

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re:

Ted Baker Canada Inc., *et al.*,¹

Debtors in a Foreign Proceeding.

Chapter 15

Case No. 24-10699-MEW

Jointly Administration Requested

**DECLARATION OF ANTOINE ADAMS IN SUPPORT OF
VERIFIED PETITION FOR ENTRY OF AN ORDER RECOGNIZING
FOREIGN MAIN PROCEEDINGS AND GRANTING ADDITIONAL RELIEF**

I, Antoine Adams, hereby declare:

1. I am the director and Corporate Secretary of each of Ted Baker Canada Inc. ("Ted Baker Canada"), Ted Baker Limited, OSL Fashion Services Canada Inc. ("Fashion Canada"), and OSL Fashion Services, Inc. ("Fashion Services," and together, with Ted Baker Canada, Ted Baker Limited, and Fashion Service, the "Company" or the "Debtors"), residing in Toronto, Canada.

2. Ted Baker Canada is the duly authorized foreign representative ("the "Foreign Representative") of the Debtors, which are the subject of jointly-administered proceedings (the "Canadian Proceedings") under Canada's *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36 (as amended, the "CCAA") in the Ontario Superior Court of Justice (the "Canadian Court") in Toronto, Ontario, Canada.

3. The Canadian Proceedings were commenced on April 24, 2024 and, that same day, the Canadian Court entered its Initial Order (the "Initial Order"), a true copy of which

¹ The Debtors in these Chapter 15 cases, along with the last four digits of each Debtor's U.S. Federal Employer Identification Number ("FEIN") or Canada Revenue Agency Business Number ("BN"), are: Ted Baker Canada Inc. (BN 3889); Ted Baker Limited (FEIN 3341); OSL Fashion Services, Inc. (FEIN 1225); and OSL Fashion Services Canada (BN 7745).

is attached hereto as **Exhibit A**, granting the Debtors certain relief under the CCAA and appointing Ted Baker Canada as the “foreign representative” authorized to apply for recognition of the Canadian Proceedings as foreign proceedings within the United States. The Initial Order also appointed Alvarez & Marsal Canada Inc. (“A&M”) as monitor to the Debtors in the Canadian Proceedings and authorized the joint administration of the Canadian Proceedings.

4. Contemporaneously with the filing of this declaration, Ted Baker Canada caused to be filed, on behalf of the Debtors as authorized Foreign Representative of the Debtors, petitions for recognition of the Canadian Proceedings in the United States under chapter 15 of title 11 of the United States Code (the “Bankruptcy Code”), thereby commencing the Debtors’ chapter 15 cases (the “Chapter 15 Cases”). Ted Baker Canada also caused to be filed the *Verified Petition for Entry of Order Recognizing Foreign Main Proceedings and Granting Additional Relief* (the “Petition for Recognition”) and the *Motion of Ted Baker Canada Inc. as Foreign Representative of Ted Baker Canada Inc. and Certain of its Affiliates for an Order Granting Provisional Relief* (the “Provisional Relief Motion”).

5. This declaration is filed in support of the Petition for Recognition, the Provisional Relief Motion and the other “first day” relief requested by the Foreign Representative. I am making this declaration in accordance with section 1515 of the Bankruptcy Code and Rule 1007(a)(4) of the Federal Rules of Bankruptcy Procedure.

6. I am familiar with the Debtors’ history, day-to-day operations, assets, financial condition, business affairs and books and records. Except as otherwise indicated, all statements in this declaration are based upon (a) my personal knowledge, (b) my review of the Debtors’ books and records, relevant documents and other information prepared or filed in connection with the Canadian Proceedings and the Chapter 15 Cases, (c) information supplied to

me by the officers and employees of the Debtors or other professionals retained by the Debtors or (d) my experience and knowledge of the Debtors' operations and financial condition. If called to testify as a witness, I could and would competently testify to each of the facts set forth herein based upon my personal knowledge, review of documents or opinion. I am authorized to submit this declaration on behalf of the Debtors.

INTRODUCTION

7. The Debtors operate a fashion clothing retail, wholesale and e-commerce business under the TED BAKER banner in Canada and the United States. The Company's business operations in Canada are conducted through Ted Baker Canada, and, in the United States through Ted Baker Limited. Ted Baker Canada also conducts retail, wholesale and e-commerce operations under the BROOKS BROTHERS and LUCKY BRAND banners, solely in Canada.

8. The Debtors first entered the North American retail fashion clothing industry in early 2023. This was accomplished initially through the acquisition of all of the issued and outstanding equity interests of Ted Baker Canada and Ted Baker Limited by Fashion Canada and Fashion Services, respectively, from No Ordinary Designer Label Limited ("NODL"), an affiliate of Authentic Brands Group ("ABG"), pursuant to a Purchase Agreement (defined below) (the "Ted Baker Acquisition"). ABG is a global brand management company that, among other things, owns and licenses over 50 different consumer brands. Concurrently, Ted Baker Canada and Ted Baker Limited, as licensees, entered into a license agreement with NODL, as licensor, whereby NODL granted Ted Baker Canada and Ted Baker Limited an exclusive license to, among other things, use the TED BAKER marks and sell TED BAKER branded merchandise in Canada and the US.

9. The Ted Baker Acquisition was followed by two further acquisitions in August 2023 whereby Ted Baker Canada acquired certain assets in Canada relating to the LUCKY

BRAND brand and certain assets in Canada relating to the BROOKS BROTHERS brand, including licensed inventory and the exclusive license to, among other things, use the LUCKY BRAND and BROOKS BROTHERS marks and sell LUCKY BRAND and BROOKS BROTHERS branded merchandise in Canada (the “Lucky Brand and Brooks Brothers Acquisition” and, together with the Ted Baker Acquisition, the “Acquisitions”).

10. Unfortunately, since the Acquisitions and the commencement of retail fashion operations, the Debtors’ financial and operational performance has struggled, and the consolidated business has failed to achieve positive cash flow. Over the last year, Ted Baker Canada and Ted Baker Limited (together, “Ted Baker NA”) have underperformed relative to budget and revenues have significantly declined. This has been caused principally by (i) failures by ABG’s operating partners in Europe and elsewhere to make payments to suppliers in the Ted Baker supply chain, including payments on behalf of Ted Baker NA, which led to these suppliers holding shipments and/or short shipping to Ted Baker NA, creating delays in receiving merchandise for the critical winter season, cancellation of orders by some of Ted Baker NA’s wholesale partners, and causing Ted Baker NA to lack the appropriate merchandise levels and product mix; (ii) suppliers of Ted Baker NA accelerating payment terms in the lead up to and as a result of NODL’s administration process in the UK (set out in greater detail below); (iii) the transition from the existing technology platform (referred to as a “Tech Stack”) used by Ted Baker NA to a new Tech Stack during the busiest selling season, which exacerbated the supply delays experienced by Ted Baker NA; (iv) certain requirements imposed by ABG to change the Ted Baker website URL from tedbaker.com to tedbaker.us, which significantly impeded sales from, and disrupted relationships with, the Debtors’ online customer base; and (v) generally poor sales performance at Ted Baker NA.

11. For the 11 months ended December 31, 2023, Ted Baker NA significantly underperformed expectations, generating sales and EBITDA of USD \$145 million and USD (\$5.3) million, respectively, and a net loss of over USD \$11.3 million. During January through April YTD 2024, Ted Baker NA has generated negative cash flow of over USD \$5 million.

12. The negative cash flow and working capital issues have caused a strain on the borrowing base under the Debtors' Existing Credit Agreement (defined below), resulting in an over advance position on the borrowing base, such that at present there is no availability to make additional draws under such facility, with the Debtors being unable to pay their obligations in the ordinary course. Further, the Senior Lender (defined below) under the Existing Credit Agreement currently has full sweep rights under the Canadian Bank Accounts (each, defined below) and has established or is establishing DACAs (defined below) in respect of the US Bank Accounts (defined below). As of the date of this declaration, the Debtors have approximately USD \$1.2 million in their bank accounts and approximately USD \$4 million in payments that are required to be made in the next several days, including payroll.

13. The Debtors' liquidity constraints have also resulted in significant arrears owing to certain vendors, including: (i) in excess of USD \$2 million owing to ABG as of April 1, 2024, pursuant to the License Agreements (defined below) (the "Missed April Payments"); (ii) in excess of three months' arrears (USD \$2.3 million) owing to Future Forwarding (defined below), the Debtors' primary third-party warehouse distribution provider, who is in possession of more than USD \$20 million in Ted Baker NA inventory; (iii) certain sales tax arrears owing to the CRA (defined below); and (iv) in excess of USD \$14 million owing to merchandise vendors and critical logistics and IT vendors.

14. Over the past several months, the Debtors have reduced spending, offered more aggressive consumer trade offers at their retail stores, and attempted to negotiate with ABG to address some of these unexpected transition-related issues, preserve capital and address their dwindling liquidity position. Unfortunately, these efforts have been unsuccessful, and Ted Baker NA has continued to struggle to revive their sale performance following the supply delays and other issues noted above.

15. On April 17, 2024, Ted Baker Limited and Ted Baker Canada received Notices of Breach from ABG as a result of the Missed April Payments. The License Agreements provide for a five business day cure period.

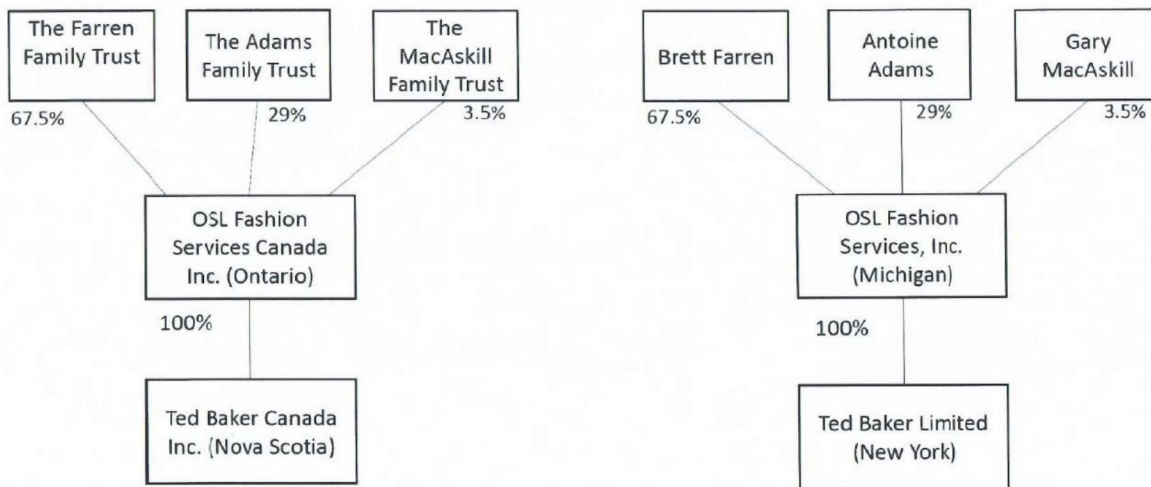
16. In light of their current financial crisis, including the liquidity constraints that have resulted in significant arrears owing to certain vendors, the potential termination of the License Agreements, and the potential cessation of shipments by the Debtors' third-party warehouse distribution provider as a result of the arrears, the Debtors sought protection under the CCAA and Chapter 15 of the Bankruptcy Code to enforce the Canadian Proceedings in the US.

17. The Debtors intend to use the breathing room afforded by the CCAA and the chapter 15 proceedings, and the funding that will only be available to them within the CCAA and the chapter 15 proceedings, to engage with their principal stakeholders and to consider the best manner in which to monetize their assets, including potentially a liquidation and orderly wind-down of their operations or other value-maximizing alternatives.

BACKGROUND

A. Corporate Structure

18. A corporate chart depicting the structure of the Debtors following the Acquisitions is set out below.



19. Ted Baker Canada is a limited company incorporated pursuant to the laws of Nova Scotia, and continued pursuant to the laws of Ontario. Ted Baker Canada is a wholly-owned subsidiary of Fashion Canada. Its head office is located at 5090 Orbitor Drive, Unit 1, Mississauga, Ontario.

20. Ted Baker Limited is a limited company incorporated pursuant to the laws of New York. Its head office is located at 54 West 21st Street, 11th floor, in New York. Ted Baker Limited is a wholly-owned subsidiary of Fashion Services.

21. Fashion Canada is a company incorporated pursuant to the laws of Ontario. Its head office is located at 5090 Orbitor Drive, Unit 1, Mississauga, Ontario. Fashion Canada owns 100% of the shares of Ted Baker Canada.

22. Fashion Services is a company incorporated pursuant to the laws of Michigan. Its head office is also located at 580 Haddonfield Road, Cherry Hill, New Jersey. Fashion Services owns 100% of the shares of Ted Baker Limited.

B. The Business of the Debtors**(a) Overview**

23. As described in greater detail below, all or substantially all of the key operational and strategic and corporate decision-making relating to the Debtors' business is performed by and through Fashion's head office in Mississauga, Ontario, principally through myself (as Corporate Secretary) and Mr. Brett Farren (as President). These functions include, among other things, executive, M&A and strategic corporate, and approval of material financial decisions for all of the Debtors, including Ted Baker Limited (which, for clarity, has its own executive leadership team based in New York led by CEO Ari Hoffman, but which ultimately reports to me and Mr. Farren). In addition, Mr. Domenic Ieraci, an independent contractor based in Toronto, performs key financial advisory services for all the Debtors. Moreover, IT leadership for the Debtors, including strategy, development, implementation, and people management, is performed by employees of Fashion's head office in Mississauga.

24. The Debtors operate their business in Canada and the US through four main retail segments: (i) retail stores, (ii) wholesale, (iii) concession locations within other retail stores, and (iv) e-commerce.

(i) Retail Stores

25. As more fully described below, the Debtors conduct their business through 25 retail store locations in Canada and 34 retail store locations in the US. The following chart sets out the current store locations by store type and geographical region:

Province/State	Full-Line	Outlet
<i>Canada</i>		

Province/State	Full-Line	Outlet
<i>Ontario</i>	4 (Ted Baker) 1 (Lucky Brand) 3 (Brooks Brothers)	1 (Ted Baker) 2 (Lucky Brand) 3 (Brooks Brothers)
<i>Quebec</i>	1 (Ted Baker)	
<i>Alberta</i>	1 (Ted Baker) 2 (Brooks Brothers)	1 (Lucky Brand)
<i>British Columbia</i>	1 (Ted Baker) 1 (Lucky Brand)	1 (Ted Baker) 1 (Lucky Brand) 1 (Brooks Brothers)
<i>Manitoba</i>		1 (Lucky Brand)
<i>Subtotal</i>	14	11
<i>United States (all Ted Baker stores)</i>		
<i>New York</i>	4	1
<i>Michigan</i>	1	
<i>California</i>	6	3
<i>Florida</i>	4	3
<i>Texas</i>	3	
<i>Georgia</i>	1	
<i>Washington</i>	1	
<i>Nevada</i>	2	1
<i>Pennsylvania</i>	1	
<i>Hawaii</i>	1	
<i>Illinois</i>		1
<i>Massachusetts</i>		1
<i>Subtotal</i>	24	10
<i>Total</i>	38	21

(ii) Wholesale

26. Ted Baker Canada and Ted Baker Limited are party to agreements with certain wholesale customers pursuant to which Ted Baker NA sells TED BAKER branded products in bulk to these wholesale customers, who then sell the licensed products to their retail customers through their own employees and websites (the “Wholesale Customers”).

27. At present, Ted Baker Limited’s Wholesale Customers include Nordstrom, Dillard’s, Macy’s, and Bloomingdales and Ted Baker Canada’s primary Wholesale Customer is Hudson’s Bay.

(iii) Concession Locations

28. Ted Baker Canada and Ted Baker Limited are also party to license agreements with *Hudson’s Bay* in Canada, and *Bloomingdales* and *Macy’s* in the US (collectively, the “Concession Parties”), pursuant to which Ted Baker Canada or Ted Baker Limited, respectively, is granted a non-exclusive license to operate concession locations at applicable retail stores of the Concession Parties and sell certain TED Baker merchandise to customers of the Concession Parties. Ted Baker Canada operates six concession locations at *Hudson’s Bay* in Canada and Ted Baker Limited operates 31 concession locations in *Bloomingdales* and one (1) in *Macy’s* in the US. The Debtors own the inventory that is sold at the concession locations.

29. The Debtors either directly supply employees to the Concession Parties, or pay to the Concession Parties an amount for employee compensation, to sell the licensed inventory at the concession locations. There are certain offsets charged by the Concession Parties, including for commission, e-commerce, and other marketing programs, and the Debtors utilize the POS systems of the Concession Parties at each concession location.

(iv) E-Commerce Operations

30. The Ted Baker e-commerce business is conducted through tedbaker.us in the United States and tedbaker.ca in Canada.

C. Leases and Landlords

31. All of the Debtors' retail store operations are conducted in leased facilities with various third-party landlords (the "Landlords"), as follows:

Landlord Group	Number of Store Locations
<i>Canada</i>	
Oxford Properties	2 Full-Line
Cadillac Fairview	7 Full-Line
Central Walk	2 Full-Line
Ivanhoe Cambridge	1 Full-Line
JLL	1 Full-Line, 4 Outlet
Cushman & Wakefield	1 Full-Line
Cameron Dev. Corp	1 Full-Line
Simon Properties	3 Outlet
Templeton DOC Limited Partnership	1 Outlet
Tanger	1 Outlet
<i>United States</i>	
Two Trees Management Co	1 Full-Line
Forbes Taubman	1 Full-Line
Westfield	1 Full-Line
Simon Properties	6 Full-Line, 9 Outlet
Schur Management	1 Full-Line
Bellevue Square, LLC	1 Full-Line
A/R Retail LLC	1 Full-Line
FRIT	1 Full-Line
Northpark Partners LP	1 Full-Line
South Coast Plaza	1 Full-Line

Landlord Group	Number of Store Locations
Aventura Mall Venture	1 Full-Line
595 Fifth Ave. Corp	1 Full-Line
Brookfield Properties	3 Full-Line
CBRE Asset Services	1 Full-Line
Macerich	1 Outlet

32. The Debtors also maintain two warehouse locations, one in Ontario and one in Georgia.

D. Employees

33. As of April 19, 2024, Ted Baker Canada employs 58 full-time and 72 part-time employees who service the Ted Baker business in Canada and Ted Baker Limited employs 251 full-time and 97 part-time employees who service the Ted Baker business in the U.S. None of the employees are unionized.

34. As of the same date, 19 full-time and 43 part-time employees service the Lucky Brand business and 32 full-time and 52 part-time employees service the Brooks Brothers business, all of whom are based in Canada and employed by Ted Baker Canada. None of the employees are unionized.

35. In addition, certain employees of OSL Retail Services Inc. (“Retail”), an affiliate of the Debtors, which are based out of Ontario, Canada, provide executive management and IT services to Ted Baker Limited. Retail is not a Debtor in Canadian Proceedings or these proceedings. Approximately USD \$1.3 million is invoiced annually to Ted Baker Limited by Retail on account of the executive services provided by such employees to Ted Baker Limited and approximately USD \$1.1 million is invoiced to Ted Baker Limited by Retail in respect of the IT employees who provide services to Ted Baker Limited.

E. Merchandising and Sourcing

36. The sourcing and purchasing of merchandise for both Ted Baker Canada and Ted Baker Limited is conducted by the Ted Baker NA team based in the New York office. All purchase orders made by the Ted Baker NA team are submitted to PDS Limited (“PDS”), one of the Debtors’ operating partners.

37. Pursuant to a buying agency agreement between the Debtors and PDS, PDS is responsible globally for design, procurement and maintaining relationships with suppliers and manufacturers for the TED BAKER brand. PDS designs and sources the merchandise from the manufacturers, who then send purchase orders to Ted Baker NA, who approve those purchase orders and submit them back to the applicable manufacturers for production. The manufacturers then process the orders. The Debtors pay PDS a 10% fee for their services. Once the merchandise has been delivered to the freight forwarder, title passes to Ted Baker Limited. Ted Baker Limited is responsible for bringing the goods to Ted Baker NA’s primary distribution center in Atlanta (the “Distribution Center”), and distributing the goods to the retail stores, concession locations and Wholesale Customers. As of the date of this affidavit, there is approximately \$2.6 million in inventory in transit (inclusive of unpaid duties).

38. Wholesale Customers place orders for TED BAKER merchandise on a sales portal called Nu Order, following which orders are routed to the Distribution Center and Ted Baker NA processes these orders on behalf of each store.

39. E-commerce orders are placed through tedbaker.us and tedbaker.ca, which are fulfilled directly through the Distribution Center.

40. The Distribution Center is managed and operated by Future Forwarding Company (“Future Forwarding”) pursuant to a Warehousing, Storage and Logistics Agreement

dated October 19, 2017 (the “Future Agreement”). Future Forwarding is responsible for, among other things, receipt of inbound deliveries, put away and storage, dispatch of orders, order returns/cancellations, and consumables. As of the date of this affidavit, approximately 20% of the inventory in the Distribution Center is designated to Ted Baker Canada with the remainder designated to Ted Baker Limited.

41. For the BROOKS BROTHERS brand, all merchandise is sourced from SPARC Group, LLC (“SPARC”) and for LUCKY BRAND, 90% of the merchandise is sourced from SPARC and 10% is sourced by Ted Baker Canada from various manufacturers. SDR Distribution Services Inc. (“SDR”) provides third-party logistics services to Ted Baker Canada for the BROOKS BROTHERS and LUCKY BRAND business.

42. It is vital to the preservation of the value of the estate that the Debtors continue their relationship with Future Forwarding and SDR without disruption to ensure that merchandise continues to flow to Ted Baker NA’s retail stores and Wholesale Customers during the CCAA proceedings and the Chapter 15 Cases.

F. Management Services and Other Shared Services

43. Although there is no formal agreement in place related to shared services, as noted above, the Debtors rely on employees of Retail for certain executive and operational leadership, strategy, M&A, financial decision approvals and IT services, primarily from Retail’s head office in Mississauga (together, the “Management Services”). The Management Services are integral to the Debtors’ operations. As noted above, amounts are invoiced annually to Ted Baker Limited by Retail on account of the Management Services provided by such employees to Ted Baker Limited. The Debtors cannot operate or function, and a restructuring within these proceedings could not occur, without the provision of the Management Services.

G. License Agreements

44. All of the Debtors' inventory is licensed pursuant to various license agreements (collectively, the "License Agreements"), as described below. These license agreements are confidential and may contain commercially sensitive information and therefore, are not attached as exhibits to this Declaration.

(i) NODL License Agreement

45. Ted Baker Canada and Ted Baker Limited, as Licensee, are parties to a License Agreement, effective March 13, 2023 (the "Effective Date", being the date of the closing of the Purchase Transaction whereby Fashion Canada and Fashion Services acquired the equity interests of Ted Baker Canada and Ted Baker Limited, respectively), with NODL, a private limited corporation organized in England and Wales and subsidiary of ABG, as Licensors (as amended, the "NODL License Agreement"). The NODL License Agreement has an Initial Term beginning on the Effective Date and ending on December 31, 2033.

46. The Licensee is required to sell the Ted Baker inventory, being the Licensed Products, in Canada and the United States in accordance with the terms of the License Agreement. The "Licensed Property" is defined as the rights in and to the TED BAKER trademarks for Canada and the US, which are supported by the registered trademarks at Schedule A to the NODL License Agreement. The "Licensed Products" include the following product categories that are manufactured by or on behalf of the Licensors and/or its designated third-party licensees and/or suppliers: sportswear apparel, outerwear apparel, men's dress shirts, women's dresses, fashion handbags, footwear, casual bags and backpacks, small leather goods, belts, cold weather accessories, hats and swimwear.

47. On the Effective Date, the Licensee was required to pay USD \$8 million to NODL, which represented 50% of the Guaranteed Minimum Royalties (“GMR”) payable to NODL for the first year of the NODL License Agreement. Pursuant to Amendment No. 1 to the NODL License Agreement, effective March 21, 2023, the remaining balance for the period from January 1, 2024 to December 31, 2024 is to be paid as follows: (a) USD \$1,818,085 million on or before January 1, 2024; (b) USD \$1,818,085 million on or before April 1, 2024; (c) USD \$1,818,085 million on or before July 1, 2024; and (d) USD \$1,818,085 million on or before October 1, 2024.

48. As described in further detail below, the Licensee failed to make the payment of USD \$1,818,085 million that was due to the Licensor on April 1, 2024.

49. The NODL License Agreement contemplates Retail providing an absolute, irrevocable and unconditional guarantee (the “Retail Guarantee”) to NODL of all of the financial, indemnity and payment obligations of the Licensee; provided, however, solely and specifically with respect to the Royalty & GMR Obligations (as defined therein), Retail would not be required to guarantee and otherwise pay Royalty & GMR Obligations in excess of USD \$8 million.

50. Effective January 1, 2024, Ted Baker Canada, Ted Baker Limited, and ABG UK (as successor in interest to NODL) entered into Amendment No. 3 to the NODL License Agreement, which provided that the e-commerce websites for Ted Baker inventory specified in the NODL License Agreement would be located at: (A) www.tedbaker.us in the United States and (B) www.tedbaker.ca in Canada.

(ii) Ted by Ted Baker License Agreement

51. Ted Baker Canada and Ted Baker Limited are also parties to another License Agreement, effective January 1, 2024, as Licensee, with ABG-UK, a private limited

corporation organized in England and Wales and affiliate of ABG, as Licensor (as amended, the “Ted by Ted Baker License Agreement”). Pursuant to the Ted by Ted Baker License Agreement, the Licensee is permitted to sell additional Licensed Products, including the following product categories: sportswear apparel products and denim apparel products, for an Initial Term starting on the Effective Date and ending on December 31, 2029, in Canada and the United States.

52. The Licensee is required to pay a GMR of USD \$500,000 to the Licensor as follows: (a) USD \$250,000 on or before July 1, 2024; and (b) USD \$250,000 on or before July 1, 2025.

(v) Lucky Brand and Brooks Brothers License Agreements

53. Effective April 1, 2023, in anticipation of the acquisition of all of the assets of the Lucky Brand and Brooks Brothers retail business in Canada (described above), Ted Baker Canada entered into two separate License Agreements for the LUCKY BRAND and BROOKS BROTHERS Licensed Property with ABG-Lucky, LLC and BB IPCO, LLC, respectively (the “Lucky Brand License Agreement” and the “Brooks Brothers License Agreement,” and together with the NODL License Agreement, the “License Agreements”).

54. The Lucky Brand License Agreement and the Brooks Brothers License Agreement each provide Ted Baker Canada with the limited, non-exclusive right to use the Licensed Property (as defined in each of those Agreements) in connection with the initial design, development, production and manufacture of the Licensed Products (as defined in each of those Agreements) to be produced by or on behalf of Ted Baker Canada and ultimately sold and shipped in Canada in accordance with these License Agreements, after January 1, 2024.

55. Pursuant to the Lucky Brand License Agreement, Ted Baker Canada was required to pay the Licensor USD \$137,500 within five business days of signing the License

Agreement, representing 25% of the GMR payable for the first year of the Lucky Brand License Agreement. The remaining balance of the GMR payments for the period December 1, 2023 to December 31, 2024 is due and payable as follows: (a) USD \$103,125 on or before December 1, 2023; (b) USD \$103,125 on or before April 1, 2024; (c) USD \$103,125 on or before July 1, 2024; and (d) USD \$103,125 on or before October 1, 2024.

56. In connection with the Lucky Brand License Agreement, Retail has given an absolute, irrevocable and unconditional guarantee (the “Retail Guarantee to ABG-Lucky”) to ABG-Lucky, LLC of all of the financial, indemnity and payment obligations (e.g, Royalty, CMF, CMR, Minimum CMF) of the Licensee specifically for Contract Year 1 (2023/2024). An unsigned copy of the Retail Guarantee to ABG-Lucky is attached as Schedule C to the Lucky Brand License Agreement.

57. Pursuant to the Brooks Brothers License Agreement, Ted Baker Canada was required to pay the Licensors USD \$125,000 within five business days of signing the License Agreement, representing a portion of the GMRs payable for the first year of the Brooks Brothers License Agreement. The remaining balance of the GMR payments for the period December 1, 2023 to December 31, 2024 is due and payable as follows: (a) USD \$93,750 on or before December 1, 2023; (b) USD \$93,750 on or before April 1, 2024; (c) USD \$93,750 on or before July 1, 2024; and (d) USD \$93,750 on or before October 1, 2024.

58. In connection with the Brooks Brothers License Agreement, Retail has given an absolute, irrevocable and unconditional guarantee (the “Retail Guarantee to BB IPCO, LLC”) to BB IPCO, LLC of all of the financial, indemnity and payment obligations (e.g, Royalty, CMF, CMR, Minimum CMF) of the Licensee specifically for Contract Year 1 (2023/2024).

59. Ted Baker Canada has not made the payments of USD \$103,125 and USD \$93,750 that were due to each of the Licensors on April 1, 2024.

iii. Retail Software Agreement

60. Ted Baker Canada and Ted Baker Limited are parties to a license agreement with Retail, effective March 14, 2023, whereby Retail licenses certain Software, as described in Exhibit A to the agreement, including Retail's Tech Stack (which is currently in development), to Ted Baker NA for the Ted Baker business (the "Software Agreement").

H. Transition Services Agreements

61. On March 14, 2023, in connection with the Ted Baker Acquisition, Ted Baker Limited and Ted Baker Canada, as the Acquired Companies, and Fashion Services and Fashion Canada, as Buyer, entered into a Transition Services Agreement with NODL, as Seller (the "Ted Baker TSA"). Pursuant to the Ted Baker TSA, the Seller agreed to provide the Acquired Companies with certain services to assist with an orderly transition of the Ted Baker business in exchange for the fees set forth on the Service Exhibit to the Ted Baker TSA, paid pursuant to monthly invoices delivered by the Seller to the Buyer, on behalf of the Acquired Companies. The services provided by the Seller are set out in Exhibit A to the Ted Baker TSA, as follows: merchandising, finance, sales channel: E-Comm, WHS, CRM, supply chain / warehousing, and IT. The Ted Baker TSA has effectively expired and payments have not been made under the Ted Baker TSA since September 2023.

62. On July 29, 2023, Ted Baker Canada entered into Transition Services Agreements with each of the sellers in the Lucky Brand and Brooks Brothers transactions, YM Inc. (Sales) ("YM") and Jaytex Group (Sales) ("Jaytex"), respectively (the "Lucky Brand TSA" and the "Brooks Brothers TSA"). Pursuant to the Lucky Brand TSA and Brooks Brothers TSA,

each of YM and Jaytex has agreed to provide Ted Baker Canada with certain services to assist with an orderly transition of the Lucky Brand and Brooks Brothers businesses to Ted Baker Canada in exchange for a 3.5% Service Fee of the monthly Net Sales of the Licensed Products sold by Ted Baker Canada (which was subsequently increased to 5% for April and May 2024). The services provided by YM and Jaytex are set out in Exhibit A to each of the Lucky Brand TSA and Brooks Brothers TSA, as follows: merchandising / buying, finance, sales channel (ecommerce), supply chain / warehousing, IT, and reporting.

63. Pursuant to the Lucky Brand and Brooks Brothers TSAs, each of YM and Jaytex controls the cash management and the merchandise purchasing for each business. Each Seller controls all sales collections and remits payments on behalf of Ted Baker Canada for rent, logistics, merchandise and other miscellaneous costs (excluding payroll). The Lucky Brand and Brooks Brothers TSAs expire on May 31, 2024, at which point all cash management and other responsibilities will be transferred to Ted Baker Canada.

I. Gift Cards

64. Ted Baker customers in Canada and the US can purchase gift cards to be redeemed for merchandise in Ted Baker stores or on the Ted Baker websites. The gift cards are sold in Ted Baker retail stores. The Debtors intend on continuing to honor gift cards sold prior to the filing of these proceedings but will not be selling any further gift cards on or after the filing date.

65. As of April 19, 2024, Ted Baker customers had outstanding gift cards worth a total value of approximately CAD \$174,000 in Canada USD \$277,000 in the US.

J. Banking and Cash Management System

66. The Debtors have a centralized cash management system for the collection, transfer and disbursement of funds (the “Cash Management System”), which is maintained and

administered by treasury and finance personnel based in Fashion's head office in Mississauga, Ontario and Ted Baker Limited's head office in New York.

67. The Cash Management System has several functions, comprised of: (a) collection of funds generated by the store network and e-commerce websites; (b) collection of accounts receivable from third parties, including net receivables pursuant to the Lucky Brand and Brooks Brothers TSAs; (c) disbursements to fund payroll and benefits, inventory purchases, capital expenditures and other goods and services providers; (d) payments under the License Agreements; (e) intercompany cash transfers between Ted Baker Canada and Ted Baker Limited to fund operating disbursements and to settle open balances as among the parties; and (f) drawings and repayments under the Existing Credit Facility.

68. As described above, certain cash management activities are undertaken by the Sellers in the Lucky Brand and Brooks Brothers transactions pursuant to the respective TSAs. Prior to the commencement of these proceedings, these cash management activities were intended to be transferred to the Debtors on or around May 31, 2024.

69. The Debtors maintain and administer 45 bank accounts. Forty-one (41) bank accounts are held in Canada at Canadian Imperial Bank of Commerce ("CIBC") and four are held in the US, comprising three at HSBC and one at American Savings Bank. The balance outstanding under the Existing Credit Facility is paid down on a daily basis through the automatic sweeping of certain Canadian Bank Accounts. CIBC has established or is in the process of establishing a deposit account control agreement ("DACA") in respect of the US Bank Accounts.

70. Ted Baker Limited periodically transfers funds in its account with American Savings Bank – Ted Hawaii Account ("Hawaii Account") to its account with HSBC Bank USA – Ted US Main Concentration ("Main HSBC Account"). The Main HSBC Account is subject to a

blocked account control agreement in favour of CIBC pursuant to which funds that are concentrated therein are automatically remitted by HSBC Bank USA to CIBC at the end of each business day and applied against the obligations owing to CIBC under the Existing Credit Facility (the “**Blocked Account Arrangement**”).

71. In connection with these CCAA proceedings, the Debtors are seeking the authority to continue their Cash Management System described above to maintain the funding and banking arrangements already in place for the Debtors. Any disruption to the Cash Management System would be extremely detrimental to the Debtors’ operations in Canada and the US.

FINANCIAL POSITION OF THE DEBTORS

72. As a private company, the Debtors maintain internal, unaudited consolidated and standalone balance sheets for Ted Baker NA.

A. Assets

73. As of December 31, 2023, Ted Baker Canada had combined total assets of \$19,441,019, consisting of \$16,388,734 in total current assets, \$2,903,668 in total fixed assets and \$148,618 in total other assets.

74. As of December 31, 2023, Ted Baker Limited had combined total assets of USD \$88,205,318, consisting of USD \$49,046,494 in total current assets, USD \$6,792,321 in total fixed assets and USD \$32,366,503 in total other assets.

B. Liabilities

75. As of December 31, 2023, Ted Baker Canada had total liabilities of \$21,072,232, consisting of \$17,912,104 in total current liabilities and \$3,160,128 in total long-term liabilities.

76. As of December 31, 2023, Ted Baker Limited had total liabilities of USD \$47,648,768, consisting of USD \$23,465,107 in total current liabilities and USD \$24,183,661 in total long-term liabilities.

C. Owner's Equity

77. As of December 31, 2023, Ted Baker Canada's owner's equity totaled negative \$1,631,212.

78. As of December 31, 2023, Ted Baker Limited's owner's equity totaled USD \$40,556,551.

DEBTORS' CAPITAL STRUCTURE

D. Existing Credit Agreement

79. Pursuant to a credit agreement dated March 14, 2023 and as amended on August 3, 2023 and on April 23, 2024 (the "Existing Credit Agreement") between and among Ted Baker Canada, as borrower (in such capacity, the "Canadian Borrower"), and Ted Baker Limited, as borrower (in such capacity, the "US Borrower" and, together with the Canadian Borrower, the "Borrowers") as borrowers, and Fashion Canada, as guarantor (in such capacity, the "Canadian Guarantor") and Fashion Services (in such capacity, the "US Guarantor" and, together with the Canadian Guarantor, the "Guarantors" and together with the Borrowers, the "Credit Parties") and CIBC (the "Senior Lender" or the "Agent"), the Senior Lender provides revolving loans to the Borrowers of up to USD \$36.5 million (the "Existing Credit Facility"). The Existing Credit Agreement matures on March 14, 2027.

80. The Credit Parties entered into the Existing Credit Agreement on March 14, 2023 to fund, in part, the purchase of the equity interests of Ted Baker Canada and Ted Baker Limited. On August 3, 2023, the Senior Lender and the Credit Parties entered into a consent and first amendment to the Existing Credit Agreement which, *inter alia*, increased the maximum

availability to fund the Canadian Borrower's acquisition of the assets, property and undertakings of the Lucky Brand and Brooks Brothers retail businesses in Canada. On April 24, 2024, the Credit Parties entered into a second amendment to the Existing Credit Agreement (the "Second Amendment"), which reduces the maximum availability under the Existing Credit Facility to \$36.5 million.

81. As security for the payment and performance of their respective obligations (the "Obligations") under the Existing Credit Agreement and other Loan Documents (as defined in the Existing Credit Agreement), the Borrowers, the Guarantors and Personal Guarantor (as defined below) entered into certain security and/or documents (collectively, the "Security Documents"), including, but not limited to, the following:

- (a) Pursuant to a security agreement dated as of March 14, 2023 (the "Canadian GSA") granted by the Canadian Borrower, and the Canadian Guarantor in favor of the Agent, the Canadian Borrower and the Canadian Guarantor granted a continuing security interest in all of its present and after-acquired personal property to the Agent.
- (b) Pursuant to a security agreement dated as of March 14, 2023 (the "US GSA") granted by the US Borrower, and the US Guarantor in favor of the Agent, the US Borrower and the US Guarantor granted a continuing security interest in all of their present and after-acquired personal property to the Agent.
- (c) Pursuant to a guarantee agreement dated March 14, 2023 (the "Canadian Borrower Guarantee") between the Canadian Borrower in favor of the Agent, the Canadian Borrower irrevocably and unconditionally guaranteed the due and punctual

payment and the due performance of the Obligations (as such term is defined in the Existing Credit Agreement) of the US Borrower.

- (d) Pursuant to a guaranty agreement dated March 14, 2023 (the “US Borrower Guaranty”) by the US Borrower in favor of the Agent, the US Borrower irrevocably and unconditionally guaranteed the due and punctual the payment of the Guaranteed Obligation (as such term is defined in the US Borrower Guaranty) of the Canadian Borrower.
- (e) Pursuant to a guarantee agreement dated March 14, 2023 (the “Canadian Guarantee”) by the Canadian Guarantor in favor of the Agent, the Canadian Guarantor irrevocably and unconditionally guaranteed the due and punctual payment and the due performance of the Obligations (as such term is defined in the Existing Credit Agreement) of the Borrowers.
- (f) Pursuant to a guaranty agreement dated March 14, 2023 (the “US Guaranty”) between the US Guarantor and the Agent, the US Guarantor irrevocably and unconditionally guaranteed the due and punctual payment of the Guaranteed Obligations (as such term is defined in the US Guarantee) of the Borrowers.
- (g) Pursuant to a limited recourse guarantee dated March 14, 2023 (the “Limited Recourse Guarantee”) between Brett Farren (the “Personal Guarantor”) and the Agent, the Personal Guarantor irrevocably and unconditionally guaranteed the due and punctual payment and the due performance of the Obligations (as such term is defined in the Existing Credit Agreement) of the Borrowers, limited to a maximum amount of USD \$5 million.

- (h) Pursuant to a notice of intention dated March 1, 2023 and a special security in respect of specified property or classes of property described in Section 427 of the Bank Act (Canada) (the “Bank Act”) dated March 14, 2023 (collectively, the “Bank Act Security”), the Canadian Borrower gave the Agent security under Section 427 of the Bank Act.
- (i) Pursuant to a deed of movable hypothec dated as of March 15, 2023 and registered at the Register of Personal and Movable Real Rights (Quebec) under number 23-0296530-0001 (the “Movable Hypothec”) granted by the Canadian Borrower in favour of the Agent, the Canadian Borrower granted a movable hypothec without delivery over the French language description of Hypothecated Property (*Biens hypothéqués*) as security for the obligations purported to be secured thereby and for the sum of \$60,000,000, with interest thereon from the date thereof at the rate of 25% per annum in favour of the Agent.

82. As of April 24, 2024, the total balance under the Existing Credit Facility is approximately USD \$31.6 million.

E. Retail Loan

83. In addition, Fashion Canada is indebted to Retail under a secured promissory note dated March 14, 2023 (the “Promissory Note”), pursuant to which Fashion Canada has promised to pay on demand to Retail a principal amount of USD \$10 million, subject to the Subordination Agreement (as defined below). The Promissory Note is secured by a general security agreement, dated March 14, 2023 (the “Fashion GSA”), whereby Fashion Canada granted a security interest to Retail in all of its present and after-acquired undertaking and property as

security for the Obligations (as such term is defined in the Fashion GSA) under the Promissory Note.

84. The Promissory Note evidences a loan in the amount of USD \$10 million from Retail to Fashion Canada to fund the purchase of the equity interests of Ted Baker Canada and Ted Baker Limited.

F. The Subordination Agreement

85. Pursuant to a postponement, subordination and standstill agreement dated March 14, 2023 (the “Subordination Agreement”) by Retail to the Senior Lenders and the Agent, and acknowledged by Fashion Canada, *inter alia*, all debts, liabilities and obligations owing by Fashion Canada to Retail were subordinated and postponed to all debts, obligations and liabilities owed by the Borrowers to the Senior Lenders and the Agent under the Existing Credit Agreement.

G. Letter Agreement

86. On March 13, 2023, in connection with the NODL License Agreement, Ted Baker Canada and Ted Baker Limited and NODL entered into a Letter Agreement with CIBC (the “Letter Agreement”), in its capacity as the Senior Lender, which provides for certain rights to CIBC in the event that Ted Baker Canada and Ted Baker Limited receive a notice of default pursuant to the Existing Credit Agreement.

EVENTS LEADING UP TO THE CCAA FILING

87. Following the Acquisitions, the Debtors commenced operations with a goal to achieve profitability within the year. Since that time, however, the Debtors’ financial and operation performance has struggled and deteriorated to the point of no longer being sustainable. The Debtors have failed to deliver free cash flow since June 2023. Over the last year, Ted Baker NA has underperformed relative to budget and revenues have significantly declined. The following summarizes some of the main causes of the financial and operational struggles.

H. Supplier Delays

88. Until December 31, 2023, NODL (as succeeded by ABG UK) and AARC, a retail and e-commerce operating partner for the Ted Baker brand in the UK and Europe, were responsible for the payment of all suppliers in the Ted Baker supply chain, including the payment of merchandise ordered by Ted Baker NA. Over the course of the summer of 2023, Ted Baker NA would advance funds to NODL (or ABG UK) and AARC in order to purchase merchandise, however, these operating partners were not paying the suppliers on time as a result of their own financial difficulties. This led directly to suppliers holding shipments of merchandise and/or short shipping to Ted Baker NA (and others), creating both costly delays in the receipt of merchandise but also impacting the right merchandise levels and product mix.

89. In August 2023, Ted Baker NA, in agreement with ABG, transitioned merchandise payments away from AARC to PDS until AARC would confirm that it would pay the suppliers promptly. Unfortunately, by the fall of 2023, these product delays persisted due to outstanding payments by AARC to the manufacturers, resulting in mounting financial losses. Although the Debtors eventually began to work out arrangements to pay suppliers and manufacturers directly, the delays permanently impacted their ability to have merchandise delivered to the Ted Baker NA retail stores in time for the upcoming season. The Debtors communicated with ABG consistently about these issues, but no resolution was reached.

I. Acceleration of Payment Terms

90. In addition, in the lead up to and following NODL being placed into administration in the UK in March 2024, key suppliers and manufacturers (e.g., Pandora Prod SRL) began demanding upfront payments. This reduction in ordinary course trade term has had a material direct negative impact on the Debtors available working capital.

J. Delays in the Development of New Tech Stack

91. Following the closing of the Ted Baker Acquisition, Ted Baker Canada and Ted Baker Limited were required to develop and migrate to their own technology platform (*i.e.*, a new Tech Stack).

92. While the Debtors always understood that a new Tech Stack would eventually need to be developed, the timeline was accelerated as a result of AARC signing a license agreement with ABG and indicating that it would be decommissioning the existing Tech Stack within 60 days. The Debtors were required to engage a developer (Retail) to design and build a new Tech Stack on a very compressed timeline. This ultimately turned out to be a false timeline, as AARC did not ultimately decommission the existing Tech Stack platform. However, the transition from the existing Tech Stack to the new Tech Stack during the busiest selling season exacerbated the supply delays experienced by Ted Baker NA described above.

K. E-Commerce Issues

93. In late June 2023, ABG informed the Debtors that, notwithstanding that the Debtors had purchased the right to use the tedbaker.com URL and the tedbaker.ca URL for its e-commerce business as part of the Ted Baker Acquisition, ABG believed that AARC was in greater need for the tedbaker.com URL, given that current sales in Europe were greater than North American sales, and because uncoupling the tedbaker.com URL from the existing global platform would be challenging. ABG proposed, instead, that Ted Baker Limited be given the right to use tedbaker.us URL. The Debtors conducted an analysis which forecasted that the change to tedbaker.us would result in at least USD \$3 million in lost revenue, given that all existing Ted Baker advertisements were linked to tedbaker.com.

94. Ultimately, after a series of negotiations, Ted Baker Limited agreed to relinquish the right to use the tedbaker.com URL in consideration for a USD \$1.875 million payment that was made in December 2023. However, the Debtors are now of the view that ABG

has not compensated the Debtors for the full extent of the losses incurred, including the disruption to relationships with the Debtors' online customer base as a result of moving the rights to use the tedbaker.com URL to AARC.

L. Poor Sales Performance

95. In addition to the above, the Ted Baker NA business has been plagued by poor sales performance over the past year. For the 11 months ended December 31, 2023, Ted Baker NA significantly underperformed expectations, generating sales and EBITDA of USD \$145 million and USD (\$5.3) million, respectively, and a net loss of over USD \$11.3 million

96. During January through April YTD 2024, Ted Baker NA experienced negative cash flow in excess of USD \$5 million due to a combination of poor sales performance (trending 30% below the prior year), and the supply chain and other issues described above.

M. Funding Discussions with ABG

97. In February 2024, the Debtors requested funding from ABG in Ted Baker NA in order to address their mounting liquidity challenges. ABG advised that it was not interested in any of the proposals advanced by the Debtors. At the time, ABG was experiencing financial issues with NODL, and subsequently, NODL was placed into Administration in the UK.

98. In April 2024, in light of the mounting liquidity challenges, the Debtors reiterated their request that ABG fund the Ted Baker NA business. Several solutions were presented by the Debtors; however, all such proposals were rejected.

N. Urgent Need for Relief

99. As a result of the events described above, the Debtors face significant liquidity challenges which threaten their ability to continue as a going concern. Overall, their negative cash flow and working capital issues have caused a strain on their borrowing base, resulting in an over advance position on the borrowing base, which is a default under the Existing

Credit Agreement. Without access to further funding, Debtors cannot pay their obligations (including payroll) in the ordinary course. The Debtors are therefore insolvent and cannot meet their liabilities and obligations as they come due.

100. The Debtors' liquidity constraints have resulted in significant arrears owing to ABG pursuant to the License Agreements. As described above, Ted Baker Limited and Ted Baker Canada were required to pay amounts totaling USD \$2,014,960 (\$1,818,085 in respect of Ted Baker, \$93,750 in respect of Brooks Brothers, and \$103,125 in respect of Lucky Brand) to ABG under the License Agreements by April 1, 2024. The Debtors reached out to ABG to inquire whether any accommodations could be made in respect of the Missed April Payments, which attempts were unsuccessful. To date, these payments have not been made.

101. As a result of the Missed April Payments, on or about April 17, 2024, Ted Baker Limited and Ted Baker Canada received Notices of Breach from ABG for the amounts owing under its three License Agreements with ABG. The License Agreements provide for a five business day cure period, which cure period expires April 25, 2024. The termination of the Debtors' License Agreements would cause the Debtors and their constituents irreparable and irreversible harm. The Debtors reserve all rights with respect to, among other things, ABG, the received notice and the License Agreements

102. The Debtors are also three months in arrears on amounts owing to Future Forwarding, pursuant to the Future Agreement, totaling USD \$2.4 million. The Debtors have received notice from Future Forwarding that it will cease shipping Ted Baker product if these outstanding payments are not received.

103. In addition, the Debtors recently discovered that certain sales taxes are owing to the Canada Revenue Agency ("CRA"). More specifically, pursuant to the Lucky Brand

and Brooks Brothers TSAs, during the period October 2023 to March 2024, each of the respective Sellers collected all sales and sales tax on behalf of Ted Baker Canada, and then flowed the funds to Ted Baker Canada, net of all costs paid on their behalf. During this period, sales tax was collected by the Sellers and flowed to Ted Baker Canada; however, through inadvertence, neither party remitted the net sales tax to the CRA.

104. Ted Baker Canada has been in discussions with the CRA regarding a 6-month payment plan, but nothing has been documented as yet and no payments have been made to the CRA on account of the sales tax arrears. Starting in March, 2024, the Debtors began remitting HST in the ordinary course.

105. The Debtors also owe approximately USD \$1 million in property taxes to the landlord of Ted Baker's 5th Avenue location in New York. The landlord for that location has a letter of credit with NODL. The lease expires on July 31, 2024.

106. Furthermore, there is also approximately USD \$2.6 million of inventory in transit (inclusive of unpaid duties) and in excess of USD \$14 million owing by the Debtors to merchandise vendors and critical logistics and IT vendors.

107. The Senior Lender has advised that, in light of the over advance position on the borrowing base, it will not permit further draws under the Existing Credit Agreement outside the CCAA and these proceedings and without the relief provided for in the proposed Initial Order and sought via the Provisional Relief Motion.

108. Following consideration of available options and alternatives, and in light of the imminent expiry of the cure period under the License Agreements and the risk of non-shipment of inventory from the Distribution Center (among other things), the Debtors have determined with the assistance of their legal advisors that the best path to maximize shareholder

value is to commence CCAA proceedings and seek recognition of such proceedings under Chapter 15 of the Bankruptcy Code.

RECOGNITION AND OTHER RELIEF REQUESTED

109. In furtherance of the above-outlined objectives, the Foreign Representative has filed certain motions and proposed orders and respectfully requests that the Court consider entering the proposed orders granting such motions. I have reviewed each of the motions and proposed orders (including any exhibits thereto). The facts set forth therein are true and correct to the best of my knowledge, information, and belief.

O. Recognition of the Canadian Proceedings as a Foreign Main Proceeding

110. The Foreign Representative has filed, concurrently herewith, the Verified Petition, which seeks entry of an order (i) recognizing the Canadian Proceedings under sections 1515, 1517 and 1520 of the Bankruptcy Code (provisional relief pursuant to section 1519 is not being sought); (ii) recognizing the Foreign Representative as the “foreign representative,” as defined in section 101(24) of the Bankruptcy Code, in respect of the Canadian Proceedings; (iii) recognizing and enforcing the Initial CCAA Order (as it may be amended and restated or superceded); (iv) granting a stay of execution against the Debtors’ assets and applying section 362 of the Bankruptcy Code in these Chapter 15 Cases pursuant to sections 1520(a)(1), 1521(a) and 105(a) of the Bankruptcy Code; and (v) granting certain additional relief pursuant to section 1521 of the Bankruptcy Code.

111. I believe that recognition of Ted Baker Canada as “foreign representative” as defined in section 101(24) of the Bankruptcy Code and recognition of the Canadian Proceedings as “foreign main proceedings” are consistent with the purposes of chapter 15 and will allow the Debtors to effectuate an orderly wind-down of their businesses in the most efficient manner while maximizing value for, and protecting the rights of, their creditors.

112. I understand that the Bankruptcy Code provides for recognition of a foreign proceeding as a “foreign main proceeding” if such foreign proceeding is pending in the country where the debtor has its “center of main interests,” also referred to as “COMI.” The Debtors’ COMI is Canada, for several reasons. While the Debtors run a consolidated business, with operations in both Canada and the United States, those operations are functionally and operationally integrated such that the US business is entirely dependent on the Canadian business and key personnel in Canada. In other words, Canada is where the Debtors’ “nerve center” is located. In addition, the following facts demonstrate the Company’s COMI in Canada:

(i) All or substantially all of the key operational and strategic and corporate decision-making relating to the Debtors’ business and all major stakeholder negotiations, including all negotiations with ABG and its affiliates were and are primarily conducted in Canada;

(ii) All other members of the Debtors’ management report to either myself or Mr. Farren, both of whom reside in Canada.

(iii) IT leadership for the Debtors, including strategy, development, implementation, and people management, is performed by employees of Retail that are based out of the head office in Mississauga, Ontario.

(iv) The Debtors’ revolving credit facility is with CIBC, a Canadian bank.

(v) The Debtors have a centralized Cash Management System for the collection, transfer and disbursement of funds, which is maintained and administered by treasury and finance personal based in Fashion Canada’s head office in Canada and Ted Baker Limited’s office in New York. The Company has 45 bank accounts, 41 of which are held in Canada at CIBC,

with only four held in the US. The balance outstanding under the Existing Credit Facility is paid down on a daily basis through the automatic sweeping of certain Canadian Bank Accounts.

(vi) The Debtors' ultimate shareholders (including myself and Mr. Farren) are located in Canada.

P. Need for Provisional Relief

113. In addition to seek recognition on a final basis, the Foreign Representative also requests certain provisional relief. Pending recognition of the Canadian Proceedings, the Foreign Representative seeks provisional relief to enjoin collection efforts against the Debtors and their assets, as well as to protect potentially valuable and critical contractual relationships. This relief is necessary to avoid immediate and irreparable harm to the Debtors and their assets if U.S. creditors and contract parties begin a "race to the courthouse" or resort to other self-help remedies resulting in a piece-meal and preferential liquidation and distribution of assets, rather than an orderly realization and distribution of value according to legal priorities.

114. As indicated by a 13-week cash flow projection prepared by A&M (attached as Appendix A to the Pre-Filing Report of the Proposed Monitor hereto as **Exhibit B**), the Debtors require access to liquidity. Interim financing is needed to provide stability and fund operations for a limited period of time while the Debtors consider the next steps in these proceedings.

115. In order to avoid an abrupt shutdown of their business, the Senior Lender is prepared to permit Ted Baker Canada and Ted Baker Limited to continue to borrow under the Existing Credit Agreement (each, an "Interim Borrowing" and collectively, the "Interim Borrowings"), provided that (i) such Interim Borrowings are to fund obligations which the Debtors, with the consent of the Monitor and the Interim Lender, deem to be necessary for the preservation of the Property or their business, (ii) such Interim Borrowings do not, individually or in the aggregate, exceed USD \$7 million, (iii) such Interim Borrowings under the Existing Credit

Facility accrue interest at the rates set out in the Existing Credit Agreement, (iv) Fashion Canada and Fashion Services are deemed to guarantee the Interim Borrowings together with all interest accrued thereon and costs and expenses incurred in connection therewith in the same manner as the other Obligations (as defined in the Existing Credit Agreement) that they have guaranteed under the Existing Credit Agreement and the loan and security documents provided by them in connection therewith, without the need for any further documentation or guarantee from Fashion Canada or Fashion Services, (v) such Interim Borrowings mature on May 8, 2024, and (vi) unless the Interim Lender provides its written waiver, the United States Bankruptcy Court shall have granted an Order pursuant to the Bankruptcy Code: (a) provisionally recognizing, ordering and giving effect to this Order and the Interim Lender's Charge in the United States, and (b) granting such other provisional relief that is sought by the Debtors, at the request of the Interim Lender.

116. The Foreign Representative requests provisional relief to grant the Debtors' lender certain protections under the Bankruptcy Code. Without the protections afforded to lenders under the Bankruptcy Code, the Debtors will not have funding required to continue their business operations and fund their restructuring proceedings, which will significantly impair and potentially result in irreparable damage to the value of the Debtors' assets.

117. The Debtors also seek provisional relief, including, without limitation, a temporary restraining order to obtain the benefits of a stay of proceedings, prevent the enforcement of rights and remedies against the Debtors, including under or in connection with any License Agreements and to protect the Debtors and their Property from any potential action. It is necessary for this Court to recognize and approve on a provisional basis the relief requested in the Initial Order.

118. I believe that the provisional relief requested is necessary and appropriate and is in the best interests of the Debtors, their creditors, their many employees, and other parties in interest.

Q. Motion for Joint Administration

119. Joint Administration is warranted in these Chapter 15 Cases. The Debtors are affiliated entities with intertwined financial affairs and business operations, and joint administration will ease the administrative burden on the parties and this Court and its personnel. The Foreign Representative anticipates that various notices, applications, motions, other pleadings, hearings, and orders in these cases will affect each of the Debtors. The failure to administer these Chapter 15 Cases jointly would result in duplicative pleadings and service. Such duplication would impose unnecessary expenses on all parties.

120. Joint administration will permit this Court to utilize a single docket for the jointly administered cases and combine notices to creditors and other parties in interest. Further, joint administration will protect parties in interest by ensuring that they will be apprised of all matters. Accordingly, I believe entry of an order granting the relief requested in the Motion for Joint Administration is in the best interest of the Debtors and all parties in interest.

R. Scheduling Motion

121. By the Scheduling Motion, the Foreign Representative seeks an order (i) scheduling the Recognition Hearing and (ii) specifying the form and manner of service of notice thereof. It is my belief that service of the notice of the Recognition Hearing in the manner proposed in the Scheduling Motion will provide the Debtors' parties in interest due and sufficient notice of the Recognition Hearing and objection deadline.

[Signature Page to Follow]

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct to the best of my knowledge.

Dated: April 24, 2024

DocuSigned by:

Antoine Adams

Antoine Adams

Corporate Secretary

EXHIBIT A

Certified Copy of Initial CCAA Order



Court File No. CV-24-00718993-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

THE HONOURABLE)	WEDNESDAY, THE 24 th
)	
MR. JUSTICE BLACK)	DAY OF APRIL, 2024

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 TED BAKER CANADA INC., TED
BAKER LIMITED, OSL FASHION SERVICES CANADA INC.,
and OSL FASHION SERVICES, INC.

INITIAL ORDER

THIS APPLICATION, made by Ted Baker Canada Inc. ("**Ted Baker Canada**"), Ted Baker Limited, OSL Fashion Services Canada Inc. ("**Fashion Canada**"), and OSL Fashion Services, Inc. ("**Fashion US**" and collectively with Ted Baker Canada, Ted Baker Limited, and Fashion Canada, the "**Applicants**"), pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**") was heard this day by judicial videoconference via Zoom at 330 University Avenue, Toronto, Ontario.

ON READING the affidavit of Antoine Adams sworn April 24, 2024, and the Exhibits thereto (the "**Adams Affidavit**"), and the pre-filing report dated April 24, 2024, of Alvarez & Marsal Canada Inc. ("**A&M**"), in its capacity as proposed monitor of the Applicants, 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 to the Applicants, A&M, and such other counsel present, and on reading the consent of A&M to act as monitor (in such capacity, 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.

DEFINITIONS

2. **THIS COURT ORDERS** that unless otherwise indicated or defined herein, capitalized terms have the meanings given to them in the Adams Affidavit.

APPLICATION

3. **THIS COURT ORDERS AND DECLARES** that the Applicants are companies to which the CCAA applies.

POSSESSION OF PROPERTY AND OPERATIONS

4. **THIS COURT ORDERS** that the Applicants shall remain in possession and control of their respective 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 Applicants shall continue to carry on business in a manner consistent with the preservation of their business (the “**Business**”) and Property. The Applicants shall each be authorized and empowered to continue to retain and employ the employees, independent contractors, advisors, consultants, agents, experts, appraisers, valuers, brokers, accountants, counsel and such other persons (collectively, “**Assistants**”) currently retained or employed by them, with liberty to retain such further Assistants as they deem 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 Applicants shall be entitled to continue to use the central cash management systems currently in place as described in the Adams Affidavit, including, without limitation, the Blocked Accounts Arrangement, or, with the consent of the Monitor and the Interim Lender, replace them with other substantially similar central cash management systems (together, the “**Cash Management System**”) and that any present or future bank providing the Cash Management System, including the Canadian Imperial Bank of Commerce, HSBC Bank

USA, National Association, and American Savings Bank, 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 Applicants 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 Applicants, 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 any plan of compromise or arrangement (“**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 the Applicants shall be entitled but not required to pay the following expenses whether incurred prior to, on or after the date of this Order to the extent that such expenses are incurred and payable by the Applicants:

- (a) all outstanding and future wages, salaries, employee benefits (including, without limitation, employee medical, dental, registered retirement savings plan contributions and similar benefit plans or arrangements), vacation pay and expenses, in each case incurred in the ordinary course of business and consistent with existing compensation policies and arrangements, and all other payroll and benefits processing and servicing expenses;
- (b) all outstanding and future amounts invoiced to any of the Applicants from any independent contractors retained by any of the Applicants, payable prior to, on or after the date of this Order, in each case incurred in the ordinary course of business and consistent with existing payment arrangements;
- (c) all outstanding or future amounts related to honouring customer obligations, including customer pre-payments, deposits, gift cards, programs and other customer loyalty programs, offers and benefits, in each case incurred in the ordinary course of business and consistent with existing policies and procedures;
- (d) the fees and disbursements of any Assistants retained or employed by the Applicants at their standard rates and charges;

- (e) with the consent of the Monitor, and the Interim Lender, amounts owing for goods or services supplied to the Applicants prior to the date of this Order by:
- (i) warehouse providers, logistics or supply chain providers, including transportation providers, customs brokers, freight forwarders and security and armoured truck carriers, and including amounts payable in respect of customs and duties for goods;
 - (ii) providers of information, internet, telecommunications and other technology, including e-commerce providers and related services;
 - (iii) providers of payment, credit, debit and gift card processing related services; and
 - (iv) other third-party suppliers or service providers if, in the opinion of the Applicants following consultation with the Monitor, such supplier or service provider is critical to the Business and ongoing operations of the Applicants and the Property (as hereinafter defined).

7. **THIS COURT ORDERS** that, except as otherwise provided to the contrary herein, the Applicants shall be entitled but not required to pay all reasonable expenses incurred by them in carrying on the Business in the ordinary course after this Order, and in carrying out the provisions of this Order and any other Order of this Court, which expenses shall 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 to the Applicants following the date of this Order.

8. **THIS COURT ORDERS** that the Applicants 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 the Applicants' 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 taxes, harmonized sales taxes or other applicable sales taxes (collectively, "**Sales Taxes**") required to be remitted by the Applicants in connection with the sale of goods and services by the Applicants, 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, workers' compensation 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 Applicants.

9. **THIS COURT ORDERS** that, until a real property lease, including a sublease and related documentation (each, a "**Lease**") to which any Applicant is a party is disclaimed or resiliated in accordance with the CCAA or otherwise consensually terminated, such Applicant shall pay, without duplication, all amounts constituting rent or payable as rent under such Lease (including, for greater certainty, common area maintenance charges, utilities and realty taxes and any other amounts payable to the applicable landlord (each, a "**Landlord**") under such Lease, but for greater certainty, excluding accelerated rent or penalties, fees or other charges arising as a result of the insolvency of the Applicants or the making of this Order) or as otherwise may be negotiated between such 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.

10. **THIS COURT ORDERS** that, except as specifically permitted herein, the Applicants are 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 any one of the Applicants to any of their creditors as of this date; (b) to grant no security interests, trust, liens, charges or encumbrances upon or in respect of any of the Property; and (c) to not grant credit or incur liabilities except in the ordinary course of the Business or pursuant to this Order or any other Order of the Court.

RESTRUCTURING

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

- (a) terminate the employment of such of its employees or temporarily lay off such of its employees as the applicable Applicant deems appropriate;
- (b) disclaim or resiliate, in whole or in part, with the prior consent of the Monitor and the Interim Lender or further Order of the Court, any of their arrangements or agreements of any nature whatsoever and with whomsoever, whether oral or written, as the Applicants deem appropriate, in accordance with section 32 of the CCAA; and
- (c) in consultation with, and with the oversight of the Monitor and in consultation with the Interim Lender, (i) engage in discussions with, and solicit proposals and agreements from, third parties in respect of the liquidation of the inventory, furniture, equipment and fixtures and other property located in and/or forming part of the Property (the “**Liquidation Solicitation Process**”), and return to Court for the approval of any such agreement, and (ii) with the assistance of any real estate advisor or other Assistants as may be desirable, pursue all avenues and offers for the sale, transfer or assignment of the Leases to third parties, in whole or in part, and return to Court for approval of any such sale, transfer or assignment,

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

12. **THIS COURT ORDERS** that each Applicant shall provide each of the relevant landlords with notice of such 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 an 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 applicable Applicant, or by further Order of this Court upon application by such Applicant on at least two (2) days notice to such landlord and any such secured creditors. If an Applicant disclaims or resiliates 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 or resiliation of the lease shall be without prejudice to such Applicant's claim to the fixtures in dispute.

13. **THIS COURT ORDERS** that if a notice of disclaimer or resiliation is delivered pursuant to Section 32 of the CCAA, 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 applicable Applicant and the Monitor 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 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.

STAY OF PROCEEDINGS

14. **THIS COURT ORDERS** that until and including May 3, 2024, 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 Applicants or the Monitor, or any of their respective employees, directors, advisors, officers and representatives acting in such capacities, or affecting the Business or the Property, except with the prior written consent of the Applicants and the Monitor, or with leave of this Court, and any and all Proceedings currently under way against or in respect of the Applicants, or their employees,

directors, officers or representatives acting in such capacities, or affecting the Business or the Property are hereby stayed and suspended pending further Order of this Court.

15. **THIS COURT ORDERS** that, to the extent any prescription, time or limitation period relating to any Proceeding against or in respect of any Applicant that is stayed pursuant to this Order may expire, the term of such prescription, time or limitation period shall hereby be deemed to be extended by a period equal to the Stay Period.

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 Applicants or the Monitor, or their respective employees, directors, officers, advisors and representatives acting in such capacities, or affecting the Business or the Property, are hereby stayed and suspended except with the prior written consent of the Applicants and the Monitor, or leave of this Court, provided that nothing in this Order shall (a) empower the Applicants to carry on any business which they are not lawfully entitled to carry on; (b) affect such investigations, actions, suits or proceedings by a regulatory body as are permitted by Section 11.1 of the CCAA; (c) prevent the filing of any registration to preserve or perfect a security interest; or (d) prevent the registration of a claim for lien.

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, lease, sublease, concession arrangement, licence or permit in favour of or held by the Applicants, except with the prior written consent of the Applicants and the Monitor, or leave of this Court. Without limiting the foregoing, no right, option, remedy, and/or exemption in favour of the relevant Applicants shall be or shall be deemed to be negated, suspended, waived and/or terminated as a result of the insolvency of the Applicants, the commencement of the within proceedings or any related recognition proceedings or this Order.

NO PRE-FILING VS POST-FILING SET-OFF

18. **THIS COURT ORDERS** that, no Person shall be entitled to set off any amounts that: (a) are or may become due to the Applicants in respect of obligations arising prior to the date hereof with any amounts that are or may become due from the Applicants in respect of obligations arising on or after the date of this Order; or (b) are or may become due from the Applicants in respect of obligations arising prior to the date hereof with any amounts that are or may become due to the Applicants in respect of obligations arising on or after the date of this Order, in each case without the consent of the Applicants and the Monitor, or leave of this Court, provided that nothing in this Order shall prejudice any arguments any Person may want to make in seeking leave of the Court or following the granting of such leave.

CONTINUATION OF SERVICES

19. **THIS COURT ORDERS** that during the Stay Period,

- (a) all Persons having oral or written agreements with the Applicants or statutory or regulatory mandates for the supply or license of goods, intellectual property and/or services, including without limitation all computer software, trademarks, communication and other data services, centralized banking services, cash management services, payment processing services, payroll and benefit services, insurance, freight services, transportation services, customs clearing, warehouse and logistics services, utility or other services to the Business or the Applicants, are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply or license of such goods or services as may be required by the Applicants;
- (b) that all Persons who receive or collect proceeds from the sale of the Applicants' inventory for or on behalf of the Applicants, shall promptly remit such proceeds to the Applicants monthly, in accordance with existing arrangements without any additional set-off or deduction whatsoever; and
- (c) that the Applicants shall be entitled to the continued use of their current premises, telephone numbers, facsimile numbers, internet addresses and domain 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 Applicants in accordance with normal payment practices of the Applicants or such other practices as may be agreed upon by the supplier or service provider and the applicable Applicants and the Monitor, or as may be ordered by this Court.

NON-DEROGATION OF RIGHTS

20. **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, in each case, 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 Applicants. Nothing in this Order shall derogate from the rights conferred and obligations imposed by the CCAA.

PROCEEDINGS AGAINST DIRECTORS AND OFFICERS

21. **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 Applicants with respect to any claim against the directors or officers that arose before the date hereof and that relates to any obligations of the Applicants whereby the directors or officers are alleged under any law to be liable in their capacity as directors or officers for the payment or performance of such obligations.

DIRECTORS' AND OFFICERS' INDEMNIFICATION AND CHARGE

22. **THIS COURT ORDERS** that the Applicants shall indemnify their directors and officers against obligations and liabilities that they may incur as directors or officers of the Applicants 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.

23. **THIS COURT ORDERS** that the directors and officers of the Applicants 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 USD \$2,500,000, as security for the indemnity

provided in paragraph 22 of this Order. The Directors' Charge shall have the priority set out in paragraphs 40 and 42 herein.

24. **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 Applicants' 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 22 of this Order.

APPOINTMENT OF MONITOR

25. **THIS COURT ORDERS** that A&M is hereby appointed pursuant to the CCAA as the Monitor, an officer of this Court, to monitor the business and financial affairs of the Applicants with the powers and obligations set out in the CCAA or set forth herein and that the Applicants and their shareholders, partners, members, officers, directors, and Assistants shall advise the Monitor of all material steps taken by the Applicants 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 Applicants' receipts and disbursements;
- (b) assist the Applicants with the Restructuring;
- (c) assist the Applicants, to the extent required by the Applicants or the Interim Lender, in their dissemination to the Interim Lender and its counsel and financial advisor of financial and other information as agreed to between the Applicants and the Interim Lender, which may be used in these proceedings, including reporting on a basis to be agreed with the Interim Lender;

- (d) 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;
- (e) advise the Applicants in their preparation of the Applicants' cash flow statements and the dissemination of other financial information;
- (f) 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 Applicants, to the extent that is necessary to adequately assess the Applicants' business and financial affairs or to perform its duties arising under this Order;
- (g) liaise and consult with any Assistants and any liquidator selected through the Liquidation Selection Process, to the extent required, with respect to all matters relating to the Property, the Business and such other matters as may be relevant to the proceedings herein;
- (h) be at liberty to engage independent legal counsel, advisors or such other persons, or utilize the services of employees of its affiliates, as the Monitor deems necessary or advisable respecting the exercise of its powers and performance of its obligations under this Order;
- (i) assist the Applicants, to the extent required by the Applicants, with any matters relating to any foreign proceeding commenced in relation to any of the Applicants; and
- (j) 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*, the *Ontario Occupational Health and Safety Act*, the *British Columbia Environmental Management Act*, the *British Columbia Riparian Areas Protection Act*, the *British Columbia Workers Compensation Act*, the *Alberta Environmental Protection and Enhancement Act*, the *Alberta Water Act*, the *Alberta Occupational Health and Safety Act*, the *Manitoba Environment Act*, the *Manitoba Contaminated Sites Remediation Act*, the *Manitoba Workplace Safety and Health Act*, the *Quebec Environmental Quality Act*, and the *Quebec Act Respecting Occupation Health and Safety*, 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 the Monitor shall provide any creditor of the Applicants with information provided by the Applicants 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 Applicants 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 Applicants 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 Applicants, counsel to the Interim Lender and financial advisor thereto, shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges, whether incurred prior to, on or subsequent to the date of this Order, by the Applicants as part of the costs of these proceedings. The Applicants are hereby authorized and directed to pay the accounts of the Monitor, counsel to the Monitor and, counsel to the Applicants, counsel to the Interim Lender and financial advisor thereto, on such terms as such parties may agree and are hereby authorized to pay to the Monitor, counsel to the Monitor and counsel to the Applicants, retainers, *nunc pro tunc*, 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.

ADMINISTRATION CHARGE

33. **THIS COURT ORDERS** that the Monitor, counsel to the Monitor and counsel to the Applicants 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 USD \$750,000, as security for their professional fees and disbursements incurred at their 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 40 and 42 hereof.

INTERIM FINANCING

34. **THIS COURT ORDERS** that on or after the date of this Order and until May 8, 2024, Ted Baker Canada and Ted Baker Limited are hereby authorized and empowered to continue to borrow from Canadian Imperial Bank of Commerce (the “**Interim Lender**”) under the existing credit facility (the “**Existing Credit Facility**”) pursuant to the Credit Agreement dated as of March 14, 2023 (as amended by a consent and first amendment agreement dated as of August 3, 2023, and as further amended by a second amendment agreement dated as of April 23, 2024, the “**Existing Credit Agreement**”) in order to finance the Applicants' working capital requirements

and other general corporate purposes, capital expenditures and costs of these proceedings (each, an “**Interim Borrowing**” and collectively, the “**Interim Borrowings**”), provided that (i) such Interim Borrowings are to fund obligations which the Applicants, with the consent of the Monitor and the Interim Lender, deem to be necessary for the preservation of the Property or the Business, (ii) such Interim Borrowings shall not, individually or in the aggregate, exceed USD \$7,000,000, (iii) such Interim Borrowings under the Existing Credit Facility shall accrue interest at the default rates set out in the Existing Credit Agreement, (iv) Fashion Canada and Fashion US shall be deemed to (a) guarantee and secure the Interim Borrowings, together with all interest accrued thereon and costs and expenses incurred in connection therewith, in the same manner as the other Obligations (as defined in the Existing Credit Agreement) that they have guaranteed and secured under the Existing Credit Agreement and the loan and security documents provided by them in connection therewith, and (b) ratify and acknowledge the guarantees and security they have provided in connection with the Existing Credit Agreement and the loan and security documents provided by them in connection therewith, in each case, without the need for any further guarantee, security or documentation from Fashion Canada or Fashion US, and (v) unless the Interim Lender provides its written waiver, the United States Bankruptcy Court shall have granted an Order pursuant to the *United States Bankruptcy Code*, 11 U.S.C., §§ 101 – 1532, as amended (the “**Bankruptcy Code**”): (a) provisionally recognizing, ordering and giving effect to this Order and the Interim Lender’s Charge in the United States, and (b) granting such other provisional relief that is sought by the Applicants, at the request of the Interim Lender.

35. **THIS COURT ORDERS** that the Applicants are hereby authorized and empowered to execute and deliver such amendments to the Existing Credit Agreement or other documents, if any, as may be reasonably required by the Interim Lender to facilitate any Interim Borrowings, provided that failure to execute any such documentation does not invalidate any Interim Borrowings or the validity or priority of the Interim Lender’s Charge.

36. **THIS COURT ORDERS** that the Interim Borrowings shall mature on May 8, 2024 and be payable in full by the Applicants on such date, together with all interest accrued thereon and costs or expenses incurred in connection therewith.

37. **THIS COURT ORDERS** that the Interim Lender shall be entitled to the benefit of and is hereby granted a charge (the “**Interim Lender’s Charge**”) on the Property of each of the

Applicants, which Interim Lender's Charge shall, for greater certainty, not secure any obligation that exists before this Order is made. The Interim Lender's Charge shall have the priority set out in paragraphs 40 and 42 hereof.

38. **THIS COURT ORDERS** in the event the Applicants fail to make the payment to the Interim Lender required by paragraph 36 herein, then upon three (3) business days' notice to the Applicants and the Monitor, the Interim Lender may exercise any and all of its rights and remedies against the Applicants or the Property under or pursuant to the Existing Credit Agreement and the Interim Lender's Charge, including without limitation, to cease making advances to the Applicants and, subject to further Order of the Court, set off and/or consolidate any amounts owing by the Interim Lender to any of the Applicants against the obligations of the Applicants to the Interim Lender under the Existing Credit Agreement, this Order or the Interim Lender's Charge, to make demand, accelerate payment and give other notices, or to apply to this Court for the appointment of a receiver, receiver and manager or interim receiver, or for a bankruptcy order against the Applicants or the Property and for the appointment of a trustee in bankruptcy of the Applicants.

39. **THIS COURT ORDERS** that the Interim Lender shall be treated as unaffected in any plan of arrangement or compromise filed by the Applicants under the CCAA, or any proposal filed by the Applicants under the *Bankruptcy and Insolvency Act* of Canada with respect to any Interim Borrowings.

VALIDITY AND PRIORITY OF CHARGES CREATED BY THIS ORDER

40. **THIS COURT ORDERS** that the priorities of the security interests granted by the Administration Charge, Interim Lender's Charge and the Directors' Charge (collectively, the "**Charges**"), and the Applicants to CIBC, as among them, shall be as follows:

- (a) First – Administration Charge (to the maximum amount of USD \$750,000);
- (b) Second – Interim Lender's Charge;
- (c) Third – Security granted with respect to the Existing Credit Facility (excluding the Interim Borrowings); and
- (d) Fourth - Directors' Charge (to the maximum amount of USD \$2,500,000).

41. **THIS COURT ORDERS** that the filing, registration or perfection of 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.

42. **THIS COURT ORDERS** that each of the Charges shall constitute a charge on the Property and such Charges shall rank in priority to all other security interests, trusts (including deemed or constructive trusts), liens, charges and encumbrances, claims of secured creditors, statutory or otherwise (collectively, “**Encumbrances**”) in favour of any Person, except for any Person who is a “secured creditor” as defined in the CCAA that has not been served with the Notice of Application for this Order. The Applicants shall be entitled, at the Comeback Hearing (as hereinafter defined), on notice to those Persons likely to be affected thereby, to seek priority of the Charges ahead of any Encumbrance over which the Charges may not have obtained priority pursuant to this Order.

43. **THIS COURT ORDERS** that except as otherwise expressly provided for herein, or as may be approved by this Court, the Applicants shall not grant any Encumbrances over any Property that rank in priority to, or pari passu with, any of the Charges unless the Applicants also obtain the prior written consent of the Monitor, the Interim Lender and the other beneficiaries of the Charges (collectively, the “**Chargees**”), or further Order of this Court.

44. **THIS COURT ORDERS** that the Charges shall not be rendered invalid or unenforceable and the rights and remedies of the Chargees 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) or receivership order(s) issued pursuant to the BIA or otherwise, or any bankruptcy order or receivership 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 Applicants, and notwithstanding any provision to the contrary in any Agreement:

- (a) neither the creation of the Charges nor the execution or delivery of any amendment or document pursuant to paragraph 35 hereof shall create or be deemed to constitute a breach by the Applicants of any Agreement to which they are a party;
- (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 creation of the Charges, the Interim Borrowings or the execution or delivery of any amendment or document pursuant to paragraph 35 hereof; and
- (c) the payments made by the Applicants pursuant to this Order, including with respect to the Existing Credit Facility or in respect of the Interim Borrowings and the granting of the Charges do not and will not constitute preferences, fraudulent conveyances, transfers at undervalue, oppressive conduct, or other challengeable or voidable transactions under any applicable law.

45. **THIS COURT ORDERS** that any Charge created by this Order over leases of real property in Canada shall only be a Charge in the Applicants' interests in such real property leases.

SERVICE AND NOTICE

46. **THIS COURT ORDERS** that the Monitor shall (a) without delay, publish in the Globe & Mail a notice containing the information prescribed under the CCAA; and (b) within five (5) days after the date of this Order, (i) make this Order publicly available in the manner prescribed under the CCAA, (ii) send, or cause to be sent, in the prescribed manner (including by electronic message to the e-mail addresses as last shown in the Applicants' books and records), a notice to all known creditors having a claim against the Applicants of more than \$1,000, and (iii) prepare a list showing the names and addresses of such 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, provided that the Monitor shall not make the claims, names and addresses of individuals who are creditors publicly available, unless otherwise ordered by the Court.

47. **THIS COURT ORDERS** that any employee of any of the Applicants who is sent a notice of termination of employment or any other communication by the Applicants after the date hereof shall be deemed to have received such communication by no later than 8:00 a.m. Eastern

Standard/Daylight Time on the fourth (4th) day following the date any such notice is sent, if such notice is sent by ordinary mail, expedited parcel or registered mail to the individual's address as reflected in the Applicants' books and records; provided, however, that any communication that is sent to an employee of the Applicants by electronic message to the individual's corporate email address and/or the individual's personal email address as last shown in the Applicants' books and records shall be deemed to have been received twenty-four (24) hours after the time such electronic message was sent, notwithstanding that any such notices of termination of employment or other employee communication was sent pursuant to any other means.

48. **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: www.alvarezandmarsal.com/TBRetail (the "**Monitor's Website**").

49. **THIS COURT ORDERS** that if the service or distribution of documents in accordance with the Protocol or the CCAA and the regulations thereunder is not practicable, the Applicants 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 copies thereof by prepaid ordinary mail, courier, personal delivery, facsimile transmission or electronic message to the Applicants' creditors or other interested parties at their respective addresses (including e-mail addresses) as last shown in the books and records of the Applicants and that any such service or distribution shall be deemed to be received on the earlier of (a) the date of forwarding thereof, if sent by electronic message on or prior to 5:00 p.m. Eastern Standard/Daylight Time (or on the next business day following the date of forwarding thereof if sent on a non-business day); (b) the next business day following the date of forwarding thereof, if sent by courier, personal delivery, facsimile transmission or electronic message sent after 5:00 p.m. Eastern Standard/Daylight Time;

or (c) on the third (3rd) business day following the date of forwarding thereof, if sent by ordinary mail.

50. **THIS COURT ORDERS** that the Applicants and the Monitor and their respective counsel are at liberty to serve or distribute this Order, any other materials and orders as may be reasonably required in these proceedings, including any notices, or other correspondence, by forwarding copies thereof by electronic message to the Applicants' creditors or other interested parties and their advisors. For greater certainty, any such distribution or service shall be deemed to be in satisfaction of a legal or judicial obligation, and notice requirements within the meaning of clause 3(c) of the Electronic Commerce Protection Regulations, Reg. 81000-2-175 (SOR/DORS).

COMEBACK HEARING

51. **THIS COURT ORDERS** that the comeback motion in these CCAA proceedings shall be heard on May 3, 2024 (the "**Comeback Hearing**").

GENERAL

52. **THIS COURT ORDERS** that the Applicants or the Monitor may from time to time apply to this Court to amend, vary or supplement this Order or for advice and directions in the discharge of their respective powers and duties hereunder.

53. **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 Applicants, the Foreign Representative (as defined below), 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 Applicants, to the Foreign Representative 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 Applicants, the Foreign Representative and the Monitor and their respective agents in carrying out the terms of this Order.

54. **THIS COURT ORDERS** that the Applicants and the Monitor be at liberty and are hereby authorized and empowered to seek any relief deemed appropriate by them from the United States

Bankruptcy Court and 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 Ted Baker Canada is hereby authorized and empowered to act as the foreign representative (the “**Foreign Representative**”) in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada, including acting as a foreign representative of the Applicants to apply to the United States Bankruptcy Court for relief pursuant to chapter 15 of the Bankruptcy Code.

55. **THIS COURT ORDERS** that any interested party (including the Applicants and the Monitor) may apply to this Court to vary or amend this Order at the Comeback Hearing on not less than five (5) calendar 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.

56. **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.



Black J.

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF TED BAKER CANADA INC., TED BAKER LIMITED,
OSL FASHION SERVICES CANADA INC., and OSL FASHION SERVICES, INC.

24-10699-mew

Doc 4-1 Filed 04/24/24 Entered 04/24/24 19:14:48
Certified Copy of Initial CCAA Order Pg 23 of 23

Exhibit A -

Applicants

Ontario
**SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

Proceeding commenced at Toronto

INITIAL ORDER

OSLER, HOSKIN & HARCOURT LLP

1 First Canadian Place, P.O. Box 50
Toronto, ON M5X 1B8
Fax: 416.862.6666

Tracy C. Sandler (LSO# 32443N)
Tel: 416.862.5890
Email: tsandler@osler.com

Shawn Irving (LSO# 50035U)
Tel: 416.862.4733
Email: sirving@osler.com

Blair McRadu (LSO# 85586M)
Tel: 416.862.6665
Email: bmcradu@osler.com

Marleigh Dick (LSO# 79390S)
Tel: 416.862.4725
Email: mdick@osler.com

Lawyers for the Applicants

EXHIBIT B

13 Week Cash Flow Projection

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 TED BAKER CANADA INC., TED
BAKER LIMITED, OSL FASHION SERVICES CANADA INC.,
and OSL FASHION SERVICES, INC.

**PRE-FILING REPORT OF THE PROPOSED MONITOR
ALVAREZ & MARSAL CANADA INC.**

APRIL 24, 2024

TABLE OF CONTENTS

1.0	INTRODUCTION.....	1
2.0	PURPOSE OF THIS REPORT	4
3.0	TERMS OF REFERENCE AND DISCLAIMER	5
4.0	A&M’S QUALIFICATIONS TO ACT AS MONITOR	6
5.0	BACKGROUND INFORMATION	7
6.0	SECURED CREDITORS.....	8
7.0	INTERIM FINANCING	10
8.0	CASH FLOW FORECAST	13
9.0	CASH MANAGEMENT SYSTEM.....	16
10.0	CHAPTER 15 RECOGNITION PROCEEDINGS	17
11.0	STAY OF PROCEEDINGS.....	17
12.0	COURT-ORDERED CHARGES SOUGHT IN THE INITIAL ORDER.....	18
13.0	INTENDED NEXT STEPS IN THESE CCAA PROCEEDINGS	21
14.0	CONCLUSIONS AND RECOMMENDATIONS.....	21

APPENDICES

Appendix A – Cash Flow Forecast for the 2-Week Period Ending May 5, 2024

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

1.0 INTRODUCTION

- 1.1 Alvarez & Marsal Canada Inc. (“**A&M**” or the “**Proposed Monitor**”) understands that Ted Baker Canada Inc. (“**Ted Baker Canada**”), Ted Baker Limited, OSL Fashion Services Canada Inc. (“**Fashion Canada**”), and OSL Fashion Services, Inc. (“**Fashion Services**”, and collectively with Ted Baker Canada, Ted Baker Limited and Fashion Canada, the “**Ted Baker Group**” or the “**Applicants**”) intend to make an application to the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) for an order (the “**Initial Order**”), among other things, granting an initial stay of proceedings pursuant to the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the “**CCAA**”), and appointing A&M as Monitor of the Applicants (in such capacity, the “**Monitor**”). The proceedings to be commenced by the Applicants under the CCAA are referred to herein as the “**CCAA Proceedings**”.
- 1.2 The Applicants operate a fashion clothing and accessories retail, wholesale and e-commerce business in Canada and the United States facilitated by certain License Agreements with Authentic Brands Group (“**ABG**”).
- 1.3 In Canada, Ted Baker Canada operates 25 retail store locations under the Ted Baker (9), Lucky Brand (7) and Brooks Brothers (9) store banners, with approximately 280 employees. Ted Baker Canada also sells to customers through six retail concession locations in certain Hudson Bay Company stores in Canada.
- 1.4 In the United States, Ted Baker Limited operates 34 retail stores under the Ted Baker store banner only, with approximately 350 employees. Ted Baker Limited also sells to customers

through retail concession locations in 31 Bloomingdale's stores and one Macy's store in the United States.

- 1.5 Ted Baker Canada and Ted Baker Limited are also party to agreements with certain wholesale customers who purchase bulk Ted Baker branded products from Ted Baker NA (as defined below), and then sell the products to their retail customers through their own stores and websites (www.tedbaker.ca in Canada and www.tedbaker.us in the United States).
- 1.6 Ted Baker Canada is a limited company incorporated pursuant to the laws of Nova Scotia and continued pursuant to the laws of Ontario. Ted Baker Limited is a limited company incorporated pursuant to the laws of New York (Ted Baker Canada and Ted Baker Limited, together "**Ted Baker NA**"), whose head offices are in Mississauga, Ontario and New York, New York, respectively.
- 1.7 Ted Baker Canada is a wholly-owned direct subsidiary of Fashion Canada, a company incorporated pursuant to the laws of Ontario and headquartered in Mississauga, Ontario. Ted Baker Limited is a wholly-owned direct subsidiary of Fashion Services, a company incorporated pursuant to the laws of Michigan and headquartered in Mississauga, Ontario. All or substantially all of the key operational and strategic and corporate decision-making relating to the Applicants' business is performed by and through Fashion Canada's head office in Mississauga, Ontario. A corporate chart depicting the legal structure of the Applicants is included in Section B to the Adams Affidavit (as defined below).
- 1.8 Since first entering the North American retail fashion clothing industry through an acquisition completed in early 2023, the Applicants' financial and operational performance

has struggled and the consolidated business has failed to achieve positive cash flow. Over the last year, the business has underperformed relative to budget and revenues have significantly declined, due in management's view to, among other factors: (i) supply chain disruption and accelerating payment terms following failures by ABG's operating partners in Europe and elsewhere to make payments to suppliers in the lead up to and as a result of the administration process in the UK in respect of that Ted Baker business; (ii) transition to a new technology platform during the busiest selling season, which exacerbated the supply delays; and (iii) generally poor sales performance.

1.9 Negative cash flows and working capital issues have caused a strain on the borrowing base under the Applicants' Existing Credit Facility (defined below), resulting in the Applicants being unable to pay their obligations in the ordinary course. These liquidity constraints have resulted in significant arrears owing to critical vendors, including in excess of \$2 million owing to ABG as of April 1, 2024, pursuant to the License Agreements (the "**Missed April Payments**"). On April 17, 2024, Ted Baker Limited and Ted Baker Canada received Notices of Breach from ABG as a result of the Missed April Payments. Under the terms of the License Agreements, ABG has the right to terminate the License Agreements if the Applicants' failure to make payments under the License Agreements is not cured within five business days.

1.10 The principal purpose of these CCAA Proceedings is to stabilize and maintain the Ted Baker Group's business, which urgently requires a stay of proceedings granted under the CCAA and related relief, including access to interim financing required by the Applicants. The Applicants intend to use the breathing room afforded by the CCAA to consider their next steps and restructuring alternatives in consultation with key stakeholders.

1.11 The Affidavit of Antoine Adams, a director and Corporate Secretary of each of the Applicants and the Chief Operating Officer of OSL Retail Services Inc. (“**OSL Retail**”), an affiliate of the Applicants, sworn April 24, 2024 in support of the CCAA application (the “**Adams Affidavit**”), provides a detailed summary of the Applicants’ background, including the events leading up to, and reasons for, the commencement of these CCAA Proceedings.

2.0 PURPOSE OF THIS REPORT

2.1 The purpose of this pre-filing report (this “**Report**”) is to provide the Court with information, and where applicable, the Proposed Monitor’s views on:

- (i) A&M’s qualifications to act as Monitor (if appointed);
- (ii) the Ted Baker Group’s business and financial circumstances;
- (iii) the Ted Baker Group’s 2-week cash flow projection for the period April 24, 2024 through to May 5, 2024 (the “**Cash Flow Forecast**”);
- (iv) the Ted Baker Group’s proposed payments during the Cash Flow Forecast period;
- (v) the Ted Baker Group’s centralized cash management system;
- (vi) the Ted Baker Group’s intended next steps in these CCAA Proceedings, including the proposed commencement of Chapter 15 recognition proceedings;
- (vii) the opinions of counsel to the Proposed Monitor regarding the validity and enforceability of the security granted by the Applicants in favour of Canadian

Imperial Bank of Commerce (“**CIBC**”), in its capacity as agent for the senior secured lenders;

- (viii) the proposed Court-ordered Charges (as defined below) over the property and assets of the Ted Baker Group (collectively, the “**Property**”) sought in the proposed Initial Order; and
- (ix) the Proposed Monitor’s conclusions and recommendations in connection with the foregoing.

3.0 TERMS OF REFERENCE AND DISCLAIMER

3.1 In preparing this Report, A&M, in its capacity as the Proposed Monitor, has been provided with, and has relied upon, unaudited financial information, books and records and financial information prepared by the Ted Baker Group and has held discussions with management of the Ted Baker Group and its legal counsel (collectively, the “**Information**”). Except as otherwise described in this Report in respect of the Cash Flow Forecast:

- (i) the Proposed Monitor has reviewed the Information for reasonableness, internal consistency and use in the context in which it was provided. However, the Proposed Monitor has not audited or otherwise attempted to verify the accuracy or completeness of the Information in a manner that would wholly or partially comply with Canadian Auditing Standards (“**CASs**”) pursuant to the *Chartered Professional Accountants Canada Handbook* (the “**CPA Handbook**”) and, accordingly, the Proposed Monitor expresses no opinion or other form of assurance contemplated under CASs in respect of the Information; and

(ii) some of the information referred to in this Report consists of forecasts and projections. An examination or review of the financial forecasts and projections, as outlined in the CPA Handbook, has not been performed.

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

3.3 This Report should be read in conjunction with the Adams Affidavit, filed in support of the Applicant's application for relief under the CCAA. Capitalized terms used and not defined in this Report have the meanings given to them in the Adams Affidavit.

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

4.0 A&M'S QUALIFICATIONS TO ACT AS MONITOR

4.1 Alvarez & Marsal Canada ULC, an affiliate of A&M, was engaged to act as a consultant to the Applicants on April 16, 2024, and, as such, the Proposed Monitor is familiar with the business and operations of the Applicants, its personnel and the key issues and stakeholders in the proposed CCAA Proceedings.

4.2 A&M is related to Alvarez & Marsal Holdings LLC, which is an independent international professional services firm, providing, among other things, bankruptcy, insolvency and restructuring services. The senior A&M professional personnel with carriage of this matter

include experienced insolvency and restructuring practitioners who are Chartered Professional Accountants (Chartered Accountants), Chartered Insolvency and Restructuring Professionals, and Licensed Insolvency Trustees, and who have previously acted in CCAA matters of a similar nature and complexity in Canada.

4.3 A&M is a trustee within the meaning of subsection 2(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3 and is not subject to any of the restrictions on who may be appointed as monitor set out in subsection 11.7(2) of the CCAA.

4.4 The Proposed Monitor has retained Bennett Jones LLP to act as its independent legal counsel.

4.5 A&M has consented to act as Monitor of the Ted Baker Group should the Court grant the proposed Initial Order.

5.0 BACKGROUND INFORMATION

5.1 Extensive background information on the Ted Baker Group as it relates to, among others, its recent financial and operating performance, retail footprint and sales channels, employees, assets and liabilities, and primary causes of financial difficulty are set out in the Adams Affidavit and is therefore not repeated herein.

6.0 SECURED CREDITORS

CIBC

6.1 CIBC is the main operating and senior secured lender to the Ted Baker Group pursuant to a credit agreement dated March 14, 2023 (as amended on August 3, 2023 and April 24, 2024, the “**CIBC Credit Agreement**”), among Ted Baker Canada (in such capacity, the “**Canadian Borrower**”) and Ted Baker Limited (in such capacity, the “**US Borrower**”) and, together with the Canadian Borrower, the “**Borrowers**”) as borrowers, and Fashion Canada (in such capacity, the “**Canadian Guarantor**”) and Fashion Services (in such capacity, the “**US Guarantor**”) and, together with the Canadian Guarantor, the “**Guarantors**”) and together with the Borrowers, the “**Credit Parties**”), CIBC and the other lenders from time to time party thereto as lenders (the “**Lenders**”) and CIBC, in its capacity as administrative agent to the Lenders (in such capacity, the “**Agent**”). Pursuant to the CIBC Credit Agreement, the Lenders provide revolving loans to the Borrowers in the aggregate principal amount of \$36.5 million (the “**Existing Credit Facility**”).

6.2 The maximum amount available for borrowing under the Existing Credit Facility is derived from a borrowing base formula based on the Borrowers’ receivables, inventory on hand and inventory in-transit, less outstanding letters of credit and availability reserves (including priority payables such as wages, worker’s compensation and certain taxes).

Security Review

6.3 The Proposed Monitor requested that its counsel, and its counsel’s local agents, conduct a review of the security granted by the Credit Parties in favour of the Agent in connection with the CIBC Credit Agreement. The obligations under the CIBC Credit Agreement are

secured by certain Canadian security documents granted in favour of the Agent (collectively, the “**Canadian Security Documents**”). The Proposed Monitor’s counsel has provided a written opinion to the Proposed Monitor (collectively, the “**Canadian Opinion**”), that, subject to the customary qualifications and assumptions set out therein, the security granted by the Ted Baker Group pursuant to each Canadian Security Document constitutes valid security interest in the collateral specified therein, enforceable in accordance with its terms, and perfected by registration in the provinces of Ontario, Quebec, Alberta, British Columbia, Nova Scotia, and Manitoba (the “**PPSA Jurisdictions**”) to the extent capable under applicable law. Based on a search conducted in respect of the Ted Baker Group in the PPSA Jurisdictions, the only lien registrations identified were in favour of the Agent and OSL Retail (as discussed below).

6.4 The obligations under the CIBC Credit Agreement are secured by certain US security documents granted in favour of the Agent (collectively, the “**US Security Documents**”). The Proposed Monitor’s Canadian counsel’s local agents, have provided draft written opinions to the Proposed Monitor (the “**US Opinions**”, and collectively with the Canadian Opinion, the “**Opinions**”) that, subject to the customary qualifications and assumptions set out therein, the security granted by the Ted Baker Group pursuant to each US Security Documents constitutes valid perfected security interest in the collateral specified therein, enforceable in accordance with its terms. The Opinions can be made available to the Court upon request.

6.5 Based on lien searches conducted respectively in respect of Ted Baker Limited in the office of the Secretary of State of New York under that state’s Uniform Commercial Code, Ted Baker Canada in the office of the Recorder of Deeds of the District of Columbia under the

Uniform Commercial Code of the District of Columbia and Fashion Services in the office of the Secretary of State of Michigan under that state's Uniform Commercial Code, the only lien registrations identified were in favour of the Agent.

OSL Retail

- 6.6 Fashion Canada issued a secured promissory note dated March 14, 2023, in favour of OSL Retail, pursuant to which Fashion Canada has promised to pay on demand to OSL Retail a principal amount of \$10 million. Fashion Canada granted a security interest to OSL Retail in all of its present and after-acquired undertaking and property pursuant to a general security agreement dated March 14, 2024.
- 6.7 Pursuant to a postponement, subordination and standstill agreement dated March 14, 2023 (the "**Subordination Agreement**") by OSL Retail to the Senior Lenders and the Agent, and acknowledged by Fashion Canada, inter alia, all debts, liabilities and obligations owing by Fashion Canada to OSL Retail were subordinated and postponed to all debts, obligations and liabilities owed by the Borrowers to the Senior Lenders and the Agent under the CIBC Credit Agreement.

7.0 INTERIM FINANCING

- 7.1 As set out in the Adams Affidavit, Ted Baker NA no longer has access to further availability under the Existing Credit Facility and CIBC had advised that it is unwilling to extend further credit to the Applicants outside of a CCAA process.
- 7.2 Accordingly, to support the Applicants' restructuring efforts and avoid an abrupt shutdown of the business, on April 24, 2024 CIBC entered into an amendment to the Existing Credit

Facility as a pre-condition to CIBC making further borrowings available under the Existing Credit Facility during the initial 9-day period.

7.3 Such additional borrowings (each, an “**Interim Borrowing**” and collectively, the “**Interim Borrowings**”) are subject to the following conditions:

- (i) such Interim Borrowings are to fund obligations which the Applicants, with the consent of the Monitor and the Interim Lender, deem to be necessary for the preservation of the Property or their business;
- (ii) such Interim Borrowings do not, individually or in the aggregate, exceed \$7 million;
- (iii) such Interim Borrowings under the Existing Credit Facility accrue interest at the rates set out in the CIBC Credit Agreement;
- (iv) Fashion Canada and Fashion Services are deemed to guarantee the Interim Borrowings together with all interest accrued thereon and costs and expenses incurred in connection therewith in the same manner as the other Obligations (as defined in the CIBC Credit Agreement) that they have guaranteed under the CIBC Credit Agreement and the loan and security documents provided by them in connection therewith, without the need for any further documentation or guarantee from Fashion Canada or Fashion Services;
- (v) such Interim Borrowings mature on May 8, 2024 (as they are expected to be replaced by more traditional DIP financing prior to such date); and

(vi) unless the Interim Lender provides its written waiver, the United States Bankruptcy Court shall have granted an Order pursuant to the Bankruptcy Code: (a) provisionally recognizing, ordering and giving effect to the Initial Order and the Interim Lender's Charge in the United States, and (b) granting such other provisional relief that is sought by the Applicants, at the request of the Interim Lender.

- 7.4 Further, having regard to CIBC's rights under the CIBC Credit Agreement and the existing defaults under the CIBC Credit Agreement, the Applicants will be required to submit draw requests for each expenditure during the initial 9-day period and CIBC will make a funding determination on a case-by-case basis.
- 7.5 The requested Initial Order contemplates that Interim Borrowings will be secured by way of a court-ordered charge (defined as the Interim Lender's Charge) subordinate only to the Administration Charge.
- 7.6 As indicated in the Adams Affidavit, CIBC has sweep rights over all existing Canadian bank accounts under the CIBC Credit Agreement, and has established a DACA (defined and described below) in respect of the main operating US bank account. Funds swept through these mechanisms during these CCAA proceedings will be used to partially repay the pre-filing balance owing under the Existing Credit Facility (i.e. a "creeping roll-up").
- 7.7 Leading up to these proceedings, the Proposed Monitor has been cooperatively working with CIBC and their advisors in connection with the sizing and structure of the Interim Borrowings, the ranking and sizing of the Charges, and the Cash Flow Forecast. The

Proposed Monitor understands that CIBC is supportive of the Interim Borrowings and the other relief requested.

7.8 The Proposed Monitor is supportive of the proposed Interim Lender's Charge because, among other things:

- (i) in the absence of the Interim Lender's Charge, the Applicants have no ability to draw under the Existing Credit Facility, and therefore have no liquidity to fund operations or these CCAA Proceedings;
- (ii) as confirmed by the Proposed Monitor's counsel, CIBC has valid registered security against each of the Applicants, and the Proposed Monitor is not aware of any creditor ranking in priority to CIBC at this time;
- (iii) the terms of the Interim Borrowings are not materially different than under the Existing Credit Facility; and
- (iv) the Proposed Monitor is not aware of any creditor that will be prejudiced by the Interim Lender's Charge.

8.0 CASH FLOW FORECAST

8.1 The Ted Baker Group has prepared a cash flow forecast (the "**Cash Flow Forecast**") for the period from April 24, 2024 to May 5, 2024 (the "**Initial Period**"). A copy of the Cash Flow Forecast, together with a summary of assumptions (the "**Cash Flow Assumptions**") and Management's report on the cash-flow statement required by subsection 10(2)(b) of the CCAA are attached hereto as **Appendices "A" and "B"**, respectively.

8.2 The following table provides a summary of the Cash Flow Forecast for the Initial Period:

Ted Baker Group (Consolidated) Cash Flow Forecast (USD \$000's)		<i>Initial Period</i>
Receipts		
Sales Receipts		2,007
Sales Tax Collections		170
Total Receipts		2,177
Disbursements		
Rent		1,900
Payroll		1,256
Logistics and Duties		870
Other Vendors		3,500
Sales Tax Remittances		600
Restructuring Professional Fees		64
Total Disbursements		8,191
Net Cash Flow		(6,014)
<i>Cash & Interim Borrowings</i>		
Opening Cash Balance		1,196
Interim Borrowings		6,994
Disbursements		(8,191)
Ending Cash Balance		-
<i>Pre-Filing Revolver</i>		
Opening Balance		(29,651)
Net Cash Flow after cash disbursements		2,177
Ending Balance		(27,474)

8.3 During the Initial Period, total disbursements of approximately \$8.2 million are projected to be sufficiently funded from Ted Baker Group's cash on hand and the Interim Borrowings proposed to be provided by CIBC. Forecast cash receipts of approximately \$2.2 million are to be applied against the Company's outstanding pre-filing revolver balance.

8.4 The Proposed Monitor also notes the following with respect to the Cash Flow Forecast:

- (i) receipts reflect forecast sales from retail stores and e-commerce channels consistent with the Company's recent sales trend;

- (ii) the Ted Baker Group is not currently purchasing additional inventory and accordingly no merchandise payments have been included during the Initial Period;
- (iii) rent is forecast to be paid on May 1, 2024 for all store and office locations;
- (iv) Canadian and US payrolls are to be paid in the ordinary course; and
- (v) Logistics and Duties, and Other Vendors include logistics, warehousing and transportation services, information technology services, and other store-level and corporate costs required to facilitate the continued flow of goods in-transit and online sale deliveries.

8.5 Based on the Proposed Monitor's review,¹ nothing has come to its attention that causes it to believe, in all material respects that: (i) the Cash Flow Assumptions are not consistent with the purpose of the Cash Flow Forecast; (ii) as at the date of this Report, the Cash Flow Assumptions are not suitably supported and consistent with the plans of the Ted Baker Group or do not provide a reasonable basis for the Cash Flow Forecast, given the Cash Flow Assumptions; or (iii) the Cash Flow Forecast does not reflect the Cash Flow Assumptions.

¹ The Proposed Monitor has reviewed the Cash Flow Forecast to the standard required of a Court-appointed Monitor under subsection 23(1)(b) of the CCAA. Subsection 23(1)(b) of the CCAA requires a Monitor to review the debtor's cash flow statement as to its reasonableness and to file a report with the Court on the Monitor's findings. Pursuant to this standard, the Proposed Monitor's review of the Cash Flow Forecast consisted of inquiries, analytical procedures and discussions related to information supplied to it by certain key members of management. The Proposed Monitor reviewed information provided by management for the Cash Flow Assumptions. Since the Cash Flow Assumptions need not be supported, the Proposed Monitor's procedures with respect to them were limited to evaluating whether they were consistent with the purpose of the Cash Flow Forecast.

8.6 The Cash Flow Forecast has been prepared solely for the purpose and subject to the assumptions described above, and readers are cautioned that it may not be appropriate for other purposes.

9.0 CASH MANAGEMENT SYSTEM

9.1 As described in the Adams Affidavit, the Applicants have a centralized cash management system for the collection, transfer and disbursement of funds (the “**Cash Management System**”), which is maintained and administered by treasury and finance personnel based in Fashion Canada’s head office in Mississauga, Ontario and Ted Baker Limited’s head office in New York.

9.2 The Applicants maintain and administer 45 bank accounts. 41 bank accounts are held at CIBC (the “**Canadian Bank Accounts**”) and four are held in the US, comprised of three at HSBC and one at American Savings Bank (the “**US Bank Accounts**”). The balance outstanding under the Existing Credit Facility is paid down on a daily basis through the sweeping of certain Canadian Bank Accounts. Ted Baker Limited, CIBC and HSBC Bank USA, National Association (“**HSBC USA**”) have entered into a deposit account control agreement (“**DACA**”) in respect of the Applicants’ main US operating account held with HSBC USA.

9.3 Pursuant to the proposed Initial Order, the Ted Baker Group seeks approval of its continued use of the Cash Management System in substantially the same manner as before the commencement of these CCAA Proceedings, including the daily sweeping of certain Canadian Bank Accounts in repayment of the Existing Credit Facility. Given the scale and nature of the Ted Baker Group’s operations and the volume of transactions that are

processed daily within the Cash Management System, the Proposed Monitor is of the view that the continued use of the existing Cash Management System is required and appropriate during these CCAA Proceedings.

- 9.4 The Proposed Monitor is comfortable that the Cash Management System will allow the Applicants and the Monitor to adequately track all payments.

10.0 CHAPTER 15 RECOGNITION PROCEEDINGS

- 10.1 As discussed in the Adams Affidavit, the Applicants intend to seek recognition of these CCAA Proceedings under Chapter 15 of the United States Bankruptcy Code. The Applicants seeking to appoint Ted Baker Canada as the “foreign representative” for purposes of commencing such recognition proceedings.

- 10.2 The Proposed Monitor is supportive of Ted Baker Canada acting as the “foreign representative” and of the Ted Baker Group seeking Chapter 15 protection to protect the business and assets in the United States.

11.0 STAY OF PROCEEDINGS

- 11.1 The proposed Initial Order contemplates the granting of an initial 9-day stay of proceedings in respect of the Applicants, their business and the Property.

- 11.2 In the circumstances, the Proposed Monitor is of the view that the stay of proceedings is appropriate and is in the best interests of Ted Baker Group and its stakeholders given that:

- (i) absent the stay of proceedings, creditors – including third-party logistics providers, landlords, and ABG in respect of the License Agreements – will be in a position to

commence/continue claims or terminate agreements/licenses in respect of one ore more of the Applicants;

- (ii) the proposed stay of proceedings will provide the breathing room required by the Ted Baker Group to stabilize its business and advance its restructuring options;
- (iii) the commencement of enforcement steps against the Applicants would be detrimental to the stability and success of the Ted Baker Group and these CCAA Proceedings; and
- (iv) the Ted Baker Group has acted, and continues to act, in good faith and with due diligence in commencing these CCAA Proceedings and seeking to preserve and maximize value for its stakeholders.

12.0 COURT-ORDERED CHARGES SOUGHT IN THE INITIAL ORDER

- 12.1 In the addition to the Interim Lender's discussed above, the Proposed Initial Order seeks the granting of the Administration Charge and the Directors' Charge (together with the Interim Lender's Charge, collectively, the "**Charges**") over the Property of the Ted Baker Group, as described below.

Administration Charge

- 12.2 The proposed Initial Order provides for an initial Administration Charge in an amount not to exceed \$750,000 in favour of the Monitor, counsel to the Monitor and counsel to the Applicants. The Proposed Monitor understands that the Applicants intend to seek an increase in the amount of the Administration Charge to \$1.5 million at the Comeback Hearing.

- 12.3 The Proposed Monitor assisted the Ted Baker Group with the calculation of the Administration Charge and is of the view that the amount of the charge for the initial 9-day stay period is reasonable and appropriate in the circumstances, having regard to the nature of these CCAA Proceedings, the anticipated professional costs to be incurred during the initial 9-day stay period, the significant arrears already existing, and the size of charges approved in similar CCAA proceedings.

Directors' Charge

- 12.4 Consistent with the CCAA Model Order, the proposed Initial Order provides that the Ted Baker Group shall indemnify its directors and officers against obligations and liabilities that they may incur as directors and officers of the Ted Baker Group after the commencement of these CCAA Proceedings, except to the extent that any such obligation or liability arises as a result of an officer's or director's gross negligence or wilful misconduct. The proposed Initial Order grants a charge over the Ted Baker Group's Property in the amount of \$2.5 million in favour of the Ted Baker Group's directors and officers as security for any such obligations or liabilities arising after the commencement of these CCAA Proceedings. The Applicants intend to seek an increase in the amount of the Directors' Charge to \$5 million at the Comeback Hearing.
- 12.5 The Proposed Monitor understands that the Ted Baker Group holds directors' and officers' insurance policies that provide coverage for certain director and officer obligations. However, these policies contain certain exceptions, exclusions and carve-outs, and as a result, the policies may not provide adequate coverage to the Ted Baker Group's directors and officers during these CCAA Proceedings. The Ted Baker Group's directors and officers will only be entitled to the benefit of the Directors' Charge to the extent they do

not have coverage under directors' and officers' insurance policies or to the extent such coverage is insufficient to pay an indemnified amount.

- 12.6 The Proposed Monitor assisted the Ted Baker Group in the calculation of the initial quantum of the Directors' Charge, taking into consideration the amount of the Ted Baker Group's payroll, vacation pay and federal and provincial/state sales tax liabilities during the initial 9-day stay period. The components that comprise the proposed Directors' Charge are estimated as follows:

Proposed Directors' Charge	\$000's
Provision for employee wages and source deductions	\$1,300
Provision for sales taxes	\$400
Provision for accrued vacation pay	\$700
Provision for employee benefits, EHT and other similar amounts	\$100
Total	\$2,500

- 12.7 The Proposed Monitor understands that the directors and officers of the Ted Baker Group have advised that they are not willing to continue in their current roles absent the protection afforded to them under the Directors' Charge. In the circumstances, the Proposed Monitor is of the view that the Directors' Charge is required and reasonable.

Priority of Charges Created by the Proposed Initial Order

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

- (i) First – Administration Charge (to the maximum amount of \$750,000);
- (ii) Second - Interim Lender's Charge;

(iii) Third – security granted with respect to the Existing Credit Facility (excluding Interim Borrowings); and

(iv) Fourth – Directors' Charge (to the maximum amount of \$2.5 million).

12.9 As set out above, the Proposed Monitor believes that the Charges are reasonable in the circumstances.

13.0 INTENDED NEXT STEPS IN THESE CCAA PROCEEDINGS

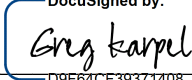
13.1 The Proposed Monitor understands that, subject to obtaining the proposed Initial Order, during the period prior to the Comeback Hearing, the Ted Baker Group intends to commence the Chapter 15 proceedings, and work with its key stakeholders to develop a plan to maximize value for the benefit of its creditors and other stakeholders.

14.0 CONCLUSIONS AND RECOMMENDATIONS

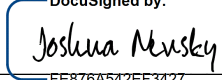
14.1 For the reasons set out in this Report, the Proposed Monitor is of the view that the relief requested by the Ted Baker Group in the proposed Initial Order is reasonable, appropriate and necessary having regard to the Ted Baker Group's current circumstances. As such, the Proposed Monitor supports the Ted Baker Group's application for CCAA protection and respectfully recommends that the Court grant the Initial Order containing the relief requested by the Ted Baker Group.

All of which is respectfully submitted to the Court this 24th day of April, 2024.

**Alvarez & Marsal Canada Inc., solely in its capacity as
Proposed Monitor of Ted Baker Canada Inc., Ted Baker Limited, OSL Fashion Services
Canada Inc., and OSL Fashion Services, Inc., and not in its personal or corporate capacity**

Per: 
D9F64CF39371408...

Greg Karpel
Senior Vice-President

Per: 
FE876A542EF3427...

Josh Nevsky
Senior Vice-President

**APPENDIX A
CASH FLOW FORECAST**

See attached.

Disclaimer

In preparing this illustrative cash flow forecast (the “**Forecast**”), the Company has relied upon unaudited financial information and has not attempted to further verify the accuracy or completeness of such information. The Forecast reflects assumptions including those discussed below with respect to the requirements and impact of a potential filing in Canada under the Companies’ Creditors Arrangement Act (“**CCAA**”). Since the Forecast is based on assumptions about future events and conditions that are not ascertainable, the actual results achieved will vary from the Forecast, even if the assumptions materialize, and such variations may be material. There is no representation, warranty or other assurance that any of the estimates, forecasts or projections will be realized. The Forecast is presented in thousands of US dollars.

Ted Baker Group (Consolidated)	<i>Week 1</i>	<i>Week 2</i>	
Cash Flow Forecast			<i>Initial 10-</i>
(USD \$000's)	28-Apr-24	05-May-24	<i>day Period</i>
Receipts			
Sales Receipts	500	1,507	2,007
Sales Tax Collections	35	135	170
Total Receipts	535	1,642	2,177
Disbursements			
Rent	-	1,900	1,900
Payroll	1,196	60	1,256
Logistics and Duties	800	70	870
Other Vendors	1,400	2,100	3,500
Sales Tax Remittances	600	-	600
Restructuring Professional Fees	64	-	64
Total Disbursements	4,060	4,131	8,191
Net Cash Flow	(3,525)	(2,489)	(6,014)
Cash & Interim Borrowings			
Opening Balance	1,196	-	1,196
Interim Borrowings	2,864	4,131	6,994
Disbursements	(4,060)	(4,131)	(8,191)
Ending Balance	-	-	-
Pre-Filing Revolver			
Opening Balance	(29,651)	(29,116)	(29,651)
Net Cash Flow after cash disbursements	535	1,642	2,177
Ending Balance	(29,116)	(27,474)	(27,474)

Assumptions

-
- a) Sales Receipts include forecast sales from retail, wholesale, concession, and online channels.
- b) Rent includes post-filing rent for the month of May for all store and office locations.
- c) Payroll for both Canadian and US-based employees is forecast to be paid in the normal course.
- d) Logistics and Duties, and Other Vendors include amounts to facilitate the continued flow of goods in-transit and online sale deliveries.
- e) Disbursements during the initial 10-day period are forecast to be funded by cash on hand plus Interim Borrowings. Sales Receipts are forecast to pay down the Pre-Filing Revolver.

APPENDIX B
MANAGEMENT'S REPRESENTATION LETTER
REGARDING CASH FLOW FORECAST

See attached.

T E D B A K E R

L O N D O N

Alvarez & Marsal Canada Inc.
200 Bay Street, Suite 3501
Toronto ON M5J 2J1

Attention: Mr. Joshua Nevsky and Mr. Greg Karpel

April 23, 2024

Dear Sirs:

Re: Ted Baker Canada Inc., Ted Baker Limited, OSL Fashion Services Canada Inc. and OSL Fashion Services, Inc. (together, the "Ted Baker Group", or, the "Applicants") – CCAA section 10(2) Prescribed Representations with Respect to Cash Flow Forecast

In connection with the application by the Ted Baker Group for the commencement of proceedings under the *Companies' Creditors Arrangement Act*, the management of Ted Baker Group have prepared the attached 10-day projected cash flow statement for the period April 24, 2023 to May 5, 2024 (the "**Cash Flow Forecast**") and the list of assumptions on which the Cash Flow Forecast is based. The purpose of the Cash Flow Forecast is to determine the liquidity requirements of Ted Baker Group during the CCAA proceedings.

Ted Baker Group confirms that the hypothetical assumptions on which the Cash Flow Forecast is based are reasonable and consistent with the purpose described herein, and the probable assumptions are suitably supported and consistent with the plans of Ted Baker Group and provide a reasonable basis for the projections. All such assumptions are disclosed in notes to the Cash Flow Forecast (the "**Notes**").

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

The projections have been prepared solely for the purpose described herein, using the probable and hypothetical assumptions set out in the Notes. Consequently, readers are cautioned that the Cash Flow Forecast may not be appropriate for other purposes.

Yours truly,

Per: 
Name: Antoine Adams
Title: Corporate Secretary

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

Court File No.: _____

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF TED
BAKER CANADA INC., TED BAKER LIMITED, OSL FASHION SERVICES CANADA
INC., AND OSL FASHION SERVICES, INC.**

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**
Proceeding commenced at Toronto

**PRE-FILING REPORT OF THE
PROPOSED MONITOR**

BENNETT JONES LLP

One First Canadian Place
Suite 3400, P.O. Box 130
Toronto, ON M5X 1A4

Sean Zweig (LSO# 573071)

Tel: (416) 777-6254

Email: zweigs@bennettjones.com

Jesse Mighton (LSO#: 62291J)

Tel: (416) 777-6255

Email: mightonj@bennettjones.com

Milan Singh-Cheema (LSO#: 88258Q)

Tel: (416) 777-5527

Email: singhcheemam@bennettjones.com

Counsel for Alvarez & Marsal Canada Inc.,
solely in its capacity as the Proposed Monitor
and not in its personal or corporate capacity.

Certificate Of Completion

Envelope Id: BB037633F75C444C99535DD3778D5198

Status: Completed

Subject: Urgent - TB - Pre-Filing Report (Final)

Source Envelope:

Document Pages: 29

Signatures: 2

Certificate Pages: 6

Initials: 0

AutoNav: Enabled

Envelopeld Stamping: Enabled

Time Zone: (UTC-05:00) Eastern Time (US & Canada)

Envelope Originator:

Milan Singh-Cheema

4500 Bankers Hall East

855 - 2nd street S.W.

CALGARY, AB T2P 4K7

singhcheemam@bennettjones.com

IP Address: 38.99.144.213

Record Tracking

Status: Original

4/24/2024 1:21:44 PM

Holder: Milan Singh-Cheema

singhcheemam@bennettjones.com

Location: DocuSign

Signer Events

Greg Karpel

gkarpel@alvarezandmarsal.com

Managing Director

Security Level: Email, Account Authentication
(None)

Signature

DocuSigned by:

Greg Karpel
D9F64CF39371408...

Signature Adoption: Pre-selected Style

Using IP Address: 65.175.45.107

Timestamp

Sent: 4/24/2024 1:25:12 PM

Viewed: 4/24/2024 1:37:18 PM

Signed: 4/24/2024 1:38:15 PM

Electronic Record and Signature Disclosure:

Accepted: 4/24/2024 1:37:18 PM

ID: d218ca01-94cb-4cda-9a18-86cfc37f3e1

Joshua Nevsky

jnevsky@alvarezandmarsal.com

Security Level: Email, Account Authentication
(None)

DocuSigned by:

Joshua Nevsky
FE876A542EF3427...

Signature Adoption: Pre-selected Style

Using IP Address: 65.175.45.107

Sent: 4/24/2024 1:25:11 PM

Viewed: 4/24/2024 1:36:11 PM

Signed: 4/24/2024 1:36:19 PM

Electronic Record and Signature Disclosure:

Accepted: 4/24/2024 1:36:11 PM

ID: 13d43fc1-ce84-45df-8842-2ae6a4529aea

In Person Signer Events

Signature

Timestamp

Editor Delivery Events

Status

Timestamp

Agent Delivery Events

Status

Timestamp

Intermediary Delivery Events

Status

Timestamp

Certified Delivery Events

Status

Timestamp

Carbon Copy Events

Status

Timestamp

Witness Events

Signature

Timestamp

Notary Events

Signature

Timestamp

Envelope Summary Events

Status

Timestamps

Envelope Sent

Hashed/Encrypted

4/24/2024 1:25:12 PM

Envelope Summary Events	Status	Timestamps
Certified Delivered	Security Checked	4/24/2024 1:36:11 PM
Signing Complete	Security Checked	4/24/2024 1:36:19 PM
Completed	Security Checked	4/24/2024 1:38:15 PM
Payment Events	Status	Timestamps
Electronic Record and Signature Disclosure		

Disclosure Preview

Disclosure AND CONSENT

Bennett Jones (we, us) is a licensed user of the DocuSign, Inc. (DocuSign) electronic signing system, and we understand you have agreed to use DocuSign to facilitate the transaction for which you have received this message, and possibly for future transactions.

This message describes the terms and conditions upon which you agree to use DocuSign and upon which we intend to rely.

Please read the information below, and if you can access this information electronically to your satisfaction and agree to these terms and conditions, please confirm your agreement by clicking the 'I agree' button at the bottom of this document before clicking 'Continue' within the DocuSign system.

Getting paper copies

You will have the ability to download, save and print documents we send to you through the DocuSign system during and immediately after a signing session and, if you elect to create a DocuSign signer account, you may access them electronically through DocuSign for a limited period of time after the documents are first sent to you (30 days). You may request a paper copy of any record provided or made available electronically to you by us, but after we have provided finalized transaction documents to you or your counsel, if you request additional paper copies of any of the documents, you may be charged a copying or printing fee. You may request delivery of copies from us by sending an email message to your contact person at Bennett Jones.

Withdrawing your consent

You may at any time change your mind and notify us that you want to receive documents from us in paper format or in a different electronic format by emailing your contact person at Bennett Jones. To notify us that you have changed your mind, email your contact person at Bennett Jones to withdraw your consent using the DocuSign 'Withdraw Consent' check box on the page after the signing page. After that, you will no longer be able to use the DocuSign system to receive or to sign electronic documents from us using DocuSign, unless you give your consent again.

Notices and disclosures will be sent to you electronically

Unless you tell us otherwise, we may electronically through the DocuSign system, provide to you the documents that are required to be provided or made available to you for viewing or signature during the course of this transaction, or any future transactions we may work on together and for which you consent to use DocuSign. To reduce the chance of you inadvertently not receiving documents, we prefer to provide all the transaction documents to you by the same method and to the same address that you have given us. However, you can also receive documentation from us by other reasonable means if you specifically instruct us accordingly and provide us with the necessary contact information.

Advise Bennett Jones of any changes

We will rely on you to contact us to let us know of changes to your electronic contact information, including changes to your email address for sending DocuSign envelopes, to request copies of documents from us, or to withdraw your consent to receive documents through the DocuSign system, by sending an email message to the person at Bennett Jones with whom you have been communicating (and by following the instructions above to withdraw consents).

If you have your own DocuSign account, we will rely upon you to notify DocuSign, Inc. to arrange for any change to your email address to be made by following the process for changing email addresses in the DocuSign system.

Required hardware and software

Browsers:	Internet Explorer® 11(Windows and Mac); Safari 3.0 or above Safari 6.2(Mac OS only), Google Chrome current version
Screen Resolution	1024 x768
Mobile Signing	Apple 7.0+ Android 4.0

**These minimum systems requirements for using the DocuSign system are subject to change. The current system requirements are found here: <https://support.docusign.com/guides/signer-guide/-signing> – systems – requirements Pre-release (e.g. beta) versions of operating systems and browsers are not supported.

Disclosure of information collected by DocuSign

In order to provide its services, specifically digital audit trails of digital signatures and their authentication, DocuSign collects metadata and information about Bennett Jones and the users with whom we interact on the DocuSign system. DocuSign has covenanted to use the information only for the purposes for which it was provided and to take reasonable precautions

to protect that information from disclosure. If DocuSign is required by law to disclose information, it has agreed to give us prompt written notice before disclosing, unless prohibited from doing so. If, however, DocuSign believes in good faith that disclosure is necessary to prevent possible illegal activities or to comply with legal process, it may share information with law enforcement or government organizations. The information collected includes names, email addresses, mailing addresses, IP addresses, phone numbers, signatures and, if you sign into DocuSign using a social media account, information available through the social media interface. The content of electronic documents sent by us to you on the DocuSign system is encrypted, and only you and we have access to it without a search warrant or exercise of proper legal authority. DocuSign collects cookies and uses other tracking technologies. If you decline cookies you may not be able to sign in to DocuSign. DocuSign is a United States corporation, and information it collects may be transferred to and stored in the United States. DocuSign may aggregate and "de-identify" information it collects to limit or prevent identification of users, and it may disclose aggregated or "de-identified" information to others without limitation or for its own purposes. For more information on DocuSign's privacy policy, go to <https://www.docusign.com/company/privacy-policy>.

After 30 days, DocuSign documents returned by you to us will be copied from the DocuSign server to a secure server at Bennett Jones and deleted from the DocuSign server. If you have your own DocuSign account, you will be notified of the pending deletion. You may download the document yourself from a link in the notices or you may request copies from us as set out above under "Getting paper copies." While in control of the documents and metadata, Bennett Jones will only use them for the purposes for which they were provided and will take reasonable precautions to protect that information from disclosure. If Bennett Jones or DocuSign is required by law or professional obligation to disclose the information, we will give you prompt written notice before disclosing provided we are aware of the requirement, unless prohibited from doing so by law or by the Code of Professional Conduct. After deletion from DocuSign's server, the contents of the electronic envelope will be accessible to you and authorized Bennett Jones members from a secure Bennett Jones server in Canada and kept in accordance with our document retention policy.

Acknowledging your access and consent to receive materials electronically

If you consent to receiving documents in DocuSign's electronic format on the terms and conditions described above, please click the check box next to the 'I agree...' statement, followed by 'Continue.' For more information on signing documents, see <https://support.docusign.com/en/articles/How-do-I-sign-a-DocuSign-document-Basic-Signing>.

By clicking the 'I agree...' button, I confirm that:

- I can access and read this Disclosure and Consent document electronically; and
- I can print this disclosure document on paper or save or send it to a place where I can print it, for future reference and access; and

- Until or unless I notify Bennett Jones as described above, I consent to receive documents from Bennett Jones through the DocuSign system, and to have those documents handled in accordance with the DocuSign system's rules and terms and conditions; and
- I acknowledge that DocuSign collects and retains metadata and information from those who use its system to execute documents, and consent to their doing so.