

Court File No. CV-24-00723586-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

THE HONOURABLE

)

FRIDAY, THE 4TH

)

JUSTICE OSBORNE

)

DAY OF OCTOBER, 2024

IN THE MATTER OF THE *COMPANIES CREDITORS*
ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED
IN THE MATTER OF A PLAN OF COMPROMISE OR
ARRANGEMENT OF THE BODY SHOP CANADA LIMITED,
IN THE CITY OF TORONTO, IN THE PROVINCE OF
ONTARIO (the “**Applicant**”)

ORDER
(Stay Extension and Critical Supplier Charge)

THIS MOTION, made by the Applicant, for an order (a) extending the Stay Period defined in paragraph 16 of the initial order of the Honourable Justice Osborne dated July 5, 2024 (the “**Initial Order**”) until December 13, 2024, (b) declaring The Body Shop International Limited (the “**UK Purchaser**”) a critical supplier, and (c) granting the UK Purchaser a charge over certain inventory of the Applicant, was heard this day by videoconference.

ON READING the affidavit of Jordan Searle sworn September 25, 2024 and the Exhibits thereto (the “**Searle Affidavit**”), and on being advised that the secured creditors who are likely to be affected by the charge created herein were given notice, and on reading the First Report of Alvarez & Marsal Canada Inc., in its capacity as Court-appointed monitor (the “**Monitor**”) filed,

and on hearing the submissions of counsel for the Applicant, counsel for the Monitor and those parties listed in the participant information form,

SERVICE AND DEFINITIONS

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

2. **THIS COURT ORDERS** that all capitalized terms used but not defined herein shall have the meaning given to them in the Searle Affidavit.

EXTENSION OF STAY OF PROCEEDINGS

3. **THIS COURT ORDERS** that the Stay Period is hereby extended until and including December 13, 2024, or such later date as this Court may order.

CRITICAL SUPPLIER

4. **THIS COURT ORDERS** that the UK Purchaser is hereby declared to be a critical supplier to the Applicant in accordance with Section 11.4 of the *Companies' Creditors Arrangement Act* R.S.C. 1985 c C-36.

5. **THIS COURT ORDERS** that the UK Purchaser shall, in addition to any other obligations it has under the Initial Order, supply and continue to supply the Applicant with the Remaining Inventory.

CRITICAL SUPPLIER CHARGE

6. **THIS COURT ORDERS** that the UK Purchaser shall be entitled to the benefit of and is hereby granted a charge on the Remaining Inventory, which charge shall not exceed the aggregate amount of \$1,500,000 (the “**Critical Supplier Charge**”), to secure any amounts owing by the Applicant to the UK Purchaser for the Remaining Inventory.

7. **THIS COURT ORDERS** that the filing, registration or perfection of the Critical Supplier Charge shall not be required, and that the Critical Supplier Charge shall be valid and enforceable for all purposes, including as against any right, title or interest filed, registered, recorded or perfected subsequent to the Critical Supplier Charge coming into existence, notwithstanding any such failure to file, register, record or perfect.

VALIDITY AND PRIORITY OF CHARGES

8. **THIS COURT ORDERS** that the priorities of the Administration Charge, D&O Charge, KERP Charge (each as defined in the Initial Order) and the Critical Supplier Charge (collectively, the “**Charges**”), as among them, shall be as follows:

- (a) First – Administration Charge (to the maximum amount of \$700,000);
- (b) Second – D&O Charge (to the maximum amount of \$2,100,000);
- (c) Third – KERP Charge (to the maximum amount of \$315,000); and
- (d) Fourth – Critical Supplier Charge (to the maximum amount of \$1,500,000 and only on the Remaining Inventory).

9. **THIS COURT ORDERS** that the Administration Charge, D&O Charge and KERP Charge shall constitute a charge on the Property (as defined in the Initial Order and for the avoidance of doubt, inclusive of the Remaining Inventory) and the Critical Supplier Charge shall constitute a charge only on the Remaining Inventory, and such Charges shall rank in priority to all other security interests, trusts, liens, charges and encumbrances, claims of secured creditors, statutory or otherwise (collectively, “**Encumbrances**”) in favour of any Person (as defined in the Initial Order), notwithstanding the order of perfection or attachment, provided that the Charges shall rank subordinate to the Encumbrances evidenced by registrations listed on Schedule A to the Initial Order.

10. **THIS COURT ORDERS** that except as otherwise expressly provided for herein, in the Initial Order, or as may be approved by this Court on notice to parties in interest, 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 and the beneficiaries of the Charges, or by further Order of this Court.

11. **THIS COURT ORDERS** that the Charges 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**”) 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 *Bankruptcy and Insolvency Act*, R.S.C. 1985 c. B-3 (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) the creation of the Critical Supplier Charge shall not create or be deemed to constitute a breach by the Applicant of any Agreement to which it is a party;
- (b) the UK Purchaser shall not have any liability to any Person whatsoever as a result of any breach of any Agreement caused by or resulting from the creation of the Critical Supplier Charge; and
- (c) the granting of the Critical Supplier Charge, does not and will not constitute preferences, fraudulent conveyances, transfers at undervalue, oppressive conduct, or other challengeable or voidable transactions under any applicable law.

GENERAL

12. **THIS COURT ORDERS** that this Order shall have full force and effect in all provinces and territories in Canada.

13. **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 any Order subsequently made in this proceeding, and to assist the Applicant, the Monitor and their respective agents in carrying out the terms of this Order and any Order subsequently made in this proceeding. 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 and any Order subsequently made in this proceeding, 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 and any Order subsequently made in this proceeding.

14. **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.

15. **THIS COURT ORDERS** that this Order and all of its provisions are effective as of 12:01 a.m. Eastern Time on the date of this Order without the need for entry or filing.

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PROCEEDING COMMENCED AT
TORONTO

ORDER

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