (d) Liens granted to the ABL Secured Parties.
2. The following securities pursuant to the *Personal Property Security Act* ("PPSA") in each applicable jurisdiction:

#### PPSA British Columbia

	<u>Registration Number</u>	<u>Secured Party</u>	<u>Registration Date/ Registration Period</u>	<u>Collateral</u>
1.	673469D	GSO Capital Partners, LP, as Administrative Agent	Registration Date: May 15, 2007  Registration Period: 8 years  Expiry Date: May 15, 2023	All of the debtor's present and after-acquired personal property of the debtor and, without limitation, all fixtures, crops, and licenses.
2.	006240J	Canadian Imperial Bank of Commerce, as Agent	Registration Date: December 11, 2015  Registration Period: 7 years  Expiry Date: December 11, 2022	All of the debtor's present and after-acquired personal property including without limitation fixtures (and terms used herein that are defined in the Personal Property Security Act of British Columbia or the regulations made thereunder have those defined meanings).

#### PPSA Alberta

	<u>Registration Number</u>	<u>Secured Party</u>	<u>Registration Date/ Registration Period</u>	<u>Collateral</u>
1.	15121123969	Canadian Imperial Bank of Commerce, as Agent	Registration Date: December 11, 2015  Registration Period: 7 years	All present and after- acquired personal property of the debtor.

<u>Registration Number</u>	<u>Secured Party</u>	<u>Registration Date/ Registration Period</u>	<u>Collateral</u>
2. 07051518194	GSO Capital Partners, LP, as Administrative Agent	Expiry Date: December 11, 2022 Registration Date: May 15, 2007  Registration Period: 16 years  Expiry Date: May 15, 2023	All present and after- acquired personal property of the debtor. Proceeds: Goods, inventory, chattel paper, documents of title, instruments, money, intangibles, accounts and investment property (all as defined in the Personal Property Security Act (Alberta)) and insurance proceeds. Land charge.
3. 07051518228	GSO Capital Partners, LP, as Administrative Agent	Registration Date: May 15, 2007  Registration Period: Infinity	

PPSA Manitoba

<u>Registration Number</u>	<u>Secured Party</u>	<u>Registration Date/ Registration Period</u>	<u>Collateral</u>
1. 201523726507	Canadian Imperial Bank of Commerce, as Agent	Registration Date: December 11, 2015  Registration Period: 7 years  Expiry Date: December 11, 2022	The security interest is taken in all of the debtor's present and after-acquired personal property.
2. 200708558108	GSO Capital Partners, LP, as Administrative Agent	Registration Date: May 7, 2007  Registration Period: 16 years  Expiry Date: May 15, 2023	The security interest is taken in all of the debtor's present and after-acquired personal property.

PPSA Ontario

<u>Registration File Number</u>	<u>Secured Party</u>	<u>Registration Date/ Registration Period</u>	<u>Collateral</u>
1. 719663706	Canadian Dealer Lease Service Inc. and Bank of	Registration Date: August 16, 2016	Inventory, Accounts, Other, Motor Vehicle Included

<u>Registration File Number</u>	<u>Secured Party</u>	<u>Registration Date/ Registration Period</u>	<u>Collateral</u>
	Nova Scotia - DLAC	Registration Period: 3 years  Expiry Date: August 16, 2019	2016 Maza CX09, JM3TCBDY6G0111704  Amount: \$55,145  Date of Maturity: August 11, 2019
2. 712571193	Canadian Imperial Bank of Commerce, as Agent	Registration Date: December 11, 2015  Registration Period: 7 years  Expiry Date: December 11, 2022	Inventory, Equipment, Accounts, Other, Motor Vehicle
3. 675686367	Xerox Canada Ltd.	Registration Date: January 17, 2012  Registration Period: 6 years  Expiry Date: January 17, 2018	Equipment, Other
3. 635312304	GSO Capital Partners, LP, as Administrative Agent	Registration Date: May 15, 2007  Registration Period: 8 years  Expiry Date: May 05, 2013	Inventory, Equipment, Accounts, Other, Motor Vehicle Included

PPSA Nova Scotia

<u>Registration Number</u>	<u>Secured Party</u>	<u>Registration Date/ Registration Period</u>	<u>Collateral</u>
1. 25531898	GSO Capital Partners, LP, as Administrative Agent	Registration Date: February 8, 2016  Registration Period: 7 years  Expiry Date: February 8, 2023	A security interest is taken in all of the debtor's present and after-acquired personal property
2. 25333881	Canadian Imperial Bank of Commerce, as Agent	Registration Date: December 14, 2015	A security interest is taken in all of the debtor's present and after-acquired personal

<u>Registration Number</u>	<u>Secured Party</u>	<u>Registration Date/ Registration Period</u>	<u>Collateral</u>
		Registration Period: 7 years Expiry Date: December 14, 2022	property

3. The following *Bank Act* security:

<u>Type</u>	<u>Registration Name and Address</u>	<u>Date</u>	<u>Expires</u>	<u>Number</u>	<u>Bank</u>
(2)	Grafton-Fraser Inc. 44 Apex Road Toronto ON M6A 2V2	2016/01/25	2021/12/31	01304227	0010 – CANADIAN IMPERIAL BANK OF COMMERCE 00002 – MAIN BRANCH – COMMERCE COURT 199 BAY ST CCW CONCOURSE LEVEL MAIN BRANCH – COMMERCE COURT TORONTO, ON M5L1G9

4. Security interests recorded against all of the Canadian trademarks owned by Seller, in favour of:

- GSO Special Situations Fund LP (pursuant to a security agreement placed on file on October 11, 2007);
- GSO CP Holdings LP (pursuant to an amended security agreement placed on file on October 14, 2008); and
- Canadian Imperial Bank of Commerce, as Agent (pursuant to a security agreement placed on file on March 11, 2016).

## **Schedule 1.1(b)**

### **Purchased Locations**

#### **A. Stores**

1. Store number 15022 at Southgate Centre in Alberta
2. Store number 15003 at 1295 Portage Avenue in Manitoba
3. Store number 15014 at The Ottawa Train Yards in Ontario
4. Store number 12030 at Yorkdale in Ontario
5. Store number 16048 at Macleod Trail in Alberta
6. Store number 12189 at Bayshore Shopping Centre in Ontario
7. Store number 16053 at River City Centre in Saskatchewan
8. Store number 15038 at Downsview in Ontario
9. Store number 12193/15013 at Colossus Centre in Ontario
10. Store number 15024 at Marine Way Market in British Columbia
11. Store number 15019 at West Edmonton Mall in Alberta
12. Store number 12082 at West Edmonton Mall in Alberta
13. Store number 16052 at West Landing Centre in Saskatchewan
14. Store number 16033 at North Town Centre in Alberta
15. Store number 12158/15052 at The Village Shopping Centre in Newfoundland
16. Store number 15008 at Heartland Town Centre in Ontario
17. Store number 16041 in West Hastings in British Columbia
18. Store number 12011 at Oshawa Centre in Ontario
19. Store number 15307 at Calgary Village in Alberta
20. Store number 16039 at Bayers Lake Park in Nova Scotia
21. Store number 12026 at Guildford Town Centre in British Columbia
22. Store number 16049 at Westgate Shopping Centre in Alberta

23. Store number 16027 at Eglington Town Centre in Ontario
24. Store number 15025 at 600 Hespeler Road in Ontario
25. Store number 16043 in Surrey in British Columbia
26. Store number 15023 at Durham Centre in Ontario
27. Store number 16025 at Kenaston Power Centre in Manitoba
28. Store number 16021 at Winston Park Centre in Ontario
29. Store number 15020 at London Crossroads in Ontario
30. Store number 12088 at Vaughan Mills in Ontario
31. Store number 12146 at Kanata Entertainment Centrum in Ontario
32. Store number 12063 at Midtown Mall in Saskatchewan
33. Store number 12020 at Heartland Town Centre in Ontario
34. Store number 16022 at Wheeler Park in New Brunswick
35. Store number 12016 at Metrotown in British Columbia
36. Store number 12024 at St. Laurent Shopping Centre in Ontario
37. Store number 12032 at Bramalea City Centre in Ontario
38. Store number 15036 at Centre on Barton in Ontario
39. Store number 15037 at Dundas/427 Marketplace in Ontario
40. Store number 12022 at CrossIron Mills in Alberta
41. Store number 12103 at Sherwood Park Mall in Alberta
42. Store number 12038 at White Oak Mall in Ontario
43. Store number 15031 at Riocan Centre BulOak in Ontario
44. Store number 15029 at 28 Commerce Park in Ontario
45. Store number 16044 at Coquitlam Centre in British Columbia
46. Store number 16026 at Riocan Sudbury Centre in Ontario
47. Store number 16023 at Viewmount Centre in Ontario

48. Store number 15033 at Windsor Crossing Premium Outlet Mall in Ontario
49. Store number 12060 at Southgate Centre in Alberta
50. Store number 12066 at Avalon Mall in Newfoundland
51. Store number 12169 at Dixie Value Mall in Ontario
52. Store number 12035 at Scarborough Town Centre in Ontario
53. Store number 15035 at Dilworth Shopping Centre in British Columbia
54. Store number 12127/15084 at Shoppers Mall Brandon in Manitoba
55. Store number 12153 at First Canadian Place in Ontario
56. Store number 12152 at Stone Road Mall in Ontario
57. Store number 12195 at Woodgrove Centre in British Columbia
58. Store number 12162/15067 at Lansdowne Place in Ontario
59. Store number 12132 at Park Place Shopping Centre in Alberta
60. Store number 12198 at Orangeville Mall in Ontario
61. Store number 12004 at Upper Canada Mall in Ontario
62. Store number 12048/15076 at Mayflower Mall in Nova Scotia
63. Store number 12027 at Riocan Langley Centre in British Columbia
64. Store number 12163/15062 at Heritage Shopping Centre in Ontario
65. Store number 12120 at Southland Mall in Saskatchewan
66. Store number 12055 at Market Mall in Saskatchewan
67. Store number 12191/15056 at Trinity Common Brampton in Ontario
68. Store number 15027 at Pen Centre in Ontario
69. Store number 16024 at London North in Ontario
70. Store number 12321 at Halifax Shopping Centre in Nova Scotia
71. Store number 12007 at Southcentre Mall in Alberta
72. Store number 12122/15060 at Northgate Shopping Centre in Ontario

73. Store number 15308 at King's Crossing Fashion Outlet in Ontario
74. Store number 12167 at Cataraqui Town Centre in Ontario
75. Store number 12049 at Orchard Park Shopping Centre in British Columbia
76. Store number 15058 at Woodgrove Centre in British Columbia
77. Store number 12196 at Cambridge Mall in Ontario
78. Store number 16038 at Quinte Mall in Ontario
79. Store number 12031 at Coquitlam Centre in British Columbia
80. Store number 15303 at Millstream Village Shopping Centre in British Columbia
81. Store number 12076 at Pickering Town Centre in Ontario
82. Store number 12186 at Erin Mills Town Centre in Ontario
83. Store number 12322 at Timmins Square Shopping Centre in Ontario
84. Store number 15340 at Green Lane Shopping Centre in Ontario
85. Store number 12057 at West Edmonton Mall in Alberta
86. Store number 12111 at Calgary Eaton Centre in Alberta
87. Store number 12052 at Devonshire Mall in Ontario
88. Store number 12344 at Pen Centre in Ontario
89. Store number 12059 at Sudbury Centre in Ontario
90. Store number 16031 at Beacon Hill Centre in Alberta
91. Store number 15309 at Southpointe Common in Alberta
92. Store number 12109 at Regent Mall in New Brunswick
93. Store number 12137 at Londonderry Mall in Alberta
94. Store number 12147 at Corner Brook Plaza in Newfoundland
95. Store number 12106 at Exploits Valley Mall in Newfoundland
96. Store number 12141 at Georgian Mall in Ontario
97. Store number 12033 at Hillcrest Mall in Ontario



98. Store number 12105/15065 at Cornerstone Prince Albert in Saskatchewan
99. Store number 12118 at Cornwall Centre in Saskatchewan
100. Store number 12192/15012 at Riocan Signal Hill Centre in Alberta
101. Store number 12019 at Kingsway in Alberta
102. Store number 15311 at College Centre in Alberta
103. Store number 15028 at Kennedy Commons in Ontario
104. Store number 16030 at Milton Crossroads in Ontario
105. Store number 12058 at Kenaston Power Centre in Manitoba
106. Store number 12068 at Place d'Orleans Shopping Centre in Ontario
107. Store number 12073 at Milton Crossroads in Ontario
108. Store number 12110 at Medicine Hat Mall in Alberta
109. Store number 12170 at Sunridge Mall in Alberta
110. Store number 12179 at St. Albert Centre in Alberta
111. Store number 12302/15325 at Station Mall in Ontario
112. Store number 12330 at Hillside Centre in British Columbia
113. Store number 12332 at Eglinton Square Shopping Centre in Ontario
114. Store number 15039 at 313-315 Eglinton Avenue (Kingsport) in Ontario
115. Store number 12101 at Gander Mall in Newfoundland
116. Store number 12154 at Parkland Mall in Alberta
117. Store number 12034 at Oakville Place in Ontario
118. Store number 12070 at Northgate Mall in Saskatchewan
119. Store number 12008 at Burlington Mall in Ontario
120. Store number 12044 at Dufferin Mall in Ontario
121. Store number 12046 at Lynden Park Mall in Ontario
122. Store number 12050 at Kildonan Place Shopping Centre in Manitoba

123. Store number 12197 at St. Vital Centre in Manitoba
124. Store number 12342/15343 at Aberdeen Mall in British Columbia
125. Store number 12056 at Billings Bridge Shopping Centre in Ontario
126. Store number 12385/15390 at Intercity Shopping Centre in Ontario
127. Store number 12326/15327 at Pine Centre in British Columbia
128. Store number 12041 at Highland Square Centre in Nova Scotia
129. Store number 12028 at Mic Mac Mall in Nova Scotia
130. Store number 12391 at Tsawwassen Mills in British Columbia
131. Store number 12051 at Sherway Gardens in Ontario
132. Store number 12005 at Chinook Centre in Alberta
133. Store number 12313 at Markville Shopping Centre in Ontario
134. Store number 12012 at Market Mall in Alberta
135. Store number 12021 at Pacific Centre in British Columbia
136. Store number 12139 at Masonville Place in Ontario
137. Store number 12062 at Champlain Place in New Brunswick
138. Store number 12150 at Polo Park in Manitoba
139. Store number 12087 at Fairview Mall in Ontario

**B. Head Office and Warehouse**

140. Head office and warehouse at 44 Apex Road in Ontario

**Schedule 1.1(c)**

**Vesting Order**

See attached.

Court File No.

ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST

THE HONOURABLE  
JUSTICE

)  
)  
)

WEEKDAY, THE #  
DAY OF ■, 2017

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 Grafton-Fraser Inc.

**Applicant**

**APPROVAL AND VESTING ORDER**

THIS MOTION, made by the Applicant for an order approving the sale transaction (the "Transaction") contemplated by an agreement of purchase and sale (the "Sale Agreement") between the Applicant and 1104307 B.C. Ltd. (the "Purchaser") dated ■, 2017 and appended to the Affidavit of ■ dated ■ (the "Affidavit"), and vesting in the Purchaser the Debtor'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 and the Report of Richter Advisory Group Inc., in its capacity as the court appointed monitor of the Applicant (the "Monitor"), dated ■ (the "Report") and on hearing the submissions of counsel for the Applicant, the Monitor, the Purchaser, Canadian Imperial Bank of Commerce, no one appearing for any other

person on the service list, although properly served as appears from the affidavit of [NAME] sworn [DATE] filed:

1. THIS COURT ORDERS AND DECLARES that the Transaction is hereby approved, and the execution of the Sale Agreement by the Applicant is hereby authorized and approved, with such minor amendments as the Applicant may deem necessary. 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 and for the conveyance of the Purchased Assets to the Purchaser.

2. THIS COURT ORDERS AND DECLARES that upon the delivery of the Monitor's certificate to the Purchaser substantially in the form attached as Schedule A hereto (the "Monitor's Certificate"), all of the Purchased Assets described in the Sale Agreement 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: (i) any encumbrances or charges created by the Order of the Honourable Justice [NAME] in these proceedings dated January ■, 2017; (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal property registry system; and (iii) those Claims listed on Schedule B hereto (all of which are collectively referred to as the "Encumbrances", which term shall not include the permitted encumbrances, easements and restrictive covenants listed on Schedule C) and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Purchased Assets are hereby expunged and discharged as against the Purchased Assets.

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

4. THIS COURT ORDERS that, pursuant to clause 7(3)(c) of the Canada *Personal Information Protection and Electronic Documents Act*, the Applicant is authorized and permitted to disclose and transfer to the Purchaser all human resources and payroll information in the Applicant's records pertaining to the Applicant's past and current employees, including personal information of those employees listed on Schedule "4.1" to the Sale Agreement. 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 Debtor.

5. 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 Debtor and shall not be void or voidable by creditors of the Debtor, 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.

6. THIS COURT ORDERS AND DECLARES that the Transaction is exempt from the application of the *Bulk Sales Act* (Ontario).

7. 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, as may be necessary or desirable to give effect to this Order or to assist the Applicant and its agents in carrying out the terms of this Order.

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**Schedule A – Form of Monitor’s Certificate**

Court File No.

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

IN THE MATTER OF the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended

AND IN THE MATTER of a Plan of Compromise or Arrangement of Grafton-Fraser Inc.

**Applicant**

**MONITOR'S CERTIFICATE**

RECITALS

A. Pursuant to an Order of the Honourable [NAME OF JUDGE] of the Ontario Superior Court of Justice (the “Court”) dated [DATE OF ORDER], the Applicant was granted protection from its creditors pursuant to the *Companies’ Creditors Arrangement Act* and Richter Advisory Group Inc. was appointed as the monitor (the “Monitor”) of the Applicant.

B. Pursuant to an Order of the Court dated [DATE], the Court approved the agreement of purchase and sale made as of [DATE OF AGREEMENT] (the “Sale Agreement”) between the Applicant and [NAME OF PURCHASER] (the “Purchaser”) and provided for the vesting in the Purchaser of the Purchased Assets, which vesting is to be effective with respect to the Purchased Assets upon the delivery by the Monitor to the Purchaser of a certificate confirming (i) that the conditions to Closing as set out in section • of the Sale Agreement have been satisfied or waived by the Applicant and the



Purchaser; and (ii) the Transaction has been completed to the satisfaction of the Monitor.

C. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Sale Agreement.

THE MONITOR CERTIFIES the following:

1. The Applicant has received the Purchase Price for the Purchased Assets payable on the Closing Date pursuant to the Sale Agreement;
2. The conditions to Closing as set out in sections [6.4 and 6.5] of the Sale Agreement have been satisfied or waived by the Applicant and the Purchaser; and
3. The Transaction has been completed to the satisfaction of the Monitor.
4. This Certificate was delivered by the Monitor at \_\_\_\_\_ [TIME] on \_\_\_\_\_ [DATE].

**Richter Advisory Group Inc., in its capacity  
as court-appointed monitor of Grafton-  
Fraser Inc. and not in its personal capacity**

Per:

\_\_\_\_\_  
Name:

Title:

**Schedule B – Encumbrances**

## Schedule C – Permitted Encumbrances

## Schedule 2.1(e)

### Assumed Contracts

#### A. Loan Documents

1. Non-revolving credit facility dated as of June 16, 2009 made available to Seller pursuant to the amended and restated credit agreement between Seller, as borrower, Wilmington Trust, National Association, as servicing agent, GSO Capital Partners LP, as administrative agent, 2473304 Ontario Inc., as guarantor, and GSO Domestic Capital Funding (Luxembourg) S.A.R.L. and GSO Offshore Multicurrency Facility (Luxembourg) S.A.R.L., as lenders, as amended on April 12, 2010, June 11, 2010, March 18, 2011, December 31, 2012, June 17, 2014, July 7, 2015, July 23, 2015, February 12, 2016, June 6, 2016, August 3, 2016, September 26, 2016, November 29, 2016, December 15, 2016, December 23, 2016 and January 20, 2017, as it may be further amended, supplemented or otherwise modified, and any related agreements or documents thereto.
2. DIP facility loan agreement dated January 20, 2017 between GSO Domestic Capital Funding (Luxembourg) S.A.R.L. and GSO Offshore Multicurrency Facility (Luxembourg) S.A.R.L., as DIP lenders, GSO Capital Partners LP, as agent, Wilmington Trust, National Association, as servicing agent, and Seller, as borrower, as it may be further amended, supplemented or otherwise modified, and any related agreements or documents thereto.

#### B. Benefit Plans

1. Sun Life Group Policy No. 87050 for all Regular Employees (Class 1), as such plan may be amended and restated from time to time.
2. Sun Life Group Policy No. 87050 for Executives (Class 2), as such plan may be amended and restated from time to time.
3. Sun Life Group Policy No. 87050 for Senior Management (Class 3), as such plan may be amended and restated from time to time.

#### C. Contracts

1. Agreement to lease, dated October 7, 2016, between Seller and Marco Enterprises, regarding a condominium lease for Lance Itkoff, and any attachments, amendments or related agreements thereto in effect at the Closing Time.
2. Vehicle lease agreement and disclosure statement, dated August 11, 2016, between Seller and Agincourt Mazda, regarding a car lease for Lance Itkoff, and any attachments, amendments or related agreements thereto in effect at the Closing Time.
3. Letter agreement, dated November 2, 2016, between Peerless Clothing Inc. and Seller, regarding a security deposit in the amount of \$500,000, and any attachments, amendments or related agreements thereto in effect at the Closing Time.

4. Quotation, dated November 23, 2016, from SDR Distribution Services Inc., regarding hanging distribution, and any attachments, amendments or related agreements thereto in effect at the Closing Time.
5. Professional services agreement, dated June 22, 2016 (with an effective date of July 5, 2016), between Advantix Digital LLC and Seller, regarding digital marketing, and any attachments, amendments or related agreements thereto in effect at the Closing Time.
6. Proposal from Advantix Digital LLC, dated May 31, 2016, regarding digital marketing, and any attachments, amendments or related agreements thereto in effect at the Closing Time, and any attachments, amendments or related agreements thereto in effect at the Closing Time.
7. Work services agreement and draft enrollment form, dated April 5, 2016, between American Express Travel Related Services Company, Inc. and Seller, regarding AMEX payment processing, and any attachments, amendments or related agreements thereto in effect at the Closing Time.
8. Terms and conditions/merchant card acceptance agreement, undated, from Amex Bank of Canada, regarding the terms governing the acceptance of American Express cards in Canada, and any attachments, amendments or related agreements thereto in effect at the Closing Time.
9. Merchant operating manual (Canada), dated April 2016, from American Express, regarding the policies and procedures governing Seller's acceptance of American Express cards, and any attachments, amendments or related agreements thereto in effect at the Closing Time.
10. Mutual non-disclosure agreement, dated November 2, 2016, between Anchor HR Services Inc. and Seller, regarding the exchange of confidential information while the parties were contemplating entering into a commercial relationship, and any attachments, amendments or related agreements thereto in effect at the Closing Time.
11. Terms of service agreement, dated November 14, 2016, and a proposal, between Anchor HR Services Inc. and Seller, regarding human resources consultation services in connection with Seller's reorganization, and any attachments, amendments or related agreements thereto in effect at the Closing Time.
12. Code library license agreement, dated December 19, 2014, between B2 Processing Solutions and Seller, regarding a bridge between the pin pads and POS/RMS system, and any attachments, amendments or related agreements thereto in effect at the Closing Time.
13. Master communications agreement (#1-354442841-M1), including the service schedule to master communications agreement, undated (but executed March 10 and 12, 2015), and all quotes, between Bell Canada and Seller, regarding Seller's corporate telephone system, and any attachments, amendments or related agreements thereto in effect at the Closing Time.

14. Master communications agreement (#1-354442841-M1), including the hosting services schedule to master communications agreement (retail), executed September 10, 2014, and all appendices thereto, between Bell Canada and Seller, regarding offsite system processing (Q9 networks), and any attachments, amendments or related agreements thereto in effect at the Closing Time.
15. Internet protocol virtual private network (IPN VPN) service schedule, executed September 10, 2014, between Bell Canada and Seller, regarding IP VPN/network services, and any attachments, amendments or related agreements thereto in effect at the Closing Time.
16. Master equipment sale agreement (S151120663), undated, between Bell Canada/Bell Aliant Regional Communications LP and Seller, providing terms to govern quotations that will be attached as schedule A from time to time.
17. Bell Canada Bell Total Connect service schedule to master communications agreement, dated December 21, 2015, between Bell Canada and Seller.
18. Subscription agreement, including quote 483451, dated June 18, 2014, for Seller from bLoyal.com, which includes four packages for various subscription-based products that appear to relate to online services/e-commerce, data retrieval and marketing, regarding a CRM and POS system, and any attachments, amendments or related agreements thereto in effect at the Closing Time.
19. Subscription agreement, including quote 484038, dated September 23, 2014, for Seller from bLoyal.com, which includes two quoted packages for a reporting database subscription, regarding a CRM and POS system, and any attachments, amendments or related agreements thereto in effect at the Closing Time.
20. Master license agreement, dated February 7, 2012, between Societe Internationale de Promotion et de Creation S.A.S and Seller, as amended by amendments dated April 5, 2012, August 2, 2012 and June 12, 2013, regarding the licensing and sub-licensing of marks and Hechter designs in Canada in consideration of which Seller pays Societe Internationale de Promotion et de Creation S.A.S certain royalties, and any attachments, amendments or related agreements thereto in effect at the Closing Time.
21. Sub-license agreement, dated February 26, 2014, between Societe Internationale de Promotion et de Creation S.A.S, Seller and Shanghai Shenda America LLC, regarding the sub-licensing of marks, Hechter designs and domain names/sub-domain names in the United States of America in consideration of which Shanghai Shenda America LLC pays Seller certain royalties, and any attachments, amendments or related agreements thereto in effect at the Closing Time.
22. Terms and conditions of Seller, dated April 14, 2005, signed as accepted and agreed to by Freeman Formalwear, regarding shipping, advertising, promotional materials, in store point of purchase support and other terms agreed to by Freeman Formalwear, and any attachments, amendments or related agreements thereto in effect at the Closing Time.

23. E-mail dated September 24, 2014 from Leonard Goldstein at Freeman Formalwear to Paul Hudson at Seller, regarding a \$99,000 credit and attaching a description of a "fixed cost pricing method".
24. Canadian merchant agreement, dated November 15, 2007, between Givex Canada Corp. and Seller, regarding the supply of coupons and gift card services to Seller, and any attachments, amendments or related agreements thereto in effect at the Closing Time.
25. Presentation deck and Schedule B Givex pricing page from 2011/2012, regarding the supply of coupons and gift card services to Seller, and any attachments, amendments or related agreements thereto in effect at the Closing Time.
26. Discover Canadian merchant operating regulations (R14.1), dated April 11, 2014, regarding debit and credit card processing, and any attachments, amendments or related agreements thereto in effect at the Closing Time.
27. Discover Canadian merchant services agreement, dated September 5, 2014, between Seller and DFS Services LLC, regarding debit and credit card processing, and any attachments, amendments or related agreements thereto in effect at the Closing Time.
28. Global merchant agreement, dated July 19, 2006, between Global Payments Direct, Inc., Seller, GPC Financial Corporation (only in its capacity as "member" for VISA processing) and National Bank of Canada (only in its capacity as "member" for MasterCard processing), as amended on July 27, 2011 and September 12, 2014, regarding debit and credit card processing, and any attachments, amendments or related agreements thereto in effect at the Closing Time.
29. Master lease and financing agreement number 5253307970 dated July 31, 2014 between Hewlett-Packard Financial Services Canada Company and Seller, providing the terms for the following schedules relating to a POS hardware/software lease:
  - (a) Schedule 5253307970000003, dated September 19, 2014, for approximately \$106,153 in financed items, between Hewlett-Packard Financial Services Canada Company and Seller, regarding a POS hardware/software lease, and any acceptance certificates, amendments or related agreements thereto in effect at the Closing Time.
  - (b) Schedule 5253307970000002 dated September 19, 2014 for approximately \$275,023.50 in financed items, between Hewlett-Packard Financial Services Canada Company and Seller, regarding a POS hardware/software lease, and any acceptance certificates, amendments or related agreements thereto in effect at the Closing Time.
  - (c) Schedule 5253307970000001 dated July 31, 2014 for approximately \$247,952 in financed items, between Hewlett-Packard Financial Services Canada Company and Seller, regarding a POS hardware/software lease, and any acceptance certificates, amendments or related agreements thereto in effect at the Closing Time.

30. IBM agreement for services acquired from an IBM business partner from IBM Canada and an accompanying statement of work, regarding ERP hardware maintenance, and any attachments, amendments or related agreements thereto in effect at the Closing Time.
31. License agreement for software products, dated June 3, 1992, between Island Pacific Corporation and Seller, as amended on March 23, 2010, regarding ERP software maintenance, and any attachments, amendments or related agreements thereto in effect at the Closing Time.
32. License agreement, dated October 18, 1988, between Grafton Group Limited and Island Pacific Systems Corporation, and any attachments, amendments or related agreements thereto in effect at the Closing Time.
33. Volume pricing chain-wide plan from SVI Retail, Inc. to Seller, and any attachments, amendments or related agreements thereto in effect at the Closing Time.
34. Maintenance agreement, dated December 7, 2011, and any end user license agreements, order forms and purchase orders, between QlikTech Inc. and Seller, regarding the provision and maintenance of certain software, and any attachments, amendments or related agreements thereto in effect at the Closing Time.
35. Service pricing agreement, dated April 14, 2016, between Payworks Inc. and Seller, regarding payroll, ancillary data processing services and human resources services for corporate employees, and any attachments, amendments or related agreements thereto in effect at the Closing Time.
36. Service pricing agreement, dated, May 29, 2015, between Payworks Inc. and Seller, regarding payroll, ancillary data processing services and human resources services for corporate employees, and any attachments, amendments or related agreements thereto in effect at the Closing Time.
37. Software license and services agreement, dated June 27, 2012, between StoreForce Solutions Inc. and Seller, regarding the licensing of StoreForce's enterprise-wide retail performance management, labour scheduling and business intelligence software for Seller's use, and any attachments, amendments or related agreements thereto in effect at the Closing Time.
38. Signed proposal, dated August 10, 2015, between Summit Tech Communications Inc. and Seller, regarding e-commerce strategy and services, and any attachments, amendments or related agreements thereto in effect at the Closing Time.
39. Sales and license agreement, dated June 10, 2013, between Supercrease Inc. and Seller, regarding the licensing of a system for applying resin from cartridges onto garments to form a permanent crease, the purchase of such cartridges and the related use of marks and copyrights, and any attachments, amendments or related agreements thereto in effect at the Closing Time.



40. Rental agreement, dated January 1, 2014, between Tallman Idealease and Seller, regarding the monthly truck rental of one truck, and any attachments, amendments or related agreements thereto in effect at the Closing Time.
41. Renewal offer, dated November 23, 2016, between Telus/Sky Wireless Communications and Seller, regarding the provision of cell phones and tablets, and any attachments, amendments or related agreements thereto in effect at the Closing Time.
42. Microsoft dynamics retail management system proposal and related invoices, dated June 17, 2014, between Texo and Seller, regarding the licensing and maintenance of a retail management system software, and any attachments, amendments or related agreements thereto in effect at the Closing Time.
43. UPS contract carrier agreement, dated September 23, 2015, between United Parcel Service Canada Ltd. and Grafton Fraser Kingsport DC, regarding freight carrier services, and any attachments, amendments or related agreements thereto in effect at the Closing Time.
44. Service agreement, effective as of December 16, 2013, between WIS International and Seller, regarding physical inventory counting services, and any attachments, amendments or related agreements thereto in effect at the Closing Time.
45. Lease and maintenance agreement, dated January 13, 2012, between Xerox and Seller, regarding Xerox photocopier equipment, and any attachments, amendments or related agreements thereto in effect at the Closing Time.
46. Facility rental service agreement, dated September 3, 2015, between Seller and Cintas, regarding floor mats, and any attachments, amendments or related agreements thereto in effect at the Closing Time.
47. 2<sup>nd</sup> revised rollout proposal, dated June 29, 2012, between Seller and Countwise LLC, regarding traffic counters in 30 stores, and any attachments, amendments or related agreements thereto in effect at the Closing Time.
48. 2015 digital program statement of work, dated May 19, 2015, between Seller and DAC Group, regarding store music, and any attachments, amendments or related agreements thereto in effect at the Closing Time.
49. 2015 local listings management statement of work, dated May 19, 2015, between Seller and DAC Group, regarding store music, and any attachments, amendments or related agreements thereto in effect at the Closing Time.
50. Schedule B technicians suggested checklist for the HVAC maintenance inspection program, dated July 1, 2013, between Seller and Dixon Air & Heating Inc, and any attachments, amendments or related agreements thereto in effect at the Closing Time.

51. Account detail summary, dated August 2012, from Gunnebo, addressed to Seller, regarding health and safety, and any attachments, amendments or related agreements thereto in effect at the Closing Time.
52. Confidential rate confirmation, dated June 16, 2016, from Quiktrax, addressed to Seller, regarding a freight vendor, and any attachments, amendments or related agreements thereto in effect at the Closing Time.
53. Retail distribution and license agreement, dated January 1, 2013, as amended January 26, 2015, March 10, 2015 and August 1, 2015, between ABG-Jones, LLC and Seller, regarding Seller's use of the Jones New York licensed marks for menswear, and any attachments, amendments or related agreements thereto in effect at the Closing Time.

**D. Leases**

***Leases for Stores***

1. Lease for store number 15022 at Southgate Centre in Alberta between the Seller, Ivanhoe Cambridge II Inc. and OPB (Southgate) Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
2. Lease for store number 15003 at 1295 Portage Avenue in Manitoba between the Seller and 73420 Manitoba Ltd., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
3. Lease for store number 15014 at The Ottawa Train Yards in Ontario between the Seller and 1663321 Ontario Inc. and 1414614 Ontario Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
4. Lease for store number 12030 at Yorkdale in Ontario between the Seller and Yorkdale Shopping Centre Holdings Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
5. Lease for store number 16048 at Macleod Trail in Alberta between the Seller and Gutman Investments Ltd., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
6. Lease for store number 12189 at Bayshore Shopping Centre in Ontario between the Seller and Bayshore Shopping Centre Limited and KS Bayshore Inc. (KS), and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
7. Lease for store number 16053 at River City Centre in Saskatchewan between the Seller and Crombie Property Holdings Limited, and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
8. Lease for store number 15038 at Downsview in Ontario between the Seller and First Long Weekend Developments Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.

9. Lease for store number 12193/15013 at Colossus Centre in Ontario between the Seller and RioTrin Properties (Vaughan 2) Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
10. Lease for store number 15024 at Marine Way Market in British Columbia between the Seller and Marine Promenade Properties Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
11. Lease for store number 15019 at West Edmonton Mall in Alberta between the Seller and West Edmonton Mall Property Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
12. Lease for store number 12082 at West Edmonton Mall in Alberta between the Seller and West Edmonton Mall Property Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
13. Lease for store number 16052 at West Landing Centre in Saskatchewan between the Seller and Westfield University Park Ltd., with AX Property Management L.P as agent, and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
14. Lease for store number 16033 at North Town Centre in Alberta between the Seller and Anthem Kimco North Town Shopping Centre Ltd., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
15. Lease for store number 12158/15052 at The Village Shopping Centre in Newfoundland between the Seller and Village Shopping Centre (NL) Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
16. Lease for store number 15008 at Heartland Town Centre in Ontario between the Seller and Orlando Corporation, and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
17. Lease for store number 16041 in West Hastings in British Columbia between the Seller and Roy Rauser, and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
18. Lease for store number 12011 at Oshawa Centre in Ontario between the Seller and Oshawa Centre Holdings Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
19. Lease for store number 15307 at Calgary Village in Alberta between the Seller and 552861 Alberta Ltd., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
20. Lease for store number 16039 at Bayers Lake Park in Nova Scotia between the Seller, Plazacorp Property Holdings Inc. and Canadian Property Holdings (Nova Scotia) Inc., by

its authorized agent CREIT Management Limited, and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.

21. Lease for store number 12026 at Guildford Town Centre in British Columbia between the Seller and Guildford Town Centre Limited Partnership, and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
22. Lease for store number 16049 at Westgate Shopping Centre in Alberta between the Seller and Westgate Shopping Centre Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
23. Lease for store number 16027 at Eglinton Town Centre in Ontario between the Seller and The Eglinton Town Centre Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
24. Lease for store number 15025 at 600 Hespeler Road in Ontario between the Seller and GPM (12) GP Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
25. Lease for store number 16043 in Surrey in British Columbia between the Seller and Roy Rauser, and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
26. Lease for store number 15023 at Durham Centre in Ontario between the Seller and Durham Holdings Limited, and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
27. Lease for store number 16025 at Kenaston Power Centre in Manitoba between the Seller and 3945333 Manitoba Limited, and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
28. Lease for store number 16021 at Winston Park Centre in Ontario between the Seller and Purple Knights Development (2000) Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
29. Lease for store number 15020 at London Crossroads in Ontario between the Seller and London Crossroads Centre Holdings Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
30. Lease for store number 12088 at Vaughan Mills in Ontario between the Seller and Ivanhoe Cambridge II Inc. (by its manager, Ivanhoe Cambridge Inc.), and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
31. Lease for store number 12146 at Kanata Entertainment Centrum in Ontario between the Seller and Kanata Entertainment Holdings Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.

32. Lease for store number 12063 at Midtown Mall in Saskatchewan between the Seller and Midtown Plaza Inc., as general partner of the Midtown Plaza Limited Partnership, and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
33. Lease for store number 12020 at Heartland Town Centre in Ontario between the Seller and Orlando Corporation, and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
34. Lease for store number 16022 at Wheeler Park in New Brunswick between the Seller and CREIT Management LP, and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
35. Lease for store number 12016 at Metrotown in British Columbia between the Seller and Ivanhoe Cambridge II Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
36. Lease for store number 12024 at St. Laurent Shopping Centre in Ontario between the Seller and 713949 Ontario Limited, and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
37. Lease for store number 12032 at Bramalea City Centre in Ontario between the Seller, Morguard Corporation and Bramalea City Centre Equities Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
38. Lease for store number 15036 at Centre on Barton in Ontario between the Seller and Centre Mall Holdings Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
39. Lease for store number 15037 at Dundas/427 Marketplace in Ontario between the Seller and Riocan Holdings (GTA Marketplace) Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
40. Lease for store number 12022 at CrossIron Mills in Alberta between the Seller and Ivanhoe Cambridge Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
41. Lease for store number 12103 at Sherwood Park Mall in Alberta between the Seller and T&T Properties/Sherwood Park Mall Limited, and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
42. Lease for store number 12038 at White Oak Mall in Ontario between the Seller and Whiteoaks Mall Limited, and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
43. Lease for store number 15031 at Riocan Centre Buloak in Ontario between the Seller, RRL Burloak Inc. and 2121049 Ontario Limited (by its agent, Riocan Property Services Inc., as Trustee for Riocan Property Services Trust), and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.

44. Lease for store number 15029 at 28 Commerce Park in Ontario between the Seller and Churchill Barrie Retail Centre One Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
45. Lease for store number 16044 at Coquitlam Centre in British Columbia between the Seller and Pensionfund Realty Limited, and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
46. Lease for store number 16026 at RioCan Sudbury Centre in Ontario between the Seller and 2046735 Ontario Limited, and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
47. Lease for store number 16023 at Viewmount Centre in Ontario between the Seller and Riokim Holdings (Ontario II) Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
48. Lease for store number 15033 at Windsor Crossing Premium Outlet Mall in Ontario between the Seller and Optrust Retail Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
49. Lease for store number 12060 at Southgate Centre in Alberta between the Seller and Ivanhoe Cambridge, and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
50. Lease for store number 12066 at Avalon Mall in Newfoundland between the Seller and Crombie Developments Limited, and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
51. Lease for store number 12169 at Dixie Value Mall in Ontario between the Seller and Ivanhoe Cambridge II Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
52. Lease for store number 12035 at Scarborough Town Centre in Ontario between the Seller and Scarborough Town Centre Holdings Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
53. Lease for store number 15035 at Dilworth Shopping Centre in British Columbia between the Seller and Dilworth Shopping Centre Ltd., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
54. Lease for store number 12127/15084 at Shoppers Mall Brandon in Manitoba between the Seller and Morguard REIT, and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
55. Lease for store number 12153 at First Canadian Place in Ontario between the Seller and First Place Tower Brookfield Properties Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.

56. Lease for store number 12152 at Stone Road Mall in Ontario between the Seller and Stone Road Mall Holdings Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
57. Lease for store number 12195 at Woodgrove Centre in British Columbia between the Seller and Ivanhoe Cambridge II Inc. and Woodgrove Holdings Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
58. Lease for store number 12162/15067 at Lansdowne Place in Ontario between the Seller and Lansdowne Mall Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
59. Lease for store number 12132 at Park Place Shopping Centre in Alberta between the Seller and Park Place Mall Holdings Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
60. Lease for store number 12198 at Orangeville Mall in Ontario between the Seller and Orangeville Mall Property Holdings Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
61. Lease for store number 12004 at Upper Canada Mall in Ontario between the Seller and Upper Canada Mall Limited, and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
62. Lease for store number 12048/15076 at Mayflower Mall in Nova Scotia between the Seller and Hopp Realty Inc./Nsahopp Mayflower Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
63. Lease for store number 12027 at RioCan Langley Centre in British Columbia between the Seller and Rio Kim Holdings (Langley Power Centre) Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
64. Lease for store number 12163/15062 at Heritage Shopping Centre in Ontario between the Seller and KS Heritage Place Inc. (c/o 20 Vic Management Inc.), and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
65. Lease for store number 12120 at Southland Mall in Saskatchewan between the Seller and Gordon Road Property Holdings Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
66. Lease for store number 12055 at Market Mall in Saskatchewan between the Seller and 2055190 Ontario Limited, and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
67. Lease for store number 12191/15056 at Trinity Common Brampton in Ontario between the Seller and RioTrin Properties (Brampton) Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.

68. Lease for store number 15027 at Pen Centre in Ontario between the Seller and 20VIC Management, and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
69. Lease for store number 16024 at London North in Ontario between the Seller, Calloway REIT (London N Inc.), Calloway REIT (SW Ontario) Inc. and Canadian Property Holdings (Ontario) Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
70. Lease for store number 12321 at Halifax Shopping Centre in Nova Scotia between the Seller and 20 Vic Management Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
71. Lease for store number 12007 at Southcentre Mall in Alberta between the Seller and Southcentre Mall Limited Partnership/Ivanhoe Cambridge, and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
72. Lease for store number 12122/15060 at Northgate Shopping Centre in Ontario between the Seller and Hoop Realty Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
73. Lease for store number 15308 at King's Crossing Fashion Outlet in Ontario between the Seller and Kcap Kingston Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
74. Lease for store number 12167 at Catarauqui Town Centre in Ontario between the Seller and Catarauqui Holdings Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
75. Lease for store number 12049 at Orchard Park Shopping Centre in British Columbia between the Seller and Orchard Park Shopping Centre Holdings Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
76. Lease for store number 15058 at Woodgrove Centre in British Columbia between the Seller, Ivanhoe Cambridge II Inc. and Woodgrove Holdings Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
77. Lease for store number 12196 at Cambridge Mall in Ontario between the Seller and Morguard Real Estate Investment Trust, and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
78. Lease for store number 16038 at Quinte Mall in Ontario between the Seller and Quinte Mall Limited, and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
79. Lease for store number 12031 at Coquitlam Centre in British Columbia between the Seller and Pensionfund Realty Limited (with Morguard Investments as agent), and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.



80. Lease for store number 15303 at Millstream Village Shopping Centre in British Columbia between the Seller and KS Village (Millstream) Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
81. Lease for store number 12076 at Pickering Town Centre in Ontario between the Seller and OPB Realty Inc. (c/o 20 Vic Management Inc.), and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
82. Lease for store number 12186 at Erin Mills Town Centre in Ontario between the Seller and OPB (EMTC) Inc. (c/o 20 Vic Management Inc.), and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
83. Lease for store number 12322 at Timmins Square Shopping Centre in Ontario between the Seller and 1451945 Ontario Limited and Timmins Square Shopping Centre Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
84. Lease for store number 15340 at Green Lane Shopping Centre in Ontario between the Seller and Riotrin Properties (Newmarket) Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
85. Lease for store number 12057 at West Edmonton Mall in Alberta between the Seller and West Edmonton Mall Property Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
86. Lease for store number 12111 at Calgary Eaton Centre in Alberta between the Seller and CEC Leaseholds Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
87. Lease for store number 12052 at Devonshire Mall in Ontario between the Seller and Ivanhoe Cambridge, and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
88. Lease for store number 12344 at Pen Centre in Ontario between the Seller and OPB Realty Inc. (by its agent 20 Vic Management Inc.), and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
89. Lease for store number 12059 at Sudbury Centre in Ontario between the Seller and Trinity Development Group Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
90. Lease for store number 16031 at Beacon Hill Centre in Alberta between the Seller and Riocan Property Services Trust (as agent for 2113362 Ontario Limited and Trinity Properties Alberta Limited), and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.

91. Lease for store number 15309 at Southpointe Common in Alberta between the Seller and Southpointe Common Corp., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
92. Lease for store number 12109 at Regent Mall in New Brunswick between the Seller and Regent Mall Holdings Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
93. Lease for store number 12137 at Londonderry Mall in Alberta between the Seller and Lehndorff Property Management Limited (as agent for an unnamed owner/landlord), and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
94. Lease for store number 12147 at Corner Brook Plaza in Newfoundland between the Seller and Montex (Corner Brook) Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
95. Lease for store number 12106 at Exploits Valley Mall in Newfoundland between the Seller and Exploits Valley Mall Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
96. Lease for store number 12141 at Georgian Mall in Ontario between the Seller and Riocan Holdings Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
97. Lease for store number 12033 at Hillcrest Mall in Ontario between the Seller and Montez Hillcrest Inc./Hillcrest Holdings Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
98. Lease for store number 12105/15065 at Cornerstone Prince Albert in Saskatchewan between the Seller and Stockyards (Prince Albert) Limited Partnership (by its general partner Stockyards (Prince Albert) GP Ltd.), and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
99. Lease for store number 12118 at Cornwall Centre in Saskatchewan between the Seller and Cornwall Centre Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
100. Lease for store number 12192/15012 at Riocan Signal Hill Centre in Alberta between the Seller and Riotrin Properties Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
101. Lease for store number 12019 at Kingsway in Alberta between the Seller and Kingsway Garden Holdings Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.

102. Lease for store number 15311 at College Centre in Alberta between the Seller and Lethbridge College Centre Ltd., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
103. Lease for store number 15028 at Kennedy Commons in Ontario between the Seller, Kennedy Commons Inc. and 151516 Canada Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
104. Lease for store number 16030 at Milton Crossroads in Ontario between the Seller, First Gulf Milton West Developments Inc. and Calloway REIT (Milton) Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
105. Lease for store number 12058 at SmartCentres Kenaston in Manitoba between the Seller and Calloway REIT (Winnipeg SW) Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
106. Lease for store number 12068 at Place d'Orleans in Ontario between the Seller and Place D'Orleans Holdings Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
107. Lease for store number 12073 at Milton Crossroads in Ontario between the Seller and First Gulf Corporation (on behalf of First Milton Shopping Centres Limited and Calloway REIT (Milton) Inc.), and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
108. Lease for store number 12110 at Medicine Hat Mall in Alberta between the Seller and Medicine Hat Mall Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
109. Lease for store number 12170 at Sunridge Mall in Alberta between the Seller and Sunridge Mall Holdings Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
110. Lease for store number 12179 at St. Albert Centre in Alberta between the Seller and St. Albert Centre Holdings Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
111. Lease for store number 12302/15325 at Station Mall in Ontario between the Seller and Algoma Central Properties, and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
112. Lease for store number 12330 at Hillside Centre in British Columbia between the Seller and Hillside Centre Holdings Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
113. Lease for store number 12332 at Eglinton Square Shopping Centre in Ontario between the Seller and KS Eglinton Square Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.

114. Lease for store number 15039 at Kingsport in Ontario between the Seller and Hullmark (Avenue Eglinton) Ltd., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
115. Lease for store number 12101 at Gander Mall in Newfoundland between the Seller and Gander Shopping Centre Limited, and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
116. Lease for store number 12154 at Parkland Mall in Alberta between the Seller and Morguard Real Estate Investment Trust, and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
117. Lease for store number 12034 at Oakville Place in Ontario between the Seller and Riocan (Oakville Place) Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
118. Lease for store number 12070 at Northgate Mall in Saskatchewan between the Seller and Westdale Construction Co. Limited, and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
119. Lease for store number 12008 at Burlington Mall in Ontario between the Seller and Ivanhoe Cambridge II Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
120. Lease for store number 12044 at Dufferin Mall in Ontario between the Seller and Dufferin Mall Holdings Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
121. Lease for store number 12046 at Lynden Park Mall in Ontario between the Seller, NA (LPM) Limited Partnership (by its General Partner, NADG (LPM) GP Ltd.) and I.G. Investment Management Ltd. (as trustee for Investors Real Property Fund), and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
122. Lease for store number 12050 at Kildonan Place in Manitoba between the Seller and Kildonan Place Shopping Centre Ltd., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
123. Lease for store number 12197 at St. Vital Centre in Manitoba between the Seller and OPB Realty Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
124. Lease for store number 12342/15343 at Aberdeen Mall in British Columbia between the Seller and Aberdeen Kamloops Limited, by its manager, 20 Vic Management Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
125. Lease for store number 12056 at Billings Bridge Shopping Centre in Ontario between the Seller and Capital City Shopping Centre Limited, and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.

126. Lease for store number 12385/15390 at Intercity Shopping Centre in Ontario between the Seller and Hoopp Realty Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
127. Lease for store number 12326/15327 at Pine Centre in British Columbia between the Seller and Pine Centre Holdings Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
128. Lease for store number 12041 at Highland Square in Nova Scotia between the Seller and Crombie Developments Limited, and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
129. Lease for store number 12028 at Micmac Mall in Nova Scotia between the Seller and Mic Mac Mall Limited Partnership, and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
130. Lease for store number 12391 at Tsawwassen Mills in British Columbia between the Seller and Ivanhoe Cambridge, and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
131. Lease for store number 12051 at Sherway Gardens in Ontario between the Seller and Ontrea Inc. (by its agent The Cadillac Fairview Corporation Limited), and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
132. Lease for store number 12005 at Chinook Centre in Alberta between the Seller and Chinook (2014) Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
133. Lease for store number 12313 at Markville Shopping Centre in Ontario between the Seller and Ontrea Inc., by its authorized agent, The Cadillac Fairview Corporation Limited, and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
134. Lease for store number 12012 at Market Mall in Alberta between the Seller and Market Mall Leaseholds Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
135. Lease for store number 12021 at Pacific Centre in British Columbia between the Seller and Pacific Centre Leaseholds Limited (Cadillac Fairview Corporation), and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
136. Lease for store number 12139 at Masonville Place in Ontario between the Seller and CF/Realty Holdings Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
137. Lease for store number 12062 at Champlain Place in New Brunswick between the Seller and Cadillac Fairview Corporation, and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.

138. Lease for store number 12150 at Polo Park in Manitoba between the Seller and Ontrea Inc. (by its agent The Cadillac Fairview Corporation Limited), and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
139. Lease for store number 12087 at Fairview Mall in Ontario between the Seller and Fairmall Leaseholders Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.

***Lease for Head Office and Warehouse***




140. Sublease for the Seller's head office and warehouse at 44 Apex Road in Ontario between the Seller and Stonehouse Group Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.



Schedule 2.1(f)

Intellectual Property

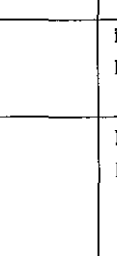
A. Trademarks

*Trademarks Owned by the Seller in Canada*




No.	Owner	Trademark	Application No. Registration No. Registration Date	Status Next deadline
1.	GRAFTON-FRASER INC.	AUTOFLEX	App 1165481 Reg TMA628156 Reg 10-DEC-2004	Registered Renewal due: 10-DEC-2019
2.	GRAFTON-FRASER INC.,	AVENUE RD.	App 543199 Reg TMA315357 Reg 20-JUN-1986	Registered Renewal due: 20-JUN-2031
3.	GRAFTON-FRASER INC.,	BACK COUNTRY	App 645784 Reg TMA382405 Reg 29-MAR-1991	Registered Renewal due: 29-MAR-2021
4.	GRAFTON-FRASER INC.,	BOSA DESIGN 	App 746049 Reg TMA570678 Reg 13-NOV-2002	Registered Renewal due: 13-NOV-2017
5.	GRAFTON-FRASER INC.	BRITCHES	App 568666 Reg TMA414940 Reg 30-JUL-1993	Registered Renewal due: 30-JUL-2023
6.	GRAFTON-FRASER INC.	BRITCHES CLASSIC SPORT DESIGN (NEW/BLUE) 	App 568663 Reg TMA444217 Reg 23-JUN-1995	Registered Renewal due: 23-JUN-2025
7.	GRAFTON-FRASER INC.	BRITCHES GREAT OUTDOOR COLLECTION	App 783867 Reg TMA505684 Reg 17-DEC-1998	Registered Renewal due: 17-DEC-2028
8.	GRAFTON-FRASER INC.	BRITCHES GREAT OUTDOORS	App 842381 Reg TMA527329 Reg 04-MAY-2000	Registered Renewal due: 04-MAY-2030
9.	Grafton-Fraser Inc.,	BUSINESS CASUAL	App 846835 Reg TMA500577 Reg 14-SEP-1998	Registered Renewal due: 14-SEP-2028
10.	GRAFTON-FRASER INC.,	CARRINGTON & DESIGN 	App 516648 Reg TMA307085 Reg 20-SEP-1985	Registered Renewal due: 20-SEP-2030



No.	Owner	Trademark	Application No. Registration No. Registration Date	Status Next deadline
11.	GRAFTON-FRASER INC.,	CLUB VIP GOLD	App 715178 Reg TMA425742 Reg 25-MAR-1994	Registered Renewal due: 25-MAR-2024
12.	GRAFTON-FRASER INC.,	CRICKETEER	App 478014 Reg TMA316499 Reg 18-JUL-1986	Registered Renewal due: 18-JUL-2031
13.	GRAFTON-FRASER INC.	CRICKETEER & DESIGN 	App 479325 Reg TMA316448 Reg 18-JUL-1986	Registered Renewal due: 18-JUL-2031
14.	GRAFTON-FRASER INC.,	EARTH CREW	App 752211 Reg TMA512455 Reg 31-MAY-1999	Registered Renewal due: 31-MAY-2029
15.	GRAFTON-FRASER INC.,	EDITIONS BY GEORGE RICHARDS	App 653986 Reg TMA383683 Reg 26-APR-1991	Registered Renewal due: 26-APR-2021
16.	GRAFTON-FRASER INC.,	FOREIGN TRADE	App 543848 Reg TMA321831 Reg 19-DEC-1986	Registered Renewal due: 19-DEC-2016
17.	Grafton-Fraser Inc.,	FRIDAY WEAR	App 733089 Reg TMA463336 Reg 13-SEP-1996	Registered Renewal due: 13-SEP-2026
18.	GRAFTON-FRASER INC.	GEORGE RICHARDS BIG & TALL	App 1185918 Reg TMA627469 Reg 03-DEC-2004	Registered Renewal due: 03-DEC-2019
19.	GRAFTON-FRASER INC.	GEORGE RICHARDS BIG & TALL MENSWEAR	App 1185919 Reg TMA627344 Reg 02-DEC-2004	Registered Renewal due: 02-DEC-2019
20.	GRAFTON-FRASER INC.,	GEORGE RICHARDS KINGSIZE CLOTHIERS FOR BIG AND TALL & DESIGN 	App 526249 Reg TMA306621 Reg 06-SEP-1985	Registered Renewal due: 06-SEP-2030
21.	GRAFTON-FRASER INC.	GEORGE RICHARDS XL	App 1534970 Reg TMA894056 Reg 15-JAN-2015	Registered Renewal due: 15-JAN-2030
22.	Grafton-Fraser Inc.,	GIANNI MARCO	App 535892 Reg TMA311494 Reg 21-FEB-1986	Registered Renewal due: 21-FEB-2031




No.	Owner	Trademark	Application No. Registration No. Registration Date	Status Next deadline
23.	GRAFTON-FRASER INC.	GR SIGNATURE SERIES DESIGN SIGNATURE SERIES	App 1524143 Reg TMA951840 Reg 11-OCT-2016	Registered Renewal due: 11-OCT-2031
24.	GRAFTON-FRASER INC.,	GRAFTON & CO. DESIGN GRAFTON & Co.	App 573243 Reg TMA337868 Reg 11-MAR-1988	Registered Renewal due: 11-MAR-2018
25.	GRAFTON-FRASER INC.	GRAFTON 1853 & DESIGN  GRAFTON 1853	App 1522461 Reg TMA950781 Reg 29-SEP-2016	Registered Renewal due: 29-SEP-2031
26.	GRAFTON-FRASER INC.	GRAFTON 1853 LIQUID WOOL	App 1655859 Reg TMA952403 Reg 18-OCT-2016	Registered Renewal due: 18-OCT-2031
27.	GRAFTON-FRASER INC.,	GRAFTON CLUB SINCE 1853 & DESIGN 	App 501597 Reg TMA286808 Reg 13-JAN-1984	Registered Renewal due: 13-JAN-2029
28.	Grafton-Fraser Inc.	HARWICK	App 1209356 Reg TMA647678 Reg 09-SEP-2005	Registered Renewal due: 09-SEP-2020
29.	GRAFTON-FRASER INC.,	INTERNATIONAL ZONES	App 609817 Reg TMA383393 Reg 26-APR-1991	Registered Renewal due: 26-APR-2021
30.	GRAFTON-FRASER INC.,	INTERNATIONAL ZONES & DESIGN 	App 609816 Reg TMA386509 Reg 12-JUL-1991	Registered Renewal due: 12-JUL-2021
31.	Grafton-Fraser Inc.	KINGSPORT	App 1209354 Reg TMA647864 Reg 13-SEP-2005	Registered Renewal due: 13-SEP-2020
32.	Grafton-Fraser Inc.,	LEISHMAN	App 406292 Reg TMA231809 Reg 16-FEB-1979	Registered Renewal due: 16-FEB-2024
33.	Grafton-Fraser Inc.,	LEISHMAN CLOTHES	App 162831 Reg UCA11495 Reg 26-AUG-1933	Registered Renewal due: 26-AUG-2023

No.	Owner	Trademark	Application No. Registration No. Registration Date	Status Next deadline
34.	Grafton-Fraser Inc.	LIVE LARGE BIG & TALL	App 1219084 Reg TMA690431 Reg 21-JUN-2007	Registered Renewal due: 21-JUN-2022
35.	GRAFTON-FRASER INC.	MADISON CLUB	App 556905 Reg TMA330679 Reg 31-JUL-1987	Registered Renewal due: 31-JUL-2017
36.	GRAFTON-FRASER INC.	MR. BIG & TALL	App 1434473 Reg TMA782213 Reg 10-NOV-2010	Registered Renewal due: 10-NOV-2025
37.	Grafton-Fraser Inc.,	MR. BIG 'N TALL	App 557070 Reg TMA325166 Reg 27-MAR-1987	Registered Renewal due: 27-MAR-2017
38.	GRAFTON-FRASER INC.	MR. BIG AND TALL XL	App 1534966 Reg TMA894054 Reg 15-JAN-2015	Registered Renewal due: 15-JAN-2030
39.	GRAFTON-FRASER INC.	NABOUR STORES	App 493952 Reg TMA288827 Reg 16-MAR-1984	Registered Renewal due: 16-MAR-2029 Rnw 16-MAR-2014
40.	Grafton-Fraser Inc.,	NEW EDITIONS	App 324542 Reg TMA169081 Reg 08-MAY-1970	Registered Renewal due: 08-MAY-2030
41.	GRAFTON-FRASER INC.	NORTEK & DESIGN 	App 842238 Reg TMA536123 Reg 30-OCT-2000	Registered Renewal due: 30-OCT-2030
42.	GRAFTON-FRASER INC.,	NORTHWOODS	App 723463 Reg TMA443255 Reg 26-MAY-1995	Registered Renewal due: 26-MAY-2025
43.	GRAFTON-FRASER INC.	NXT Nortek	App 1329387 Reg TMA802497 Reg 20-JUL-2011	Registered Renewal due: 20-JUL-2026
44.	GRAFTON-FRASER INC.	PROFILO	App 1137255 Reg TMA664981 Reg 25-MAY-2006	Registered Renewal due: 25-MAY-2021
45.	GRAFTON-FRASER INC.,	PROFILO CLASSICS	App 1089815 Reg TMA593967 Reg 05-NOV-2003	Registered Renewal due: 05-NOV-2018
46.	Grafton-Fraser Inc.,	REPP LTD.	App 749329 Reg TMA490828 Reg 04-MAR-1998	Registered Renewal due: 04-MAR-2028
47.	Grafton-Fraser Inc.,	REPP LTD. BIG & TALL (DESIGN) 	App 791522 Reg TMA472738 Reg 17-MAR-1997	Registered Renewal due: 17-MAR-2027

No.	Owner	Trademark	Application No. Registration No. Registration Date	Status Next deadline
48.	GRAFTON-FRASER INC.	SIGNATURE CARRINGTON	App 1434479 Reg TMA782214 Reg 10-NOV-2010	Registered Renewal due: 10-NOV-2025
49.	Grafton-Fraser Inc.,	SIGNATURE SERIES DESIGN <i>Signature Series</i>	App 705702 Reg TMA433896 Reg 30-SEP-1994	Registered Renewal due: 30-SEP-2024
50.	Grafton-Fraser Inc.	STONEHOUSE	App 1006491 Reg TMA561639 Reg 09-MAY-2002	Registered Renewal due: 09-MAY-2017
51.	GRAFTON-FRASER INC.	THE SUIT EXCHANGE	App 877362 Reg TMA529956 Reg 05-JUL-2000	Registered Renewal due: 05-JUL-2030
52.	Grafton-Fraser Inc.,	TIP TOP	App 408077 Reg TMA228964 Reg 14-JUL-1978	Registered Renewal due: 14-JUL-2023
53.	Grafton-Fraser Inc.,	TIP TOP BUSINESS CASUAL & DESIGN 	App 848374 Reg TMA500592 Reg 14-SEP-1998	Registered Renewal due: 14-SEP-2028
54.	Grafton-Fraser Inc.,	TIP TOP CLASSICS	App 1046184 Reg TMA576108 Reg 20-FEB-2003	Registered Renewal due: 20-FEB-2018
55.	Grafton-Fraser Inc.,	TIP TOP TAILORS	App 104873 Reg TMDA28783 Reg 20-JUL-1921	Registered Renewal due: 20-JUL-2031
56.	Grafton-Fraser Inc.,	TIP TOP TAILORS & DESIGN 	App 705693 Reg TMA438656 Reg 03-FEB-1995	Registered Renewal due: 03-FEB-2025
57.	Grafton-Fraser Inc.,	TIP TOP VETEMENTS D'AFFAIRES DÉCONTRACTÉS & DESIGN 	App 848373 Reg TMA500590 Reg 14-SEP-1998	Registered Renewal due: 14-SEP-2028
58.	Grafton-Fraser Inc.,	TIP TOP WAREHOUSE OUTLET & DESIGN 	App 511040 Reg TMA293888 Reg 10-AUG-1984	Registered Renewal due: 10-AUG-2029

No.	Owner	Trademark	Application No. Registration No. Registration Date	Status Next deadline
59.	Grafton-Fraser Inc.,	TT & CO. SPORT & DESIGN 	App 701559 Reg TMA429886 Reg 01-JUL-1994	Registered Renewal due: 01-JUL-2024
60.	Grafton-Fraser Inc.,	TT & COMPANY	App 862657 Reg TMA511103	Registered Renewal due: 27-APR-2029
61.	Grafton-Fraser Inc.,	TT & COMPANY & DESIGN 	App 862658 Reg TMA511104 Reg 27-APR-1999	Registered Renewal due: 27-APR-2029
62.	GRAFTON-FRASER INC.,	UP COUNTRY	App 750753 Reg TMA441932 Reg 14-APR-1995	Registered Renewal due: 14-APR-2025

**Trademarks Owned by the Seller in Other Jurisdictions**

No.	Country	Owner	Trademark	Application No. Registration No. Registration Date	Status Next deadline
1.	China	Grafton-Fraser Inc.,	GRAFTON 1853 & Design	App 10666131 Reg 10666131 Reg 08-28-2013	Registered Renewal due: 12-06-2023
2.	China	Grafton-Fraser Inc.,	GRAFTON 1853 & Design	App 10666130 Reg 10666130 Reg 08-28-2013	Registered Renewal due: 12-06-2023
3.	Japan	Grafton-Fraser Inc.,	GRAFTON 1853 & Design	App 24383/2012 Reg 5559375 Reg 02-22,-2013	Registered Renewal due: 02-22-2023
4.	Korea	Grafton-Fraser Inc.,	GRAFTON 1853 & Design	App 45-2012-0045464 Reg 45-0045464 Reg 07-12-2013	Registered Renewal due: 07-13-2023
5.	US	GRAFTON-FRASER INC.	GEORGE RICHARDS XL  GEORGE RICHARDS XL	App 85442756 Reg 4971253 Reg 07-JUN-2016	Registered Affidavit Use due: 06-07-2022 Renewal due: 06-07-2026
6.	US	GRAFTON-FRASER INC.	GR SIGNATURE SERIES  	App 85441968	Pending Response due: 05-28-2017

7.	US	GRAFTON-FRASER INC.	GRAFTON 1853 	App 85440851	Pending Response due: 05-14-2017
8.	US	GRAFTON-FRASER INC.	MR. BIG AND TALL XL MR. BIG AND TALL XL	App 85441590 Reg 4971252 Reg 07-JUN-2016	Registered Affidavit Use due: 06-07-2022 Renewal due: 06-07-2026

**B. Business Names**

Grafton Fraser Inc.

**C. Domain Names**

**godaddy.com**

GEORGERICHARDSMENSWEAR.COM  
MRBIGANDTALLMENSWEAR.COM  
TIPTOPTAILORMENSWEAR.COM  
GRAFTONFRASER.CA  
GRAFTONFRASER.COM  
MYGEORGERICHARDS.COM  
MYMRBIGANDTALL.COM  
MYTIPTOPTAILORS.COM  
GRAFTON1852.CA  
GRAFTON1852.COM  
GRAFTON1853.CA  
GRAFTON1853.COM  
GRXL.COM  
GRXL.CA  
GEORGERICHARDSXL.COM  
GEORGERICHARDSXL.CA  
GEORGERICHARDSXLMENSWEAR.COM  
GEORGERICHARDSXLMENSWEAR.CA  
MYGEORGERICHARDSXL.COM  
MYGEORGERICHARDSXL.CA  
MRBIGANDTALL.COM  
GFSFMOBILE.COM  
GEORGERICHARDS.COM

**instantdomainregistration.com**

GRAFTONHOUSE.COM

**www.cadns.ca**

BRITCHES.CA  
STONEHOUSEMENSWEAR.CA

MRBIGANDTALL.CA  
KINGSPORTCLOTHIERS.CA  
SUITEXCHANGE.CA  
GRAFTON.CA  
GEORGERICHARDS.CA  
GRAFTONHOUSE.CA  
MRBIGTALL.CA  
TIPTOPTAILORS.CA  
TIPTOP.CA

**Schedule 2.2(a)**

**Excluded Assets**

None.

## Schedule 2.2(c)

### Excluded Contracts

#### A. Contracts

1. Sponsorship agreement, dated March 4, 2015, between Seller, Rogers Sports Holdings Inc. and Rogers Blue Jays Partnership, and accompanying deal summaries, regarding advertising and sponsorship, and any attachments, amendments or related agreements thereto in effect at the Closing Time.
2. Promotional agreement, dated April 22, 2016, between Seller, Rogers Sports Holdings Inc. and Rogers Blue Jays Partnership, regarding advertising and sponsorship, and any attachments, amendments or related agreements thereto in effect at the Closing Time.
3. Vendor terms and agreement, dated March 29, 2012, between Seller and Caulfeild Apparel Group Ltd., regarding a merchant contract, and any attachments, amendments or related agreements thereto in effect at the Closing Time.
4. Public advertising contract, dated July 25, 2015, between Seller and Core Media Inc., regarding advertising, and any attachments, amendments or related agreements thereto in effect at the Closing Time.
5. Public advertising contract, dated March 3, 2016, between Seller and Core Media Inc., regarding advertising, and any attachments, amendments or related agreements thereto in effect at the Closing Time.
6. Agreements with EDI Project, and any attachments, amendments or related agreements thereto in effect at the Closing Time.
7. Service offer and agreement, dated February 13, 2012, between Seller and Gestion 4S Inc., regarding consulting for design, development and delivery of Microsoft Dynamics retail management system (point of sale system), and any attachments, amendments or related agreements thereto in effect at the Closing Time.
8. Service offer and agreement, dated June 25, 2014, between Seller and Gestion 4S Inc., regarding consulting for support for the development, launch and management of Seller's "big world" brand e-commerce webstores, and any attachments, amendments or related agreements thereto in effect at the Closing Time.
9. Agreements with GBG related to Jones New York, and any attachments, amendments or related agreements thereto in effect at the Closing Time.
10. Agreement, dated August 19, 2016, between Seller and 114161 Canada Inc. (d/b/a Remco), including a rate proposal and terms and conditions, dated April 12, 2016, regarding a freight vendor, and any attachments, amendments or related agreements thereto in effect at the Closing Time.



11. Agreement with Return Path, regarding the auditing of Seller's e-mail list, and any attachments, amendments or related agreements thereto in effect at the Closing Time.
12. Agreement with SPS Commerce, and any attachments, amendments or related agreements thereto in effect at the Closing Time.
13. Agreement with Triversity, regarding Seller's old point of sale system, and any attachments, amendments or related agreements thereto in effect at the Closing Time.
14. Services agreement, dated December 12, 2012, between Seller and Trustwave Canada Inc., regarding PCI compliance, and any attachments, amendments or related agreements thereto in effect at the Closing Time.
15. Conflict minerals policy, dated June 18, 2013, between Jones Investment Co. Inc. and Seller, and any attachments, amendments or related agreements thereto in effect at the Closing Time.

**B. Leases**

*Leases for Stores*

1. Lease for store number 12047 at Woodbine Centre in Ontario between the Seller and 2058790 Ontario Limited, and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
2. Lease for store number 12072/15072 at SmartCentre Brockville in Ontario between the Seller and Calloway REIT (Brockville) Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
3. Lease for store number 12080 at Square One in Ontario between the Seller and Omers Realty Management Corporation, and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
4. Lease for store number 12121/15051 at Bedford Commons Plaza in Nova Scotia between the Seller and Plaza Corp Property Holdings Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
5. Lease for store number 12312 at Charlottetown Mall in Prince Edward Island between the Seller and RioKlm Holdings (PEI) Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
6. Lease for store number 12331 at Edmonton City Centre in Alberta between the Seller and CPP Investment Board Real Estate Holdings Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
7. Lease for store number 12341 at Marlborough Mall in Alberta between the Seller and HOOP Realty Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.

8. Lease for store number 12386 at Richmond Centre in British Columbia between the Seller and Ontrea Inc. and Ivanhoe Cambridge II Inc. (by their agent The Cadillac Fairview Corporation Limited), and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
9. Lease for store number 12061 at Cornwall Centre in Ontario between the Seller and Charter Acquisition Corp., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
10. Lease for store number 12131 at Northumberland Mall in New Brunswick between the Seller and Riocan Holdings Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
11. Lease for store number 12009 at Marlborough Mall in Alberta between the Seller and HOOPP Realty Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
12. Lease for store number 12083 at Marine Way Market in British Columbia between the Seller and Marine Promenade Properties Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
13. Lease for store number 12089 at Marine Drive in British Columbia between the Seller, Jordans Rugs Ltd. and 526375 B.C. Ltd., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
14. Lease for store number 12102 at Station Mall in Ontario between the Seller and Algoma Central Properties Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
15. Lease for store number 12107/15051 at Pine Centre in British Columbia between the Seller and Triovest REIT, and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
16. Lease for store number 12112 at Park Royal Shopping Centre in British Columbia between the Seller and Park Royal Shopping Centre Holdings Ltd., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
17. Lease for store number 12116 at Merivale Mall in Ontario between the Seller and 1642 Merivale Road LP, and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
18. Lease for store number 12119 at Mayfair Shopping Centre in British Columbia between the Seller and Ivanhoe Cambridge Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
19. Lease for store number 12126 at Dixie Value Mall in Ontario between the Seller and Ivanhoe Cambridge II Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.

20. Lease for store number 12160 at Halifax Shopping Centre in Nova Scotia between the Seller, OPB Realty Inc. and 20 Vic Management Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
21. Lease for store number 12168 at Markville Shopping Centre in Ontario between the Seller and Ontrea Inc. (by its agent The Cadillac Fairview Corporation Limited), and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
22. Lease for store number 12301 at Centre on Barton in Ontario between the Seller and Centre Mall Holdings Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
23. Lease for store number 12304 at 7300 Market Crossing in British Columbia between the Seller and Warehouse One Clothing Ltd., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
24. Lease for store number 12305 at Northland Village Shopping Centre in Alberta between the Seller and Northland Village Mall Holdings Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
25. Lease for store number 15017 at Sunridge Mall in Alberta between the Seller and Ivanhoe Cambridge II Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
26. Lease for store number 15021 at Yorkdale Mall in Ontario between the Seller and Yorkdale Shopping Centre Holdings Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
27. Lease for store number 16028 at Colosous Centre in Ontario between the Seller and Riotrin Properties (Vaughan 2) Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
28. Lease for store number 16029 at Centre Mall in Ontario between the Seller and Centre Mall Holdings Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
29. Lease for store number 16306 at Carry Drive Medicine Hat in Alberta between the Seller and Sleeping Bay Building Corp., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
30. Lease for store number 19345 at Willow Park Village Shopping Centre in Alberta between Jones Apparel Group Canada, LP (by its general partner Jones Canada Inc. o/a Jones New York) and Western Securities Limited (on behalf of W.S. Partnership), and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
31. Lease for store number 19347 at Alderbridge Way in British Columbia between Jones Apparel Group Canada, LP and ONNI 7771 Alderbridge Development Limited

- Partnership, and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
32. Lease for store number 19348 at Westwood Shopping Centre in British Columbia between Jones Apparel Group Canada, LP and Westlo Financial Corp., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
  33. Lease for store number 19349 at Queensborough in British Columbia between Jones Apparel Group Canada LP and First Queensborough Shopping Centres Limited, and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
  34. Lease for store number 19350 at Smart Centres in Manitoba between Jones Apparel Group Canada, Inc. and 3945333 Manitoba Limited, and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
  35. Lease for store number 19351 at Chain Lake Plaza in Nova Scotia between Jones Apparel Group Canada, LP, 3088409 Nova Scotia Limited and Plazacorp Property Holdings Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
  36. Lease for store number 19352 at Tanger Outlets in Ontario between Jones Apparel Group Canada, LP and Riocan Management, Inc. (agent for Riocan Holdings (TJV) Inc. and 1633272 Alberta ULC), and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
  37. Lease for store number 19353 at St. Jacobs Factory Outlet Mall in Ontario between Jones Apparel Group Canada, LP, Sunlife Assurance Company of Canada and St. Jacobs Countryside Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
  38. Lease for store number 19354 at St. King's Crossing in Ontario between Jones Apparel Group Canada, LP and KCAP Kingston Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
  39. Lease for store number 19355 at Windsor Crossing in Ontario between Jones Apparel Group Canada, LP and Optrust Retail Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
  40. Lease for store number 19356 at Lundy's Lane in Ontario between Jones Apparel Group Canada, LP and Lundy's Lane Portfolio Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
  41. Lease for store number 19357 at Kingsway Mills in Ontario between Jones Apparel Group Canada Inc. and 1136974 Ontario Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.

42. Lease for store number 19358 at Landmark Mall in Ontario between Jones Apparel Group Canada, LP and Landmark Shopping Centre Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
43. Lease for store number 19359 at Pickering Brock Centre in Ontario between Jones Apparel (Canada) Ltd. and Pickering Brock Centre Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
44. Lease for store number 19361 at Kanata Entertainment Centrum in New Brunswick between Jones Apparel (Canada) Ltd. and Kanata Entertainment Holdings Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
45. Lease for store number 19362 at Newmarket Shopping Centre in Ontario between Jones Apparel Group Canada, LP and Yonge-Kingston Centre Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
46. Lease for store number 19363 at Dorval West Shopping Centre in Ontario between Jones Apparel Group Canada, LP and 2725321, and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
47. Lease for store number 19364 at Lawrence Plaza in Ontario between Jones Apparel Group Canada, LP and Lawrence Plaza Equities Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
48. Lease for store number 19365 at Merivale Place in Ontario between Jones Apparel Group Canada LP (JAG) and 151516 Canada Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
49. Lease for store number 19366 at Orleans in Ontario between Jones Apparel Group Canada LP (JAG) and Innes Shopping Centres Limited, and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
50. Lease for store number 19367 at Empire Theatre Centre in Ontario between Jones Apparel Group (Canada) Ltd. and 2090950 Ontario Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
51. Lease for store number 19368 at Heartland (5875 Rodeo Drive) in Ontario between Jones Apparel Group Canada LP (JAG) and Orlando Corporation, and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
52. Lease for store number 19369 at Wellington Southdale in Ontario between Jones Apparel Group Canada, LP and Wellington Plaza Holdings Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
53. Lease for store number 19370 at Richmond Green Centre in Ontario between Jones Apparel Group Canada, LP (by its general partner Jones Canada, Inc.) and Riotrin Properties (Richmond Hill) Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.

54. Lease for store number 19371 at Sunrise Shopping Centre in Ontario between Jones New York Apparel Group and Voisin Developments Limited, and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
55. Lease for store number 19372 at 45 Lakeside in Quebec between Jones Apparel Group Canada, LP (by its general partner, Jones Canada Inc.), Co-Enterprise Fiducie Lequin and 108227 Canada Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
56. Lease for store number 19373 at Les Factoreries St. Sauveur in Quebec between Jones Apparel (Canada) Ltd. and Les Factoreries Saint-Sauveur (2003) Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
57. Lease for store number 19374 at Riocan Centre Kirkland in Quebec between Jones Apparel Group Canada Inc. and RioTrin Properties (Kirkland) Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
58. Lease for store number 19375 at Promenades Hudson in Quebec between Jones Apparel Group Canada, LP and Promenades Hudson Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
59. Lease for store number 19376 at Promenades Tremblant in Quebec between Jones Apparel Group Canada, LP and Immeubles Marche Tremblant Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
60. Lease for store number 19377 at Megacentre Vaudreuil in Quebec between Jones Apparel Group Canada, LP (by its general partner, Jones Canada Inc.) and 9139-6366 Quebec Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
61. Lease for store number 19378 at Quartier DIX30 (Unit L15C) in Quebec between Jones Apparel Group Canada, LP (represented by its general partner Jones Canada, Inc.) and 4240073 Canada Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
62. Lease for store number 19380 at 4540 Gordon Road in Saskatchewan between Jones Apparel Group Canada, LP and Harvard Developments Inc. (c/o Harvard Property Management Inc.), and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
63. Lease for store number 12085 at Louheed Mall in British Columbia between the Seller and Shape Properties (Lougheed) Corp. and LTC Equities Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
64. Lease for store number 12310/15328 at Lambton Mall in Ontario between the Seller and KS Lambton Mall Inc., by its agent, 20 Vic Management Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.

65. Lease for store number 12323 at Georgetown Marketplace in Ontario between the Seller, Georgetown Market Place Corp. and 2042170 Ontario Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
66. Lease for store number 15320 at Medicine Hat Mall in Alberta between the Seller and Carry Drive Plaza Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
67. Lease for store number 12042 at East Point Shopping Centre in Saskatchewan between the Seller and East Point Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.

***Lease for Storage Facility***

68. Lease for the Seller's storage facility at 21 Hafis Road in Ontario between the Seller and Jetbro Investments Limited, and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.





[REDACTED]



## Schedule 3.3

### Guaranteed Purchase Price Allocation Methodology

This schedule outlines the Purchase Price allocation ("PPA") methodology to be used in connection with the acquisition of certain assets and assumption of certain liabilities of the Seller.

The PPA would be determined in accordance with International Financial Reporting Standard 3 of the CICA, which is similar to the standards applied under US Generally Accepted Accounting Principles ("US GAAP") section FASB ASC 805.

The fair value of the consideration paid (i.e. assumption of debt) will be determined based on the fair value of the Seller, which will be determined based on a discounted cash flow analysis. This value represents the adjusted Purchase Price. The reasonableness of the fair value conclusion will be tested based on the implied EBITDA multiple.

The adjusted Purchase Price will be allocated amongst the Tip Top Tailors and Big World cash generating units (reporting units under US GAAP) based on their relative values. The allocation will be based on the after-tax cash flows of the units. The overhead will be allocated to the units based on a methodology to be agreed to by the parties.

An opening balance sheet will be determined for each unit and will reflect the fair value of the acquired assets and assumed liabilities. The acquired assets include inventory, fixed assets and other net working capital, as well as intangibles such as favorable leases and trademarks. Assumed liabilities include secured debt, accounts payable and accrued liabilities and unfavorable leases. The residual value, if any, will be allocated to goodwill for each unit.

The following summarizes the valuation methodology for the acquired assets and assumed liabilities:

1. **Inventory:** The fair value will be determined based on selling price less cost to sell.
2. **Other net working capital:** The net book value will be used as a proxy for fair value.
3. **Fixed assets:** The net book value will be used as a proxy for fair value.
4. **Leases:** The contractual lease payments over the remaining lease will be compared to market terms. The fair value will be determined based on the net present value of the variance in after-tax cash flow between the contractual and market terms, plus the tax shield. Favorable leases will be classified as assets and unfavorable leases as liabilities.
5. **Trademark:** Fair value will be determined using the Relief from Royalty Method, whereby a notional royalty rate would be applied to net sales. The after-tax cash flows from the notional royalty would be capitalized at the determined rate of return and the tax shield would be added to this amount. The pre-tax notional royalty rate to be applied to

Tip Top Tailors and Big World will be 2% and 3%, respectively (based on the rates recently used for financial reporting purposes).

6. **Secured Debt:** The carrying values of the ABL, DIP and \$2.5 million of GSO term debt will be proxies for fair value. The remaining GSO term debt (to be converted to equity) will be excluded from the PPA.
7. **Goodwill:** The fair value of goodwill will be determined as the excess price paid over and above the fair value of the tangible and identifiable intangible assets and liabilities described above.

The rates of return to be applied to the leases and the trademark will be determined based on the risk inherent in these assets relative to the Seller and the other assets using a Weighted Average Return Analysis, having regard to the Internal Rate of Return implicit in the Purchase Price and projections, the Weighted Average Cost of Capital and the rates of return for the other assets.

**Any changes to the above methodology will be subject to agreement among the parties.**

## Schedule 6.4(l)

### Assumed Real Property Leases and Assumed Contracts Conditional to Closing

#### A. Contracts

1. Vehicle lease agreement and disclosure statement, dated August 11, 2016, between Seller and Agincourt Mazda, regarding a car lease for Lance Itkoff, and any attachments, amendments or related agreements thereto in effect at the Closing Time.
2. Professional services agreement, dated June 22, 2016 (with an effective date of July 5, 2016), and a proposal dated May 31, 2016, between Advantix Digital LLC and Seller, regarding digital marketing, and any attachments, amendments or related agreements thereto in effect at the Closing Time.
3. Work services agreement and draft enrollment form, dated April 5, 2016, between American Express Travel Related Services Company, Inc. and Seller, regarding AMEX payment processing, and any attachments, amendments or related agreements thereto in effect at the Closing Time.
4. Terms and conditions/merchant card acceptance agreement, undated, from Amex Bank of Canada, regarding the terms governing the acceptance of American Express cards in Canada, and any attachments, amendments or related agreements thereto in effect at the Closing Time.
5. Merchant operating manual (Canada), dated April 2016, from American Express, regarding the policies and procedures governing Seller's acceptance of American Express cards, and any attachments, amendments or related agreements thereto in effect at the Closing Time.
6. Mutual non-disclosure agreement, dated November 2, 2016, between Anchor HR Services Inc. and Seller, regarding the exchange of confidential information while the parties were contemplating entering into a commercial relationship, and any attachments, amendments or related agreements thereto in effect at the Closing Time.
7. Code library license agreement, dated December 19, 2014, between B2 Processing Solutions and Seller, regarding a bridge between the pin pads and POS/RMS system, and any attachments, amendments or related agreements thereto in effect at the Closing Time.
8. Appendix A-4 (co-location service in Q9 facility), executed September 10, 2014, between Bell Canada and Seller.
9. Internet protocol virtual private network (IPN VPN) service schedule, executed September 10, 2014, between Bell Canada and Seller, regarding IP VPN/network services, and any attachments, amendments or related agreements thereto in effect at the Closing Time.

10. Master license agreement, dated February 7, 2012, between Societe Internationale de Promotion et de Creation S.A.S and Seller, as amended by amendments dated April 5, 2012, August 2, 2012 and June 12, 2013, regarding the licensing and sub-licensing of marks and Hechter designs in Canada in consideration of which Seller pays Societe Internationale de Promotion et de Creation S.A.S certain royalties, and any attachments, amendments or related agreements thereto in effect at the Closing Time.
11. Discover Canadian merchant operating regulations (R14.1), dated April 11, 2014, regarding debit and credit card processing, and any attachments, amendments or related agreements thereto in effect at the Closing Time.
12. Discover Canadian merchant services agreement, dated September 5, 2014, between Seller and DFS Services LLC, regarding debit and credit card processing, and any attachments, amendments or related agreements thereto in effect at the Closing Time.
13. Global merchant agreement, dated July 19, 2006, between Global Payments Direct, Inc., Seller, GPC Financial Corporation (only in its capacity as "member" for VISA processing) and National Bank of Canada (only in its capacity as "member" for MasterCard processing), as amended on July 27, 2011 and September 12, 2014, regarding debit and credit card processing, and any attachments, amendments or related agreements thereto in effect at the Closing Time.
14. Master lease and financing agreement number 5253307970 dated July 31, 2014 between Hewlett-Packard Financial Services Canada Company and Seller, providing the terms for the following schedules relating to a POS hardware/software lease:
  - (a) Schedule 5253307970000003, dated September 19, 2014, for approximately \$106,153 in financed items, between Hewlett-Packard Financial Services Canada Company and Seller, regarding a POS hardware/software lease, and any acceptance certificates, amendments or related agreements thereto in effect at the Closing Time.
  - (b) Schedule 5253307970000002 dated September 19, 2014 for approximately \$275,023.50 in financed items, between Hewlett-Packard Financial Services Canada Company and Seller, regarding a POS hardware/software lease, and any acceptance certificates, amendments or related agreements thereto in effect at the Closing Time.
  - (c) Schedule 5253307970000001 dated July 31, 2014 for approximately \$247,952 in financed items, between Hewlett-Packard Financial Services Canada Company and Seller, regarding a POS hardware/software lease, and any acceptance certificates, amendments or related agreements thereto in effect at the Closing Time.
15. License agreement for software products, dated June 3, 1992, between Island Pacific Corporation and Seller, as amended on March 23, 2010, regarding ERP software maintenance, and any attachments, amendments or related agreements thereto in effect at the Closing Time.

16. Service pricing agreement, dated April 14, 2016, between Payworks Inc. and Seller, regarding payroll, ancillary data processing services and human resources services for corporate employees, and any attachments, amendments or related agreements thereto in effect at the Closing Time.
17. Service pricing agreement, dated May 29, 2015, between Payworks Inc. and Seller, regarding payroll, ancillary data processing services and human resources services for corporate employees, and any attachments, amendments or related agreements thereto in effect at the Closing Time.
18. Software license and services agreement, dated June 27, 2012, between StoreForce Solutions Inc. and Seller, regarding the licensing of StoreForce's enterprise-wide retail performance management, labour scheduling and business intelligence software for Seller's use, and any attachments, amendments or related agreements thereto in effect at the Closing Time.
19. Rental agreement, dated January 1, 2014, between Tallman Idealease and Seller, regarding the monthly truck rental of one truck, and any attachments, amendments or related agreements thereto in effect at the Closing Time.
20. Renewal offer, dated November 23, 2016, between Telus/Sky Wireless Communications and Seller, regarding the provision of cell phones and tablets, and any attachments, amendments or related agreements thereto in effect at the Closing Time.
21. Lease and maintenance agreement, dated January 13, 2012, between Xerox and Seller, regarding Xerox photocopier equipment, and any attachments, amendments or related agreements thereto in effect at the Closing Time.
22. Retail distribution and license agreement, dated January 1, 2013, as amended January 26, 2015, March 10, 2015 and August 1, 2015, between ABG-Jones, LLC and Seller, regarding Seller's use of the Jones New York licensed marks for menswear, and any attachments, amendments or related agreements thereto in effect at the Closing Time.

**B. Leases**

***Leases for Stores***

1. Lease for store number 15022 at Southgate Centre in Alberta between the Seller, Ivanhoe Cambridge II Inc. and OPB (Southgate) Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
2. Lease for store number 15003 at 1295 Portage Avenue in Manitoba between the Seller and 73420 Manitoba Ltd., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
3. Lease for store number 15014 at The Ottawa Train Yards in Ontario between the Seller and 1663321 Ontario Inc. and 1414614 Ontario Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.

4. Lease for store number 12030 at Yorkdale in Ontario between the Seller and Yorkdale Shopping Centre Holdings Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
5. Lease for store number 16048 at Macleod Trail in Alberta between the Seller and Gutman Investments Ltd., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
6. Lease for store number 12189 at Bayshore Shopping Centre in Ontario between the Seller and Bayshore Shopping Centre Limited and KS Bayshore Inc. (KS), and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
7. Lease for store number 16053 at River City Centre in Saskatchewan between the Seller and Crombie Property Holdings Limited, and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
8. Lease for store number 15038 at Downsview in Ontario between the Seller and First Long Weekend Developments Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
9. Lease for store number 12193/15013 at Colossus Centre in Ontario between the Seller and RioTrin Properties (Vaughan 2) Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
10. Lease for store number 15024 at Marine Way Market in British Columbia between the Seller and Marine Promenade Properties Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
11. Lease for store number 15019 at West Edmonton Mall in Alberta between the Seller and West Edmonton Mall Property Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
12. Lease for store number 12082 at West Edmonton Mall in Alberta between the Seller and West Edmonton Mall Property Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
13. Lease for store number 16052 at West Landing Centre in Saskatchewan between the Seller and Westfield University Park Ltd., with AX Property Management L.P as agent, and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
14. Lease for store number 16033 at North Town Centre in Alberta between the Seller and Anthem Kimco North Town Shopping Centre Ltd., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
15. Lease for store number 12158/15052 at The Village Shopping Centre in Newfoundland between the Seller and Village Shopping Centre (NL) Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.



16. Lease for store number 15008 at Heartland Town Centre in Ontario between the Seller and Orlando Corporation, and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
17. Lease for store number 16041 in West Hastings in British Columbia between the Seller and Roy Rauser, and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
18. Lease for store number 12011 at Oshawa Centre in Ontario between the Seller and Oshawa Centre Holdings Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
19. Lease for store number 15307 at Calgary Village in Alberta between the Seller and 552861 Alberta Ltd., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
20. Lease for store number 16039 at Bayers Lake Park in Nova Scotia between the Seller, Plazacorp Property Holdings Inc. and Canadian Property Holdings (Nova Scotia) Inc., by its authorized agent CREIT Management Limited, and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
21. Lease for store number 12026 at Guildford Town Centre in British Columbia between the Seller and Guildford Town Centre Limited Partnership, and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
22. Lease for store number 16049 at Westgate Shopping Centre in Alberta between the Seller and Westgate Shopping Centre Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
23. Lease for store number 16027 at Eglington Town Centre in Ontario between the Seller and The Eglington Town Centre Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
24. Lease for store number 15025 at 600 Hespeler Road in Ontario between the Seller and GPM (12) GP Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
25. Lease for store number 16043 in Surrey in British Columbia between the Seller and Roy Rauser, and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
26. Lease for store number 15023 at Durham Centre in Ontario between the Seller and Durham Holdings Limited, and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
27. Lease for store number 16025 at Kenaston Power Centre in Manitoba between the Seller and 3945333 Manitoba Limited, and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.

28. Lease for store number 16021 at Winston Park Centre in Ontario between the Seller and Purple Knights Development (2000) Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
29. Lease for store number 15020 at London Crossroads in Ontario between the Seller and London Crossroads Centre Holdings Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
30. Lease for store number 12088 at Vaughan Mills in Ontario between the Seller and Ivanhoe Cambridge II Inc. (by its manager, Ivanhoe Cambridge Inc.), and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
31. Lease for store number 12146 at Kanata Entertainment Centrum in Ontario between the Seller and Kanata Entertainment Holdings Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
32. Lease for store number 12063 at Midtown Mall in Saskatchewan between the Seller and Midtown Plaza Inc., as general partner of the Midtown Plaza Limited Partnership, and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
33. Lease for store number 12020 at Heartland Town Centre in Ontario between the Seller and Orlando Corporation, and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
34. Lease for store number 16022 at Wheeler Park in New Brunswick between the Seller and CREIT Management LP, and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
35. Lease for store number 12016 at Metrotown in British Columbia between the Seller and Ivanhoe Cambridge II Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
36. Lease for store number 12024 at St. Laurent Shopping Centre in Ontario between the Seller and 713949 Ontario Limited, and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
37. Lease for store number 12032 at Bramalea City Centre in Ontario between the Seller, Morguard Corporation and Bramalea City Centre Equities Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
38. Lease for store number 15036 at Centre on Barton in Ontario between the Seller and Centre Mall Holdings Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
39. Lease for store number 15037 at Dundas/427 Marketplace in Ontario between the Seller and Riocan Holdings (GTA Marketplace) Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.

40. Lease for store number 12022 at CrossIron Mills in Alberta between the Seller and Ivanhoe Cambridge Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
41. Lease for store number 12103 at Sherwood Park Mall in Alberta between the Seller and T&T Properties/Sherwood Park Mall Limited, and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
42. Lease for store number 12038 at White Oak Mall in Ontario between the Seller and Whiteoaks Mall Limited, and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
43. Lease for store number 15031 at Riocan Centre Bulook in Ontario between the Seller, RRL Burloak Inc. and 2121049 Ontario Limited (by its agent, Riocan Property Services Inc., as Trustee for Riocan Property Services Trust), and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
44. Lease for store number 15029 at 28 Commerce Park in Ontario between the Seller and Churchill Barrie Retail Centre One Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
45. Lease for store number 16044 at Coquitlam Centre in British Columbia between the Seller and Pensionfund Realty Limited, and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
46. Lease for store number 16026 at RioCan Sudbury Centre in Ontario between the Seller and 2046735 Ontario Limited, and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
47. Lease for store number 16023 at Viewmount Centre in Ontario between the Seller and Riokim Holdings (Ontario II) Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
48. Lease for store number 15033 at Windsor Crossing Premium Outlet Mall in Ontario between the Seller and Oprust Retail Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
49. Lease for store number 12060 at Southgate Centre in Alberta between the Seller and Ivanhoe Cambridge, and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
50. Lease for store number 12066 at Avalon Mall in Newfoundland between the Seller and Crombie Developments Limited, and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
51. Lease for store number 12169 at Dixie Value Mall in Ontario between the Seller and Ivanhoe Cambridge II Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.

52. Lease for store number 12035 at Scarborough Town Centre in Ontario between the Seller and Scarborough Town Centre Holdings Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
53. Lease for store number 15035 at Dilworth Shopping Centre in British Columbia between the Seller and Dilworth Shopping Centre Ltd., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
54. Lease for store number 12127/15084 at Shoppers Mall Brandon in Manitoba between the Seller and Morguard REIT, and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
55. Lease for store number 12153 at First Canadian Place in Ontario between the Seller and First Place Tower Brookfield Properties Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
56. Lease for store number 12152 at Stone Road Mall in Ontario between the Seller and Stone Road Mall Holdings Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
57. Lease for store number 12195 at Woodgrove Centre in British Columbia between the Seller and Ivanhoe Cambridge II Inc. and Woodgrove Holdings Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
58. Lease for store number 12162/15067 at Lansdowne Place in Ontario between the Seller and Lansdowne Mall Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
59. Lease for store number 12132 at Park Place Shopping Centre in Alberta between the Seller and Park Place Mall Holdings Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
60. Lease for store number 12198 at Orangeville Mall in Ontario between the Seller and Orangeville Mall Property Holdings Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
61. Lease for store number 12004 at Upper Canada Mall in Ontario between the Seller and Upper Canada Mall Limited, and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
62. Lease for store number 12048/15076 at Mayflower Mall in Nova Scotia between the Seller and Hopp Realty Inc./Nshopp Mayflower Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
63. Lease for store number 12027 at RioCan Langley Centre in British Columbia between the Seller and Rio Kim Holdings (Langley Power Centre) Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.

64. Lease for store number 12163/15062 at Heritage Shopping Centre in Ontario between the Seller and KS Heritage Place Inc. (c/o 20 Vic Management Inc.), and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
65. Lease for store number 12120 at Southland Mall in Saskatchewan between the Seller and Gordon Road Property Holdings Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
66. Lease for store number 12055 at Market Mall in Saskatchewan between the Seller and 2055190 Ontario Limited, and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
67. Lease for store number 12191/15056 at Trinity Common Brampton in Ontario between the Seller and RioTrin Properties (Brampton) Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
68. Lease for store number 15027 at Pen Centre in Ontario between the Seller and 20VIC Management, and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
69. Lease for store number 16024 at London North in Ontario between the Seller, Calloway REIT (London N Inc.), Calloway REIT (SW Ontario) Inc. and Canadian Property Holdings (Ontario) Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
70. Lease for store number 12321 at Halifax Shopping Centre in Nova Scotia between the Seller and 20 Vic Management Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
71. Lease for store number 12007 at Southcentre Mall in Alberta between the Seller and Southcentre Mall Limited Partnership/Ivanhoe Cambridge, and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
72. Lease for store number 12122/15060 at Northgate Shopping Centre in Ontario between the Seller and Hoop Realty Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
73. Lease for store number 15308 at King's Crossing Fashion Outlet in Ontario between the Seller and Kcap Kingston Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
74. Lease for store number 12167 at Catarauqui Town Centre in Ontario between the Seller and Catarauqui Holdings Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
75. Lease for store number 12049 at Orchard Park Shopping Centre in British Columbia between the Seller and Orchard Park Shopping Centre Holdings Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.

76. Lease for store number 15058 at Woodgrove Centre in British Columbia between the Seller, Ivanhoe Cambridge II Inc. and Woodgrove Holdings Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
77. Lease for store number 12196 at Cambridge Mall in Ontario between the Seller and Morguard Real Estate Investment Trust, and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
78. Lease for store number 16038 at Quinte Mall in Ontario between the Seller and Quinte Mall Limited, and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
79. Lease for store number 12031 at Coquitlam Centre in British Columbia between the Seller and Pensionfund Realty Limited (with Morguard Investments as agent), and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
80. Lease for store number 15303 at Millstream Village Shopping Centre in British Columbia between the Seller and KS Village (Millstream) Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
81. Lease for store number 12076 at Pickering Town Centre in Ontario between the Seller and OPB Realty Inc. (c/o 20 Vic Management Inc.), and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
82. Lease for store number 12186 at Erin Mills Town Centre in Ontario between the Seller and OPB (EMTC) Inc. (c/o 20 Vic Management Inc.), and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
83. Lease for store number 12322 at Timmins Square Shopping Centre in Ontario between the Seller and 1451945 Ontario Limited and Timmins Square Shopping Centre Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
84. Lease for store number 15340 at Green Lane Shopping Centre in Ontario between the Seller and Riotrin Properties (Newmarket) Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
85. Lease for store number 12057 at West Edmonton Mall in Alberta between the Seller and West Edmonton Mall Property Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
86. Lease for store number 12111 at Calgary Eaton Centre in Alberta between the Seller and CEC Leaseholds Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
87. Lease for store number 12052 at Devonshire Mall in Ontario between the Seller and Ivanhoe Cambridge, and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.

88. Lease for store number 12344 at Pen Centre in Ontario between the Seller and OPB Realty Inc. (by its agent 20 Vic Management Inc.), and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
89. Lease for store number 12059 at Sudbury Centre in Ontario between the Seller and Trinity Development Group Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
90. Lease for store number 16031 at Beacon Hill Centre in Alberta between the Seller and Riocan Property Services Trust (as agent for 2113362 Ontario Limited and Trinity Properties Alberta Limited), and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
91. Lease for store number 15309 at Southpointe Common in Alberta between the Seller and Southpointe Common Corp., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
92. Lease for store number 12109 at Regent Mall in New Brunswick between the Seller and Regent Mall Holdings Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
93. Lease for store number 12137 at Londonderry Mall in Alberta between the Seller and Lehndorff Property Management Limited (as agent for an unnamed owner/landlord), and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
94. Lease for store number 12147 at Corner Brook Plaza in Newfoundland between the Seller and Montex (Corner Brook) Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
95. Lease for store number 12106 at Exploits Valley Mall in Newfoundland between the Seller and Exploits Valley Mall Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
96. Lease for store number 12141 at Georgian Mall in Ontario between the Seller and Riocan Holdings Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
97. Lease for store number 12033 at Hillcrest Mall in Ontario between the Seller and Montez Hillcrest Inc./Hillcrest Holdings Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
98. Lease for store number 12105/15065 at Cornerstone Prince Albert in Saskatchewan between the Seller and Stockyards (Prince Albert) Limited Partnership (by its general partner Stockyards (Prince Albert) GP Ltd.), and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.

99. Lease for store number 12118 at Cornwall Centre in Saskatchewan between the Seller and Cornwall Centre Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
100. Lease for store number 12192/15012 at Riocan Signal Hill Centre in Alberta between the Seller and Riotrin Properties Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
101. Lease for store number 12019 at Kingsway in Alberta between the Seller and Kingsway Garden Holdings Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
102. Lease for store number 15311 at College Centre in Alberta between the Seller and Lethbridge College Centre Ltd., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
103. Lease for store number 15028 at Kennedy Commons in Ontario between the Seller, Kennedy Commons Inc. and 151516 Canada Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
104. Lease for store number 16030 at Milton Crossroads in Ontario between the Seller, First Gulf Milton West Developments Inc. and Calloway REIT (Milton) Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
105. Lease for store number 12058 at SmartCentres Kenaston in Manitoba between the Seller and Calloway REIT (Winnipeg SW) Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
106. Lease for store number 12068 at Place d'Orleans in Ontario between the Seller and Place D'Orleans Holdings Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
107. Lease for store number 12073 at Milton Crossroads in Ontario between the Seller and First Gulf Corporation (on behalf of First Milton Shopping Centres Limited and Calloway REIT (Milton) Inc.), and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
108. Lease for store number 12110 at Medicine Hat Mall in Alberta between the Seller and Medicine Hat Mall Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
109. Lease for store number 12170 at Sunridge Mall in Alberta between the Seller and Sunridge Mall Holdings Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
110. Lease for store number 12179 at St. Albert Centre in Alberta between the Seller and St. Albert Centre Holdings Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.



111. Lease for store number 12302/15325 at Station Mall in Ontario between the Seller and Algoma Central Properties, and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
112. Lease for store number 12330 at Hillside Centre in British Columbia between the Seller and Hillside Centre Holdings Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
113. Lease for store number 12332 at Eglinton Square Shopping Centre in Ontario between the Seller and KS Eglinton Square Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
114. Lease for store number 15039 at Kingsport in Ontario between the Seller and Hullmark (Avenue Eglinton) Ltd., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
115. Lease for store number 12101 at Gander Mall in Newfoundland between the Seller and Gander Shopping Centre Limited, and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
116. Lease for store number 12154 at Parkland Mall in Alberta between the Seller and Morguard Real Estate Investment Trust, and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
117. Lease for store number 12034 at Oakville Place in Ontario between the Seller and Riocan (Oakville Place) Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
118. Lease for store number 12070 at Northgate Mall in Saskatchewan between the Seller and Westdale Construction Co. Limited, and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
119. Lease for store number 12008 at Burlington Mall in Ontario between the Seller and Ivanhoe Cambridge II Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
120. Lease for store number 12044 at Dufferin Mall in Ontario between the Seller and Dufferin Mall Holdings Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
121. Lease for store number 12046 at Lynden Park Mall in Ontario between the Seller, NA (LPM) Limited Partnership (by its General Partner, NADG (LPM) GP Ltd.) and I.G. Investment Management Ltd. (as trustee for Investors Real Property Fund), and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
122. Lease for store number 12050 at Kildonan Place in Manitoba between the Seller and Kildonan Place Shopping Centre Ltd., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.

123. Lease for store number 12197 at St. Vital Centre in Manitoba between the Seller and OPB Realty Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
124. Lease for store number 12342/15343 at Aberdeen Mall in British Columbia between the Seller and Aberdeen Kamloops Limited, by its manager, 20 Vic Management Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
125. Lease for store number 12056 at Billings Bridge Shopping Centre in Ontario between the Seller and Capital City Shopping Centre Limited, and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
126. Lease for store number 12385/15390 at Intercity Shopping Centre in Ontario between the Seller and Hoopp Realty Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
127. Lease for store number 12326/15327 at Pine Centre in British Columbia between the Seller and Pine Centre Holdings Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
128. Lease for store number 12041 at Highland Square in Nova Scotia between the Seller and Crombie Developments Limited, and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
129. Lease for store number 12028 at Micmac Mall in Nova Scotia between the Seller and Mic Mac Mall Limited Partnership, and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
130. Lease for store number 12391 at Tsawwassen Mills in British Columbia between the Seller and Ivanhoe Cambridge, and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
131. Lease for store number 12051 at Sherway Gardens in Ontario between the Seller and Ontrea Inc. (by its agent The Cadillac Fairview Corporation Limited), and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
132. Lease for store number 12005 at Chinook Centre in Alberta between the Seller and Chinook (2014) Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
133. Lease for store number 12313 at Markville Shopping Centre in Ontario between the Seller and Ontrea Inc., by its authorized agent, The Cadillac Fairview Corporation Limited, and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
134. Lease for store number 12012 at Market Mall in Alberta between the Seller and Market Mall Leaseholds Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.

135. Lease for store number 12021 at Pacific Centre in British Columbia between the Seller and Pacific Centre Leaseholds Limited (Cadillac Fairview Corporation), and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
136. Lease for store number 12139 at Masonville Place in Ontario between the Seller and CF/Realty Holdings Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
137. Lease for store number 12062 at Champlain Place in New Brunswick between the Seller and Cadillac Fairview Corporation, and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
138. Lease for store number 12150 at Polo Park in Manitoba between the Seller and Ontrea Inc. (by its agent The Cadillac Fairview Corporation Limited), and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.
139. Lease for store number 12087 at Fairview Mall in Ontario between the Seller and Fairmall Leaseholders Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.

***Lease for Head Office and Warehouse***

140. Sublease for the Seller's head office and warehouse at 44 Apex Road in Ontario between the Seller and Stonehouse Group Inc., and all subleases, assignments, amendments and extensions thereto in effect at the Closing Time.

**Schedule 9.1**

**Stalking Horse and SISP Order**

See attached.

ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST

THE HONOURABLE <@> )  
JUSTICE <@> )  
MONDAY, THE 30<sup>th</sup>  
DAY OF JANUARY, 2017 )

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  
GRAFTON-FRASER INC.

(the "Applicant")

ORDER  
(Stalking Horse & SISP)

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

ON READING the affidavit of Mark Sun sworn January 24, 2017 and the Exhibits thereto (the "Sun Affidavit"), the report of Richter Advisory Group Inc. ("Richter"), in its capacity as the proposed monitor of the Applicant, dated January 24, 2017, and the Appendices thereto, the first report of Richter, in its capacity as monitor of the Applicant (the "Monitor"), dated January <@>, 2017, and the Appendices thereto, and on hearing the submissions of counsel for the Applicant, counsel for the Monitor, counsel for Canadian Imperial Bank of Commerce ("CIBC"), counsel for GSO Capital Partners LP ("GSO"), and such other parties as were present, no one else appearing for any other party although duly served as appears from the affidavits of service of Irene Artuso sworn January 24, 2017 and January <@>, 2017, filed.

## SERVICE & DEFINITIONS

1. THIS COURT ORDERS that the time for service of the Notice of Motion and the Motion Record is hereby abridged and validated so that this Motion is properly returnable today and hereby dispenses with further service thereof.
2. THIS COURT ORDERS that capitalized terms used in this Order and not otherwise defined shall have the meaning ascribed to them under (i) the asset purchase agreement dated January <@>, 2017 (the “Stalking Horse Agreement”) between the Applicant and 1104307 B.C. Ltd. (the “Stalking Horse Bidder”); or (ii) the sale and investment solicitation process attached hereto as Schedule “A” (the “SISP”), as the case may be.

## APPROVAL OF STALKING HORSE AGREEMENT

3. THIS COURT ORDERS that the execution, delivery, entry into, compliance with, and performance by the Applicant of the Stalking Horse Agreement be and is hereby ratified, authorized and approved, *provided, however*, that nothing contained in this Order approves the sale or the vesting of the Purchased Assets to the Stalking Horse Bidder pursuant to the Stalking Horse Agreement and that, if the Stalking Horse Agreement is the Successful Bid under the SISP, the approval of the sale and vesting of the Purchased Assets to the Stalking Horse Bidder shall be considered by this Court on a subsequent motion made to this Court following completion of the SISP.
4. THIS COURT ORDERS that the Stalking Horse Agreement be and is hereby approved and accepted solely for the purposes of being the Stalking Horse Bid under the SISP and subject to the further Order of the Court referred to in paragraph 3 above.
5. THIS COURT ORDERS that the Stalking Horse Agreement shall not be rendered invalid or unenforceable and the rights and remedies of the Stalking Horse Bidder thereunder shall not otherwise be limited or impaired in any way by (a) the Applicant’s CCAA proceedings and the declarations of insolvency made in connection therewith; (b) any application(s) for bankruptcy order(s) issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) (the “BIA”), or any bankruptcy order made pursuant to such applications; (c) the filing of any assignments for the general benefit of creditors made pursuant to the BIA; (d) the provisions of any federal or provincial statutes; or (e) any negative covenants, prohibitions or other similar provisions with

respect to borrowings, incurring debt or the creation of security interests, liens, charges and encumbrances, claims of secured creditors, statutory or otherwise, contained in any existing loan documents, lease, sublease, offer to lease or other agreement (collectively, an “Agreement”) which binds the Applicant, and notwithstanding any provision to the contrary in any Agreement:

- (a) the execution, delivery or performance of the Stalking Horse Agreement shall not create or be deemed to constitute a breach by the Applicant of any Agreement to which it is a party; and
- (b) the Stalking Horse Bidder shall not have any liability to any person whatsoever as a result of any breach of any Agreement caused by or resulting from the Applicant entering into the Stalking Horse Agreement.

#### APPROVAL OF SISP

6. THIS COURT ORDERS that the SISP attached hereto as Schedule “A” (subject to such non-material amendments as may be agreed to by the Applicant, the ABL Agent and the DIP Lenders and approved by the Monitor) be and is hereby approved and the Applicant and the Monitor are hereby authorized and directed to take such steps as they deem necessary or advisable (subject to the terms of the SISP) to carry out the SISP, subject to prior approval of this Court being obtained before completion of any transaction(s) under the SISP.

7. THIS COURT ORDERS that the Applicant and the Monitor and their respective affiliates, partners, directors, employees, agents and controlling persons shall have no liability with respect to any and all losses, claims, damages or liability of any nature or kind to any person in connection with or as a result of performing their duties under the SISP, except to the extent of such losses, claims, damages or liabilities resulting from the gross negligence or wilful misconduct of the Applicant or the Monitor, as applicable, as determined by the Court.

8. THIS COURT ORDERS that, pursuant to clause 7(3)(c) of the *Canada Personal Information Protection and Electronic Documents Act*, the Applicant is hereby authorized and permitted to disclose and transfer to each potential bidder (the “Bidders”) (including, without limitation, the Stalking Horse Bidder) and to their advisors, if requested by such Bidders, personal information of identifiable individuals, including, without limitation, all human resources and payroll information in the Applicant's records pertaining to the Applicant's past

and current employees, but only to the extent desirable or required to negotiate or attempt to complete a sale of the Assets and/or the Business ("Sale"). Each Bidder to whom such personal information is disclosed shall maintain and protect the privacy of such information and limit the use of such information to its evaluation of the Sale, and if it does not complete a Sale, shall return all such information to the Applicant, or in the alternative destroy all such information. The Successful Bidder(s) shall maintain and protect the privacy of such information and, upon closing of the transaction contemplated in the Successful Bid(s), shall be entitled to use the personal information provided to it that is related to the Assets and/or Business acquired pursuant to the Sale in a manner which is in all material respects identical to the prior use of such information by the Applicant, and shall return all other personal information to the Applicant, or ensure that all other personal information is destroyed.

#### **GENERAL**

9. 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, the Monitor and their respective agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Applicant and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Monitor in any foreign proceeding, or to assist the Applicant and the Monitor and their respective agents in carrying out the terms of this Order.

10. THIS COURT ORDERS that each of the Applicant and the Monitor be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and that the Monitor is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.



## SALE AND INVESTOR SOLICITATION PROCESS

On January 25, 2017, Grafton-Fraser Inc. (the “**Company**”) filed an application for an Initial Order under the *Companies’ Creditors Arrangement Act* (Canada) (the “**CCAA**”) and Richter Advisory Group Inc. was appointed as the monitor (the “**Monitor**”).

On January 30, 2017, the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) made an order, which, among other things: (a) approved this sale and investor solicitation process (the “**SISP**”), and (b) authorized the execution by the Company of the agreement of purchase and sale between the Company and 1104307 B.C. Ltd. dated January 24, 2017 (the “**Stalking Horse Agreement**”) as the stalking horse bid for the purpose of conducting the SISP.

The purpose of the SISP is to identify one or more financiers, purchasers of and/or investors in the Company, the Business and/or Assets (each as defined below) to make an offer (each a “**Bid**”) that is superior to the offer contemplated by the Stalking Horse Agreement, and to complete the transactions contemplated by any such offer, or by the Stalking Horse Agreement if no other offers are accepted. Set forth below are the procedures (the “**SISP Procedures**”) that shall govern the SISP and any transactions consummated as a result thereof.

### 1. Defined Terms

The following capitalized terms have the following meanings when used in this SISP:

“**Acknowledgment of the SISP**” means an acknowledgment of the SISP in the form attached as Schedule “A” hereto;

“**Additional Confidential Information**” means information required to match the financial information of a retail store operated by the Company with the location of such a store;

“**Aggregate Bid**” means a combination of Portion Bids that do not overlap for Assets sought to be purchased, and which, when totalled, equal or exceed the Minimum Bid Amount;

“**Assets**” means the assets, undertakings and property of the Company;

“**Auction**” has the meaning given to it in Section 13(b);

“**Auction Procedure**” has the meaning given to it in Section 13(b);

“**Back-Up Bid Expiration Date**” has the meaning given to it in Section 16;

“**Back-Up Bid**” has the meaning given to it in Section 13(a)(ii);

“**Back-Up Bidder**” has the meaning given to it in Section 13(a)(ii);

“**Bid**” has the meaning given to it in the introduction;

“**Business**” means the business of retailing men’s apparel and accessories carried on by the Company;

“**Business Day**” means any day, other than a Saturday, Sunday or statutory holiday in the Province of Ontario, on which commercial banks in Toronto, Ontario are open for business;

“**CCAA**” has the meaning given to it in the introduction;

“**Company**” has the meaning given to it in the introduction;

“**Confidential Teaser**” means the confidential teaser describing the opportunity to acquire all or substantially all of the Assets or invest in the Business;

“**Confidentiality Agreement**” means the confidentiality agreement, with terms satisfactory to the Monitor and the Company, entered into between the Company and an Interested Party;

“**Court**” has the meaning given to it in the introduction;

“**Data Room**” means an electronic data room compiled by the Company containing confidential information in respect of the Company, the Business and the Assets;

“**Deposit**” has the meaning given to it in Section 9(j);

“**Dollars**” or means Canadian dollars;

“**Form Purchase Agreement**” means the template agreement of purchase and sale posted in the Data Room;

“**Guaranteed Purchase Price**” has the meaning given to it in the Stalking Horse Agreement;

“**Interested Party**” has the meaning given to it in Section 2;

“**Investment Proposal**” has the meaning given to it in Section 7;

“**Management**” has the meaning given to it in Section 4;

“**Minimum Bid Amount**” means in the case of a Sale Proposal or Investment Proposal, an overall result or value which the Company in consultation with the Monitor considers equivalent or better than 102% of an amount required to repay the Secured Debt and the ABL Obligations (in each case as defined in the Stalking Horse Agreement) and any amounts payable in priority to those obligations in full which sum is estimated to be \$65,000,000 to be updated by the Monitor at least 5 days before the Phase I Bid Deadline;

“**Monitor**” has the meaning given to in the introduction;

“**Outside Date**” means June 15, 2017 or such other date as the Company, the Monitor and Successful Bidder(s) and the Back-Up Bidder may agree, acting reasonably;

“**Participation Notice**” has the meaning given to it in Section 4;

“**Phase I Bid**” means an initial bid submitted by an Interested Party pursuant to Section 7 hereof;

“**Phase I Bid Deadline**” as the meaning given to it in Section 7 hereof;

“**Phase I Bidder**” means a bidder submitting a Phase I Bid;

“**Phase I Participant Requirements**” has the meaning given to it in Section 8 hereof;

“**Phase II Bid**” means a Bid submitted by a Qualified Phase I Bidder;

“**Phase II Bidder**” means a bidder submitting a Phase II Bid;

“**Phase II Bid Deadline**” has the meaning given to it in Section 7;

“**Portion Bid**” means a Bid for less than all or substantially all of the Assets that is otherwise a Qualified Phase I Bid or a Qualified Phase II Bid;

“**Portion Bidder**” means a Qualified Phase I Bidder and/or a Qualified Phase II Bidder that submits a Portion Bid;

“**Purchase Price**” has the meaning given to it in Section 9(b)(i);

“**Qualified Phase I Bid**” means a Phase I Bid that satisfies the conditions set out in Section 9 hereof. A Portion Bid may be a Qualified Phase I Bid;

“**Qualified Phase I Bidder**” means a bidder submitting a Qualified Phase I Bid;

“**Qualified Phase II Bid**” means a Phase II Bid that satisfies the conditions set out in Section 12 hereof. A Portion Bid may be a Qualified Phase II Bid;

“**Qualified Phase II Bidder**” means bidder submitting a Qualified Phase II Bid;

“**Qualified Investment Bid**” is an Investment Proposal that is determined to be a Qualified Phase II Bid by the Company and the Monitor pursuant to Section 12;

“**Qualified Sale Bid**” is a Sale Proposal that is determined to be a Qualified Phase II Bid by the Company and the Monitor pursuant to Section 12;

“**Sale Proposal**” has the meaning given to it in Section 7;

“**Secured Lenders**” means the GSO Capital Partners LP and Canadian Imperial Bank of Commerce in their capacity as secured lenders of the Company;

“**SISP**” has the meaning given to it in the introduction;

“**SISP Procedures**” has the meaning given to it in the introduction;

“**Stalking Horse Agreement**” has the meaning given to it in the introduction;

“**Stalking Horse Bidder**” means 1104307 B.C. Ltd., or an affiliate thereof;

“**Successful Bid**” has the meaning given to it in Section 13(a)(i); and

“**Successful Bidder**” has the meaning given to it in Section 13(a)(i).

## 2. The SISP Procedures

The SISP shall consist of two phases. In the first phase, any interested party (an “**Interested Party**”) that meets the preliminary participant requirements set out herein, including having executed a Confidentiality Agreement and an Acknowledgment of the SISP, shall be provided the Confidential Teaser and access to the Data Room in order to prepare and submit a Phase I Bid by the Phase I Bid Deadline. Phase I Bidders that are determined by the Company, in consultation with the Monitor, to be Qualified Phase I Bidders shall be invited to participate in the second phase wherein they will be given access to the Additional Confidential Information in order to complete diligence prior to submitting a Phase II Bid by the Phase II Bid Deadline.

The Company, in consultation with the Monitor, shall supervise the SISP Procedures and each will generally consult with the other in respect of all matters arising out of these SISP Procedures. The Monitor shall direct and preside over the Auction, if applicable. In the event that there is disagreement as to the interpretation or application of these SISP Procedures, the Court will have the jurisdiction to hear and resolve such dispute.

## 3. “As Is, Where Is”

The sale of the Business or any part of the Assets or investment in the Company will be on an “as is, where is” basis and without surviving representations or warranties of any kind, nature or description by the Company, the Monitor or any of their employees, officers, directors, agents or advisors, except to the extent set forth in the relevant definitive sale or investment agreement with a Successful Bidder.

By participating in this process, each Interested Party is deemed to acknowledge and represent that it has had an opportunity to conduct any and all due diligence regarding the Business, the Assets or the Company prior to making its Bid, that it has relied solely on its own independent review, investigation, and/or inspection of any documents and/or regarding the Business, the Assets or the Company in making its Bid, and that it did not rely on any written or oral statements, representations, promises, warranties, conditions or guaranties whatsoever, whether express, implied, by operation of law or otherwise, regarding the Business, the Assets or the Company or the completeness of any

information provided in connection therewith, except as expressly stated in the terms of any definitive transaction documents.

4. **Role of Management of the Company**

In the event that any party or parties involved in the management of the Company (“**Management**”) intends to submit a Bid pursuant to the SISP, any such party or parties must advise the Monitor of such intention in writing by February 15, 2017 (the “**Participation Notice**”). Upon receipt of a Participation Notice, the Monitor will assume the role of the Company in the SISP Procedures with such modifications as are necessary, and Management will be excluded from any participation in the SISP that might create an unfair advantage or jeopardize the integrity of the SISP. For greater certainty, any such party or parties delivering a Participation Notice will be subject to the SISP Procedures as an Interested Party.

5. **Role of the Monitor**

The Monitor’s responsibilities pursuant to the SISP include:

- (a) Consulting with the Company in connection with the bidding procedures included in this SISP and the closing of the transaction contemplated in the Successful Bid(s);
- (b) Overseeing the SISP Procedures;
- (c) Reporting to the Court in connection with the SISP Procedures including the bidding procedures included in this SISP and the closing of the transaction contemplated in the Successful Bid(s);
- (d) Conducting an Auction if necessary in accordance with the Auction Procedures attached hereto as Schedule “C”; and
- (e) Assisting the Company to facilitate information requests including assisting the Company in preparing or modifying financial information to assist with the bidding procedures included in this SISP and the closing of the transaction contemplated in the Successful Bid(s) (including the Stalking Horse Agreement).

6. **Access to Due Diligence Materials**

Only Interested Parties that satisfy the Phase I Participant Requirements will be eligible to receive the Confidential Teaser and access to the Data Room. If the Company, in consultation with the Monitor, determines that a Phase I Bidder does not constitute a Qualified Phase I Bidder, then such Phase I Bidder shall not be eligible to receive the Additional Confidential Information.

The Company, with the assistance of the Monitor, will be responsible for the coordination of all reasonable requests for additional information and due-diligence access from Interested Parties. Neither the Company nor the Monitor shall be obligated to

furnish any due diligence information after the Phase I Bid Deadline other than the Additional Confidential Information to Qualified Phase I Bidders before the Phase II Bid Deadline. Neither the Company nor the Monitor shall be obligated to furnish any due diligence information after the Phase II Bid Deadline, provided however that the Company and Monitor may, but are not obligated to, provide further information including, without limitation, financial information to the Successful Bidder (including the Stalking Horse Bidder). Neither the Company nor the Monitor is responsible for, and will bear no liability with respect to, any information obtained by any party in connection with the sale of the Assets and the Business.

7. **Bid Deadlines**

An Interested Party that wishes to make a Bid to (a) acquire the Business or all, substantially all or any part of the Assets, including any offer to acquire some or all of the Company's retail store leases, intellectual property and furniture, fixtures and equipment (a "Sale Proposal"), or (b) make an investment in the Company by way of private issuances, sale or placement of newly issued or treasury equity, equity-linked or debt securities, instruments or obligations of the Company with one or more lenders and/or investors or security holders (an "Investment Proposal"), must deliver an executed copy of a Phase I Bid to the Monitor, at the address specified in Schedule "B" hereto (including by email) so as to be received by it **not later than 5:00 p.m. (Eastern Time) on March 13, 2017**, or such other later date or time as may be agreed by the Company and the Monitor with the consent of the Secured Lenders (the "Phase I Bid Deadline").

All Phase II Bids must be submitted to the Monitor, at the address specified in Schedule "B" hereto (including by email) so as to be received by it **not later than 5:00 p.m. (Eastern Time) on March 24, 2017**, or such other later date or time as may be agreed by the Company and the Monitor with the consent of the Secured Lenders (the "Phase II Bid Deadline").

**PHASE I**

8. **Phase I Participant Requirements.**

To participate in Phase I of the SISP and to otherwise be considered for any purpose hereunder, each Interested Party must provide the Company with an executed copy of each of the following prior to being provided with the Confidential Teaser and access to the Data Room: (i) a Confidentiality Agreement; and (ii) an Acknowledgement of the SISP (collectively, the "Phase I Participant Requirements").

9. **Qualified Phase I Bids**

Only Qualified Phase I Bidders shall be allowed to participate in Phase II of the SISP. In order for the Company to determine whether an Interested Party is a Qualified Phase I Bidder, the Interested Party must provide, in form and substance satisfactory to the Company, in consultation with the Monitor, each of the following on or before the Phase I Bid Deadline:

- (a) Irrevocable Bid: A cover letter stating that the Phase I Bid is irrevocable until Court approval of the Successful Bid(s), provided that if such Phase I Bidder is selected as the Successful Bidder or the Back-Up Bidder, its Phase I Bid shall remain irrevocable until the Back-Up Bid Expiration Date (as defined below);
- (b) which includes:
  - (i) Sale Proposal: in the case of a Sale Proposal, a duly authorized and executed definitive purchase agreement together with all completed schedules thereto substantially in the form of the Form Purchase Agreement containing the detailed terms and conditions of the proposed transaction, including identification of the Business or the Assets proposed to be acquired, the obligations to be assumed, the purchase price for the Business or Assets proposed to be acquired (the “Purchase Price”), the detailed structure and financing of the proposed transaction, together with a blackline comparing the purchase agreement submitted to the Form Purchase Agreement; and
  - (ii) Investment Proposal: in the case of an Investment Proposal, a duly authorized and executed binding term sheet describing the detailed terms and conditions of the proposed transaction, including details regarding the proposed equity and debt structure of the Company following completion of the proposed transaction, the direct or indirect investment target and the aggregate amount of equity and debt investment (including the sources of such capital, the underlying assumptions regarding the *pro forma* capital structure, as well as anticipated tranches of debt, debt service fees, interest and amortization) to be made in the Company, and the debt, equity, or other securities, if any, proposed to be allocated to creditors of the Company;
- (c) Purchase Price: Evidence that the Purchase Price (in the case of a Sale Proposal) or imputed value (in the case of an Investment Proposal) under the Phase I Bid or Aggregate Bid shall be an amount equal to or greater than the Minimum Bid Amount; provided that any Portion Bidder shall not be subject to the Minimum Bid Amount except to the extent that it forms an Aggregate Bid;
- (d) Proof of Financial Ability to Perform: Written evidence upon which the Company and the Monitor may reasonably conclude that the Interested Party has the necessary financial ability to close the contemplated transaction on or before the Outside Date and provide adequate assurance of future performance of all obligations to be assumed in such contemplated transaction. Such information should include, among other things, the following:
  - (i) evidence of the Interested Party’s internal resources and proof of any debt or equity funding commitments that are needed to close the contemplated transaction;

- (ii) contact names and phone numbers for verification of financing sources; and
  - (iii) any such other form of financial disclosure or credit-quality support information or enhancement requested by and reasonably acceptable to the Company and the Monitor demonstrating that such Interested Party has the ability to close the contemplated transaction;
- (e) Unconditional Bid: Evidence that it is not conditioned on (i) the outcome of unperformed due diligence other than review of the Additional Confidential Information and/or (ii) obtaining financing;
- (f) Identification: Full written disclosure of the identity of each person (including any person that controls such person) that will be directly or indirectly sponsoring or participating in the Phase I Bid, including whether any prior or current member of the Company's board, management, any employee or consultant to the Company or any creditor) or shareholder of the Company is involved in any way with the Phase I Bid or assisted with the Phase I Bid, and the complete terms of any such participation as well as evidence of corporate authority to sponsor or participate in the Phase I Bid;
- (g) Acknowledgment: An acknowledgement and representation that the Interested Party: (i) has relied solely upon its own independent review, investigation and/or inspection of any documents regarding the Business and/or the Assets to be acquired, liabilities to be assumed or the Company in making its Phase I Bid; and (ii) did not rely upon any written or oral statements, representations, promises, warranties conditions or guaranties whatsoever, whether express or implied (by operation of law or otherwise) by the Company, the Monitor or any of their respective employees, directors, officers, agents, advisors or other representatives, regarding the Business, Assets to be acquired, liabilities to be assumed, the Company or the completeness of any information provided in connection therewith, except as expressly provided in any definitive transaction documents;
- (h) Authorization: Evidence, in form and substance reasonably satisfactory to the Company and the Monitor, of authorization and approval from the Interested Party's board of directors (or comparable governing body) with respect to the submission, execution, delivery and closing of the transaction contemplated by the Phase I Bid, and identification of any anticipated shareholder, regulatory or other approvals outstanding, and the anticipated time frame and any anticipated impediments for obtaining such approvals;
- (i) Break or Termination Fee: Evidence that it does not include any request for or entitlement to any break or termination fee, expense reimbursement or similar type of payment;
- (j) Deposit: A cash deposit (the "Deposit") in an amount equal to 10% of the Purchase Price (in the case of a Sale Proposal) or imputed value (in the case of an



Investment Proposal) that shall be paid to the Monitor in trust, which Deposit shall be held and dealt with in accordance with these SISP Procedures;

- (k) Employees: If applicable, full details of the proposed number of employees of the Company who will become employees of the Phase I Bidder if determined to be the Successful Bidder and the proposed terms and conditions of employment to be offered to those employees;
- (l) Other: Such other information as may reasonably be requested by the Company or the Monitor; and
- (m) Phase I Bid Deadline: It is received by the Monitor, at the address specified in Schedule "B" hereto (including by email) on or before the Phase I Bid Deadline.

The Company, with the approval of the Monitor, may waive any one or more minor and non-material violations of the requirements specified for Qualified Phase I Bids and deem such non-compliant Bids to be Qualified Phase I Bids, provided that, proof of financial ability to perform required pursuant to Section 9(d) cannot be waived without consent of the Secured Lenders.

#### 10. Evaluation of Qualified Phase I Bids and Designation as Qualified Phase I Bidder

The Company, in consultation with the Monitor, shall evaluate Qualified Phase I Bids on various grounds including, but not limited to, the Purchase Price or imputed or projected value, the treatment of creditors and related implied recovery for creditors (in each case, as applicable), the assumed liabilities, the certainty of closing the transactions contemplated by the Phase I Bid on or before the Outside Date and any delay or other risks (including closing risks) in connection with the Qualified Phase I Bids.

The Company, with the approval of the Monitor, shall have the option, in its discretion, to aggregate Portion Bids.

The Company shall be under no obligation to accept the highest or best offer or any offer (other than the offer contained in the Stalking Horse Agreement if no other higher or better offer is accepted).

As soon as practical after the Phase I Bid Deadline, the Company, in consultation with the Monitor, will advise an Interested Party whether or not its Phase I Bid constitutes a Qualified Phase I Bid and that it is a Qualified Phase I Bidder and, if such Phase I Bidder is a Qualified Phase I Bidder, that it is invited to participate in Phase II of the SISP. For certainty, the Stalking Horse Agreement is a Qualified Phase I Bid and the Stalking Horse Bidder is a Qualified Phase I Bidder for all purposes of these SISP Procedures.

#### 11. No Qualified Phase I Bids

If no Qualified Phase I Bid other than a Bid pursuant to the Stalking Horse Agreement is received by the Phase I Bid Deadline, the Stalking Horse Bidder shall be declared the

Successful Bidder and the Stalking Horse Agreement shall be declared the Successful Bid.

## PHASE II

### 12. Qualified Phase II Bid Requirements

Only Qualified Phase I Bidders shall be entitled to submit a Phase II Bid. In order to be considered a Qualified Phase II Bid, as determined by the Company, in consultation with the Monitor, a Phase II Bid must: (i) satisfy all of the requirements for a Qualified Phase I Bid contained in Section 9; and (ii) shall not be conditional in any way on the outcome of unperformed due diligence including with respect to the Additional Confidential Information. For certainty, the Stalking Horse Agreement is a Qualified Phase II Bid and the Stalking Horse Bidder is a Qualified Phase II Bidder for all purposes of these SISP Procedures.

### 13. Evaluation of Qualified Phase II Bids and Subsequent Actions

The Company, in consultation with the Monitor, shall evaluate Qualified Phase II Bids on various grounds including, but not limited to, the Purchase Price or imputed or projected value, the treatment of creditors and related implied recovery for creditors (in each case, as applicable), the assumed liabilities, the certainty of closing the transactions contemplated by the Qualified Phase II Bid on or before the Outside Date and any delay or other risks (including closing risks) in connection with the Qualified Phase II Bids.

Following such evaluation, the Company, with the approval of the Monitor, may:

- (a) In the case of a Qualified Sale Bid or Qualified Investment Bid, including to the extent such Qualified Phase II Bids are Portion Bids:
  - (i) Accept, subject to Court approval, one (or more than one, if for distinct and compatible transactions) of the Qualified Phase II Bids (each, a “**Successful Bid**” and the offeror(s) making such Successful Bid being a “**Successful Bidder**”) and take such steps as may be necessary to finalize definitive transaction documents for the Successful Bid(s) with Successful Bidder(s); or
  - (ii) Conditionally accept one (or more than one, if for distinct and compatible transactions) of the Qualified Phase II Bids, which acceptance will be conditional upon the failure of the transaction(s) contemplated by the Successful Bid to close (the “**Back-up Bid**” and offeror(s) making such Back-up Bid being the “**Back-Up Bidder**”); and
- (b) If more than one Qualified Sale Bids have been received, pursue an auction (an “**Auction**”) in accordance with the procedures set out in the attached Schedule “C” (the “**Auction Procedure**”) or if the Company in consultation with

the Monitor otherwise determines that an Auction is appropriate under the circumstances.

The Company, with the approval of the Monitor, shall have the option, in its discretion, to aggregate Portion Bids. Notwithstanding anything to the contrary herein, the Company, with the approval of the Monitor, shall be permitted to include Qualified Investment Bids or Qualified Sale Bids in the Auction, including to the extent such Qualified Phase II Bids are Portion Bids.

The Company shall be under no obligation to accept the highest or best offer or any offer (other than the offer contained in the Stalking Horse Agreement if no higher or better offer is accepted) or to pursue or hold an Auction or to select any Successful Bidder(s) and any Back-Up Bidder(s). For greater certainty, any accepted offer, whether at the Auction or otherwise, must provide consideration sufficient to satisfy the Minimum Bid Amount requirements.

No later than five Business Days after the Phase II Bid Deadline, the Company shall advise the Qualified Phase II Bidders if Successful Bid(s) and Back-Up Bid(s) have been accepted, or conditionally accepted, as the case may be. If the Company, with the approval of the Monitor, determines to conduct an Auction pursuant to the SISP Procedures, the Company or the Monitor will advise the Qualified Phase II Bidders of the date, time, location and the rules (if any) of the Auction in accordance with the Auction Procedure.

**14. No Qualified Phase II Bids**

If no Qualified Phase II Bid other than a Bid pursuant to the Stalking Horse Agreement is received by the Phase II Bid Deadline, then the Stalking Horse Bidder shall be declared the Successful Bidder and the Stalking Horse Agreement shall be declared the Successful Bid.

**APPROVAL MOTION**

**15. Approval Motion**

The Company shall use reasonable efforts to make a motion to the Court to approve the Successful Bid(s) and Back-Up Bid(s) as soon as practical following the determination by it and the Monitor of the Successful Bidder(s). The Company will be deemed to have accepted the Successful Bid(s) only when it has been approved by the Court. All Qualified Phase II Bids (other than the Successful Bid(s) and the Back-Up Bid(s)) shall be deemed rejected by the Company on and as of the date of approval of the Successful Bid(s) by the Court.

**16. Back-Up Bidder**

If a Successful Bidder fails to close the transaction contemplated by the Successful Bid(s) on or before the Outside Date for any reason, then the Company will be deemed to have accepted the Back-Up Bid(s) and will proceed with the transaction pursuant to the terms

thereof. The Back-Up Bid(s) shall remain open for acceptance until the closing of the Successful Bid(s), or such other later date as the Company and the Back-Up Bidder may agree, acting reasonably (the “Back-Up Bid Expiration Date”).

## MISCELLANEOUS

### 17. Information From Interested Parties

Each Interested Party shall comply with all reasonable requests for additional information by the Company regarding such Interested Party and its contemplated transaction. Failure by an Interested Party to comply with requests for additional information will be a basis for the Company to determine that the Interested Party is not a Qualified Phase I Bidder or a Qualified Phase II Bidder, as applicable.

### 18. Deposits

All Deposits shall be held by the Monitor in a single interest bearing account designated solely for such purpose. A Deposit paid by a Successful Bidder shall be dealt with in accordance with the definitive documents for the transactions contemplated by the Successful Bid. Deposits, and any interest earned thereon, paid by Phase I Bidders not selected as either a Qualified Phase I Bidder or a Qualified Phase II Bidder shall be returned to such Phase I Bidder within three Business Days of being advised that it is not a Qualified Phase I Bidder or a Qualified Phase II Bidder, as the case may be. Deposits, and any interest thereon, paid by Qualified Phase II Bidders not selected as either a Successful Bidder or a Back-Up Bidder shall be returned to such Qualified Phase II Bidders within three Business Days of Court approval of the Successful Bid. In the case of Back-Up Bid(s), the Deposit and any interest earned thereon shall be retained by the Monitor until the Back-Up Bid Expiration Date and returned to the Back-Up Bidder within three Business Days thereafter or, if a Back-Up Bid becomes a Successful Bid, shall be dealt with in accordance with the definitive documents for the Back-Up Bid.

### 19. Modifications and Termination

The Company, in consultation with the Monitor, and subject to Section 20, the Secured Lenders, shall have the right to adopt such other rules for the SISP Procedures (including rules that may depart from those set forth herein) that will better promote the sale of the Business or all or any part of the Assets or investment in the Company under these SISP Procedures. The Company, in consultation with the Monitor, shall apply to the Court if it wishes to materially modify or terminate the process set out in these SISP Procedures. For certainty, any amendments to the Phase I Bid Deadline or the Phase II Deadline or other dates set out in these SISP Procedures, including those relating to the Auction, shall not constitute a material modification but shall require the consent of the Secured Lenders.

### 20. Consultation with the Secured Lenders

The Company, in consultation with the Monitor, shall, as appropriate, consult with the Secured Lenders throughout the SISP; provided that, to the extent the Secured Lender is

related to a Bidder, including the Stalking Horse Bidder, the Company and the Monitor shall not provide such Secured Lender with information that might create an unfair advantage or jeopardize the integrity of the SISP.

21. **Other**

Neither the Company nor the Monitor shall be liable for any claim for a brokerage commission, finder's fee or like payment in respect of the consummation of any of the transactions contemplated under the SISP arising out of any agreement or arrangement entered into by the parties that submitted the Successful Bid(s) and Back-Up Bid(s). Any such claim shall be the sole liability of the parties that submitted such Successful Bid(s) and Back-Up Bid(s).

SCHEDULE "A"

Acknowledgement of the SISP

The undersigned hereby acknowledges receipt of the Sale and Investor Solicitation Process approved by the Order of the Honourable Justice ● of the Ontario Superior Court of Justice (Commercial List) dated January ●, 2017 (the "SISP") and that compliance with the terms and provisions of the SISP is required in order to participate in the SISP and for any Bids to be considered by the Company.

This \_\_\_\_ day of \_\_\_\_\_, 2017.

[NAME]

By:

\_\_\_\_\_  
[Signing Officer]

**SCHEDULE "B"**  
**ADDRESS PARTICULARS**

**Richter Advisory Group Inc.**  
181 Bay Street, Suite 3320  
Bay Wellington Tower  
Toronto, ON M5J 2T3

Attention: Gilles Benchaya/ Adam Sherman  
Phone: 514.934.3496/ 416.642.4836  
Fax: 514.934.3504/ 416.488.3765  
Email: [gbenchaya@richterconsulting.com](mailto:gbenchaya@richterconsulting.com)/ [asherman@richter.ca](mailto:asherman@richter.ca)

**SCHEDULE "C"**  
**AUCTION PROCEDURES**

**Auction**

- I. If the Company, with the approval of the Monitor, determines to conduct an Auction pursuant to the SISP Procedures, the Company or the Monitor will notify the Qualified Phase II Bidders who made a Qualified Phase II Bid that the Auction will be held at the offices of Fasken Martineau DuMoulin LLP, 333 Bay Street, Suite 2400, Toronto, Ontario at 9:00 a.m. (Eastern Time) on date that is determined by the Company or the Monitor, provided that it is a date that is not later than seven Business Days after the Phase II Bid Deadline, or such other place, date and time as the Company or the Monitor may advise. Capitalized terms used but not defined herein have the meaning given to them in the SISP Procedures. The Auction shall be conducted in accordance with the following procedures:
  - (a) Participation At the Auction. Only a Qualified Phase II Bidder is eligible to participate in the Auction. Each Qualified Phase II Bidder must inform the Company and the Monitor whether it intends to participate in the Auction no later than 12:00 p.m. (Eastern Time) on the Business Day prior to the Auction. Only the authorized representatives of each of the Qualified Phase II Bidders, the Monitor and the Company and the Secured Lenders and their respective counsel and other advisors and any other parties acceptable to the Company in consultation with the Monitor shall be permitted to attend the Auction.
  - (b) Bidding at the Auction. Bidding at the Auction shall be conducted in rounds. The highest Qualified Phase II Bid at the beginning of the Auction shall constitute the "Opening Bid" for the first round and the highest Overbid (as defined below) at the end of each round shall constitute the "Opening Bid" for the following round. In each round, a Qualified Phase II Bidder may submit no more than one Overbid. Only Qualified Phase II Bidder who bids in a round (including the Qualified Phase II Bidder that submitted the Opening Bid for such round) shall be entitled to participate in the next round of bidding at the Auction. For greater certainty, an Aggregate Bid may be determined to be the Opening Bid for any round including the opening round.
  - (c) Monitor Shall Conduct the Auction. The Monitor and its advisors shall direct and preside over the Auction. At the start of the Auction, the Monitor shall provide the terms of the Opening Bid to all participating Qualified Phase II Bidders at the Auction. The determination of which Qualified Phase II Bid constitutes the Opening Bid for each round shall take into account any factors that the Monitor reasonably deems relevant to the value of the Qualified Phase II Bid, including, among other things, the following: (i) the amount and nature of the consideration, including the value of any non-cash consideration; (ii) the proposed assumption of any liabilities and the related implied impact on recoveries for creditors; (iii) the Monitor's reasonable assessment of the certainty of the Qualified Phase II Bidder to close the proposed transaction on or before the Outside Date; (iv) the likelihood, extent and impact of any potential delays in closing; (v) the impact of

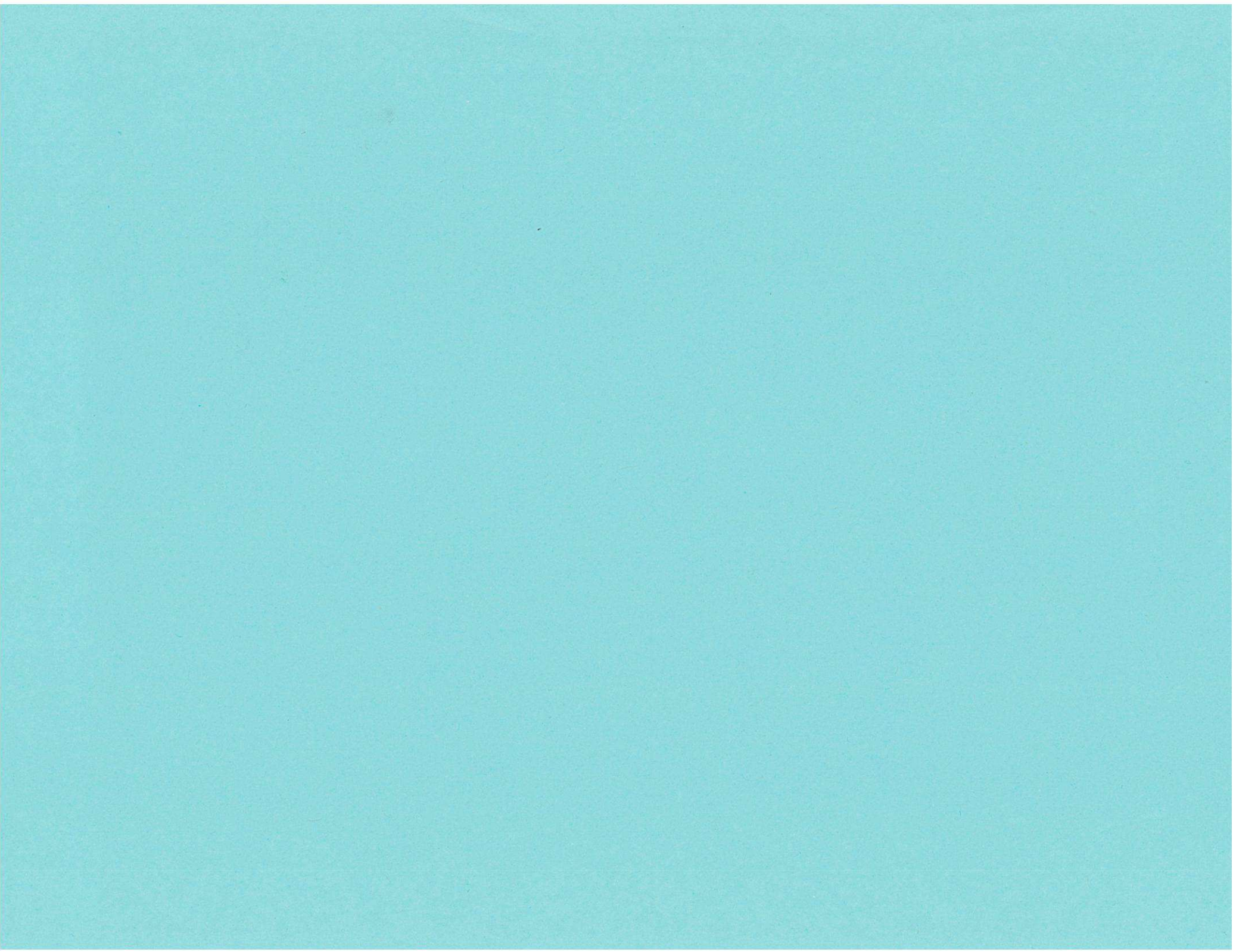


the contemplated transaction on any actual or potential litigation; (vi) the net economic effect of any changes from the Opening Bid of the previous round; (vii) the net after-tax consideration to be received by the Company; and (viii) such other considerations as the Monitor deems relevant in its reasonable business judgment (collectively, the “**Bid Assessment Criteria**”). For greater certainty, the Monitor may ascribe monetary values to non-monetary terms in Overbids for the purposes of assessing and valuing such Overbids, including without limitation, the value to be ascribed to any liabilities or contracts to be assumed. All Bids made after the Opening Bid shall be Overbids, and shall be made and received on an open basis, and all material terms of the highest and best Overbid shall be fully disclosed to all other Qualified Phase II Bidders that are participating in the Auction. The Monitor shall maintain a record of the Opening Bid and all Overbids made and announced at the Auction, including the Successful Bid and the Back-Up Bid.

- (d) Terms of Overbids. An “**Overbid**” is any Bid made at the Auction subsequent to the Monitor’s announcement of the Opening Bid. To submit an Overbid, in any round of the Auction, a Qualified Phase II Bidder must comply with the following conditions:
- (i) *Minimum Overbid Increment:* Any Overbid shall be made in such increments as the Monitor may determine in order to facilitate the Auction (the “**Minimum Overbid Increment**”). The amount of the cash purchase price consideration or value of any Overbid shall not be less than the cash purchase price consideration or value of the Opening Bid, plus the Minimum Overbid Increment(s) at that time plus any additional Minimum Overbid Increments. In respect of the Stalking Horse Agreement and any Overbid by the Stalking Horse Purchaser, the value shall include the amount of any indebtedness owing to it that is to be deemed repaid or otherwise released and any priority indebtedness to be assumed pursuant to and in accordance with the terms of the Stalking Horse Agreement.
  - (ii) *The Bid Requirements same as for Qualified Phase II Bids:* Except as modified herein, an Overbid must comply with the bid requirements contained herein, provided, however, that the Phase II Bid Deadline shall not apply. Any Overbid made by a Qualified Phase II Bidder must provide that it remains irrevocable and binding on the Qualified Phase II Bidder and open for acceptance until the closing of the Successful Bid(s).
  - (iii) *Announcing Overbids:* At the end of each round of bidding, the Monitor shall announce the identity of the Qualified Phase II Bidder and the material terms of the then highest and/or best Overbid, including the nature of the proposed transaction contemplated by the best Overbid, the assets proposed to be acquired and the obligations proposed to be assumed, the basis for calculating the total consideration offered in such Overbid, and the resulting benefit to the Company based on, among other things, the Bid Assessment Criteria. For greater certainty, an Aggregated Bid may be determined to be the highest and/or best Overbid.

- (iv) *Consideration of Overbids:* The Monitor reserves the right, in consultation with the Company, to make one or more adjournments in the Auction to, among other things: (A) facilitate discussions between the Company and individual Qualified Phase II Bidders; (B) allow individual Qualified Phase II Bidders to consider how they wish to proceed; (C) consider and determine the current highest and/or best Overbid at any given time during the Auction; and (D) give Qualified Phase II Bidders the opportunity to provide the Monitor with such additional evidence as it, or the Company, may require, that the Qualified Phase II Bidder has obtained all required internal corporate approvals, has sufficient internal resources, or has received sufficient non-contingent debt and/or equity funding commitments, to consummate the proposed transaction at the prevailing Overbid amount. The Monitor and Company may have clarifying discussions with a Qualified Phase II Bidder, and the Monitor may allow a Qualified Phase II Bidder to make technical clarifying changes to its Overbid following such discussions.
- (v) *Portion Bids:* Notwithstanding the forgoing, each Portion Bidder entitled to participate in the Auction shall be entitled to submit an Overbid (in a minimum increment to be determined by the Monitor) with respect to the Assets on which it is bidding without being required to submit an Overbid with respect to all Assets or the applicable Opening Bid; provided that any Aggregated Bid that is an Overbid shall be subject to these Auction procedures as any other Overbid, including that such Aggregated Bid that is an Overbid shall be subject to the Minimum Overbid Increment. Portion Bids can be aggregated with any other Qualified Phase II Bid, as determined by the Company and the Monitor.
- (vi) *Failure to Bid:* If at the end of any round of bidding a Qualified Phase II Bidder (other than a Portion Bidder, or the Qualified Phase II Bidder that submitted the then highest and/or best Overbid or Opening Bid, as applicable) fails to submit an Overbid, then such Qualified Phase II Bidder shall not be entitled to continue to participate in the next round of the Auction.
- (e) Discussion with other Bidders. A Qualified Phase II Bidder shall not strategize or discuss with other Qualified Phase II Bidders for the purpose of submitting an Overbid without the consent of the Monitor.
- (f) Additional Procedures. The Monitor may, in consultation with the Company, adopt rules for the Auction at or prior to the Auction that will better promote the goals of the Auction, including rules pertaining to the structure of the Auction, the order of bidding provided they are not inconsistent with any of the provisions of the SISP Procedures and provided further that no such rules may change the requirement that all material terms of the then highest and/or best Overbid at the end of each round of bidding will be fully disclosed to all other Qualified Phase II Bidders.

- (g) Closing the Auction. The Auction shall be closed after the Monitor, with the assistance of the Company and their respective legal counsel, has (i) reviewed the final Overbid of each Qualified Phase II Bidder on the basis of financial and contractual terms and the factors relevant to the sale process, including those factors affecting the speed and certainty of consummating the proposed sale, and (ii) identified the Successful Bid and the Back-Up Bid and advise the Qualified Phase II Bidders participating in the Auction of such determination. One or more Portion Bids can, in the discretion of the Monitor, form part of a Successful Bid and Back-Up Bid so long as such Portion Bids do not overlap in respect of the Assets sought to be purchased and in such case, such Portion Bid shall be included in the definition of Successful Bidder or Back-Up Bid, as applicable.
- (h) Finalizing Documentation. Promptly following a Bid of a Qualified Phase II Bidder being declared the Successful Bid or the Back-Up Bid, the applicable Qualified Phase II Bidder shall execute and deliver such revised and updated definitive transaction agreements as may be required to reflect and evidence the Successful Bid or Back-Up Bid.
- (i) Qualified Investment Bids. Notwithstanding any other provision of these SISP Procedures, if a Qualified Phase II Bidder submits a Qualified Investment Bid, which the Company or the Monitor considers would result in a greater value being received for the benefit of the Company's creditors than the Qualified Sale Bids, then the Monitor may allow such Qualified Phase II Bidder to participate in the Auction, notwithstanding that such Qualified Investment Bid may not otherwise comply with the terms of these Auction Procedures. In such case, the Monitor may adopt appropriate rules to facilitate such Qualified Phase II Bidder's participation in the Auction.





## AMENDING AGREEMENT

THIS AMENDING AGREEMENT is made the 16<sup>th</sup> day of February, 2017

BY AND AMONG:

**GRAFTON-FRASER INC.**,  
a corporation existing under the laws of  
the Province of Ontario,

(hereinafter referred to as "**Seller**"),

- and -

**GSO GF ACQUISITION B.C. LTD.**  
a corporation existing under the laws of  
the Province of British Columbia,

(hereinafter referred to as "**Purchaser**").

WHEREAS Purchaser (formerly 1104307 B.C. Ltd.) and Seller have entered into an asset purchase agreement dated January 24, 2017 (the "**Asset Purchase Agreement**") pursuant to which Purchaser has agreed to purchase from Seller, and Seller has agreed to sell to Purchaser, the Purchased Assets;

AND WHEREAS Purchaser and Seller wish to amend the Asset Purchase Agreement on the terms and conditions set out herein;

NOW THEREFORE in consideration of the respective covenants and agreements of the parties herein contained and for other good and valuable consideration (the receipt and sufficiency of which are hereby acknowledged), the parties agree to amend the Asset Purchase Agreement as follows:

1. **Interpretation**

The division of this Agreement into sections and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation of this Agreement. Capitalized terms used but not otherwise defined herein shall have the respective meanings given to such terms in the Asset Purchase Agreement.

2. **Applicable Law**

This Agreement shall be construed, interpreted and enforced in accordance with, and the respective rights and obligations of the parties shall be governed by, the laws of the Province of Ontario and the federal laws of Canada applicable in such province, and each party hereby irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts of such province and all courts competent to hear appeals therefrom.

3. **References to Agreements**

Except as otherwise provided herein, any reference herein to this Agreement or any other agreement or document shall be construed to be a reference to this Agreement or such other agreement or document, as the case may be, as the same may have been, or may from time to time be, amended, varied, novated, restated or supplemented.

4. **Amendments to the Asset Purchase Agreement**

(a) Section 2.6 shall be deleted in its entirety and replaced with the following:

**"2.6 Final Schedules**

(a) No later than March 3, 2017, Purchaser shall provide Seller with (a) Schedule 1.1(b) identifying the Purchased Locations that it wishes to acquire, representing not less than 110 of Seller's retail stores, (b) a revised Schedule 2.1(e) identifying the Assumed Contracts associated with the Purchased Locations, (c) to the extent applicable, revised Schedules 2.2(a) and 2.2(c) identifying any additional Excluded Assets and/or Excluded Contracts, (d) a revised Schedule 6.4(l) identifying the Assumed Contracts that are conditional to Closing, and (e) Schedule 2.3(e) identifying the Supplier Liabilities to be assumed by Purchaser in accordance with Section 2.3(e),

(b) The Parties agree that effective immediately upon delivery of the Schedules referred to in Section 2.6(a), without any further action or formality: (i) Schedules 1.1(b), 2.1(e), 2.3(e) and, if applicable, 2.2(a), 2.2(c) and 6.4(m) shall be deemed to be amended and replaced, (ii) any Inventory, Equipment or Cash located at the Purchased Locations identified on Schedule 1.1(b) shall be deemed to be Purchased Assets; and (iii) there shall be no adjustment to the Purchase Price."

(b) Reference to "February 17, 2017" in Section 3.3 of the Asset Purchase Agreement shall be deleted and replaced with "March 3, 2017".

(c) Reference to "February 17, 2017" in Schedules 1.1(b), 2.1(e), 2.2(c), 2.3(e), 3.3 and 6.4(m) of the Asset Purchase Agreement shall be deleted and replaced with "March 3, 2017".

(d) Schedule 6.4(m) of the Asset Purchase Agreement shall be renamed "Schedule 6.4(l)".

5. **Entire Agreement**

The Confidentiality Agreement, the DIP Facility, Asset Purchase Agreement and this Agreement constitute the entire agreement between the parties pertaining to the subject matter of the Confidentiality Agreement, the DIP Facility, Asset Purchase Agreement and this Agreement and supersede all prior agreements, understandings, negotiations and discussions, whether oral or written, of the parties, and there are no representations, warranties or other agreements between the parties in connection with the subject matter of the Confidentiality Agreement, the DIP Facility, Asset Purchase Agreement or this Agreement except as specifically set out therein.

6. **Confirmation of Asset Purchase Agreement**

The Asset Purchase Agreement, as amended by this Agreement, is hereby confirmed and shall continue in full force and effect. This Agreement is made in amendment and modification of, but not in extinguishment of, the obligations set forth in Asset Purchase Agreement and, except as specifically modified pursuant to the terms hereof, the terms and conditions of the Asset Purchase Agreement remain in full force and effect.

7. **Counterparts**

This Agreement may be executed by the parties in separate counterparts (by original or facsimile signature) each of which when so executed and delivered shall be an original, but all of which, when taken together, shall together constitute one and the same instrument.

*[Remainder of page intentionally left blank.]*

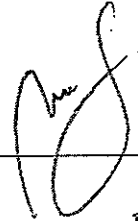
IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed as of the date first written above.

**GRAFTON-FRASER INC.**

By: \_\_\_\_\_

Name:

Title:



**Mark G. Sun**  
Vice President & CFO  
Grafton-Fraser Inc.

**1104307 B.C. LTD.**

By: \_\_\_\_\_

Name:

Title:

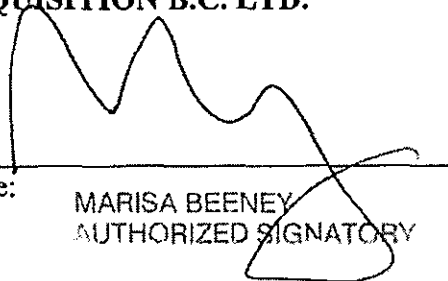


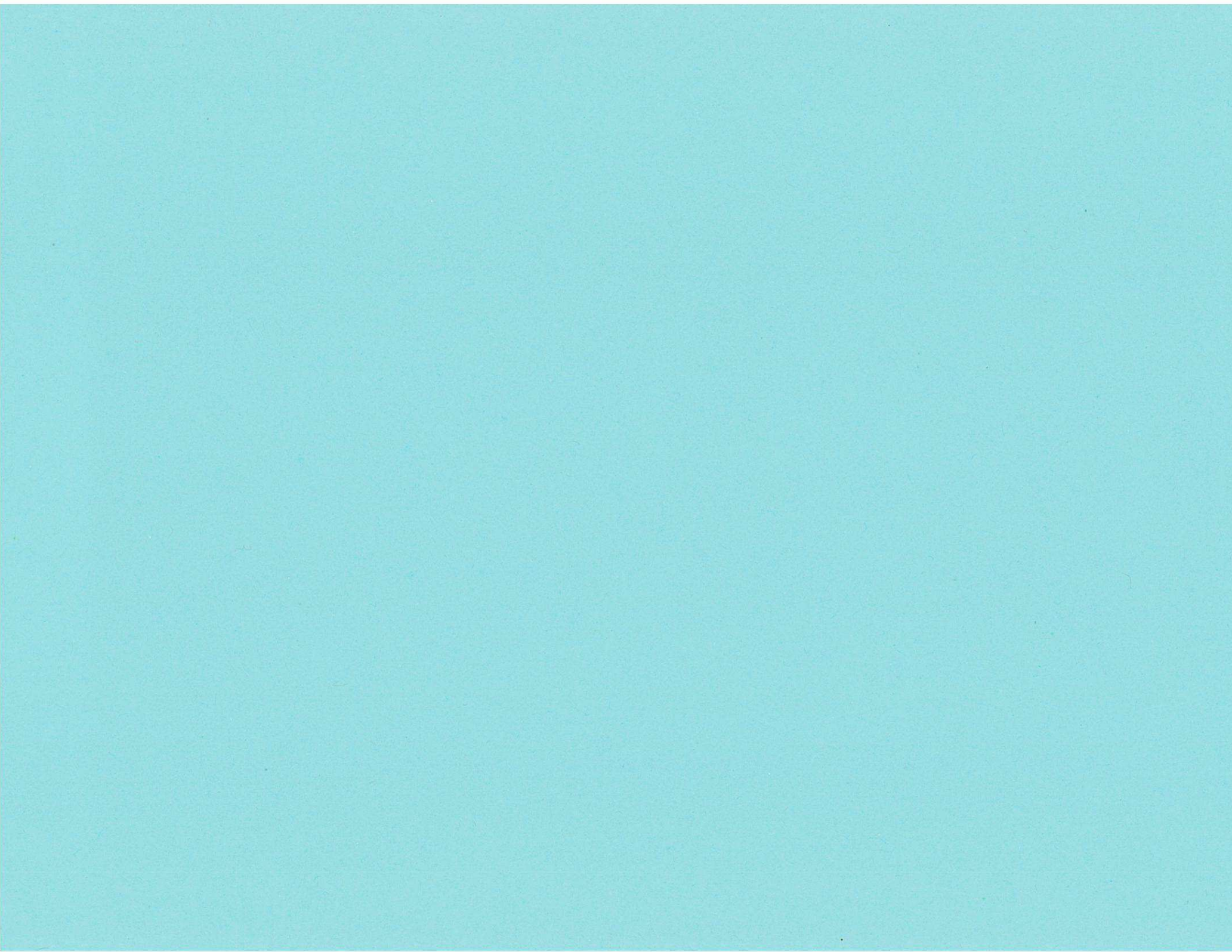
**IN WITNESS WHEREOF**, the parties have caused this Agreement to be duly executed as of the date first written above.

**GRAFTON-FRASER INC.**

By: \_\_\_\_\_  
Name:  
Title:

**GSO GF ACQUISITION B.C. LTD.**

By:   
Name: MARISA BEENEEY  
Title: AUTHORIZED SIGNATORY



## SECOND AMENDING AGREEMENT

THIS AMENDING AGREEMENT is effective as of the 3<sup>rd</sup> day of March, 2017

BY AND AMONG:

**GRAFTON-FRASER INC.,**  
a corporation existing under the laws of  
the Province of Ontario,

(hereinafter referred to as "Seller"),

- and -

**GSO GF ACQUISITION B.C. LTD.**  
a corporation existing under the laws of  
the Province of British Columbia,

(hereinafter referred to as "Purchaser").

WHEREAS Purchaser (formerly 1104307 B.C. Ltd.) and Seller entered into an asset purchase agreement dated January 24, 2017 (the "**Original Asset Purchase Agreement**") pursuant to which Purchaser agreed to purchase from Seller, and Seller agreed to sell to Purchaser, the Purchased Assets;

AND WHEREAS by an amending agreement dated February 16, 2017, Purchaser and Seller amended the Original Asset Purchase Agreement (the Original Asset Purchase Agreement, as amended, is referred to herein as the "**Asset Purchase Agreement**")

AND WHEREAS Purchaser and Seller wish to further amend the Asset Purchase Agreement on the terms and conditions set out herein;

NOW THEREFORE in consideration of the respective covenants and agreements of the parties herein contained and for other good and valuable consideration (the receipt and sufficiency of which are hereby acknowledged), the parties agree to amend the Asset Purchase Agreement as follows:

1. **Interpretation**

The division of this Agreement into sections and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation of this Agreement. Capitalized terms used but not otherwise defined herein shall have the respective meanings given to such terms in the Asset Purchase Agreement.

2. **Applicable Law**

This Agreement shall be construed, interpreted and enforced in accordance with, and the respective rights and obligations of the parties shall be governed by, the laws of the

Province of Ontario and the federal laws of Canada applicable in such province, and each party hereby irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts of such province and all courts competent to hear appeals therefrom.

3. **References to Agreements**

Except as otherwise provided herein, any reference herein to this Agreement or any other agreement or document shall be construed to be a reference to this Agreement or such other agreement or document, as the case may be, as the same may have been, or may from time to time be, amended, varied, novated, restated or supplemented.

4. **Amendments to the Asset Purchase Agreement**

(a) Reference to "Assumed Accounts Payable" in Section 1.5 and Schedule 2.3(e) of the Asset Purchase Agreement shall be deleted and replaced with "Supplier Liabilities".

(b) Section 2.6 of the Asset Purchase Agreement is hereby amended by adding the following new subsection (c) immediately following subsection (b):

"(c) Notwithstanding subsection 2.6(a), until March 14, 2017, Purchaser may (i) add or remove Purchased Locations from Schedule 1.1(b), provided that the remaining number of Purchased Locations following such addition or removal represents not less than 110 of Seller's retail stores, (ii) to the extent applicable, revise Schedule 2.1(e), Schedule 2.2(a) and Schedule 2.2(c), and (iii) add or remove any assumed contracts from Schedule 6.4(l) to the extent that such assumed contracts relate to the Purchased Locations that were added to or removed from Schedule 1.1(b) pursuant to clause (i) of this subsection 2.6(c)."

(c) Reference to "March 3, 2017" in Section 3.3 and Schedule 3.3 of the Asset Purchase Agreement shall be deleted and replaced with "March 14, 2017".

5. **Entire Agreement**

The Confidentiality Agreement, the DIP Facility, Asset Purchase Agreement and this Agreement constitute the entire agreement between the parties pertaining to the subject matter of the Confidentiality Agreement, the DIP Facility, Asset Purchase Agreement and this Agreement and supersede all prior agreements, understandings, negotiations and discussions, whether oral or written, of the parties, and there are no representations, warranties or other agreements between the parties in connection with the subject matter of the Confidentiality Agreement, the DIP Facility, Asset Purchase Agreement or this Agreement except as specifically set out therein.

6. **Confirmation of Asset Purchase Agreement**

The Asset Purchase Agreement, as amended by this Agreement, is hereby confirmed and shall continue in full force and effect. This Agreement is made in amendment and modification of, but not in extinguishment of, the obligations set forth in Asset Purchase

Agreement and, except as specifically modified pursuant to the terms hereof, the terms and conditions of the Asset Purchase Agreement remain in full force and effect.

7. **Counterparts**

This Agreement may be executed by the parties in separate counterparts (by original or facsimile signature) each of which when so executed and delivered shall be an original, but all of which, when taken together, shall together constitute one and the same instrument.

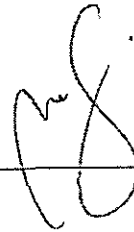
*[Remainder of page intentionally left blank.]*

IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed as of the date first written above.

**GRAFTON-FRASER INC.**

By: \_\_\_\_\_

Name:  
Title:



**Mark G. Sun**  
Vice President & CFO  
Grafton-Fraser Inc.

**GSO GF ACQUISITION B.C. LTD.**

By: \_\_\_\_\_

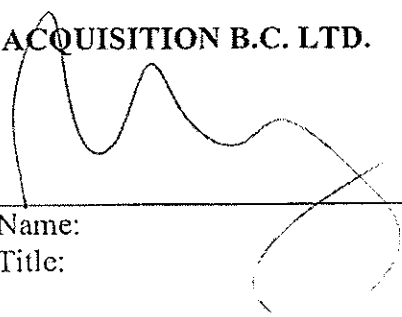
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Title:

IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed as of the date first written above.

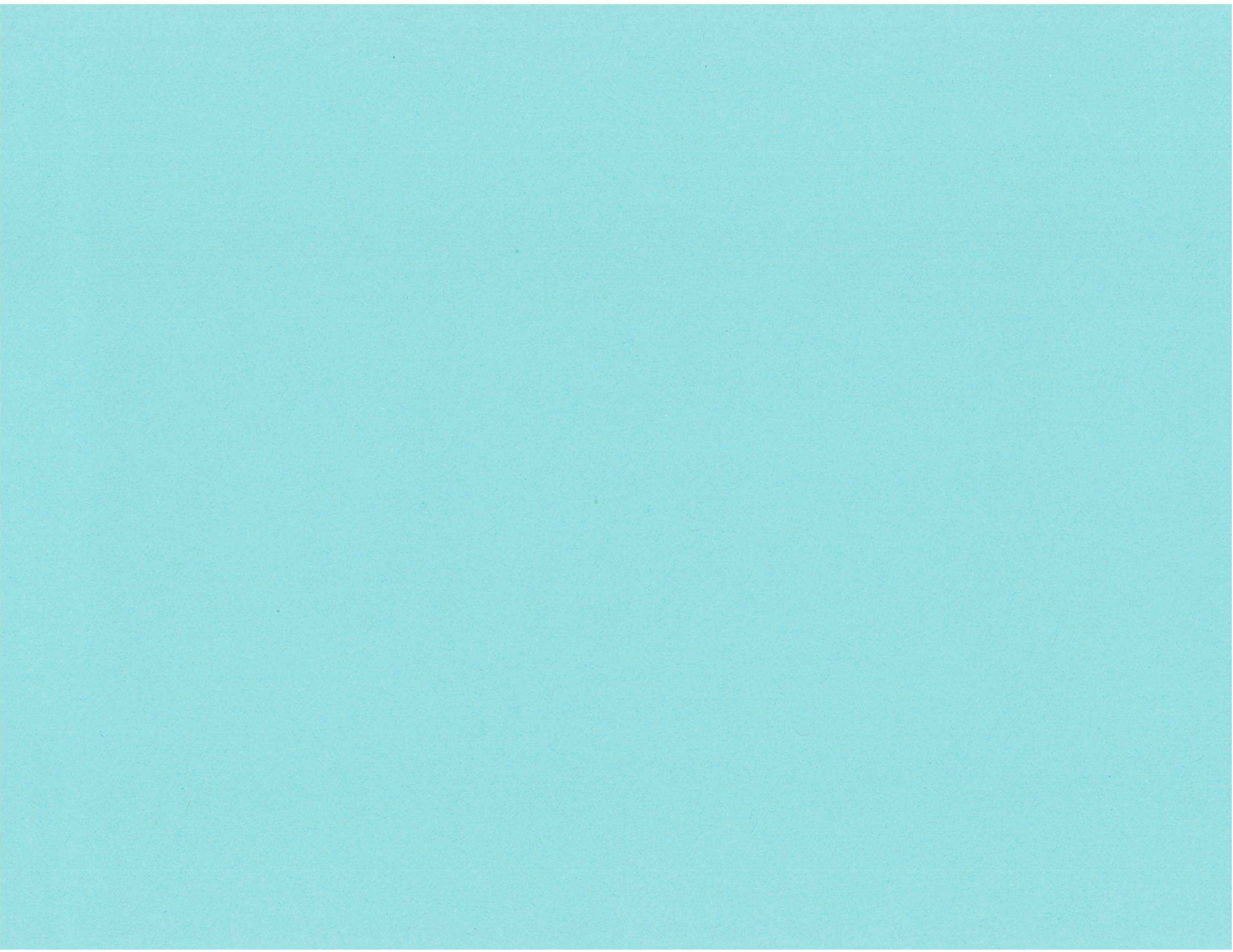
**GRAFTON-FRASER INC.**

By: \_\_\_\_\_  
Name:  
Title:

**GSO GF ACQUISITION B.C. LTD.**

By:  \_\_\_\_\_  
Name:  
Title:







## THIRD AMENDING AGREEMENT

THIS AMENDING AGREEMENT is effective as of the 14<sup>th</sup> day of March, 2017

BY AND AMONG:

**GRAFTON-FRASER INC.,**  
a corporation existing under the laws of  
the Province of Ontario,

(hereinafter referred to as "Seller"),

- and -

**GSO GF ACQUISITION B.C. LTD.**  
a corporation existing under the laws of  
the Province of British Columbia,

(hereinafter referred to as "Purchaser").

WHEREAS Purchaser (formerly 1104307 B.C. Ltd.) and Seller entered into an asset purchase agreement dated January 24, 2017 (the "**Original Asset Purchase Agreement**") pursuant to which Purchaser agreed to purchase from Seller, and Seller agreed to sell to Purchaser, the Purchased Assets;

AND WHEREAS by a first amending agreement dated February 16, 2017 and a second amending agreement dated March 3, 2017, Purchaser and Seller amended the Original Asset Purchase Agreement (the Original Asset Purchase Agreement, as amended, is referred to herein as the "**Asset Purchase Agreement**");

AND WHEREAS Purchaser and Seller wish to further amend the Asset Purchase Agreement on the terms and conditions set out herein.

NOW THEREFORE in consideration of the respective covenants and agreements of the parties herein contained and for other good and valuable consideration (the receipt and sufficiency of which are hereby acknowledged), the parties agree to amend the Asset Purchase Agreement as follows:

1. **Interpretation**

The division of this Agreement into sections and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation of this Agreement. Capitalized terms used but not otherwise defined herein shall have the respective meanings given to such terms in the Asset Purchase Agreement.

2. **Applicable Law**

This Agreement shall be construed, interpreted and enforced in accordance with, and the respective rights and obligations of the parties shall be governed by, the laws of the Province of Ontario and the federal laws of Canada applicable in such province, and each party hereby irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts of such province and all courts competent to hear appeals therefrom.

3. **References to Agreements**

Except as otherwise provided herein, any reference herein to this Agreement or any other agreement or document shall be construed to be a reference to this Agreement or such other agreement or document, as the case may be, as the same may have been, or may from time to time be, amended, varied, novated, restated or supplemented.

4. **Amendments to the Asset Purchase Agreement**

Section 2.6 of the Asset Purchase Agreement is hereby amended by deleting subsection (c) and replacing it with the following:

"(c) Notwithstanding subsection 2.6(a), until March 31, 2017, Purchaser may (i) add or remove Purchased Locations from Schedule 1.1(b), provided that the remaining number of Purchased Locations following such addition or removal represents not less than 110 of Seller's retail stores, (ii) to the extent applicable, revise Schedule 2.1(e), Schedule 2.2(a) and Schedule 2.2(c), and (iii) add or remove any assumed contracts from Schedule 6.4(l) to the extent that such assumed contracts relate to the Purchased Locations that were added to or removed from Schedule 1.1(b) pursuant to clause (i) of this subsection 2.6(c)."

5. **Entire Agreement**

The Confidentiality Agreement, the DIP Facility, Asset Purchase Agreement and this Agreement constitute the entire agreement between the parties pertaining to the subject matter of the Confidentiality Agreement, the DIP Facility, Asset Purchase Agreement and this Agreement and supersede all prior agreements, understandings, negotiations and discussions, whether oral or written, of the parties, and there are no representations, warranties or other agreements between the parties in connection with the subject matter of the Confidentiality Agreement, the DIP Facility, Asset Purchase Agreement or this Agreement except as specifically set out therein.

6. **Confirmation of Asset Purchase Agreement**

The Asset Purchase Agreement, as amended by this Agreement, is hereby confirmed and shall continue in full force and effect. This Agreement is made in amendment and modification of, but not in extinguishment of, the obligations set forth in Asset Purchase Agreement and, except as specifically modified pursuant to the terms hereof, the terms and conditions of the Asset Purchase Agreement remain in full force and effect.

7. **Counterparts**

This Agreement may be executed by the parties in separate counterparts (by original or facsimile signature) each of which when so executed and delivered shall be an original, but all of which, when taken together, shall together constitute one and the same instrument.

*[Remainder of page intentionally left blank.]*

IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed as of the date first written above.

**GRAFTON-FRASER INC.**

By: \_\_\_\_\_

Name:

Title:



**Mark G. Sun**  
Vice President & CFO  
Grafton-Fraser Inc.

**GSO GF ACQUISITION B.C. LTD.**

By: \_\_\_\_\_

Name:

Title:

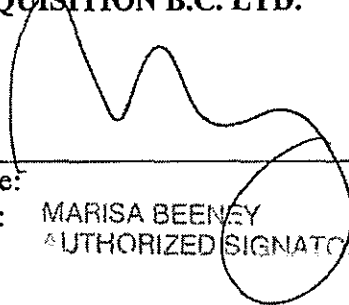
**IN WITNESS WHEREOF**, the parties have caused this Agreement to be duly executed as of the date first written above.

**GRAFTON-FRASER INC.**

By: \_\_\_\_\_  
Name:  
Title:

**GSO GF ACQUISITION B.C. LTD.**

By: \_\_\_\_\_  
Name:  
Title: MARISA BEENEY  
AUTHORIZED SIGNATORY



Court File No.: CV-17-11677-00CL

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 GRAFTON-FRASER INC.

(the "Applicant")

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**ONTARIO  
SUPERIOR COURT OF JUSTICE  
[COMMERCIAL LIST]**

**Proceedings commenced in Toronto**

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**AFFIDAVIT OF MARK SUN  
(SALE APPROVAL)  
(SWORN APRIL 12, 2017)**

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**FASKEN MARTINEAU DuMOULIN LLP**  
333 Bay Street – Suite 2400  
Bay Adelaide Centre, Box 20  
Toronto, ON M5H 2T6

**Stuart Brotman (LSUC#43430D)**  
Tel: 416 865 5419  
Fax: 416 364 7813  
sbrotman@fasken.com

**Dylan Chochla (LSUC#62137I)**  
Tel: 416 868 3425  
Fax: 416 364 7813  
dchochla@fasken.com

Lawyers for the Applicant, Grafton-Fraser Inc.

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 GRAFTON-FRASER INC.

Applicant

Court File No.: CV-17-11677-00CL

ONTARIO  
SUPERIOR COURT OF JUSTICE  
Commercial List

Proceeding commenced at  
Toronto

MOTION RECORD OF THE APPLICANT  
RE: SALE APPROVAL  
Returnable April 20, 2017

**FASKEN MARTINEAU DuMOULIN LLP**

Barristers and Solicitors  
333 Bay Street, Suite 2400  
Bay Adelaide Centre, Box 20  
Toronto, ON M5H 2T6

**Stuart Brotman (LSUC: 43430D)**

Tel: 416 865 5419

Email: sbrotman@fasken.com

**Dylan Chochla (LSUC: 62137I)**

Tel: 416 868 3425

Email: dchochla@fasken.com

Fax: 416 364 7813

Lawyers for the Applicant