

**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 **NORDSTROM CANADA RETAIL,  
INC., NORDSTROM CANADA HOLDINGS, LLC** and  
**NORDSTROM CANADA HOLDINGS II, LLC**

APPLICANTS

**APPLICATION RECORD  
VOLUME 1 OF 5**

March 2, 2023

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**TO:           SERVICE LIST**

**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 NORDSTROM CANADA RETAIL, INC.,  
NORDSTROM CANADA HOLDINGS, LLC and NORDSTROM  
CANADA HOLDINGS II, LLC (the “**Applicants**”)

**SERVICE LIST**  
(As at March 3, 2023)

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<p><b>2725312 CANADA INC., 2973758 CANADA INC., and WILLOWBROOK LANGLEY HOLDINGS INC.</b> <b>bcIMC Realty Corporation</b> <b>c/o QuadReal Property Group Limited Partnership</b> Suite 800, 666 Burrard Street Vancouver, BC V6C 2X8</p> <p><b>Larissa Jacobson-Rooke</b> Vice President, Retail Leasing E-mail: larissa.jacobson@quadreal.com</p> <p><i>Landlord to Store 840 (Nordstrom Rack Willowbrook Centre, 19705 Fraser Hwy, Langley, B.C.)</i></p>	<p><b>CAMELINO GALESSIERE LLP</b> 65 Queen St W, Suite 440 Toronto, ON M5H 2M5</p> <p><b>Linda Galessiere</b> Tel: 416.306.3827 E-mail: lgalessiere@cglegal.ca</p> <p><i>Lawyers to Ivanhoé Cambridge for Store 841 (Nordstrom Rack Vaughan Mills, 1 Bass Pro Mills Dr., Vaughan, ON) and Store 846 (Nordstrom Rack Deerfoot Meadows, 277 - 8180 11th Street SE, Calgary, AB)</i></p>

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

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INC., NORDSTROM CANADA HOLDINGS, LLC** and  
**NORDSTROM CANADA HOLDINGS II, LLC**

APPLICANTS

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4.	Draft Amended and Restated Initial Order
5.	Blackline of Draft Amended and Restated Initial Order to Model Order
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7.	Affidavit of Misti Heckel, sworn March 1, 2023
A.	Exhibit A - Indemnity Agreement between Ontrea, Inc. and Nordstrom, Inc., dated January 22, 2013
B.	Exhibit B - Indemnity Agreement between Yorkdale Shopping Centre Holdings Inc. and Nordstrom, Inc., dated February 21, 2013
C.	Exhibit C - Inter-Affiliate License and Services Agreement, effective as of February 3, 2019, between Nordstrom US and Nordstrom Canada
D.	Exhibit D - Inter-Affiliate Services Agreement between Nordstrom US and Canada Leasing LP, effective as of December 10, 2014
E.	Exhibit E - Inter-Affiliate Services Agreement between Nordstrom US and NCH, effective as of October 10, 2016

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- F. Exhibit F - Inter-Affiliate Services Agreement between Nordstrom US and NCHII, effective as of October 10, 2016
- G. Exhibit G - Wind-Down Agreement, dated as of March 1, 2023
- H. Exhibit H - Inter-Affiliate Services Agreement between Nordstrom Canada and Canada Leasing LP effective as of December 10, 2014
- I. Exhibit I - Nordstrom US' audited financial statements for the year ended January 29, 2022
- J. Exhibit J - Nordstrom US' financial statements for the quarter ending October 29, 2022
- K. Exhibit K - Summarized trial balance of the Nordstrom Canada Entities, as of January 28, 2023
- L. Exhibit L - Credit Agreement, dated as of May 6, 2022 (without schedules and exhibits)
- M. Exhibit M - Guaranty agreement among Nordstrom US, NIHC, Inc., Nordstrom Card Services, Inc., and Nordstrom Canada, as guarantors, and Wells Fargo, as Agent, dated as of May 6, 2022
- N. Exhibit N - Canadian security agreement between Nordstrom Canada and Wells Fargo, as Agent, dated as of May 6, 2022
- O. Exhibit O - First Amendment to the Credit Agreement, dated and effective as of March 1, 2023 (without schedules and exhibits)
- P. Exhibit P - PPSA search results for Ontario, dated as of February 23, 2023, and for Alberta and British Columbia, dated as of February 24, 2023
- Q. Exhibit Q - Proposed Monitor's Consent to act as Monitor, dated March 2, 2023
- R. Exhibit R - 13-week Cash Flow Forecast
- S. Exhibit S - Redacted Proposed KERP Payments to Non-Store Personnel
- T. Exhibit T - Trust Agreement between Nordstrom, Inc. (as Settlor), Alvarez & Marsal Canada Inc. (as Administrator), and Gale Rubenstein (as Trustee), dated as of March 2, 2023

# TAB 1



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 **NORDSTROM CANADA RETAIL, INC.**,  
**NORDSTROM CANADA HOLDINGS, LLC and NORDSTROM CANADA  
HOLDINGS II, LLC**

APPLICANTS

**NOTICE OF APPLICATION**

**TO THE RESPONDENT(S):**

**A LEGAL PROCEEDING HAS BEEN COMMENCED** by the Applicants. The claim made by the Applicants appear on the following page.

**THIS APPLICATION** will come on for a hearing

- ☐ In writing
- ☒ In person
- ☐ By telephone conference
- ☐ By video conference

at the following location: 130 Queen Street West, Toronto, Ontario M5H 2N5

on March 2, 2023 at 1:30PM EST.

**IF YOU WISH TO OPPOSE THIS APPLICATION**, to receive notice of any step in the application or to be served with any documents in the application, you or an Ontario lawyer acting for you must forthwith prepare a notice of appearance in Form 38A prescribed by the *Rules of Civil Procedure*, serve it on the Applicants' lawyer or, where the Applicants do not have a lawyer, serve it on the Applicants, and file it, with proof of service, in this court office, and you or your lawyer must appear at the hearing.

**IF YOU WISH TO PRESENT AFFIDAVIT OR OTHER DOCUMENTARY EVIDENCE TO THE COURT OR TO EXAMINE OR CROSS-EXAMINE WITNESSES ON THE APPLICATION**, you or your lawyer must, in addition to serving your notice of appearance, serve a copy of the evidence on the Applicants' lawyer or, where the Applicants do



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not have a lawyer, serve it on the Applicants, and file it, with proof of service, in the court office where the application is to be heard as soon as possible, but at least four days before the hearing.

**IF YOU FAIL TO APPEAR AT THE HEARING, JUDGMENT MAY BE GIVEN IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF YOU WISH TO OPPOSE THIS APPLICATION BUT ARE UNABLE TO PAY LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.**

Date \_\_\_\_\_ Issued by \_\_\_\_\_  
Local Registrar

Address of  
court office:

TO: **SERVICE LIST**

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### APPLICATION

1. The Applicants make this application for an Order substantially in the form attached as Tab 2 of the Application Record (the “**Initial Order**”), among other things:

- (a) abridging the time for service of this notice of application and dispensing with service on any person other than those served;
- (b) declaring that the Applicants are parties to which the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the “**CCAA**”) applies;
- (c) declaring that Nordstrom Canada Leasing LP (“**Canada Leasing LP**”) shall enjoy the benefits of the protections provided to the Applicants under the Initial Order;
- (d) appointing Alvarez & Marsal Canada Inc. (“**A&M**”) as an officer of this Court to monitor the assets, businesses and affairs of the Applicants and Canada Leasing LP (collectively, the “**Nordstrom Canada Entities**”) (in such capacity, the “**Monitor**”);
- (e) staying all proceedings taken or that might be taken in respect of the Nordstrom Canada Entities or the Monitor, or their respective employees, directors, advisors, officers and representatives acting in such capacities until March 12, 2023, subject to further Order of the Court (the “**Stay of Proceedings**”);
- (f) extending the Stay of Proceedings to all rights of third-party tenants of commercial shopping centres or other commercial properties in which there is located a store, office or warehouse owned or operated by the Nordstrom Canada Entities against landlords of the Nordstrom Canada Entities that arise out of the insolvency of the

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Nordstrom Canada Entities or as a result of any steps taken by the Nordstrom Canada Entities pursuant to the Initial Order (“**Co-Tenancy Stay**”);

- (g) staying, until March 12, 2023, all proceedings against Nordstrom, Inc. (“**Nordstrom US**”) and its direct and indirect subsidiaries (other than the Nordstrom Canada Entities) relating to claims in connection with any indebtedness, indemnity, liability or obligation of Nordstrom US in respect of obligations that are the primary liability of or related to the Nordstrom Canada Entities, including indemnities granted by Nordstrom US under any Canadian real property leases;
- (h) authorizing but not requiring the Nordstrom Canada Entities to pay certain pre-filing amounts with the consent of the Monitor to key participants in the Nordstrom Canada Entities’ distribution network, payment processing systems, and to other critical suppliers, if required to ensure an orderly wind down of the Nordstrom Canada Entities’ business;
- (i) granting the following charges over the Nordstrom Canada Entities’ respective current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof (the “**Property**”), listed in order of priority:
  - (i) *First* - a charge in favour of counsel to the Nordstrom Canada Entities, the Monitor, counsel to the Monitor, the Employee Representative Counsel (up to a maximum of \$75,000), and counsel to the directors and officers of the Nordstrom Canada Entities to an aggregate maximum amount of \$750,000 (the “**Administration Charge**”); and
  - (ii) *Second* - a charge in favour of the directors and officers of the Nordstrom Canada Entities to the maximum amount of \$10.75 million (the “**Directors’ Charge**”);

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- (j) creating a trust (the “**Employee Trust**”), funded by Nordstrom US for the benefit of employees of Nordstrom Canada Retail, Inc. (“**Nordstrom Canada**”) including the appointment of Gale Rubenstein as trustee, and the Monitor as administrator of the Employee Trust;
  - (k) appointing Ursel Phillips Fellows Hopkinson LLP (“**Employee Representative Counsel**”) as employee representative counsel to represent the interests of (a) all store-level employees; and (b) all non-store level employees, other than (i) non-store level employees who will be eligible for a payment under the proposed KERP (as defined below); (ii) directors and officers of the Nordstrom Canada Entities; and (iii) the Senior Vice President, Regional Manager for Canada (collectively, the “**Represented Employees**”); and
  - (l) such further and other relief as to this Honourable Court may deem just.
2. If the proposed Initial Order is granted, the Applicants intend to seek an amended and restated Initial Order (“**ARIO**”) within 10 days of the Initial Order being granted, approving:
- (a) a key employee retention program (“**KERP**”), and the granting of a charge on the Property for the benefit of the key employees referred to in the KERP up to an aggregate maximum amount of \$2.6 million (the “**KERP Charge**”);
  - (b) an increase in the Administration Charge to \$1.5 million;
  - (c) an increase in the Directors’ Charge to \$13.25 million; and

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- (d) an extension of the Stay of Proceedings, including an extension of the stay of proceedings against Nordstrom US and its direct and indirect subsidiaries (other than the Nordstrom Canada Entities), until June 30, 2023.

3. The grounds for the application are:

### GENERAL

- (a) the Applicants are insolvent;
- (b) the Applicants are companies to which the CCAA applies;
- (c) Canada Leasing LP carries on operations integral and closely related to the business of the Applicants and is also insolvent;
- (d) the claims against the Applicants exceed \$5 million;
- (e) Nordstrom Canada and Nordstrom Canada Holdings, LLC (“**NCH**”) are wholly-owned subsidiaries of Nordstrom International Limited, which in turn is a wholly-owned subsidiary of Nordstrom US, the ultimate parent corporation of the entire Nordstrom enterprise (the “**Nordstrom Group**”). Nordstrom Canada Holdings II, LLC (“**NCHII**”) is a wholly-owned subsidiary of NCH;
- (f) NCH is the general partner and 99.9% owner of Canada Leasing LP, and NCHII is the limited partner and 0.1% owner of Canada Leasing LP, the entity responsible for the Nordstrom Canada Entities’ real estate activities, such as leasing retail space from third-party property owners and subleasing the retail space to Nordstrom

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Canada, who operates the stores. The business and operations of the Applicants are heavily intertwined with those of Canada Leasing LP;

- (g) Nordstrom US and Nordstrom Canada operate primarily in the retail business segment, offering a wide selection of premium brand name and private label merchandise focused on apparel, shoes, cosmetics, accessories, and home goods through stores in the US and Canada, and various online platforms and mobile applications;
- (h) the Nordstrom Canada Entities operate six Nordstrom-branded full-line stores and seven off-price Nordstrom Rack retail stores across Canada, and the Nordstrom.ca website;
- (i) as of January 31, 2023, the Nordstrom Canada Entities employed approximately 1,830 full-time employees and 505 part-time employees;
- (j) absent financial support from Nordstrom US, the Nordstrom Canada Entities have experienced losses each year since their entry into the Canadian marketplace in 2014, and the majority of their locations have posted losses each year;
- (k) Nordstrom US has absorbed most of the Nordstrom Canada Entities' cumulative losses through intercompany payments since 2014 pursuant to an intercompany transfer pricing policy. The Nordstrom Canada Entities rely on strategic management, design and product development, procurement, sourcing, manufacturing, and sales and pricing services provided by Nordstrom US, as well as on administrative and other services (the "**Shared Services**"). Since the

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Nordstrom Group's entrance into Canada, Nordstrom US and its US-based affiliates have provided the Nordstrom Canada Entities with approximately USD \$775 million in net funding;

- (l) Nordstrom US and the Nordstrom Canada Entities diligently explored a number of strategies to improve the financial and operational challenges facing the Canadian business, including licensing full operations to another Canadian retailer or retail operator with market expertise, closing certain underperforming stores, and/or investing to grow Nordstrom.ca, build loyalty, and optimize inventory. None of the alternatives explored provided realistic solutions to the difficulties facing the Canadian business, including high operating costs, lower than expected sales and gross margin, unfavourable exchange rates, and low brand awareness and customer spending;
- (m) sales decreased by 2% in fiscal year 2022 when compared to pre-pandemic fiscal year 2019, driven primarily by a 20% decrease in sales at Nordstrom full-line stores, flat sales at Nordstrom Rack stores despite the opening of an additional store in 2020, and a partial offset by sales from Nordstrom.ca, which had no sales in 2019. The Nordstrom Canada Entities had an approximate USD \$55 million operating loss and EBITDA of negative \$34,563,000 prior to taking into account the intercompany payments for the year ended January 28, 2023;
- (n) after considering all reasonably available options and a thorough and exhaustive review process, Nordstrom US has determined that it is in the best interests of its stakeholders to cease the significant financial and operational support that it has

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been providing to the Nordstrom Canada Entities while it focuses on its core business and strategic imperatives in the US;

- (o) as a result of Nordstrom US' decision to cease financial and operational support of the Nordstrom Canada Entities, the Nordstrom Canada Entities cannot continue to operate as a going concern. The Nordstrom Canada Entities have determined that they must cease operations in Canada;
- (p) the Nordstrom Canada Entities' decision to cease operations will render Nordstrom Canada and Canada Leasing LP unable to satisfy their obligations in respect of the leases to which Canada Leasing LP is a party (collectively the "**Leases**" and each, a "**Lease**"). This will result in the ability of the landlords under the Leases (the "**Landlords**") to enforce certain rights and remedies, including accelerating all rents due under the Leases;
- (q) the Landlord claims arising from defaults under the Leases, together with the Nordstrom Canada Entities' other debts, exceed the realizable value of the Nordstrom Canada Entities' assets, and the Nordstrom Canada Entities have insufficient funds to satisfy all such claims. The Nordstrom Canada Entities are therefore insolvent;
- (r) the granting of the Administration Charge and the Directors' Charge is appropriate in the circumstances and will facilitate the active involvement of the beneficiaries of the charges during the CCAA proceedings;
- (s) A&M has consented to act as the Monitor;



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## STAY OF PROCEEDINGS

- (t) the Nordstrom Canada Entities have commenced these proceedings to obtain the flexibility and breathing space afforded by the Stay of Proceedings under the CCAA to wind down operations in a responsible, controlled, and orderly manner, and to maximize value for their stakeholders;
- (u) it is necessary and in the best interests of the Nordstrom Canada Entities and their stakeholders that the Co-Tenancy Stay be granted;
- (v) it is necessary and in the best interests of the Nordstrom Canada Entities and their stakeholders that this Court grant a temporary stay of proceedings until March 12, 2023 against Nordstrom US and its direct and indirect subsidiaries (other than the Nordstrom Canada Entities) relating to claims in connection with any indebtedness, indemnity, liability or obligation of Nordstrom US in respect of obligations that are the primary liability of or related to the Nordstrom Canada Entities, including indemnities granted by Nordstrom US under any of the Leases;
- (w) such relief is necessary to allow the Nordstrom Canada Entities to have sufficient breathing space under the CCAA to focus their resources on a fair and orderly wind down process. Any related litigation against Nordstrom US would necessarily require the participation of the Nordstrom Canada Entities and would result in a significant distraction of senior management from the goals of this proceeding. It is crucial that Nordstrom US be focused on providing the Shared Services and other support to support the wind down process;

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### **EMPLOYEE REPRESENTATIVE COUNSEL**

- (x) the Nordstrom Canada Entities propose that the Court appoint Employee Representative Counsel to represent the Represented Employees to assist with issues with respect to the Employee Trust, among other things;
- (y) the fees and expenses of Employee Representative Counsel will be funded by the Nordstrom Canada Entities;
- (z) Employee Representative Counsel will contribute to overall costs savings and a streamlining of the CCAA process by serving as a single point of contact between thousands of employees, the Nordstrom Canada Entities, the proposed Monitor, and the Court;

### **EMPLOYEE TRUST**

- (aa) Nordstrom US has agreed to fund an Employee Trust to ensure that all Nordstrom Canada employees receive the full amount of termination and severance pay owed to them under applicable employment standards legislation as soon as possible, without having to await the results of a claims process and implementation of a plan with distributions on account of proven claims;
- (bb) the Employee Trust will provide funding for payment to employees of at least their full statutory termination entitlements, even if they are not required to work for their entire notice period and Nordstrom US will maintain a right of subrogation for amounts funded to employees under the Employee Trust;

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- (cc) the Employee Trust will bear the costs of its establishment and administration;
- (dd) the Employee Trust was established in consultation with the proposed Monitor and is supported by Employee Representative Counsel;

## **KERP**

- (ee) the Nordstrom Canada Entities have developed a KERP to incentivize certain key active employees of the Nordstrom Canada Entities to remain in their positions throughout the CCAA proceedings;
- (ff) the anticipated participants in the KERP are critical for a successful CCAA proceeding. The vast majority of KERP participants and KERP funds are directed towards store-level employees, with a view to maximizing value through the CCAA proceedings;
- (gg) the proposed Monitor and Employee Representative Counsel support the KERP and the granting of the KERP Charge as part of an ARIO;

## **OTHER GROUNDS**

- (hh) the provisions of the CCAA and the inherent and equitable jurisdiction of this Honourable Court;
- (ii) Rules 2.03, 3.02, 14.05(2) and 16 of the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194, as amended, and section 106 and 137 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended; and

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(jj) such further and other grounds as counsel may advise and this Honourable Court may permit.

4. The following documentary evidence will be used at the hearing of the application:

- (a) the Affidavit of Misti Heckel sworn March 1, 2023 and the exhibits attached thereto;
- (b) consent of the proposed Monitor;
- (c) the Pre-Filing Report of the Monitor dated March 2, 2023; and
- (d) such further and other evidence as counsel may advise and this Honourable Court may permit.

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*(Date of issue)*

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Lawyers for the Applicants

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 **NORDSTROM CANADA RETAIL, INC., NORDSTROM CANADA HOLDINGS, LLC and NORDSTROM CANADA HOLDINGS II, LLC**

<b>ONTARIO</b> <b>SUPERIOR COURT OF JUSTICE</b> <b>COMMERCIAL LIST</b>	
PROCEEDING COMMENCED AT TORONTO	
<b>NOTICE OF APPLICATION</b>	
<b>OSLER, HOSKIN &amp; HARCOURT LLP</b> 100 King Street West 1 First Canadian Place Suite 6200, P.O. Box 50 Toronto ON M5X 1B8  <b>Tracy C. Sandler</b> (LSO# 32443N) Tel: 416.862.5890 Email: tsandler@osler.com  <b>Jeremy Dacks</b> (LSO# 41851R) Tel: 416.862.4923 Email: jdacks@osler.com  <b>Martino Calvaruso</b> (LSO# 57359Q) Tel: 416.862.5960 Email: mcalvaruso@osler.com  <b>Marleigh Dick</b> (LSO# 79390S) Tel: 416.862.4725 Email: mdick@osler.com  Lawyers for the Applicants	

# TAB 2

Court File No.

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

THE HONOURABLE	)	THURSDAY, THE 2 <sup>ND</sup>
	)	
CHIEF JUSTICE MORAWETZ	)	DAY OF MARCH, 2023

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 NORDSTROM CANADA RETAIL, INC.,  
NORDSTROM CANADA HOLDINGS, LLC and NORDSTROM  
CANADA HOLDINGS II, LLC

**INITIAL ORDER**

**THIS APPLICATION**, made by Nordstrom Canada Retail, Inc. (“**Nordstrom Canada**”), Nordstrom Canada Holdings, LLC and Nordstrom Canada Holdings II, LLC (collectively, the “**Applicants**”), pursuant to the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the “**CCAA**”) was heard this day at 130 Queen Street West, Toronto, Ontario.

**ON READING** the affidavit of Misti Heckel sworn March 1, 2023, and the Exhibits thereto (the “**Initial Heckel Affidavit**”), and the pre-filing report dated March 1, 2023, of Alvarez & Marsal Canada Inc. (“**A&M**”), in its capacity as proposed monitor of the Nordstrom Canada Entities (as hereinafter defined), and on hearing the submissions of counsel to the Applicants and Nordstrom Canada Leasing LP (“**Canada Leasing LP**”, and together with the Applicants, the “**Nordstrom Canada Entities**”), A&M, Employee Representative Counsel (as hereinafter defined) 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 Initial Heckel Affidavit.

## APPLICATION

3. **THIS COURT ORDERS AND DECLARES** that the Applicants are companies to which the CCAA applies. Although not an Applicant, Canada Leasing LP shall have the benefits of the protections and authorizations provided by this Order.

## POSSESSION OF PROPERTY AND OPERATIONS

4. **THIS COURT ORDERS** that the Nordstrom Canada Entities 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 Nordstrom Canada Entities shall continue to carry on business in a manner consistent with the preservation of their business (the “**Business**”) and Property. The Nordstrom Canada Entities shall each be authorized and empowered to continue to retain and employ the employees, 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 Nordstrom Canada Entities shall be entitled to continue to use the central cash management system currently in place as described in the Initial Heckel Affidavit or, with the consent of the Monitor, replace it with another substantially similar central cash management system (the “**Cash Management System**”) and that any present or future bank

providing the Cash Management System shall not be under any obligation whatsoever to inquire into the propriety, validity or legality of any transfer, payment, collection or other action taken under the Cash Management System, or as to the use or application by the Nordstrom Canada Entities 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 Nordstrom Canada Entities, 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 Nordstrom Canada Entities 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 Nordstrom Canada Entities:

- (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 or future amounts owing in respect of customer rebates, refunds, discounts or other amounts on account of similar customer programs or obligations;
- (c) all outstanding or future amounts related to honouring customer obligations, including customer pre-payments, deposits, gift cards, programs (including, The Nordy Club rewards program and the redemptions of Nordstrom Notes) 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 Nordstrom Canada Entities at their standard rates and charges;

- (e) with the consent of the Monitor, amounts owing for goods or services supplied to the Nordstrom Canada Entities prior to the date of this Order, by:
- (i) 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 up to a maximum aggregate amount of \$1 million, if, in the opinion of the Nordstrom Canada Entities following consultation with the Monitor, such supplier or service provider is critical to the Orderly Wind-down (as hereinafter defined).

7. **THIS COURT ORDERS** that, except as otherwise provided to the contrary herein, the Nordstrom Canada Entities shall be entitled but not required to pay all reasonable expenses incurred by them in carrying on the Business in the ordinary course during the Orderly Wind-down 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 Nordstrom Canada Entities following the date of this Order or, with the consent of the Monitor, payments to obtain the release or delivery of goods contracted for prior to the date of this Order.

8. **THIS COURT ORDERS** that the Nordstrom Canada Entities 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 Nordstrom Canada Entities' 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 Nordstrom Canada Entities in connection with the sale of goods and services by the Nordstrom Canada Entities, 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 remitted until on or after the date of this Order;
- (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 Nordstrom Canada Entities; and
- (d) taxes under the *Income Tax Act* (Canada) or other relevant taxing statute giving rise to any statutory deemed trust amounts in favour of the Crown in right of Canada or any Province thereof or any political subdivision thereof or any other taxation authority.

9. **THIS COURT ORDERS** that, until a real property lease, including a sublease and related documentation (each, a "**Lease**") to which any Nordstrom Canada Entity is a party is disclaimed in accordance with the CCAA or otherwise consensually terminated, such Nordstrom Canada Entity 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 Nordstrom Canada Entities or the making of this Order) or as otherwise may be negotiated between such Nordstrom Canada Entity 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. Without in any way impairing, limiting or lessening the priority, protections, rights or remedies of Canada Leasing LP, any Rent in respect of Premises Fixturing Costs payable by Nordstrom Canada to Canada Leasing LP under a Lease shall be stayed and suspended until further Order of this Court.

10. **THIS COURT ORDERS** that, except as specifically permitted herein, the Nordstrom Canada Entities 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 Nordstrom Canada Entities 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 for the purpose of the Orderly Wind-down or pursuant to this Order or any other Order of the Court.

#### **ORDERLY WIND-DOWN**

11. **THIS COURT ORDERS** that the Nordstrom Canada Entities 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 Nordstrom Canada Entity deems appropriate;
- (b) perform their obligations under the Wind-Down Agreement, including with respect to the provision of and payment for shared services; and
- (c) in consultation with, and with the oversight of the Monitor, (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 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 Nordstrom Canada Entities to proceed with an orderly wind-down of the Business (the “**Orderly Wind-down**”).

## STAY OF PROCEEDINGS

12. **THIS COURT ORDERS** that until and including March 12, 2023, 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 Nordstrom Canada Entities or the Monitor, or 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 Nordstrom Canada Entities and the Monitor, or with leave of this Court, and any and all Proceedings currently under way against or in respect of the Nordstrom Canada Entities, 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.

13. **THIS COURT ORDERS** that during the Stay Period, no Person having any agreements or arrangements with the owners, operators, managers or landlords of commercial shopping centres or other commercial properties (including retail, office and industrial (warehouse) properties) in which there is located a store, office or warehouse owned or operated by the Nordstrom Canada Entities shall take any Proceedings or exercise any rights or remedies under such agreements or arrangements that may arise upon and/or as a result of the making of this Order, the declarations of insolvency by the Nordstrom Canada Entities or as a result of any steps taken by the Nordstrom Canada Entities pursuant to this Order and, without limiting the generality of the foregoing, no Person shall terminate, accelerate, suspend, modify, determine or cancel any such arrangement or agreement or be entitled to exercise any rights or remedies in connection therewith.

14. **THIS COURT ORDERS** that, until and including March 12, 2023, no Proceeding shall be commenced or continued against or in respect of Nordstrom, Inc. and its direct and indirect subsidiaries (other than the Nordstrom Canada Entities) (collectively, “**Nordstrom US**”) arising

out of or in connection with any right, remedy or claim of any Person against Nordstrom US in connection with any indebtedness, indemnity, liability or obligation of any kind whatsoever of Nordstrom US under contract, statute or otherwise, whether or not such right or claim is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, unsecured, perfected, unperfected, present, future, known, or unknown, by indemnity, guarantee, surety or otherwise, and whether or not such right is executory or anticipatory in nature, including the right or ability of any Person to advance a claim for contribution, indemnity or otherwise, with respect to any matter, action, cause or chose in action, whether existing at present or commenced in future, which indebtedness, indemnity, liability or obligation is derivative of the primary liability of or related to the Nordstrom Canada Entities, except with the written consent of the Nordstrom Canada Entities, Nordstrom US and the Monitor, or with leave of this Court; provided that, this paragraph shall not apply to any present or future bank providing the Cash Management System in connection with any claims or expenses it may suffer or incur in connection with the provision of the Cash Management System.

15. **THIS COURT ORDERS** that, without in any way altering, increasing, creating or eliminating any obligation or duty to mitigate losses or damages of any Landlord: (a) any Landlord claim pursuant to an indemnity, guarantee or surety executed by Nordstrom US in relation to any Nordstrom Canada Entity shall be unaffected and shall not be released or affected in any way in any Plan filed by the Applicants under the CCAA, or any proposal filed by the Nordstrom Canada Entities under the *Bankruptcy and Insolvency Act* (Canada) (“**BIA**”); and (b) any Landlord claim pursuant to an indemnity, guarantee or surety executed by Nordstrom US in relation to any Nordstrom Canada Entity shall be unaffected by any determination of any rights, remedies and claims of such Landlords as against the Nordstrom Canada Entities, whether made in the within proceedings under the CCAA or in any subsequent proposal or bankruptcy proceedings under the BIA, other than that any recoveries under such proceedings received by such Landlords shall constitute a reduction and offset to such claim.

16. **THIS COURT ORDERS** that, to the extent any prescription, time or limitation period relating to any Proceeding against or in respect of any Nordstrom Canada Entity 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**

17. **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 Nordstrom Canada Entities 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 Nordstrom Canada Entities and the Monitor, or leave of this Court, provided that nothing in this Order shall (a) empower the Nordstrom Canada Entities 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**

18. **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, licence or permit in favour of or held by the Nordstrom Canada Entities, except with the prior written consent of the Nordstrom Canada Entities and the Monitor, or leave of this Court. Without limiting the foregoing, no right, option, remedy, and/or exemption in favour of the relevant Nordstrom Canada Entities shall be or shall be deemed to be negated, suspended, waived and/or terminated as a result of this Order.

## **CONTINUATION OF SERVICES**

19. **THIS COURT ORDERS** that during the Stay Period, all Persons having oral or written agreements with the Nordstrom Canada Entities or statutory or regulatory mandates for the supply or license of goods and/or services, including without limitation all computer software, 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 Nordstrom Canada Entities, 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 Nordstrom Canada Entities, and that the Nordstrom Canada Entities 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 Nordstrom Canada Entities in accordance with normal payment practices of the Nordstrom Canada Entities or such other practices as may be agreed upon by the supplier or service provider and the applicable Nordstrom Canada Entities 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 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 Nordstrom Canada Entities. Nothing in this Order shall derogate from the rights conferred and obligations imposed by the CCAA.

### **EMPLOYEE TRUST**

21. **THIS COURT ORDERS** that the creation of the Employee Trust, as described in the Initial Heckel Affidavit, is hereby approved on substantially the terms and conditions set out in the Trust Agreement attached as Exhibit “T” to the Initial Heckel Affidavit, including, without limitation, the appointment of Gale Rubenstein, as trustee (the “**Trustee**”), and the Monitor, as administrator (the “**Administrator**”), of the Employee Trust, and authorizes and directs the Monitor to act in such capacity, and the parties thereto to execute the Trust Agreement.

22. **THIS COURT ORDERS** that the Nordstrom Canada Entities are authorized to process or cause to be processed all amounts received from the Employee Trust, including making payments to the Beneficiaries (as defined in the Trust Agreement), subject to and in accordance with the terms and conditions of the Trust Agreement.

23. **THIS COURT ORDERS** that the amounts received by the Nordstrom Canada Entities from the Employee Trust, (a) when in the hands of the Nordstrom Canada Entities; and (b) when paid to any payment processor, shall be deemed to be held in trust for and on behalf of the Beneficiaries, subject to and in accordance with the Trust Agreement and shall not constitute

property of the Nordstrom Canada Entities including, without limitation, under the CCAA and BIA, and shall not be subject to the claims of any Person other than as provided under the Trust Agreement.

24. **THIS COURT ORDERS** that the creation, establishment, funding and administration of the Employee Trust shall not, in whole or in part, directly or indirectly, (a) cause Nordstrom US to be or be deemed to be; or (b) in any way be relied upon to claim or assert that Nordstrom US is or is deemed to be, either (i) an employer, or (ii) a joint, common or related employer under contract, statute, common law or otherwise of any employee of the Nordstrom Canada Entities.

25. **THIS COURT ORDERS** that:

- (a) each Beneficiary shall be deemed to release the Releasees (as defined in the Trust Agreement) on the payment of a distribution from the Employee Trust in respect of such Beneficiary's Eligible Employee Claim (as defined in the Trust Agreement), to the extent of such distribution (the "**Payment Release**");
- (b) each Beneficiary shall be deemed to release the Releasees in respect of the full amount of such Beneficiary's Eligible Employee Claim, sixty (60) days after the final payment to such Beneficiary under the Employee Trust or such later date as the Monitor, in its sole discretion, may designate; provided that, such Beneficiary has not delivered a notice of dispute to the Monitor and Employee Representative Counsel, substantially in the manner and form attached as Schedule "A" hereto, within forty-five (45) days of the final payment to such Beneficiary; provided further that, in the event of any insufficiency of funds in the Employee Trust to cover a Beneficiary's total Eligible Employee Claim, only the Payment Release shall be effective and there shall be no deemed full and final release of the full Eligible Employee Claim; and
- (c) the Settlor (as defined in the Trust Agreement) shall be deemed to be fully and completely subrogated to all rights of recovery of the Beneficiaries against Nordstrom Canada, in an amount equal to the aggregate gross amount paid to such Beneficiaries directly or indirectly from the Employee Trust.

26. **THIS COURT ORDERS** that without limiting the authorizations, protections and indemnities in favour of the Trustee set forth in the Trust Agreement, no action or proceeding may be commenced against the Trustee in respect of the Employee Trust without leave of this Court.

#### **EMPLOYEE REPRESENTATIVE COUNSEL**

27. **THIS COURT ORDERS** that Ursel Phillips Fellows Hopkinson LLP (“**Employee Representative Counsel**”) is hereby appointed as employee representative counsel to represent the interests of (a) all store-level employees; (b) all non-store level employees, other than (i) non-store level employees who will be eligible for a KERP payment, (ii) directors and officers of the Nordstrom Canada Entities, and (iii) the Senior Vice President, Regional Manager for Canada (collectively, the “**Represented Employees**”) in these CCAA proceedings, in any proceedings under the BIA or in any other proceedings respecting the insolvency of the Nordstrom Canada Entities which may be brought before this Court (collectively, the “**Insolvency Proceedings**”), for any employment, human rights or other workplace law issues affecting such Represented Employees in the Insolvency Proceedings, including, without limitation, with respect to the Trust Agreement, the Claims Process (as defined in the Trust Agreement) and the settlement or compromise of any rights, entitlements or claims of the Represented Employees (the “**Purpose**”).

28. **THIS COURT ORDERS** that the Employee Representative Counsel shall be entitled but not required to commence the process of identifying no more than three (3) Represented Employees to be nominated as Court-appointed representatives (the “**Employee Representatives**”) as soon as practicable following the date hereof. The Employee Representatives shall, upon appointment, represent all Represented Employees (excluding the Opt-Out Individuals (as hereinafter defined), if any) in the Insolvency Proceedings, to act in the overall best interests of the Represented Employees and to advise and where appropriate instruct Employee Representative Counsel, in each case, solely for the Purpose. Employee Representative Counsel may rely upon the advice, information and instructions received from the Employee Representatives in carrying out its mandate without further communications with or instructions from the Represented Employees, except as may be recommended by Employee Representative Counsel or ordered by this Court.

29. **THIS COURT ORDERS** that, with the exception of Opt-Out Individuals, (a) the Employee Representatives and Employee Representative Counsel shall represent all Represented

Employees in the Insolvency Proceedings; (b) the Represented Employees shall be bound by the actions of the Employee Representatives and Employee Representative Counsel in the Insolvency Proceedings; and (c) the Employee Representatives shall be entitled, on the advice of Employee Representative Counsel, to reach any settlement agreements, advocate on behalf of the Represented Employees for the Purpose and settle or compromise any rights, entitlements or claims of the Represented Employees, subject to approval of this Court.

30. **THIS COURT ORDERS** that the Nordstrom Canada Entities shall provide Employee Representative Counsel, the Employee Representatives and their respective advisors, subject to confidentiality arrangements acceptable to the Nordstrom Canada Entities and the Monitor, without charge, the following information, documents and data (the “**Information**”) to only be used for the Purpose in the Insolvency Proceedings: (a) the names, last known addresses and last known telephone numbers and e-mail addresses (if any) of the Represented Employees (excluding Opt-Out Individuals, if any, who have opted out prior to delivery of the Information); and (b) upon request of Employee Representative Counsel, such documents and data as may be reasonably relevant to matters relating to the issues affecting the Represented Employees in the Insolvency Proceedings, and that, in so providing all such Information, the Nordstrom Canada Entities are not required to obtain express consent from such Represented Employees authorizing disclosure of Information to Employee Representative Counsel for the Purpose and, further, in accordance with section 7(3)(c) of the *Canada Personal Information Protection and Electronic Documents Act*, section 18(1)(i) of the *British Columbia Personal Information Protection Act* and section 20 of the *Alberta Personal Information Protection Act*, this Order shall be sufficient to authorize the disclosure of the Information for the Purpose, without the knowledge or consent of the individual Represented Employees.

31. **THIS COURT ORDERS** that notice of the appointment of Employee Representative Counsel shall be provided by (a) the Nordstrom Canada Entities delivering a letter on behalf of Employee Representative Counsel to the Represented Employees explaining the terms of such appointment; (b) the inclusion of the details of such appointment in the CCAA Notice (as hereinafter defined); and (c) the posting of notice of such appointment on the Monitor’s Website (as hereinafter defined) and on Employee Representative Counsel’s website.

32. **THIS COURT ORDERS** that any individual Represented Employee who does not wish to be represented by the Employee Representatives and Employee Representative Counsel in the Insolvency Proceedings shall, within thirty (30) days of the date of the letter pursuant to paragraph 31 above, notify the Monitor, in writing that such Represented Employee is opting out of representation by the Employee Representatives and Employee Representative Counsel by delivering to the Monitor an opt-out notice in the form attached as Schedule “B” hereto (each an “**Opt-Out Notice**”), and shall thereafter not be bound by the actions of the Employee Representatives or Employee Representative Counsel and shall represent themselves or be represented by any counsel that such Represented Employee may retain exclusively at their own expense (any such Represented Employee that delivers an Opt-Out Notice in compliance with the terms hereof, an “**Opt-Out Individual**”). The Monitor shall deliver copies of all Opt-Out Notices received to the Nordstrom Canada Entities and Employee Representative Counsel as soon as reasonably practicable.

33. **THIS COURT ORDERS** that, subject to the terms of the engagement letter between Nordstrom Canada and Employee Representative Counsel, Employee Representative Counsel shall be paid its reasonable and documented fees and disbursements by the Nordstrom Canada Entities on a monthly basis, promptly upon rendering its accounts to the Nordstrom Canada Entities for fulfilling its mandate in accordance with this Order, and subject to such redactions to the invoices as are necessary to maintain solicitor-client privilege between Employee Representative Counsel and the Represented Employees. In the event of any disagreement with respect to such fees and disbursements, such disagreement may be remitted to this Court for determination.

34. **THIS COURT ORDERS** that no action or proceeding may be commenced against Employee Representative Counsel or the Employee Representatives in respect of the performance of their duties under this Order, without leave of this Court on seven (7) days’ notice to Employee Representative Counsel or the Employee Representatives, as the case may be, the Nordstrom Canada Entities and the Monitor.

35. **THIS COURT ORDERS** that Employee Representative Counsel is authorized to take all steps and to do all acts necessary or desirable to carry out the terms of this Order, including dealing with any Court, regulatory body or other government ministry, department or agency, and to take

all such steps as are necessary or incidental thereto. Employee Representative Counsel and Employee Representatives shall have no liability as a result of their appointment or the fulfilment of their duties in carrying out the provisions of this Order, save and except for any gross negligence or wilful misconduct on their part.

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

36. **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 Nordstrom Canada Entities with respect to any claim against the directors or officers that arose before the date hereof and that relates to any obligations of the Nordstrom Canada Entities 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**

37. **THIS COURT ORDERS** that the Nordstrom Canada Entities shall indemnify their directors and officers against obligations and liabilities that they may incur as directors or officers of the Nordstrom Canada Entities 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.

38. **THIS COURT ORDERS** that the directors and officers of the Nordstrom Canada Entities 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 \$10.75 million, as security for the indemnity provided in paragraph 37 of this Order. The Directors' Charge shall have the priority set out in paragraphs 49 and 51 herein.

39. **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 Nordstrom Canada Entities' 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 37 of this Order.

**APPOINTMENT OF MONITOR**

40. **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 Nordstrom Canada Entities with the powers and obligations set out in the CCAA or set forth herein and that the Nordstrom Canada Entities and their shareholders, partners, members, officers, directors, and Assistants shall advise the Monitor of all material steps taken by the Nordstrom Canada Entities 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.

41. **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 Nordstrom Canada Entities' receipts and disbursements;
- (b) assist the Nordstrom Canada Entities with the Orderly Wind-down;
- (c) 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, certain shared services provided to and by the Nordstrom Canada Entities under the Wind-Down Agreement during the Orderly Wind-down and such other matters as may be relevant to the proceedings herein;
- (d) advise the Nordstrom Canada Entities in their preparation of the Nordstrom Canada Entities' cash flow statements and the dissemination of other financial information;
- (e) 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 Nordstrom Canada Entities, to the extent that is necessary to adequately assess the Nordstrom Canada Entities' business and financial affairs or to perform its duties arising under this Order;
- (f) liaise and consult with any Assistants and any liquidator selected through the Liquidation Solicitation Process, to the extent required, with respect to all matters



relating to the Property, the Business, the Orderly Wind-down and such other matters as may be relevant to the proceedings herein;

- (g) administer the Employee Trust, in its role as Administrator, in consultation with the Trustee thereof, the Nordstrom Canada Entities and Employee Representative Counsel;
- (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) be at liberty to serve as a “foreign representative” of the Nordstrom Canada Entities in any proceeding outside of Canada;
- (j) assist the Nordstrom Canada Entities, to the extent required by the Nordstrom Canada Entities, with any matters relating to any foreign proceeding commenced in relation to any of the Nordstrom Canada Entities; and
- (k) perform such other duties as are required by this Order or by this Court from time to time.

42. **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.

43. **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*, and the Alberta *Occupational Health and Safety Act* 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.

44. **THIS COURT ORDERS** that the Monitor shall provide any creditor of the Nordstrom Canada Entities with information provided by the Nordstrom Canada Entities 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 Nordstrom Canada Entities 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 Nordstrom Canada Entities may agree.

45. **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, including, for greater certainty, in the Monitor’s capacity as Administrator of the Employee Trust, 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.

46. **THIS COURT ORDERS** that the Monitor, counsel to the Monitor, counsel to the Nordstrom Canada Entities, and counsel to the directors and officers of the Nordstrom Canada Entities, 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 Nordstrom Canada Entities as part of the costs of these proceedings. The Nordstrom Canada Entities are hereby authorized and directed to pay the accounts of the Monitor, counsel to the Monitor, counsel to the Nordstrom Canada Entities and counsel to the directors and officers of the Nordstrom

Canada Entities, on such terms as such parties may agree and is hereby authorized to pay to the Monitor, counsel to the Monitor, counsel to the Nordstrom Canada Entities, counsel to the directors and officers of the Nordstrom Canada Entities and Employee Representative Counsel, retainers, *nunc pro tunc*, to be held by them as security for payment of their respective fees and disbursements outstanding from time to time.

47. **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**

48. **THIS COURT ORDERS** that the Monitor, counsel to the Monitor, counsel to the Nordstrom Canada Entities, Employee Representative Counsel (up to the maximum amount of \$75,000), and counsel to the directors and officers of the Nordstrom Canada Entities 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 \$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 49 and 51 hereof.

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

49. **THIS COURT ORDERS** that the priorities of the Administration Charge and the Directors’ Charge (collectively, the “**Charges**”), as among them, shall be as follows:

- (a) First – Administration Charge (to the maximum amount of \$750,000); and
- (b) Second – Directors’ Charge (to the maximum amount of \$10.75 million).

50. **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.

51. **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 Nordstrom Canada Entities 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.

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

53. **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 Nordstrom Canada Entities, and notwithstanding any provision to the contrary in any Agreement:

- (i) the creation of the Charges shall not create or be deemed to constitute a breach by the Nordstrom Canada Entities of any Agreement to which they are a party,

- (ii) 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, and
- (iii) the payments made by the Nordstrom Canada Entities pursuant to this Order 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.

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

#### **SERVICE AND NOTICE**

55. **THIS COURT ORDERS** that the Monitor shall (a) without delay, publish in the Globe & Mail a notice containing the information prescribed under the CCAA (the "**CCAA Notice**"); 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 Nordstrom Canada Entities' books and records), a notice to all known creditors having a claim against the Nordstrom Canada Entities 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.

56. **THIS COURT ORDERS** that any employee of any of the Nordstrom Canada Entities who is sent a notice of termination of employment or any other communication by the Nordstrom Canada Entities 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 (4<sup>th</sup>) 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 Nordstrom Canada Entities' books and records; provided, however, that any communication that is sent to an employee of the Nordstrom Canada Entities by electronic message to the individual's corporate email address and/or the individual's personal email address as last shown in the Nordstrom Canada Entities' books and records shall

be deemed to have been received twenty-four (24) hours after the time such electronic message was sent, notwithstanding the mailing of any notices of termination of employment or other employee communication.

57. **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: <http://www.alvarezandmarsal.com/NordstromCanada> (the “**Monitor’s Website**”).

58. **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 Nordstrom Canada Entities 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 Nordstrom Canada Entities’ creditors or other interested parties at their respective addresses (including e-mail addresses) as last shown in the books and records of the Nordstrom Canada Entities 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 (3<sup>rd</sup>) business day following the date of forwarding thereof, if sent by ordinary mail.

59. **THIS COURT ORDERS** that the Nordstrom Canada Entities 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 Nordstrom Canada Entities 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**

60. **THIS COURT ORDERS** that the comeback motion in these CCAA proceedings shall be heard on March 10, 2023 (the “**Comeback Hearing**”).

### **GENERAL**

61. **THIS COURT ORDERS** that the Nordstrom Canada Entities 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.

62. **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 Nordstrom Canada Entities, 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 Nordstrom Canada Entities 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 Nordstrom Canada Entities and the Monitor and their respective agents in carrying out the terms of this Order.

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

64. **THIS COURT ORDERS** that any interested party (including the Nordstrom Canada Entities 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.

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

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## SCHEDULE “A”

### NOTICE OF DISPUTE REGARDING ELIGIBLE EMPLOYEE CLAIM

I, \_\_\_\_\_ (*insert name and employee number if known*), am disputing that I have been paid in full in respect of my Eligible Employee Claim, as such term is defined in the Trust Agreement. *\*\*Please see the Monitor’s website at [www.alvarezandmarsal.com/NordstromCanada](http://www.alvarezandmarsal.com/NordstromCanada) or Employee Representative Counsel’s website at [www.upfhlaw.ca](http://www.upfhlaw.ca) for further information.* \*\*

I am a \_\_\_\_\_ (*insert position*) in the store located at \_\_\_\_\_ (*insert address/location*).

The basis for my objection is:

(*insert full particulars regarding dispute, including all facts and calculations on which you are relying*)

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Based on the foregoing, I claim that I am owed the sum of \$ \_\_\_\_\_.

Dated at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

Signature: \_\_\_\_\_

Address: \_\_\_\_\_

Tel: \_\_\_\_\_

Email: \_\_\_\_\_



**METHOD OF DELIVERY**

This notice of dispute must be sent to Employee Representative Counsel and to the Monitor at the following addresses:

To Employee Representative Counsel:

Ursel Phillips Fellows Hopkinson LLP  
555 Richmond Street West  
Suite 1200  
Toronto, ON M5V 3R1

Attention: Susan Ursel  
Email: [sursel@upfhlaw.ca](mailto:sursel@upfhlaw.ca)

To the Monitor at:

Alvarez & Marsal Canada Inc., in its  
capacity as Court-appointed Monitor of the  
Nordstrom Canada Entities  
Royal Bank Plaza, South Tower  
200 Bay Street, Suite 2900  
P.O. Box 22  
Toronto, ON M5J 2J1

Attention: Nordstrom Canada Monitor  
Email: [NordstromCanada@alvarezandmarsal.com](mailto:NordstromCanada@alvarezandmarsal.com)

**NOTE: THIS MUST BE SENT TO EMPLOYEE REPRESENTATIVE COUNSEL  
AND THE MONITOR NO LATER THAN FORTY-FIVE (45) DAYS AFTER  
YOU RECEIVE YOUR LAST PAYMENT FROM NORDSTROM  
CANADA'S PAYROLL**

## SCHEDULE “B”

### FORM OF REPRESENTED EMPLOYEE OPT-OUT NOTICE

To: Alvarez & Marsal Canada Inc., in its capacity as Court-appointed  
Monitor of the Nordstrom Canada Entities  
Royal Bank Plaza, South Tower  
200 Bay Street, Suite 2900  
P.O. Box 22  
Toronto, ON M5J 2J1

Attention: Nordstrom Canada Monitor  
Email: [NordstromCanada@alvarezandmarsal.com](mailto:NordstromCanada@alvarezandmarsal.com)

I hereby provide written notice that I do not wish to be represented by Ursel Phillips Fellows Hopkinson LLP, employee representative counsel (the “**Employee Representative Counsel**”) for the Represented Employees of Nordstrom Canada Retail, Inc., Nordstrom Canada Holdings, LLC, Nordstrom Canada Holdings II, LLC and Nordstrom Canada Leasing LP (collectively, the “**Nordstrom Canada Entities**”) in their proceedings under the *Companies’ Creditors Arrangement Act* (the “**CCAA Proceedings**”). I understand that by opting out of this representation, if I wish to take part in the CCAA Proceedings, then I would need to do so as an independent party. I am responsible for retaining my own legal counsel should I choose to do so, and that I would be personally liable for the costs of my own legal representation.

I understand that a copy of this Opt-Out Form will be provided to the Employee Representative Counsel and to the Nordstrom Canada Entities.

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Signature

Name [please print]: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Telephone: \_\_\_\_\_

**Note: To opt out, this form must be completed and received at the above address on or before \_\_\_\_\_, 2023.**

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 NORDSTROM CANADA RETAIL, INC.,  
NORDSTROM CANADA HOLDINGS, LLC and NORDSTROM CANADA HOLDINGS II, LLC

Court File No:

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](mailto:tsandler@osler.com)

Jeremy Dacks (LSO# 41851R)

Tel: 416.862.4923

Email: [jdacks@osler.com](mailto:jdacks@osler.com)

Martino Calvaruso (LSO# 57359Q)

Tel: 416.862.6665

Email: [mcalvaruso@osler.com](mailto:mcalvaruso@osler.com)

Marleigh Dick (LSO# 79390S)

Tel: 416.862.4725

Email: [mdick@osler.com](mailto:mdick@osler.com)

Lawyers for the Nordstrom Canada Entities

# TAB 3

Court File No. —

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

THE HONOURABLE ) ~~WEEKDAY~~ THURSDAY, THE #2<sup>ND</sup>  
)  
CHIEF JUSTICE — MORAWETZ ) DAY OF ~~MONTH~~ MARCH, 20~~YR~~23

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 [APPLICANT'S NAME] (the  
"Applicant") NORDSTROM CANADA RETAIL, INC.,  
NORDSTROM CANADA HOLDINGS, LLC and NORDSTROM  
CANADA HOLDINGS II, LLC

**INITIAL ORDER**

**THIS APPLICATION**, made by ~~the Applicant~~ Nordstrom Canada Retail, Inc.  
("Nordstrom Canada"), Nordstrom Canada Holdings, LLC and Nordstrom Canada Holdings II,  
LLC (collectively, the "Applicants"), pursuant to the *Companies' Creditors Arrangement Act*,  
R.S.C. 1985, c. C-36, as amended (the "CCAA") was heard this day at 3130 University  
~~Avenue~~ Queen Street West, Toronto, Ontario.

**ON READING** the affidavit of [NAME] Misti Heckel sworn [DATE] March 1, 2023, and  
the Exhibits thereto (the "Initial Heckel Affidavit"), and ~~on being advised that the secured~~  
~~creditors who are likely to be affected by the charges created herein were given notice~~ the  
pre-filing report dated March 1, 2023, of Alvarez & Marsal Canada Inc. ("A&M"), in its  
capacity as proposed monitor of the Nordstrom Canada Entities (as hereinafter defined), and on  
hearing the submissions of counsel ~~for [NAMES], no one appearing for [NAME]<sup>1</sup> although duly~~

<sup>1</sup> ~~Include names of secured creditors or other persons who must be served before certain relief in this model Order  
may be granted. See, for example, CCAA Sections 11.2(1), 11.3(1), 11.4(1), 11.51(1), 11.52(1), 32(1), 32(3), 33(2)  
and 36(2).~~

~~served as appears from the affidavit of service of [NAME] sworn [DATE]~~ to the Applicants and Nordstrom Canada Leasing LP (“**Canada Leasing LP**”, and together with the Applicants, the “**Nordstrom Canada Entities**”), A&M, Employee Representative Counsel (as hereinafter defined) and such other counsel present, and on reading the consent of ~~[MONITOR’S NAME]~~ 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<sup>2</sup> 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 Initial Heckel Affidavit.

## APPLICATION

3. ~~2.~~ **THIS COURT ORDERS AND DECLARES** that the ~~Applicant is a company~~ Applicants are companies to which the CCAA applies.

## ~~PLAN OF ARRANGEMENT~~

~~3.~~ ~~THIS COURT ORDERS that the~~ Although not an Applicant, Canada Leasing LP shall have the ~~authority to file and may, subject to further order of this Court, file with this Court a plan of compromise or arrangement (hereinafter referred to as the “Plan”)~~ benefits of the protections and authorizations provided by this Order.

<sup>2</sup> ~~If service is effected in a manner other than as authorized by the Ontario Rules of Civil Procedure, an order validating irregular service is required pursuant to Rule 16.08 of the Rules of Civil Procedure and may be granted in appropriate circumstances.~~

## POSSESSION OF PROPERTY AND OPERATIONS

4. **THIS COURT ORDERS** that the ~~Applicant~~Nordstrom Canada Entities shall remain in possession and control of ~~its~~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 ~~Applicant~~Nordstrom Canada Entities shall continue to carry on business in a manner consistent with the preservation of ~~its~~their business (the **"Business"**) and Property. The ~~Applicant is~~Nordstrom Canada Entities shall each be authorized and empowered to continue to retain and employ the employees, contractors, advisors, consultants, agents, experts, appraisers, valuers, brokers, accountants, counsel and such other persons (collectively **"Assistants"**) currently retained or employed by ~~it~~them, with liberty to retain such further Assistants as ~~it deems~~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 ~~Applicant~~Nordstrom Canada Entities shall be entitled to continue to ~~utilize~~use the central cash management system<sup>3</sup> currently in place as described in the Initial Heckel Affidavit ~~of [NAME] sworn [DATE] or~~or, with the consent of the Monitor, replace it with another substantially similar central cash management system (the **"Cash Management System"**) and that any present or future bank providing the Cash Management System shall not be under any obligation whatsoever to inquire into the propriety, validity or legality of any transfer, payment, collection or other action taken under the Cash Management System, or as to the use or application by the ~~Applicant~~Nordstrom Canada Entities of funds transferred, paid, collected or otherwise dealt with in the Cash Management System, shall be entitled to provide the Cash Management System without any liability in respect thereof to any Person (as hereinafter defined) other than the ~~Applicant~~Nordstrom Canada Entities, pursuant to the terms of the documentation applicable to the Cash Management System, and shall be, in its capacity as provider of the Cash Management System, an unaffected creditor under ~~the~~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.**}**

<sup>3</sup>~~This provision should only be utilized where necessary, in view of the fact that central cash management systems often operate in a manner that consolidates the cash of applicant companies. Specific attention should be paid to cross-border and inter-company transfers of cash.~~

6. **THIS COURT ORDERS** that the ~~Applicant~~ Nordstrom Canada Entities 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 Nordstrom Canada Entities:

- (a) all outstanding and future wages, salaries, employee ~~and pension~~ benefits (including, without limitation, employee medical, dental, registered retirement savings plan contributions and similar benefit plans or arrangements), vacation pay and expenses payable ~~on or after the date of this Order~~, in each case incurred in the ordinary course of business and consistent with existing compensation policies and arrangements;  
and all other payroll and benefits processing and servicing expenses;
- (b) all outstanding or future amounts owing in respect of customer rebates, refunds, discounts or other amounts on account of similar customer programs or obligations;
- (c) all outstanding or future amounts related to honouring customer obligations, including customer pre-payments, deposits, gift cards, programs (including, The Nordy Club rewards program and the redemptions of Nordstrom Notes) 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) ~~(b)~~ the fees and disbursements of any Assistants retained or employed by the Applicant in respect of these proceedings, Nordstrom Canada Entities at their standard rates and charges;
- (e) with the consent of the Monitor, amounts owing for goods or services supplied to the Nordstrom Canada Entities prior to the date of this Order, by:
  - (i) 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 up to a maximum aggregate amount of \$1 million, if, in the opinion of the Nordstrom Canada Entities following consultation with the Monitor, such supplier or service provider is critical to the Orderly Wind-down (as hereinafter defined).

7. **THIS COURT ORDERS** that, except as otherwise provided to the contrary herein, the ~~Applicant~~Nordstrom Canada Entities shall be entitled but not required to pay all reasonable expenses incurred by ~~the Applicant~~them in carrying on the Business in the ordinary course during the Orderly Wind-down 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 ~~Applicant~~Nordstrom Canada Entities following the date of this Order or, with the consent of the Monitor, payments to obtain the release or delivery of goods contracted for prior to the date of this Order.

8. **THIS COURT ORDERS** that the ~~Applicant~~Nordstrom Canada Entities 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 Nordstrom Canada Entities' 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 ~~Applicant~~ Nordstrom Canada Entities in connection with the sale of goods and services by the ~~Applicant~~ Nordstrom Canada Entities, 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 ~~Applicant~~ Nordstrom Canada Entities; and
- (d) taxes under the *Income Tax Act* (Canada) or other relevant taxing statute giving rise to any statutory deemed trust amounts in favour of the Crown in right of Canada or any Province thereof or any political subdivision thereof or any other taxation authority.

9. **THIS COURT ORDERS** that, until a real property lease, including a sublease and related documentation (each, a "Lease") to which any Nordstrom Canada Entity is a party is disclaimed ~~for or resiliated~~<sup>4</sup> in accordance with the CCAA, ~~the Applicant~~ or otherwise consensually terminated, such Nordstrom Canada Entity shall pay, without duplication, all amounts constituting rent or payable as rent under ~~real property leases~~ 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 ~~the lease~~ such Lease, but for greater certainty, excluding accelerated rent or penalties, fees or other charges arising as a result of the insolvency of the Nordstrom Canada Entities or the making of this Order) or as otherwise may be negotiated between ~~the Applicant~~ such Nordstrom Canada Entity and the

<sup>4</sup> ~~The term "resiliate" should remain if there are leased premises in the Province of Quebec, but can otherwise be removed.~~

~~landlord~~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. Without in any way impairing, limiting or lessening the priority, protections, rights or remedies of Canada Leasing LP, any Rent in respect of Premises Fixturing Costs payable by Nordstrom Canada to Canada Leasing LP under a Lease shall be stayed and suspended until further Order of this Court.

10. **THIS COURT ORDERS** that, except as specifically permitted herein, the ~~Applicant~~is Nordstrom Canada Entities 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 ~~Applicant~~Nordstrom Canada Entities to any of ~~its~~their creditors as of this date; (b) to grant no security interests, trust, liens, charges or encumbrances upon or in respect of any of ~~its~~the Property; and (c) to not grant credit or incur liabilities except in the ordinary course of the Business for the purpose of the Orderly Wind-down or pursuant to this Order or any other Order of the Court.

## **RESTRUCTURING**

### **ORDERLY WIND-DOWN**

11. **THIS COURT ORDERS** that the ~~Applicant~~Nordstrom Canada Entities shall, subject to such requirements as are imposed by the CCAA ~~and such covenants as may be contained in the Definitive Documents (as hereinafter defined),~~ have the right to:

- (a) ~~permanently or temporarily cease, downsize or shut down any of its business or operations, [and to dispose of redundant or non-material assets not exceeding \$• in any one transaction or \$• in the aggregate]~~<sup>5</sup>

<sup>5</sup> ~~Section 36 of the amended CCAA does not seem to contemplate a pre-approved power to sell (see subsection 36(3)) and moreover requires notice (subsection 36(2)) and evidence (subsection 36(7)) that may not have occurred or be available at the initial CCAA hearing.~~

- (a) ~~(b)~~ terminate the employment of such of its employees or temporarily lay off such of its employees as ~~it~~ the applicable Nordstrom Canada Entity deems appropriate;
- (b) perform their obligations under the Wind-Down Agreement, including with respect to the provision of and payment for shared services; and
- (c) ~~pursue all avenues of refinancing of its Business or Property, in whole or part, subject to prior approval of this Court being obtained before any material refinancing~~ consultation with, and with the oversight of the Monitor, (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 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~~ Nordstrom Canada Entities to proceed with an orderly ~~restructuring~~ wind-down of the Business (the ~~“Restructuring”~~ “Orderly Wind-down”).

~~12. — THIS COURT ORDERS that the Applicant shall provide each of the relevant landlords with notice of the Applicant’s intention to remove any fixtures from any leased premises at least seven (7) days prior to the date of the intended removal. The relevant landlord shall be entitled to have a representative present in the leased premises to observe such removal and, if the landlord disputes the Applicant’s entitlement to remove any such fixture under the provisions of the lease, such fixture shall remain on the premises and shall be dealt with as agreed between any applicable secured creditors, such landlord and the Applicant, or by further Order of this Court upon application by the Applicant on at least two (2) days notice to such landlord and any such secured creditors. If the Applicant disclaims [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 the 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 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.~~

~~NO~~

#### STAY OF PROCEEDINGS ~~AGAINST THE APPLICANT OR THE PROPERTY~~

12. ~~14.~~ **THIS COURT ORDERS** that until and including ~~[DATE — MAX. 30 DAYS]~~ March 12, 2023, or such later date as this Court may order (the "Stay Period"), no proceeding or enforcement process in any court or tribunal (each, a "Proceeding") shall be commenced or continued against or in respect of the ~~Applicant~~ Nordstrom Canada Entities or the Monitor, or 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 ~~Applicant~~ Nordstrom Canada Entities and the Monitor, or with leave of this Court, and any and all Proceedings currently under way against or in respect of the ~~Applicant~~ Nordstrom Canada Entities, 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.

13. **THIS COURT ORDERS** that during the Stay Period, no Person having any agreements or arrangements with the owners, operators, managers or landlords of commercial shopping centres or other commercial properties (including retail, office and industrial (warehouse) properties) in which there is located a store, office or warehouse owned or operated by the Nordstrom Canada Entities shall take any Proceedings or exercise any rights or remedies under such agreements or arrangements that may arise upon and/or as a result of the making of this Order, the declarations of insolvency by the Nordstrom Canada Entities or as a result of any steps

taken by the Nordstrom Canada Entities pursuant to this Order and, without limiting the generality of the foregoing, no Person shall terminate, accelerate, suspend, modify, determine or cancel any such arrangement or agreement or be entitled to exercise any rights or remedies in connection therewith.

14. **THIS COURT ORDERS** that, until and including March 12, 2023, no Proceeding shall be commenced or continued against or in respect of Nordstrom, Inc. and its direct and indirect subsidiaries (other than the Nordstrom Canada Entities) (collectively, “**Nordstrom US**”) arising out of or in connection with any right, remedy or claim of any Person against Nordstrom US in connection with any indebtedness, indemnity, liability or obligation of any kind whatsoever of Nordstrom US under contract, statute or otherwise, whether or not such right or claim is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, unsecured, perfected, unperfected, present, future, known, or unknown, by indemnity, guarantee, surety or otherwise, and whether or not such right is executory or anticipatory in nature, including the right or ability of any Person to advance a claim for contribution, indemnity or otherwise, with respect to any matter, action, cause or chose in action, whether existing at present or commenced in future, which indebtedness, indemnity, liability or obligation is derivative of the primary liability of or related to the Nordstrom Canada Entities, except with the written consent of the Nordstrom Canada Entities, Nordstrom US and the Monitor, or with leave of this Court; provided that, this paragraph shall not apply to any present or future bank providing the Cash Management System in connection with any claims or expenses it may suffer or incur in connection with the provision of the Cash Management System.

15. **THIS COURT ORDERS** that, without in any way altering, increasing, creating or eliminating any obligation or duty to mitigate losses or damages of any Landlord: (a) any Landlord claim pursuant to an indemnity, guarantee or surety executed by Nordstrom US in relation to any Nordstrom Canada Entity shall be unaffected and shall not be released or affected in any way in any Plan filed by the Applicants under the CCAA, or any proposal filed by the Nordstrom Canada Entities under the *Bankruptcy and Insolvency Act* (Canada) (“BIA”); and (b) any Landlord claim pursuant to an indemnity, guarantee or surety executed by Nordstrom US in relation to any Nordstrom Canada Entity shall be unaffected by any determination of any rights,

remedies and claims of such Landlords as against the Nordstrom Canada Entities, whether made in the within proceedings under the CCAA or in any subsequent proposal or bankruptcy proceedings under the BIA, other than that any recoveries under such proceedings received by such Landlords shall constitute a reduction and offset to such claim.

16. THIS COURT ORDERS that, to the extent any prescription, time or limitation period relating to any Proceeding against or in respect of any Nordstrom Canada Entity 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**

17. ~~15.~~ THIS COURT ORDERS that during the Stay Period, all rights and remedies of any individual, firm, corporation, governmental body or agency, or any other entities (all of the foregoing, collectively being "Persons" and each being a "Person") against or in respect of the ~~Applicant~~ Nordstrom Canada Entities 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 ~~Applicant~~ Nordstrom Canada Entities and the Monitor, or leave of this Court, provided that nothing in this Order shall (i) empower the ~~Applicant~~ Nordstrom Canada Entities to carry on any business which ~~the Applicant is~~ they are not lawfully entitled to carry on; (ii) affect such investigations, actions, suits or proceedings by a regulatory body as are permitted by Section 11.1 of the CCAA; (iii) prevent the filing of any registration to preserve or perfect a security interest; or (iv) prevent the registration of a claim for lien.

#### **NO INTERFERENCE WITH RIGHTS**

18. ~~16.~~ 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, licence or permit in favour of or held by the ~~Applicant~~ Nordstrom Canada Entities, except with the prior written consent of the ~~Applicant~~ Nordstrom Canada Entities and the Monitor, or leave of this Court. Without limiting the foregoing, no right, option, remedy, and/or exemption in favour of the relevant Nordstrom



Canada Entities shall be or shall be deemed to be negated, suspended, waived and/or terminated as a result of this Order.

## CONTINUATION OF SERVICES

19. ~~17.~~ **THIS COURT ORDERS** that during the Stay Period, all Persons having oral or written agreements with the ~~Applicant~~Nordstrom Canada Entities or statutory or regulatory mandates for the supply or license of goods and/or services, including without limitation all computer software, 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 ~~Applicant~~Nordstrom Canada Entities, 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 ~~Applicant~~Nordstrom Canada Entities, and that the ~~Applicant~~Nordstrom Canada Entities shall be entitled to the continued use of ~~its~~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 ~~Applicant~~Nordstrom Canada Entities in accordance with normal payment practices of the ~~Applicant~~Nordstrom Canada Entities or such other practices as may be agreed upon by the supplier or service provider and ~~each of the Applicant~~applicable Nordstrom Canada Entities and the Monitor, or as may be ordered by this Court.

## NON-DEROGATION OF RIGHTS

20. ~~18.~~ **THIS COURT ORDERS** that, notwithstanding anything else in this Order, no Person shall be prohibited from requiring immediate payment for goods, services, use of ~~lease~~leased or licensed property or other valuable consideration provided on or after the date of this Order, nor shall any Person be under any obligation on or after the date of this Order to advance or re-advance any monies or otherwise extend any credit to the ~~Applicant~~Nordstrom Canada Entities. Nothing in this Order shall derogate from the rights conferred and obligations imposed by the CCAA.<sup>6</sup>

<sup>6</sup> ~~This non-derogation provision has acquired more significance due to the recent amendments to the CCAA, since a number of actions or steps cannot be stayed, or the stay is subject to certain limits and restrictions. See, for example,~~



## EMPLOYEE TRUST

21. **THIS COURT ORDERS** that the creation of the Employee Trust, as described in the Initial Heckel Affidavit, is hereby approved on substantially the terms and conditions set out in the Trust Agreement attached as Exhibit “T” to the Initial Heckel Affidavit, including, without limitation, the appointment of Gale Rubenstein, as trustee (the “**Trustee**”), and the Monitor, as administrator (the “**Administrator**”), of the Employee Trust, and authorizes and directs the Monitor to act in such capacity, and the parties thereto to execute the Trust Agreement.

22. **THIS COURT ORDERS** that the Nordstrom Canada Entities are authorized to process or cause to be processed all amounts received from the Employee Trust, including making payments to the Beneficiaries (as defined in the Trust Agreement), subject to and in accordance with the terms and conditions of the Trust Agreement.

23. **THIS COURT ORDERS** that the amounts received by the Nordstrom Canada Entities from the Employee Trust, (a) when in the hands of the Nordstrom Canada Entities; and (b) when paid to any payment processor, shall be deemed to be held in trust for and on behalf of the Beneficiaries, subject to and in accordance with the Trust Agreement and shall not constitute property of the Nordstrom Canada Entities including, without limitation, under the CCAA and BIA, and shall not be subject to the claims of any Person other than as provided under the Trust Agreement.

24. **THIS COURT ORDERS** that the creation, establishment, funding and administration of the Employee Trust shall not, in whole or in part, directly or indirectly, (a) cause Nordstrom US to be or be deemed to be; or (b) in any way be relied upon to claim or assert that Nordstrom US is or is deemed to be, either (i) an employer, or (ii) a joint, common or related employer under contract, statute, common law or otherwise of any employee of the Nordstrom Canada Entities.

25. **THIS COURT ORDERS** that:

~~number of actions or steps cannot be stayed, or the stay is subject to certain limits and restrictions. See, for example, CCAA Sections 11.01, 11.04, 11.06, 11.07, 11.08, 11.1(2) and 11.5(1).~~

- (a) each Beneficiary shall be deemed to release the Releasees (as defined in the Trust Agreement) on the payment of a distribution from the Employee Trust in respect of such Beneficiary's Eligible Employee Claim (as defined in the Trust Agreement), to the extent of such distribution (the "**Payment Release**");
- (b) each Beneficiary shall be deemed to release the Releasees in respect of the full amount of such Beneficiary's Eligible Employee Claim, sixty (60) days after the final payment to such Beneficiary under the Employee Trust or such later date as the Monitor, in its sole discretion, may designate; provided that, such Beneficiary has not delivered a notice of dispute to the Monitor and Employee Representative Counsel, substantially in the manner and form attached as Schedule "A" hereto, within forty-five (45) days of the final payment to such Beneficiary; provided further that, in the event of any insufficiency of funds in the Employee Trust to cover a Beneficiary's total Eligible Employee Claim, only the Payment Release shall be effective and there shall be no deemed full and final release of the full Eligible Employee Claim; and
- (c) the Settlor (as defined in the Trust Agreement) shall be deemed to be fully and completely subrogated to all rights of recovery of the Beneficiaries against Nordstrom Canada, in an amount equal to the aggregate gross amount paid to such Beneficiaries directly or indirectly from the Employee Trust.

26. THIS COURT ORDERS that without limiting the authorizations, protections and indemnities in favour of the Trustee set forth in the Trust Agreement, no action or proceeding may be commenced against the Trustee in respect of the Employee Trust without leave of this Court.

#### EMPLOYEE REPRESENTATIVE COUNSEL

27. THIS COURT ORDERS that Ursel Phillips Fellows Hopkinson LLP ("**Employee Representative Counsel**") is hereby appointed as employee representative counsel to represent the interests of (a) all store-level employees; (b) all non-store level employees, other than (i) non-store level employees who will be eligible for a KERP payment, (ii) directors and officers of the Nordstrom Canada Entities, and (iii) the Senior Vice President, Regional Manager for Canada (collectively, the "**Represented Employees**") in these CCAA proceedings, in any

proceedings under the BIA or in any other proceedings respecting the insolvency of the Nordstrom Canada Entities which may be brought before this Court (collectively, the “**Insolvency Proceedings**”), for any employment, human rights or other workplace law issues affecting such Represented Employees in the Insolvency Proceedings, including, without limitation, with respect to the Trust Agreement, the Claims Process (as defined in the Trust Agreement) and the settlement or compromise of any rights, entitlements or claims of the Represented Employees (the “**Purpose**”).

28. **THIS COURT ORDERS** that the Employee Representative Counsel shall be entitled but not required to commence the process of identifying no more than three (3) Represented Employees to be nominated as Court-appointed representatives (the “**Employee Representatives**”) as soon as practicable following the date hereof. The Employee Representatives shall, upon appointment, represent all Represented Employees (excluding the Opt-Out Individuals (as hereinafter defined), if any) in the Insolvency Proceedings, to act in the overall best interests of the Represented Employees and to advise and where appropriate instruct Employee Representative Counsel, in each case, solely for the Purpose. Employee Representative Counsel may rely upon the advice, information and instructions received from the Employee Representatives in carrying out its mandate without further communications with or instructions from the Represented Employees, except as may be recommended by Employee Representative Counsel or ordered by this Court.

29. **THIS COURT ORDERS** that, with the exception of Opt-Out Individuals, (a) the Employee Representatives and Employee Representative Counsel shall represent all Represented Employees in the Insolvency Proceedings; (b) the Represented Employees shall be bound by the actions of the Employee Representatives and Employee Representative Counsel in the Insolvency Proceedings; and (c) the Employee Representatives shall be entitled, on the advice of Employee Representative Counsel, to reach any settlement agreements, advocate on behalf of the Represented Employees for the Purpose and settle or compromise any rights, entitlements or claims of the Represented Employees, subject to approval of this Court.

30. **THIS COURT ORDERS** that the Nordstrom Canada Entities shall provide Employee Representative Counsel, the Employee Representatives and their respective advisors, subject to confidentiality arrangements acceptable to the Nordstrom Canada Entities and the Monitor,

without charge, the following information, documents and data (the “**Information**”) to only be used for the Purpose in the Insolvency Proceedings: (a) the names, last known addresses and last known telephone numbers and e-mail addresses (if any) of the Represented Employees (excluding Opt-Out Individuals, if any, who have opted out prior to delivery of the Information); and (b) upon request of Employee Representative Counsel, such documents and data as may be reasonably relevant to matters relating to the issues affecting the Represented Employees in the Insolvency Proceedings, and that, in so providing all such Information, the Nordstrom Canada Entities are not required to obtain express consent from such Represented Employees authorizing disclosure of Information to Employee Representative Counsel for the Purpose and, further, in accordance with section 7(3)(c) of the *Canada Personal Information Protection and Electronic Documents Act*, section 18(1)(i) of the *British Columbia Personal Information Protection Act* and section 20 of the *Alberta Personal Information Protection Act*, this Order shall be sufficient to authorize the disclosure of the Information for the Purpose, without the knowledge or consent of the individual Represented Employees.

31. **THIS COURT ORDERS** that notice of the appointment of Employee Representative Counsel shall be provided by (a) the Nordstrom Canada Entities delivering a letter on behalf of Employee Representative Counsel to the Represented Employees explaining the terms of such appointment; (b) the inclusion of the details of such appointment in the CCAA Notice (as hereinafter defined); and (c) the posting of notice of such appointment on the Monitor’s Website (as hereinafter defined) and on Employee Representative Counsel’s website.

32. **THIS COURT ORDERS** that any individual Represented Employee who does not wish to be represented by the Employee Representatives and Employee Representative Counsel in the Insolvency Proceedings shall, within thirty (30) days of the date of the letter pursuant to paragraph 31 above, notify the Monitor, in writing that such Represented Employee is opting out of representation by the Employee Representatives and Employee Representative Counsel by delivering to the Monitor an opt-out notice in the form attached as Schedule “B” hereto (each an “**Opt-Out Notice**”), and shall thereafter not be bound by the actions of the Employee Representatives or Employee Representative Counsel and shall represent themselves or be represented by any counsel that such Represented Employee may retain exclusively at their own expense (any such Represented Employee that delivers an Opt-Out Notice in compliance with

the terms hereof, an “**Opt-Out Individual**”). The Monitor shall deliver copies of all Opt-Out Notices received to the Nordstrom Canada Entities and Employee Representative Counsel as soon as reasonably practicable.

33. **THIS COURT ORDERS** that, subject to the terms of the engagement letter between Nordstrom Canada and Employee Representative Counsel, Employee Representative Counsel shall be paid its reasonable and documented fees and disbursements by the Nordstrom Canada Entities on a monthly basis, promptly upon rendering its accounts to the Nordstrom Canada Entities for fulfilling its mandate in accordance with this Order, and subject to such redactions to the invoices as are necessary to maintain solicitor-client privilege between Employee Representative Counsel and the Represented Employees. In the event of any disagreement with respect to such fees and disbursements, such disagreement may be remitted to this Court for determination.

34. **THIS COURT ORDERS** that no action or proceeding may be commenced against Employee Representative Counsel or the Employee Representatives in respect of the performance of their duties under this Order, without leave of this Court on seven (7) days’ notice to Employee Representative Counsel or the Employee Representatives, as the case may be, the Nordstrom Canada Entities and the Monitor.

35. **THIS COURT ORDERS** that Employee Representative Counsel is authorized to take all steps and to do all acts necessary or desirable to carry out the terms of this Order, including dealing with any Court, regulatory body or other government ministry, department or agency, and to take all such steps as are necessary or incidental thereto. Employee Representative Counsel and Employee Representatives shall have no liability as a result of their appointment or the fulfilment of their duties in carrying out the provisions of this Order, save and except for any gross negligence or wilful misconduct on their part.

## **PROCEEDINGS AGAINST DIRECTORS AND OFFICERS**

36. ~~19.~~ **THIS COURT ORDERS** that during the Stay Period, and except as permitted by subsection 11.03(2) of the CCAA, no Proceeding may be commenced or continued against any of the former, current or future directors or officers of the ~~Applicant~~ Nordstrom Canada Entities with respect to any claim against the directors or officers that arose before the date hereof and

that relates to any obligations of the ~~Applicant~~ Nordstrom Canada Entities 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, ~~until a compromise or arrangement in respect of the Applicant, if one is filed, is sanctioned by this Court or is refused by the creditors of the Applicant or this Court.~~

## DIRECTORS' AND OFFICERS' INDEMNIFICATION AND CHARGE

37. ~~20.~~ **THIS COURT ORDERS** that the ~~Applicant~~ Nordstrom Canada Entities shall indemnify ~~its~~ their directors and officers against obligations and liabilities that they may incur as directors or officers of the ~~Applicant~~ Nordstrom Canada Entities after the commencement of the within proceedings,<sup>7</sup> 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.

38. ~~21.~~ **THIS COURT ORDERS** that the directors and officers of the ~~Applicant~~ Nordstrom Canada Entities shall be entitled to the benefit of and are hereby granted a charge (the "Directors' Charge")<sup>8</sup> on the Property, which charge shall not exceed an aggregate amount of \$ ~~10.75 million~~, as security for the indemnity provided in paragraph ~~20~~ 37 of this Order. The Directors' Charge shall have the priority set out in paragraphs ~~38~~ 49 and ~~40~~ 51 herein.

39. ~~22.~~ **THIS COURT ORDERS** that, notwithstanding any language in any applicable insurance policy to the contrary, (a) no insurer shall be entitled to be subrogated to or claim the benefit of the Directors' Charge; and (b) the ~~Applicant's~~ Nordstrom Canada Entities' 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 ~~20~~ 37 of this Order.

<sup>7</sup> ~~The broad indemnity language from Section 11.51 of the CCAA has been imported into this paragraph. The granting of the indemnity (whether or not secured by a Directors' Charge), and the scope of the indemnity, are discretionary matters that should be addressed with the Court.~~

<sup>8</sup> ~~Section 11.51(3) provides that the Court may not make this security/charging order if in the Court's opinion the Applicant could obtain adequate indemnification insurance for the director or officer at a reasonable cost.~~

## APPOINTMENT OF MONITOR

40. ~~23.~~ **THIS COURT ORDERS** that ~~[MONITOR'S NAME]~~ 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 ~~Applicant~~ Nordstrom Canada Entities with the powers and obligations set out in the CCAA or set forth herein and that the ~~Applicant~~ Nordstrom Canada Entities and ~~its~~ their shareholders, partners, members, officers, directors, and Assistants shall advise the Monitor of all material steps taken by the ~~Applicant~~ Nordstrom Canada Entities 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.

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

- (a) monitor the ~~Applicant's~~ Nordstrom Canada Entities' receipts and disbursements;
- (b) assist the Nordstrom Canada Entities with the Orderly Wind-down;
- (c) ~~(b)~~ report to this Court at such times and intervals as the Monitor may deem appropriate with respect to matters relating to the Property, the Business, ~~and such other matters as may be relevant to the proceedings herein;~~ certain shared services provided to and by the Nordstrom Canada Entities under the Wind-Down Agreement during the Orderly Wind-down and such other matters as may be relevant to the proceedings herein;
- ~~(e) — assist the Applicant, to the extent required by the Applicant, in its dissemination, to the DIP Lender and its counsel on a [TIME INTERVAL] basis of financial and other information as agreed to between the Applicant and the DIP Lender which may be used in these proceedings including reporting on a basis to be agreed with the DIP Lender;~~
- (d) advise the ~~Applicant~~ Nordstrom Canada Entities in ~~its~~ their preparation of the ~~Applicant~~ Nordstrom Canada Entities's cash flow statements and ~~reporting required by the DIP Lender, which~~ the dissemination of other financial information ~~shall be~~



- ~~reviewed with the Monitor and delivered to the DIP Lender and its counsel on a periodic basis, but not less than [TIME INTERVAL], or as otherwise agreed to by the DIP Lender;~~
- ~~(e) — advise the Applicant in its development of the Plan and any amendments to the Plan;~~
- ~~(f) — assist the Applicant, to the extent required by the Applicant, with the holding and administering of creditors' or shareholders' meetings for voting on the Plan;~~
- (e) ~~(g)~~ have full and complete access to the Property, including the premises, books, records, data, including data in electronic form, and other financial documents of the ~~Applicant~~Nordstrom Canada Entities, to the extent that is necessary to adequately assess the ~~Applicant's~~Nordstrom Canada Entities' business and financial affairs or to perform its duties arising under this Order;
- (f) liaise and consult with any Assistants and any liquidator selected through the Liquidation Solicitation Process, to the extent required, with respect to all matters relating to the Property, the Business, the Orderly Wind-down and such other matters as may be relevant to the proceedings herein;
- (g) administer the Employee Trust, in its role as Administrator, in consultation with the Trustee thereof, the Nordstrom Canada Entities and Employee Representative Counsel;
- (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) be at liberty to serve as a "foreign representative" of the Nordstrom Canada Entities in any proceeding outside of Canada;
- (j) assist the Nordstrom Canada Entities, to the extent required by the Nordstrom Canada Entities, with any matters relating to any foreign proceeding commenced in relation to any of the Nordstrom Canada Entities; and



(k) ~~(i)~~ perform such other duties as are required by this Order or by this Court from time to time.

42. ~~25.~~ **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.

43. ~~26.~~ **THIS COURT ORDERS** that nothing herein contained shall require the Monitor to occupy or to take control, care, charge, possession or management (separately and/or collectively, "Possession") of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the *Ontario Environmental Protection Act*, the *Ontario Water Resources Act*, ~~or~~ the Ontario *Occupational Health and Safety Act*, 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*, and the *Alberta Occupational Health and Safety Act* 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.

44. ~~27.~~ **THIS COURT ORDERS** that ~~that~~ the Monitor shall provide any creditor of the ~~Applicant and the DIP Lender~~ Nordstrom Canada Entities with information provided by the ~~Applicant~~ Nordstrom Canada Entities in response to reasonable requests for information made in writing by such creditor addressed to the Monitor. The Monitor shall not have any responsibility or liability with respect to the information disseminated by it pursuant to this paragraph. In the case of information that the Monitor has been advised by the ~~Applicant~~ Nordstrom Canada

Entities is confidential, the Monitor shall not provide such information to creditors unless otherwise directed by this Court or on such terms as the Monitor and the ~~Applicant~~ Nordstrom Canada Entities may agree.

45. ~~28.~~ **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, including, for greater certainty, in the Monitor's capacity as Administrator of the Employee Trust, 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.

46. ~~29.~~ **THIS COURT ORDERS** that the Monitor, counsel to the Monitor ~~and,~~ counsel to the ~~Applicant~~ Nordstrom Canada Entities, and counsel to the directors and officers of the Nordstrom Canada Entities, 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 ~~Applicant~~ Nordstrom Canada Entities as part of the costs of these proceedings. The ~~Applicant is~~ Nordstrom Canada Entities are hereby authorized and directed to pay the accounts of the Monitor, counsel ~~for to~~ the Monitor ~~and,~~ counsel ~~for to~~ the ~~Applicant on a [TIME INTERVAL] basis and, in addition, the Applicant~~ Nordstrom Canada Entities and counsel to the directors and officers of the Nordstrom Canada Entities, on such terms as such parties may agree and is hereby authorized to pay to the Monitor, counsel to the Monitor, ~~and~~ counsel to the Nordstrom Canada Entities, counsel to the ~~Applicant~~ directors and officers of the Nordstrom Canada Entities and Employee Representative Counsel, retainers ~~in the amount[s] of \$●-[, nunc pro tunc, respectively,]~~ to be held by them as security for payment of their respective fees and disbursements outstanding from time to time.

47. ~~30.~~ **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

48. ~~31.~~ **THIS COURT ORDERS** that the Monitor, counsel to the Monitor, ~~if any, and the Applicant's counsel~~ counsel to the Nordstrom Canada Entities, Employee Representative Counsel (up to the maximum amount of \$75,000), and counsel to the directors and officers of the Nordstrom Canada Entities 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 \$~~●~~, 750,000, as security for their professional fees and disbursements incurred at ~~the~~ 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 ~~{38} and {40}~~ hereof.

### **DIP FINANCING**

~~32. — THIS COURT ORDERS that the Applicant is hereby authorized and empowered to obtain and borrow under a credit facility from [DIP LENDER'S NAME] (the "DIP Lender") in order to finance the Applicant's working capital requirements and other general corporate purposes and capital expenditures, provided that borrowings under such credit facility shall not exceed \$● unless permitted by further Order of this Court.~~

~~33. — THIS COURT ORDERS THAT such credit facility shall be on the terms and subject to the conditions set forth in the commitment letter between the Applicant and the DIP Lender dated as of [DATE] (the "Commitment Letter"), filed.~~

~~34. — THIS COURT ORDERS that the Applicant is hereby authorized and empowered to execute and deliver such credit agreements, mortgages, charges, hypothecs and security documents, guarantees and other definitive documents (collectively, the "Definitive Documents"), as are contemplated by the Commitment Letter or as may be reasonably required by the DIP Lender pursuant to the terms thereof, and the Applicant is hereby authorized and directed to pay and perform all of its indebtedness, interest, fees, liabilities and obligations to the DIP Lender under and pursuant to the Commitment Letter and the Definitive Documents as and when the same become due and are to be performed, notwithstanding any other provision of this Order.~~

~~35. — THIS COURT ORDERS that the DIP Lender shall be entitled to the benefit of and is hereby granted a charge (the "DIP Lender's Charge") on the Property, which DIP Lender's~~

~~Charge shall not secure an obligation that exists before this Order is made. The DIP Lender's Charge shall have the priority set out in paragraphs [38]49 and [40]51 hereof.~~

~~36. THIS COURT ORDERS that, notwithstanding any other provision of this Order:~~

- ~~(a) the DIP Lender may take such steps from time to time as it may deem necessary or appropriate to file, register, record or perfect the DIP Lender's Charge or any of the Definitive Documents;~~
- ~~(b) upon the occurrence of an event of default under the Definitive Documents or the DIP Lender's Charge, the DIP Lender, upon ● days notice to the Applicant and the Monitor, may exercise any and all of its rights and remedies against the Applicant or the Property under or pursuant to the Commitment Letter, Definitive Documents and the DIP Lender's Charge, including without limitation, to cease making advances to the Applicant and set off and/or consolidate any amounts owing by the DIP Lender to the Applicant against the obligations of the Applicant to the DIP Lender under the Commitment Letter, the Definitive Documents or the DIP 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 Applicant and for the appointment of a trustee in bankruptcy of the Applicant; and~~
- ~~(c) the foregoing rights and remedies of the DIP Lender shall be enforceable against any trustee in bankruptcy, interim receiver, receiver or receiver and manager of the Applicant or the Property.~~

~~37. THIS COURT ORDERS AND DECLARES that the DIP Lender shall be treated as unaffected in any plan of arrangement or compromise filed by the Applicant under the CCAA, or any proposal filed by the Applicant under the *Bankruptcy and Insolvency Act* of Canada (the "BIA"), with respect to any advances made under the Definitive Documents.~~

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

49. ~~38.~~ **THIS COURT ORDERS** that the priorities of the ~~Directors' Charge, the~~ Administration Charge and the ~~DIP Lender's~~ Directors' Charge (collectively, the "Charges"), as among them, shall be as follows<sup>9</sup>:

(a) First ~~=~~ Administration Charge (to the maximum amount of \$~~●~~ 750,000); and

(b) Second ~~—DIP Lender's Charge; and~~

~~Third~~ ~~=~~ Directors' Charge (to the maximum amount of \$~~●~~ 10.75 million).

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

51. ~~40.~~ **THIS COURT ORDERS** that each of the ~~Directors' Charge, the Administration Charge and the DIP Lender's Charge (all as constituted and defined herein)~~ 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 Nordstrom Canada Entities 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.

<sup>9</sup> ~~The ranking of these Charges is for illustration purposes only, and is not meant to be determinative. This ranking may be subject to negotiation, and should be tailored to the circumstances of the case before the Court. Similarly, the quantum and caps applicable to the Charges should be considered in each case. Please also note that the CCAA now permits Charges in favour of critical suppliers and others, which should also be incorporated into this Order (and the rankings, above), where appropriate.~~

52. ~~41.~~ **THIS COURT ORDERS** that except as otherwise expressly provided for herein, or as may be approved by this Court, the ~~Applicant~~Nordstrom Canada Entities shall not grant any Encumbrances over any Property that rank in priority to, or pari passu with, any of the ~~Directors' Charge, the Administration Charge or the DIP Lender's Charge,~~Charges unless the ~~Applicant~~Nordstrom Canada Entities also ~~obtains~~obtain the prior written consent of the Monitor, ~~the DIP Lender~~ and the beneficiaries of the ~~Directors' Charge and the Administration Charge~~Charges (collectively, the "Chargees"), or further Order of this Court.

53. ~~42.~~ **THIS COURT ORDERS** that the ~~Directors' Charge, the Administration Charge, the Commitment Letter, the Definitive Documents and the DIP Lender's Charge~~Charges shall not be rendered invalid or unenforceable and the rights and remedies of the ~~chargees entitled to the benefit of the Charges (collectively, the "Chargees") and/or the DIP Lender~~ thereunder shall not otherwise be limited or impaired in any way by (a) the pendency of these proceedings and the declarations of insolvency made herein; (b) any application(s) for bankruptcy order(s) 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 ~~Applicant~~Nordstrom Canada Entities, and notwithstanding any provision to the contrary in any Agreement:

- (i) ~~(a) neither the creation of the Charges nor the execution, delivery, perfection, registration or performance of the Commitment Letter or the Definitive Documents shall~~ not create or be deemed to constitute a breach by the ~~Applicant~~Nordstrom Canada Entities of any Agreement to which ~~it is~~they are a party;
- (ii) ~~(b) none of the Chargees shall have any liability to any Person whatsoever as a result of any breach of any Agreement caused by or resulting from the Applicant entering into the Commitment Letter, the creation of the Charges, or the execution, delivery or performance of the Definitive Documents;~~ and
- (iii) ~~(c) the payments made by the Applicant~~Nordstrom Canada Entities pursuant to this Order, ~~the Commitment Letter or the Definitive Documents,~~ 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.

54. ~~43.~~ **THIS COURT ORDERS** that any Charge created by this Order over leases of real property in Canada shall only be a Charge in the ~~Applicant's interest~~ Nordstrom Canada Entities' interests in such real property leases.

## SERVICE AND NOTICE

55. ~~44.~~ **THIS COURT ORDERS** that the Monitor shall (~~i~~a) without delay, publish in ~~[newspapers specified by the Court]~~ Globe & Mail a notice containing the information prescribed under the CCAA, ~~(the "CCAA Notice"); and~~ (~~ii~~b) within five (5) days after the date of this Order, (~~A~~i) make this Order publicly available in the manner prescribed under the CCAA, (~~B~~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 Nordstrom Canada Entities' books and records), a notice to ~~every~~all known ~~creditor who has~~creditors having a claim against the ~~Applicant~~ Nordstrom Canada Entities of more than \$1,000, and (~~C~~iii) prepare a list showing the names and addresses of ~~those~~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.

56. **THIS COURT ORDERS** that any employee of any of the Nordstrom Canada Entities who is sent a notice of termination of employment or any other communication by the Nordstrom Canada Entities 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 (4<sup>th</sup>) 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 Nordstrom Canada Entities' books and records; provided, however, that any communication that is sent to an employee of the Nordstrom Canada Entities by electronic message to the individual's corporate email address and/or the individual's personal email address as last shown in the Nordstrom Canada Entities' books and records shall be deemed to have been received twenty-four (24) hours after the time such electronic message



was sent, notwithstanding the mailing of any notices of termination of employment or other employee communication.

57. ~~45.~~ **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/e-service-protocol/>~~<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~~[case website](#) shall be established in accordance with the Protocol with the following URL ~~“<@>”~~: <http://www.alvarezandmarsal.com/NordstromCanada> (the “**Monitor’s Website**”).

58. ~~46.~~ **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 ~~Applicant~~[Nordstrom Canada Entities](#) and the Monitor are at liberty to serve or distribute this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding ~~true~~ copies thereof by prepaid ordinary mail, courier, personal delivery ~~or~~, facsimile transmission or electronic message to the ~~Applicant's~~[Nordstrom Canada Entities'](#) creditors or other interested parties at their respective addresses (including e-mail addresses) as last shown ~~on~~in the books and records of the ~~Applicant~~[Nordstrom Canada Entities](#) 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 or, facsimile transmission shall be deemed to be received or electronic message sent after 5:00 p.m. Eastern Standard/Daylight Time; or (c) on the next third (3<sup>rd</sup>) business day following the date of forwarding thereof, or if sent by ordinary mail,



59. THIS COURT ORDERS that the Nordstrom Canada Entities 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 Nordstrom Canada Entities 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

60. THIS COURT ORDERS that the comeback motion in these CCAA proceedings shall be heard on March 10, 2023 (the ~~third business day after mailing~~ “Comeback Hearing”).

### GENERAL

61. ~~47.~~ THIS COURT ORDERS that the ~~Applicant~~ Nordstrom Canada Entities 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 ~~its~~ their respective powers and duties hereunder.

~~48. — THIS COURT ORDERS that nothing in this Order shall prevent the Monitor from acting as an interim receiver, a receiver, a receiver and manager, or a trustee in bankruptcy of the Applicant, the Business or the Property.~~

62. ~~49.~~ THIS COURT HEREBY REQUESTS the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States, to give effect to this Order and to assist the ~~Applicant~~ Nordstrom Canada Entities, the Monitor and their respective agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the ~~Applicant~~ Nordstrom Canada Entities and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Monitor in any foreign proceeding, or to assist the ~~Applicant~~ Nordstrom Canada Entities and the Monitor and their respective agents in carrying out the terms of this Order.

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

64. ~~51.~~ **THIS COURT ORDERS** that any interested party (including the ~~Applicant~~ Nordstrom Canada Entities and the Monitor) may apply to this Court to vary or amend this Order at the Comeback Hearing on not less than ~~seven~~ five (~~7~~ 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.

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

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## SCHEDULE "A"

### NOTICE OF DISPUTE REGARDING ELIGIBLE EMPLOYEE CLAIM

I, \_\_\_\_\_ (insert name and employee number if known), am disputing that I have been paid in full in respect of my Eligible Employee Claim, as such term is defined in the Trust Agreement. *\*\*Please see the Monitor's website at [www.alvarezandmarsal.com/NordstromCanada](http://www.alvarezandmarsal.com/NordstromCanada) or Employee Representative Counsel's website at [www.upfhlaw.ca](http://www.upfhlaw.ca) for further information.* \*\*

I am a \_\_\_\_\_ (insert position) in the store located at \_\_\_\_\_ (insert address/location).

The basis for my objection is:  
(insert full particulars regarding dispute, including all facts and calculations on which you are relying)

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Based on the foregoing, I claim that I am owed the sum of \$ \_\_\_\_\_.

Dated at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

Signature:

Address:

Tel:

Email:

## METHOD OF DELIVERY

This notice of dispute must be sent to Employee Representative Counsel and to the Monitor at the following addresses:

To Employee Representative Counsel:

Ursel Phillips Fellows Hopkinson LLP  
555 Richmond Street West  
Suite 1200  
Toronto, ON M5V 3R1

Attention: Susan Ursel  
Email: [sursel@upfhlaw.ca](mailto:sursel@upfhlaw.ca)

To the Monitor at:

Alvarez & Marsal Canada Inc., in its  
capacity as Court-appointed Monitor of the  
Nordstrom Canada Entities  
Royal Bank Plaza, South Tower  
200 Bay Street, Suite 2900  
P.O. Box 22  
Toronto, ON M5J 2J1

Attention: Nordstrom Canada Monitor  
Email: [NordstromCanada@alvarezandmarsal.com](mailto:NordstromCanada@alvarezandmarsal.com)

**NOTE: THIS MUST BE SENT TO EMPLOYEE REPRESENTATIVE COUNSEL**  
**AND THE MONITOR NO LATER THAN FORTY-FIVE (45) DAYS**  
**AFTER YOU RECEIVE YOUR LAST PAYMENT FROM NORDSTROM**  
**CANADA'S PAYROLL**

SCHEDULE “B”FORM OF REPRESENTED EMPLOYEE OPT-OUT NOTICE

To: Alvarez & Marsal Canada Inc., in its capacity as Court-appointed  
Monitor of the Nordstrom Canada Entities  
Royal Bank Plaza, South Tower  
200 Bay Street, Suite 2900  
P.O. Box 22  
Toronto, ON M5J 2J1

Attention: Nordstrom Canada Monitor  
 Email: NordstromCanada@alvarezandmarsal.com

I hereby provide written notice that I do not wish to be represented by Ursel Phillips Fellows  
Hopkinson LLP, employee representative counsel (the “Employee Representative Counsel”)  
for the Represented Employees of Nordstrom Canada Retail, Inc., Nordstrom Canada Holdings,  
LLC, Nordstrom Canada Holdings II, LLC and Nordstrom Canada Leasing LP (collectively, the  
“Nordstrom Canada Entities”) in their proceedings under the Companies’ Creditors  
Arrangement Act (the “CCAA Proceedings”). I understand that by opting out of this  
representation, if I wish to take part in the CCAA Proceedings, then I would need to do so as an  
independent party. I am responsible for retaining my own legal counsel should I choose to do so,  
and that I would be personally liable for the costs of my own legal representation.

I understand that a copy of this Opt-Out Form will be provided to the Employee Representative  
Counsel and to the Nordstrom Canada Entities.

Witness

Signature

Name [please print]:

Address:

Telephone:

Note: To opt out, this form must be completed and received at the above address on or  
before                      , 2023.

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 NORDSTROM CANADA RETAIL, INC., NORDSTROM  
CANADA HOLDINGS, LLC and NORDSTROM CANADA HOLDINGS II, LLC

Court

Applicants

Ontario  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL DIVISION

Proceeding commenced

INITIALS

**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

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# TAB 4

Court File No.

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

THE HONOURABLE	)	FRIDAY, THE 10 <sup>TH</sup>
	)	
● JUSTICE ●	)	DAY OF MARCH, 2023

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 NORDSTROM CANADA RETAIL, INC.,  
NORDSTROM CANADA HOLDINGS, LLC and NORDSTROM  
CANADA HOLDINGS II, LLC

**AMENDED AND RESTATED INITIAL ORDER  
(amending the Initial Order dated March 2, 2023)**

**THIS APPLICATION**, made by Nordstrom Canada Retail, Inc. (“**Nordstrom Canada**”), Nordstrom Canada Holdings, LLC and Nordstrom Canada Holdings II, LLC (collectively, the “**Applicants**”), pursuant to the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the “**CCAA**”) was heard this day at 330 University Avenue, Toronto, Ontario.

**ON READING** the affidavit of Misti Heckel sworn March 1, 2023, and the Exhibits thereto (the “**Initial Heckel Affidavit**”), the affidavit of Misti Heckel sworn March ●, 2023, and the Exhibits thereto, the pre-filing report dated March 1, 2023, of Alvarez & Marsal Canada Inc. (“**A&M**”), in its capacity as proposed monitor of the Nordstrom Canada Entities (as hereinafter defined), and the first report dated March ●, 2023, of A&M, in its capacity as monitor of the Nordstrom Canada Entities (in such capacity, the “**Monitor**”), and on hearing the submissions of counsel to the Applicants and Nordstrom Canada Leasing LP (“**Canada Leasing LP**”, and together with the Applicants, the “**Nordstrom Canada Entities**”), the Monitor, Employee Representative Counsel (as hereinafter defined) and such other counsel present, and on reading the consent of A&M to act as 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 Initial Heckel Affidavit.

## PLAN OF ARRANGEMENT

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

## APPLICATION

4. **THIS COURT ORDERS AND DECLARES** that the Applicants are companies to which the CCAA applies. Although not an Applicant, Canada Leasing LP shall have the benefits of the protections and authorizations provided by this Order.

## POSSESSION OF PROPERTY AND OPERATIONS

5. **THIS COURT ORDERS** that the Nordstrom Canada Entities 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 Nordstrom Canada Entities shall continue to carry on business in a manner consistent with the preservation of their business (the “**Business**”) and Property. The Nordstrom Canada Entities shall each be authorized and empowered to continue to retain and employ the employees, 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.

6. **THIS COURT ORDERS** that the Nordstrom Canada Entities shall be entitled to continue to use the central cash management system currently in place as described in the Initial Heckel Affidavit or, with the consent of the Monitor, replace it with another substantially similar central cash management system (the “**Cash Management System**”) and that any present or future bank providing the Cash Management System shall not be under any obligation whatsoever to inquire into the propriety, validity or legality of any transfer, payment, collection or other action taken under the Cash Management System, or as to the use or application by the Nordstrom Canada Entities 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 Nordstrom Canada Entities, 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 with regard to any claims or expenses it may suffer or incur in connection with the provision of the Cash Management System.

7. **THIS COURT ORDERS** that the Nordstrom Canada Entities 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 Nordstrom Canada Entities:

- (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 or future amounts owing in respect of customer rebates, refunds, discounts or other amounts on account of similar customer programs or obligations;
- (c) all outstanding or future amounts related to honouring customer obligations, including customer pre-payments, deposits, gift cards, programs (including, The Nordy Club rewards program and the redemptions of Nordstrom Notes) 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 Nordstrom Canada Entities at their standard rates and charges;
- (e) with the consent of the Monitor, amounts owing for goods or services supplied to the Nordstrom Canada Entities prior to the date of this Order, by:
  - (i) 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 up to a maximum aggregate amount of \$1.5 million, if, in the opinion of the Nordstrom Canada Entities following consultation with the Monitor, such supplier or service provider is critical to the Orderly Wind-down (as hereinafter defined).

8. **THIS COURT ORDERS** that, except as otherwise provided to the contrary herein, the Nordstrom Canada Entities shall be entitled but not required to pay all reasonable expenses incurred by them in carrying on the Business in the ordinary course during the Orderly Wind-down 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 Nordstrom Canada Entities following the date of this Order or, with the consent of the Monitor, payments to obtain the release or delivery of goods contracted for prior to the date of this Order.

9. **THIS COURT ORDERS** that the Nordstrom Canada Entities 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 Nordstrom Canada Entities' 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 Nordstrom Canada Entities in connection with the sale of goods and services by the Nordstrom Canada Entities, 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 remitted until on or after the date of this Order;
- (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 Nordstrom Canada Entities; and
- (d) taxes under the *Income Tax Act* (Canada) or other relevant taxing statute giving rise to any statutory deemed trust amounts in favour of the Crown in right of Canada or any Province thereof or any political subdivision thereof or any other taxation authority.

10. **THIS COURT ORDERS** that, until a real property lease, including a sublease and related documentation (each, a "**Lease**") to which any Nordstrom Canada Entity is a party is disclaimed in accordance with the CCAA or otherwise consensually terminated, such Nordstrom Canada Entity 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 Nordstrom Canada Entities or the making of this Order) or as otherwise may be negotiated between such Nordstrom Canada Entity 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. Without in any way impairing, limiting or lessening the priority, protections, rights or remedies of Canada Leasing LP, any Rent in respect of Premises Fixturing Costs payable by Nordstrom Canada to Canada Leasing LP under a Lease shall be stayed and suspended until further Order of this Court.

11. **THIS COURT ORDERS** that, except as specifically permitted herein, the Nordstrom Canada Entities 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 Nordstrom Canada Entities 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 for the purpose of the Orderly Wind-down or pursuant to this Order or any other Order of the Court.

#### **ORDERLY WIND-DOWN**

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

- (a) permanently or temporarily cease, downsize or shut down any of the Business or operations, and to dispose of redundant or non-material assets not exceeding \$250,000 in any one transaction or \$1 million in the aggregate in any series of related transactions; provided that, with respect to leased premises, the Nordstrom Canada Entities may, subject to the requirements of the CCAA and paragraphs 10, 13 and 14 herein, vacate, abandon or quit the whole (but not part of) and may permanently (but not temporarily) cease, downsize or shut down any of the Business or operations in respect of any leased premises;

- (b) terminate the employment of such of its employees or temporarily lay off such of its employees as the applicable Nordstrom Canada Entity deems appropriate;
- (c) pursue all offers for sales of material parts of the Business or the Property, in whole or part, subject to prior approval of this Court being obtained before any sale (except as permitted by paragraph 12(a) above);
- (d) perform their obligations under the Wind-Down Agreement, including with respect to the provision of and payment for shared services;
- (e) in consultation with, and with the oversight of the Monitor, (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 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; and
- (f) apply to this Court for such approval, vesting or other Orders as may be necessary to consummate sale transactions for all or any part of the Property, including, without limitation, approval of a consulting or agency agreement concerning the liquidation of inventory, furniture, fixtures, and equipment forming part of the Property, and any related relief,

all of the foregoing to permit the Nordstrom Canada Entities to proceed with an orderly wind-down of the Business (the “**Orderly Wind-down**”).

13. **THIS COURT ORDERS** that the Nordstrom Canada Entities shall provide each of the relevant Landlords with notice of the Nordstrom Canada Entities’ intention to remove any fixtures from any leased premises at least seven (7) days prior to the date of the intended removal. The relevant Landlord shall be entitled to have a representative present in the leased premises to observe such removal and, if the Landlord disputes the Nordstrom Canada Entities’ entitlement to remove any such fixture under the provisions of the applicable Lease, such fixture shall remain on the premises and shall be dealt with as agreed between any applicable secured creditors, such

Landlord and the Nordstrom Canada Entities, or by further Order of this Court upon application by the Nordstrom Canada Entities on at least two (2) days notice to such Landlord and any such secured creditors. If the Nordstrom Canada Entities disclaim the Lease governing such leased premises in accordance with Section 32 of the CCAA, the Nordstrom Canada Entities shall not be required to pay Rent under such Lease pending resolution of any such dispute (other than Rent payable for the notice period provided for in Section 32(5) of the CCAA), and the disclaimer of the Lease shall be without prejudice to the Nordstrom Canada Entities' claim to the fixtures in dispute.

14. **THIS COURT ORDERS** that if a notice of disclaimer is delivered pursuant to Section 32 of the CCAA, then (a) during the notice period prior to the effective time of the disclaimer, the Landlord may show the affected leased premises to prospective tenants during normal business hours, on giving the Nordstrom Canada Entities and the Monitor at least twenty-four (24) hours' prior written notice; and (b) at the effective time of the disclaimer, the relevant Landlord shall be entitled to take possession of any such leased premises without waiver of or prejudice to any claims or rights such Landlord may have against the Nordstrom Canada Entities 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**

15. **THIS COURT ORDERS** that until and including June 30, 2023, 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 Nordstrom Canada Entities or the Monitor, or 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 Nordstrom Canada Entities and the Monitor, or with leave of this Court, and any and all Proceedings currently under way against or in respect of the Nordstrom Canada Entities, 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.

16. **THIS COURT ORDERS** that during the Stay Period, no Person having any agreements or arrangements with the owners, operators, managers or landlords of commercial shopping

centres or other commercial properties (including retail, office and industrial (warehouse) properties) in which there is located a store, office or warehouse owned or operated by the Nordstrom Canada Entities shall take any Proceedings or exercise any rights or remedies under such agreements or arrangements that may arise upon and/or as a result of the making of this Order, the declarations of insolvency by the Nordstrom Canada Entities or as a result of any steps taken by the Nordstrom Canada Entities pursuant to this Order and, without limiting the generality of the foregoing, no Person shall terminate, accelerate, suspend, modify, determine or cancel any such arrangement or agreement or be entitled to exercise any rights or remedies in connection therewith.

17. **THIS COURT ORDERS** that, until and including June 30, 2023, no Proceeding shall be commenced or continued against or in respect of Nordstrom, Inc. and its direct and indirect subsidiaries (other than the Nordstrom Canada Entities) (collectively, “**Nordstrom US**”) arising out of or in connection with any right, remedy or claim of any Person against Nordstrom US in connection with any indebtedness, indemnity, liability or obligation of any kind whatsoever of Nordstrom US under contract, statute or otherwise, whether or not such right or claim is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, unsecured, perfected, unperfected, present, future, known, or unknown, by indemnity, guarantee, surety or otherwise, and whether or not such right is executory or anticipatory in nature, including the right or ability of any Person to advance a claim for contribution, indemnity or otherwise, with respect to any matter, action, cause or chose in action, whether existing at present or commenced in future, which indebtedness, indemnity, liability or obligation is derivative of the primary liability of or related to the Nordstrom Canada Entities, except with the written consent of the Nordstrom Canada Entities, Nordstrom US and the Monitor, or with leave of this Court; provided that, this paragraph shall not apply to any present or future bank providing the Cash Management System in connection with any claims or expenses it may suffer or incur in connection with the provision of the Cash Management System.

18. **THIS COURT ORDERS** that, without in any way altering, increasing, creating or eliminating any obligation or duty to mitigate losses or damages of any Landlord: (a) any Landlord claim pursuant to an indemnity, guarantee or surety executed by Nordstrom US in relation to any Nordstrom Canada Entity shall be unaffected and shall not be released or affected in any way in any Plan filed by the Applicants under the CCAA, or any proposal filed by the Nordstrom Canada



Entities under the Bankruptcy and Insolvency Act (Canada) (“**BIA**”); and (b) any Landlord claim pursuant to an indemnity, guarantee or surety executed by Nordstrom US in relation to any Nordstrom Canada Entity shall be unaffected by any determination of any rights, remedies and claims of such Landlords as against the Nordstrom Canada Entities, whether made in the within proceedings under the CCAA or in any subsequent proposal or bankruptcy proceedings under the BIA, other than that any recoveries under such proceedings received by such Landlords shall constitute a reduction and offset to such claim.

19. **THIS COURT ORDERS** that, to the extent any prescription, time or limitation period relating to any Proceeding against or in respect of any Nordstrom Canada Entity 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**

20. **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 Nordstrom Canada Entities 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 Nordstrom Canada Entities and the Monitor, or leave of this Court, provided that nothing in this Order shall (a) empower the Nordstrom Canada Entities 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**

21. **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, licence or permit in favour of or held by the Nordstrom Canada Entities, except with the prior written consent of the Nordstrom Canada Entities and the Monitor, or leave of this Court. Without limiting the foregoing, no right, option, remedy, and/or

exemption in favour of the relevant Nordstrom Canada Entities shall be or shall be deemed to be negated, suspended, waived and/or terminated as a result of this Order.

### **CONTINUATION OF SERVICES**

22. **THIS COURT ORDERS** that during the Stay Period, all Persons having oral or written agreements with the Nordstrom Canada Entities or statutory or regulatory mandates for the supply or license of goods and/or services, including without limitation all computer software, 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 Nordstrom Canada Entities, 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 Nordstrom Canada Entities, and that the Nordstrom Canada Entities 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 Nordstrom Canada Entities in accordance with normal payment practices of the Nordstrom Canada Entities or such other practices as may be agreed upon by the supplier or service provider and the applicable Nordstrom Canada Entities and the Monitor, or as may be ordered by this Court.

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

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

### **EMPLOYEE TRUST**

24. **THIS COURT ORDERS** that the creation of the Employee Trust, as described in the Initial Heckel Affidavit, is hereby approved on substantially the terms and conditions set out in the Trust Agreement attached as Exhibit "T" to the Initial Heckel Affidavit, including, without

limitation, the appointment of Gale Rubenstein, as trustee (the “**Trustee**”), and the Monitor, as administrator (the “**Administrator**”), of the Employee Trust, and authorizes and directs the Monitor to act in such capacity, and the parties thereto to execute the Trust Agreement.

25. **THIS COURT ORDERS** that the Nordstrom Canada Entities are authorized to process or cause to be processed all amounts received from the Employee Trust, including making payments to the Beneficiaries (as defined in the Trust Agreement), subject to and in accordance with the terms and conditions of the Trust Agreement.

26. **THIS COURT ORDERS** that the amounts received by the Nordstrom Canada Entities from the Employee Trust, (a) when in the hands of the Nordstrom Canada Entities; and (b) when paid to any payment processor, shall be deemed to be held in trust for and on behalf of the Beneficiaries, subject to and in accordance with the Trust Agreement and shall not constitute property of the Nordstrom Canada Entities including, without limitation, under the CCAA and BIA, and shall not be subject to the claims of any Person other than as provided under the Trust Agreement.

27. **THIS COURT ORDERS** that the creation, establishment, funding and administration of the Employee Trust shall not, in whole or in part, directly or indirectly, (a) cause Nordstrom US to be or be deemed to be; or (b) in any way be relied upon to claim or assert that Nordstrom US is or is deemed to be, either (i) an employer, or (ii) a joint, common or related employer under contract, statute, common law or otherwise of any employee of the Nordstrom Canada Entities.

28. **THIS COURT ORDERS** that:

- (a) each Beneficiary shall be deemed to release the Releasees (as defined in the Trust Agreement) on the payment of a distribution from the Employee Trust in respect of such Beneficiary’s Eligible Employee Claim (as defined in the Trust Agreement), to the extent of such distribution (the “**Payment Release**”);
- (b) each Beneficiary shall be deemed to release the Releasees in respect of the full amount of such Beneficiary’s Eligible Employee Claim, sixty (60) days after the final payment to such Beneficiary under the Employee Trust or such later date as the Monitor, in its sole discretion, may designate; provided that, such Beneficiary has not delivered a notice of dispute to the Monitor and Employee Representative Counsel, substantially

in the manner and form attached as Schedule “A” hereto, within forty-five (45) days of the final payment to such Beneficiary; provided further that, in the event of any insufficiency of funds in the Employee Trust to cover a Beneficiary’s total Eligible Employee Claim, only the Payment Release shall be effective and there shall be no deemed full and final release of the full Eligible Employee Claim; and

- (c) the Settlor (as defined in the Trust Agreement) shall be deemed to be fully and completely subrogated to all rights of recovery of the Beneficiaries against Nordstrom Canada, in an amount equal to the aggregate gross amount paid to such Beneficiaries directly or indirectly from the Employee Trust.

29. **THIS COURT ORDERS** that without limiting the authorizations, protections and indemnities in favour of the Trustee set forth in the Trust Agreement, no action or proceeding may be commenced against the Trustee in respect of the Employee Trust without leave of this Court.

#### **EMPLOYEE REPRESENTATIVE COUNSEL**

30. **THIS COURT ORDERS** that Ursel Phillips Fellows Hopkinson LLP (“**Employee Representative Counsel**”) is hereby appointed as employee representative counsel to represent the interests of (a) all store-level employees; (b) all non-store level employees, other than (i) non-store level employees who will be eligible for a KERP payment, (ii) directors and officers of the Nordstrom Canada Entities, and (iii) the Senior Vice President, Regional Manager for Canada (collectively, the “**Represented Employees**”) in these CCAA proceedings, in any proceedings under the BIA or in any other proceedings respecting the insolvency of the Nordstrom Canada Entities which may be brought before this Court (collectively, the “**Insolvency Proceedings**”), for any employment, human rights or other workplace law issues affecting such Represented Employees in the Insolvency Proceedings, including, without limitation, with respect to the Trust Agreement, the Claims Process (as defined in the Trust Agreement) and the settlement or compromise of any rights, entitlements or claims of the Represented Employees (the “**Purpose**”).

31. **THIS COURT ORDERS** that the Employee Representative Counsel shall be entitled but not required to commence the process of identifying no more than three (3) Represented Employees to be nominated as Court-appointed representatives (the “**Employee Representatives**”) as soon as practicable following the date hereof. The Employee

Representatives shall, upon appointment, represent all Represented Employees (excluding the Opt-Out Individuals (as hereinafter defined), if any) in the Insolvency Proceedings, to act in the overall best interests of the Represented Employees and to advise and where appropriate instruct Employee Representative Counsel, in each case, solely for the Purpose. Employee Representative Counsel may rely upon the advice, information and instructions received from the Employee Representatives in carrying out its mandate without further communications with or instructions from the Represented Employees, except as may be recommended by Employee Representative Counsel or ordered by this Court.

32. **THIS COURT ORDERS** that, with the exception of Opt-Out Individuals, (a) the Employee Representatives and Employee Representative Counsel shall represent all Represented Employees in the Insolvency Proceedings; (b) the Represented Employees shall be bound by the actions of the Employee Representatives and Employee Representative Counsel in the Insolvency Proceedings; and (c) the Employee Representatives shall be entitled, on the advice of Employee Representative Counsel, to reach any settlement agreements, advocate on behalf of the Represented Employees for the Purpose and settle or compromise any rights, entitlements or claims of the Represented Employees, subject to approval of this Court.

33. **THIS COURT ORDERS** that the Nordstrom Canada Entities shall provide Employee Representative Counsel, the Employee Representatives and their respective advisors, subject to confidentiality arrangements acceptable to the Nordstrom Canada Entities and the Monitor, without charge, the following information, documents and data (the “**Information**”) to only be used for the Purpose in the Insolvency Proceedings: (a) the names, last known addresses and last known telephone numbers and e-mail addresses (if any) of the Represented Employees (excluding Opt-Out Individuals, if any, who have opted out prior to delivery of the Information); and (b) upon request of Employee Representative Counsel, such documents and data as may be reasonably relevant to matters relating to the issues affecting the Represented Employees in the Insolvency Proceedings, and that, in so providing all such Information, the Nordstrom Canada Entities are not required to obtain express consent from such Represented Employees authorizing disclosure of Information to Employee Representative Counsel for the Purpose and, further, in accordance with section 7(3)(c) of the *Canada Personal Information Protection and Electronic Documents Act*, section 18(1)(i) of the *British Columbia Personal Information Protection Act* and section 20 of the *Alberta Personal Information Protection Act*, this Order shall be sufficient to authorize the

disclosure of the Information for the Purpose, without the knowledge or consent of the individual Represented Employees.

34. **THIS COURT ORDERS** that notice of the appointment of Employee Representative Counsel shall be provided by (a) the Nordstrom Canada Entities delivering a letter on behalf of Employee Representative Counsel to the Represented Employees explaining the terms of such appointment; (b) the inclusion of the details of such appointment in the CCAA Notice (as hereinafter defined); and (c) the posting of notice of such appointment on the Monitor's Website (as hereinafter defined) and on Employee Representative Counsel's website.

35. **THIS COURT ORDERS** that any individual Represented Employee who does not wish to be represented by the Employee Representatives and Employee Representative Counsel in the Insolvency Proceedings shall, within thirty (30) days of the date of the letter pursuant to paragraph 34 above, notify the Monitor, in writing that such Represented Employee is opting out of representation by the Employee Representatives and Employee Representative Counsel by delivering to the Monitor an opt-out notice in the form attached as Schedule "B" hereto (each an "**Opt-Out Notice**"), and shall thereafter not be bound by the actions of the Employee Representatives or Employee Representative Counsel and shall represent themselves or be represented by any counsel that such Represented Employee may retain exclusively at their own expense (any such Represented Employee that delivers an Opt-Out Notice in compliance with the terms hereof, an "**Opt-Out Individual**"). The Monitor shall deliver copies of all Opt-Out Notices received to the Nordstrom Canada Entities and Employee Representative Counsel as soon as reasonably practicable.

36. **THIS COURT ORDERS** that, subject to the terms of the engagement letter between Nordstrom Canada and Employee Representative Counsel, Employee Representative Counsel shall be paid its reasonable and documented fees and disbursements by the Nordstrom Canada Entities on a monthly basis, promptly upon rendering its accounts to the Nordstrom Canada Entities for fulfilling its mandate in accordance with this Order, and subject to such redactions to the invoices as are necessary to maintain solicitor-client privilege between Employee Representative Counsel and the Represented Employees. In the event of any disagreement with respect to such fees and disbursements, such disagreement may be remitted to this Court for determination.

37. **THIS COURT ORDERS** that no action or proceeding may be commenced against Employee Representative Counsel or the Employee Representatives in respect of the performance of their duties under this Order, without leave of this Court on seven (7) days' notice to Employee Representative Counsel or the Employee Representatives, as the case may be, the Nordstrom Canada Entities and the Monitor.

38. **THIS COURT ORDERS** that Employee Representative Counsel is authorized to take all steps and to do all acts necessary or desirable to carry out the terms of this Order, including dealing with any Court, regulatory body or other government ministry, department or agency, and to take all such steps as are necessary or incidental thereto. Employee Representative Counsel and Employee Representatives shall have no liability as a result of their appointment or the fulfilment of their duties in carrying out the provisions of this Order, save and except for any gross negligence or wilful misconduct on their part.

#### **KEY EMPLOYEE RETENTION PLAN**

39. **THIS COURT ORDERS** that the Key Employee Retention Plan (the "**KERP**"), as described in the Initial Heckel Affidavit, is hereby approved and the Nordstrom Canada Entities are authorized to make payments contemplated thereunder in accordance with the terms and conditions of the KERP.

40. **THIS COURT ORDERS** that the key employees referred to in the KERP (the "**Key Employees**") shall be entitled to the benefit of and are hereby granted a charge on the Property, which charge shall not exceed an aggregate amount of \$2.6 million (the "**KERP Charge**"), as security for amounts payable to the Key Employees pursuant to the KERP. The KERP Charge shall have the priority set out in paragraphs 54 and 56 hereof.

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

41. **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 Nordstrom Canada Entities with respect to any claim against the directors or officers that arose before the date hereof and that relates to any obligations of the Nordstrom Canada Entities 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**

42. **THIS COURT ORDERS** that the Nordstrom Canada Entities shall indemnify their directors and officers against obligations and liabilities that they may incur as directors or officers of the Nordstrom Canada Entities 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.

43. **THIS COURT ORDERS** that the directors and officers of the Nordstrom Canada Entities 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 \$13.25 million, as security for the indemnity provided in paragraph 42 of this Order. The Directors' Charge shall have the priority set out in paragraphs 54 and 56 herein.

44. **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 Nordstrom Canada Entities' 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 42 of this Order.

#### **APPOINTMENT OF MONITOR**

45. **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 Nordstrom Canada Entities with the powers and obligations set out in the CCAA or set forth herein and that the Nordstrom Canada Entities and their shareholders, partners, members, officers, directors, and Assistants shall advise the Monitor of all material steps taken by the Nordstrom Canada Entities 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.



46. **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 Nordstrom Canada Entities' receipts and disbursements;
- (b) assist the Nordstrom Canada Entities with the Orderly Wind-down;
- (c) 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, certain shared services provided to and by the Nordstrom Canada Entities under the Wind-Down Agreement during the Orderly Wind-down and such other matters as may be relevant to the proceedings herein;
- (d) advise the Nordstrom Canada Entities in their preparation of the Nordstrom Canada Entities' cash flow statements and the dissemination of other financial information;
- (e) advise the Nordstrom Canada Entities in their development of the Plan and any amendments to the Plan;
- (f) assist the Nordstrom Canada Entities, to the extent required by the Nordstrom Canada Entities, with the holding and administering of creditors' or shareholders' meetings for voting on the Plan;
- (g) have full and complete access to the Property, including the premises, books, records, data, including data in electronic form, and other financial documents of the Nordstrom Canada Entities, to the extent that is necessary to adequately assess the Nordstrom Canada Entities' business and financial affairs or to perform its duties arising under this Order;
- (h) liaise and consult with any Assistants and any liquidator selected through the Liquidation Solicitation Process, to the extent required, with respect to all matters relating to the Property, the Business, the Orderly Wind-down and such other matters as may be relevant to the proceedings herein;
- (i) administer the Employee Trust, in its role as Administrator, in consultation with the Trustee thereof, the Nordstrom Canada Entities and Employee Representative Counsel;

- (j) 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;
- (k) be at liberty to serve as a “foreign representative” of the Nordstrom Canada Entities in any proceeding outside of Canada;
- (l) assist the Nordstrom Canada Entities, to the extent required by the Nordstrom Canada Entities, with any matters relating to any foreign proceeding commenced in relation to any of the Nordstrom Canada Entities; and
- (m) perform such other duties as are required by this Order or by this Court from time to time.

47. **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.

48. **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*, and the *Alberta Occupational Health and Safety Act* 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.

49. **THIS COURT ORDERS** that the Monitor shall provide any creditor of the Nordstrom Canada Entities with information provided by the Nordstrom Canada Entities 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 Nordstrom Canada Entities 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 Nordstrom Canada Entities may agree.

50. **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, including, for greater certainty, in the Monitor's capacity as Administrator of the Employee Trust, 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.

51. **THIS COURT ORDERS** that the Monitor, counsel to the Monitor, counsel to the Nordstrom Canada Entities, and counsel to the directors and officers of the Nordstrom Canada Entities, 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 Nordstrom Canada Entities as part of the costs of these proceedings. The Nordstrom Canada Entities are hereby authorized and directed to pay the accounts of the Monitor, counsel to the Monitor, counsel to the Nordstrom Canada Entities and counsel to the directors and officers of the Nordstrom Canada Entities, on such terms as such parties may agree and is hereby authorized to pay to the Monitor, counsel to the Monitor, counsel to the Nordstrom Canada Entities, counsel to the directors and officers of the Nordstrom Canada Entities and Employee Representative Counsel, retainers, *nunc pro tunc*, to be held by them as security for payment of their respective fees and disbursements outstanding from time to time.

52. **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**

53. **THIS COURT ORDERS** that the Monitor, counsel to the Monitor, counsel to the Nordstrom Canada Entities, Employee Representative Counsel (up to the maximum amount of \$75,000) and counsel to the directors and officers of the Nordstrom Canada Entities, 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 \$1.5 million, 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 54 and 56 hereof.

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

54. **THIS COURT ORDERS** that the priorities of the Administration Charge, the Directors’ Charge and the KERP Charge (collectively, the “**Charges**”), as among them, shall be as follows:

- (a) First – Administration Charge (to the maximum amount of \$1.5 million);
- (b) Second – KERP Charge (to the maximum amount of \$2.6 million); and
- (c) Third – Directors’ Charge (to the maximum amount of \$13.25 million).

55. **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.

56. **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.

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

58. **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 Nordstrom Canada Entities, and notwithstanding any provision to the contrary in any Agreement:

- (i) the creation of the Charges shall not create or be deemed to constitute a breach by the Nordstrom Canada Entities of any Agreement to which they are a party,
- (ii) 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, and
- (iii) the payments made by the Nordstrom Canada Entities pursuant to this Order 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.

59. **THIS COURT ORDERS** that any Charge created by this Order over leases of real property in Canada shall only be a Charge in the Nordstrom Canada Entities’ interests in such real property leases.

## SERVICE AND NOTICE

60. **THIS COURT ORDERS** that the Monitor shall (a) without delay, publish in the Globe & Mail a notice containing the information prescribed under the CCAA (the “**CCAA Notice**”); 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 Nordstrom Canada Entities’ books and records), a notice to all known creditors having a claim against the Nordstrom Canada Entities 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.

61. **THIS COURT ORDERS** that any employee of any of the Nordstrom Canada Entities who is sent a notice of termination of employment or any other communication by the Nordstrom Canada Entities 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 (4<sup>th</sup>) 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 Nordstrom Canada Entities’ books and records; provided, however, that any communication that is sent to an employee of the Nordstrom Canada Entities by electronic message to the individual’s corporate email address and/or the individual’s personal email address as last shown in the Nordstrom Canada Entities’ books and records shall be deemed to have been received twenty-four (24) hours after the time such electronic message was sent, notwithstanding the mailing of any notices of termination of employment or other employee communication.

62. **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: <http://www.alvarezandmarsal.com/NordstromCanada> (the “**Monitor’s Website**”).

63. **THIS COURT ORDERS** that the Monitor shall create, maintain and update as necessary a list of all Persons appearing in person or by counsel in these proceedings (the “**Service List**”). The Monitor shall post the Service List, as may be updated from time to time, on the Monitor’s Website, provided that the Monitor shall have no liability in respect of the accuracy of or the timeliness of making any changes to the Service List.

64. **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 Nordstrom Canada Entities 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 Nordstrom Canada Entities’ creditors or other interested parties at their respective addresses (including e-mail addresses) as last shown in the books and records of the Nordstrom Canada Entities 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 (3<sup>rd</sup>) business day following the date of forwarding thereof, if sent by ordinary mail.

65. **THIS COURT ORDERS** that the Nordstrom Canada Entities 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 Nordstrom Canada Entities 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).

## GENERAL

66. **THIS COURT ORDERS** that the Nordstrom Canada Entities 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.

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

68. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States, to give effect to this Order and to assist the Nordstrom Canada Entities, 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 Nordstrom Canada Entities 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 Nordstrom Canada Entities and the Monitor and their respective agents in carrying out the terms of this Order.

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

70. **THIS COURT ORDERS** that any interested party (including the Nordstrom Canada Entities and the Monitor) may apply to this Court to vary or amend this Order on not less than seven (7) 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.



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

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# SCHEDULE "A"

## NOTICE OF DISPUTE REGARDING ELIGIBLE EMPLOYEE CLAIM

I, \_\_\_\_\_ (insert name and employee number if known), am disputing that I have been paid in full in respect of my Eligible Employee Claim, as such term is defined in the Trust Agreement. *\*\*Please see the Monitor's website at [www.alvarezandmarsal.com/NordstromCanada](http://www.alvarezandmarsal.com/NordstromCanada) or Employee Representative Counsel's website at [www.upfhlaw.ca](http://www.upfhlaw.ca) for further information.* \*\*

I am a \_\_\_\_\_ (insert position) in the store located at \_\_\_\_\_ (insert address/location).

The basis for my objection is:

(insert full particulars regarding dispute, including all facts and calculations on which you are relying)

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Based on the foregoing, I claim that I am owed the sum of \$ \_\_\_\_\_.

Dated at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

Signature:

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Address:

---

Tel:

---

Email:

---



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**METHOD OF DELIVERY**

This notice of dispute must be sent to Employee Representative Counsel and to the Monitor at the following addresses:

To Employee Representative Counsel:

Ursel Phillips Fellows Hopkinson LLP  
555 Richmond Street West  
Suite 1200  
Toronto, ON M5V 3R1

Attention: Susan Ursel  
Email: [sursel@upfhlaw.ca](mailto:sursel@upfhlaw.ca)

To the Monitor at:

Alvarez & Marsal Canada Inc., in its  
capacity as Court-appointed Monitor of the  
Nordstrom Canada Entities  
Royal Bank Plaza, South Tower  
200 Bay Street, Suite 2900  
P.O. Box 22  
Toronto, ON M5J 2J1

Attention: Nordstrom Canada Monitor  
Email: [NordstromCanada@alvarezandmarsal.com](mailto:NordstromCanada@alvarezandmarsal.com)

**NOTE: THIS MUST BE SENT TO EMPLOYEE REPRESENTATIVE COUNSEL  
AND THE MONITOR NO LATER THAN FORTY-FIVE (45) DAYS AFTER  
YOU RECEIVE YOUR LAST PAYMENT FROM NORDSTROM  
CANADA'S PAYROLL**

## SCHEDULE “B”

### FORM OF REPRESENTED EMPLOYEE OPT-OUT NOTICE

To: Alvarez & Marsal Canada Inc., in its capacity as Court-appointed  
Monitor of the Nordstrom Canada Entities  
Royal Bank Plaza, South Tower  
200 Bay Street, Suite 2900  
P.O. Box 22  
Toronto, ON M5J 2J1

Attention : Nordstrom Canada Monitor  
Email : [NordstromCanada@alvarezandmarsal.com](mailto:NordstromCanada@alvarezandmarsal.com)

I hereby provide written notice that I do not wish to be represented by Ursel Phillips Fellows Hopkinson LLP, employee representative counsel (the “**Employee Representative Counsel**”) for the Represented Employees of Nordstrom Canada Retail, Inc., Nordstrom Canada Holdings, LLC, Nordstrom Canada Holdings II, LLC and Nordstrom Canada Leasing LP (collectively, the “**Nordstrom Canada Entities**”) in their proceedings under the *Companies’ Creditors Arrangement Act* (the “**CCAA Proceedings**”). I understand that by opting out of this representation, if I wish to take part in the CCAA Proceedings, then I would need to do so as an independent party. I am responsible for retaining my own legal counsel should I choose to do so, and that I would be personally liable for the costs of my own legal representation.

I understand that a copy of this Opt-Out Form will be provided to the Employee Representative Counsel and to the Nordstrom Canada Entities.

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Signature

Name [please print]: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Telephone: \_\_\_\_\_

**Note: To opt out, this form must be completed and received at the above address on or before \_\_\_\_\_, 2023.**

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 NORDSTROM CANADA RETAIL, INC.,  
NORDSTROM CANADA HOLDINGS, LLC and NORDSTROM CANADA HOLDINGS II, LLC

Court File No:

Applicants

*Ontario*  
**SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

Proceeding commenced at Toronto

**AMENDED AND RESTATED 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](mailto:tsandler@osler.com)

Jeremy Dacks (LSO# 41851R)  
Tel: 416.862.4923  
Email: [jdacks@osler.com](mailto:jdacks@osler.com)

Martino Calvaruso (LSO# 57359Q)  
Tel: 416.862.6665  
Email: [mcalvaruso@osler.com](mailto:mcalvaruso@osler.com)

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

Lawyers for the Nordstrom Canada Entities

# TAB 5

Court File No. —

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

THE HONOURABLE ) ~~WEEKDAY~~FRIDAY, THE #10<sup>TH</sup>  
 )  
● ) DAY OF ~~MONTH~~MARCH, 20~~YR~~23  
 )  
JUSTICE — ●

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 ~~[APPLICANT'S NAME]~~ (the  
"~~Applicant~~") NORDSTROM CANADA RETAIL, INC.,  
NORDSTROM CANADA HOLDINGS, LLC and NORDSTROM  
CANADA HOLDINGS II, LLC

**AMENDED AND RESTATED INITIAL ORDER**  
**(amending the Initial Order dated March 2, 2023)**

**THIS APPLICATION**, made by ~~the Applicant~~ Nordstrom Canada Retail, Inc.  
("Nordstrom Canada"), Nordstrom Canada Holdings, LLC and Nordstrom Canada Holdings II,  
LLC (collectively, the "Applicants"), pursuant to the *Companies' Creditors Arrangement Act*,  
R.S.C. 1985, c. C-36, as amended (the "CCAA") was heard this day at 330 University Avenue,  
Toronto, Ontario.

**ON READING** the affidavit of ~~[NAME]~~ Misti Heckel sworn ~~[DATE]~~ March 1, 2023, and  
the Exhibits thereto, ~~and on being advised that the secured creditors who are likely to be affected~~  
~~by the charges created herein were given notice~~ (the "Initial Heckel Affidavit"), the affidavit of  
Misti Heckel sworn March ●, 2023, and the Exhibits thereto, the pre-filing report dated March 1,  
2023, of Alvarez & Marsal Canada Inc. ("A&M"), in its capacity as proposed monitor of the  
Nordstrom Canada Entities (as hereinafter defined), and the first report dated March ●, 2023, of  
A&M, in its capacity as monitor of the Nordstrom Canada Entities (in such capacity, the  
"Monitor"), and on hearing the submissions of counsel ~~for [NAMES], no one appearing for~~

~~[NAME]<sup>†</sup> although duly served as appears from the affidavit of service of [NAME] sworn~~  
~~[DATE]~~ to the Applicants and Nordstrom Canada Leasing LP (“**Canada Leasing LP**”, and  
together with the Applicants, the “**Nordstrom Canada Entities**”), the Monitor, Employee  
Representative Counsel (as hereinafter defined) and such other counsel present, and on reading  
the consent of ~~[MONITOR’S NAME]~~ A&M to act as ~~the~~ Monitor;;

## SERVICE

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<sup>†</sup> ~~Include names of secured creditors or other persons who must be served before certain relief in this model Order may be granted. See, for example, CCAA Sections 11.2(1), 11.3(1), 11.4(1), 11.51(1), 11.52(1), 32(1), 32(3), 33(2) and 36(2).~~



1. **THIS COURT ORDERS** that the time for service of the Notice of Application and the Application Record is hereby abridged and validated<sup>2</sup> so that this Application is properly returnable today and hereby dispenses with further service thereof.

## **APPLICATION**

### **DEFINITIONS**

2. **THIS COURT ORDERS**~~AND DECLARES~~ that ~~the Applicant is a company~~unless otherwise indicated or defined herein, capitalized terms have the meanings given to which them in the ~~CCAA applies~~Initial Heckel Affidavit.

### **PLAN OF ARRANGEMENT**

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

### **APPLICATION**

4. **THIS COURT ORDERS AND DECLARES** that the Applicants are companies to which the CCAA applies. Although not an Applicant, Canada Leasing LP shall have the benefits of the protections and authorizations provided by this Order.

### **POSSESSION OF PROPERTY AND OPERATIONS**

5. ~~4.~~ **THIS COURT ORDERS** that the ~~Applicant~~Nordstrom Canada Entities shall remain in possession and control of ~~its~~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 ~~Applicant~~Nordstrom Canada Entities shall continue to carry on business in a manner consistent with the preservation

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<sup>2</sup> ~~If service is effected in a manner other than as authorized by the Ontario Rules of Civil Procedure, an order validating irregular service is required pursuant to Rule 16.08 of the Rules of Civil Procedure and may be granted in appropriate circumstances.~~

of ~~its~~their business (the "Business") and Property. The ~~Applicant is~~Nordstrom Canada Entities shall each be authorized and empowered to continue to retain and employ the employees, contractors, advisors, consultants, agents, experts, appraisers, valuers, brokers, accountants, counsel and such other persons (collectively "Assistants") currently retained or employed by ~~it~~them, with liberty to retain such further Assistants as ~~it deems~~they deem reasonably necessary or desirable in the ordinary course of business or for the carrying out of the terms of this Order.

6. ~~5.~~ **THIS COURT ORDERS** that the ~~Applicant~~Nordstrom Canada Entities shall be entitled to continue to ~~utilize~~use the central cash management system<sup>3</sup> currently in place as described in the Initial Heckel Affidavit ~~of [NAME] sworn [DATE] or~~or, with the consent of the Monitor, replace it with another substantially similar central cash management system (the "Cash Management System") and that any present or future bank providing the Cash Management System shall not be under any obligation whatsoever to inquire into the propriety, validity or legality of any transfer, payment, collection or other action taken under the Cash Management System, or as to the use or application by the ~~Applicant~~Nordstrom Canada Entities of funds transferred, paid, collected or otherwise dealt with in the Cash Management System, shall be entitled to provide the Cash Management System without any liability in respect thereof to any Person (as hereinafter defined) other than the ~~Applicant~~Nordstrom Canada Entities, pursuant to the terms of the documentation applicable to the Cash Management System, and shall be, in its capacity as provider of the Cash Management System, an unaffected creditor under ~~the~~any Plan with regard to any claims or expenses it may suffer or incur in connection with the provision of the Cash Management System.}

7. ~~6.~~ **THIS COURT ORDERS** that the ~~Applicant~~Nordstrom Canada Entities 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 Nordstrom Canada Entities:

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<sup>3</sup> ~~This provision should only be utilized where necessary, in view of the fact that central cash management systems often operate in a manner that consolidates the cash of applicant companies. Specific attention should be paid to cross-border and inter-company transfers of cash.~~

- (a) all outstanding and future wages, salaries, employee ~~and pension~~ benefits (including, without limitation, employee medical, dental, registered retirement savings plan contributions and similar benefit plans or arrangements), vacation pay and expenses payable on or after the date of this Order, in each case incurred in the ordinary course of business and consistent with existing compensation policies and arrangements; and all other payroll and benefits processing and servicing expenses;
- (b) all outstanding or future amounts owing in respect of customer rebates, refunds, discounts or other amounts on account of similar customer programs or obligations;
- (c) all outstanding or future amounts related to honouring customer obligations, including customer pre-payments, deposits, gift cards, programs (including, The Nordy Club rewards program and the redemptions of Nordstrom Notes) 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) ~~(b)~~ the fees and disbursements of any Assistants retained or employed by the Applicant in respect of these proceedings, Nordstrom Canada Entities at their standard rates and charges;
- (e) with the consent of the Monitor, amounts owing for goods or services supplied to the Nordstrom Canada Entities prior to the date of this Order, by:
  - (i) 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 up to a maximum aggregate amount of \$1.5 million, if, in the opinion of the Nordstrom Canada Entities following consultation with the Monitor, such supplier or service provider is critical to the Orderly Wind-down (as hereinafter defined).

8. ~~7.~~ **THIS COURT ORDERS** that, except as otherwise provided to the contrary herein, the ~~Applicant~~ Nordstrom Canada Entities shall be entitled but not required to pay all reasonable expenses incurred by ~~the Applicant~~ them in carrying on the Business in the ordinary course during the Orderly Wind-down 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 ~~Applicant~~ Nordstrom Canada Entities following the date of this Order or, with the consent of the Monitor, payments to obtain the release or delivery of goods contracted for prior to the date of this Order.

9. ~~8.~~ **THIS COURT ORDERS** that the ~~Applicant~~ Nordstrom Canada Entities 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 Nordstrom Canada Entities' 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 ~~Applicant~~ Nordstrom Canada Entities in connection with the sale of goods and services by the

~~Applicant~~ Nordstrom Canada Entities, 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 ~~Applicant~~ Nordstrom Canada Entities; and
- (d) taxes under the *Income Tax Act* (Canada) or other relevant taxing statute giving rise to any statutory deemed trust amounts in favour of the Crown in right of Canada or any Province thereof or any political subdivision thereof or any other taxation authority.

10. ~~9.~~ **THIS COURT ORDERS** that, until a real property lease, including a sublease and related documentation (each, a "Lease") to which any Nordstrom Canada Entity is a party is disclaimed ~~for resiliated~~<sup>4</sup> in accordance with the CCAA, ~~the Applicant or otherwise consensually terminated, such Nordstrom Canada Entity~~ shall pay, without duplication, all amounts constituting rent or payable as rent under ~~real property leases~~ 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 ~~the lease~~ such Lease, but for greater certainty, excluding accelerated rent or penalties, fees or other charges arising as a result of the insolvency of the Nordstrom Canada Entities or the making of this Order) or as otherwise may be negotiated between ~~the Applicant~~ such Nordstrom Canada Entity and the ~~landlord~~ 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

<sup>4</sup> ~~The term "resiliate" should remain if there are leased premises in the Province of Quebec, but can otherwise be removed.~~

relating to the period commencing from and including the date of this Order shall also be paid. Without in any way impairing, limiting or lessening the priority, protections, rights or remedies of Canada Leasing LP, any Rent in respect of Premises Fixturing Costs payable by Nordstrom Canada to Canada Leasing LP under a Lease shall be stayed and suspended until further Order of this Court.

11. ~~10.~~ **THIS COURT ORDERS** that, except as specifically permitted herein, the ~~Applicant~~ Nordstrom Canada Entities 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 ~~Applicant~~ Nordstrom Canada Entities to any of ~~its~~ their creditors as of this date; (b) to grant no security interests, trust, liens, charges or encumbrances upon or in respect of any of ~~its~~ the Property; and (c) to not grant credit or incur liabilities except in the ordinary course of the Business for the purpose of the Orderly Wind-down or pursuant to this Order or any other Order of the Court.

## **RESTRUCTURING**

### ORDERLY WIND-DOWN

12. ~~11.~~ **THIS COURT ORDERS** that the ~~Applicant~~ Nordstrom Canada Entities shall, subject to such requirements as are imposed by the CCAA ~~and such covenants as may be contained in the Definitive Documents (as hereinafter defined)~~, have the right to:

- (a) permanently or temporarily cease, downsize or shut down any of ~~its business~~ the Business or operations, ~~and~~ to dispose of redundant or non-material assets not exceeding \$~~250,000~~ 1 million in any one transaction or \$~~1 million~~ 5 in any series of related transactions; provided that, with respect to leased premises, the Nordstrom Canada Entities may, subject to the requirements of the CCAA and paragraphs 10, 13 and 14 herein, vacate, abandon or quit the whole (but not part of)

<sup>5</sup> ~~Section 36 of the amended CCAA does not seem to contemplate a pre-approved power to sell (see subsection 36(3)) and moreover requires notice (subsection 36(2)) and evidence (subsection 36(7)) that may not have occurred or be available at the initial CCAA hearing.~~

and may permanently (but not temporarily) cease, downsize or shut down any of the Business or operations in respect of any leased premises;

- (b) ~~it~~ terminate the employment of such of its employees or temporarily lay off such of its employees as ~~it~~ the applicable Nordstrom Canada Entity deems appropriate~~}; and~~
- (c) pursue all ~~avenues of refinancing~~ offers for sales of material parts of ~~its~~ the Business or the Property, in whole or part, subject to prior approval of this Court being obtained before any ~~material refinancing~~ sale (except as permitted by paragraph 12(a) above);
- (d) perform their obligations under the Wind-Down Agreement, including with respect to the provision of and payment for shared services;
- (e) in consultation with, and with the oversight of the Monitor, (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 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; and
- (f) apply to this Court for such approval, vesting or other Orders as may be necessary to consummate sale transactions for all or any part of the Property, including, without limitation, approval of a consulting or agency agreement concerning the liquidation of inventory, furniture, fixtures, and equipment forming part of the Property, and any related relief,

all of the foregoing to permit the ~~Applicant~~ Nordstrom Canada Entities to proceed with an orderly ~~restructuring~~ wind-down of the Business (the ~~“Restructuring”~~ “Orderly Wind-down”).

13. ~~12.~~ **THIS COURT ORDERS** that the ~~Applicant~~ Nordstrom Canada Entities shall provide each of the relevant ~~landlords~~ Landlords with notice of the ~~Applicant~~ Nordstrom Canada Entities’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~~ Landlord shall be entitled to have a representative



present in the leased premises to observe such removal and, if the ~~landlord~~ Landlord disputes the ~~Applicant~~ Nordstrom Canada Entities's entitlement to remove any such fixture under the provisions of the ~~lease~~ applicable Lease, such fixture shall remain on the premises and shall be dealt with as agreed between any applicable secured creditors, such ~~landlord~~ Landlord and the ~~Applicant~~ Nordstrom Canada Entities, or by further Order of this Court upon application by the ~~Applicant~~ Nordstrom Canada Entities on at least two (2) days notice to such ~~landlord~~ Landlord and any such secured creditors. If the ~~Applicant disclaims [or resiliates]~~ Nordstrom Canada Entities disclaim the ~~lease~~ Lease governing such leased premises in accordance with Section 32 of the CCAA, ~~it~~ the Nordstrom Canada Entities shall not be required to pay Rent under such ~~lease~~ 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~~ Lease shall be without prejudice to the ~~Applicant's~~ Nordstrom Canada Entities' claim to the fixtures in dispute.

14. ~~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~~ Landlord may show the affected leased premises to prospective tenants during normal business hours, on giving the ~~Applicant~~ Nordstrom Canada Entities and the Monitor at least twenty-four (24) hours' prior written notice; and (b) at the effective time of the disclaimer ~~[or resiliation]~~, the relevant ~~landlord~~ Landlord shall be entitled to take possession of any such leased premises without waiver of or prejudice to any claims or rights such ~~landlord~~ Landlord may have against the ~~Applicant~~ Nordstrom Canada Entities in respect of such ~~lease~~ Lease or leased premises; provided that, nothing herein shall relieve such ~~landlord~~ Landlord of its obligation to mitigate any damages claimed in connection therewith.

#### **NOSTAY OF PROCEEDINGS ~~AGAINST THE APPLICANT OR THE PROPERTY~~**

15. ~~14.~~ **THIS COURT ORDERS** that until and including ~~[DATE—MAX.]~~ June 30 ~~[DAYS]~~, 2023, or such later date as this Court may order (the "Stay Period"), no proceeding or enforcement process in any court or tribunal (each, a "Proceeding") shall be commenced or continued against or in respect of the ~~Applicant~~ Nordstrom Canada Entities or the Monitor, or 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



~~Applicant~~ Nordstrom Canada Entities and the Monitor, or with leave of this Court, and any and all Proceedings currently under way against or in respect of the ~~Applicant~~ Nordstrom Canada Entities, 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.

16. THIS COURT ORDERS that during the Stay Period, no Person having any agreements or arrangements with the owners, operators, managers or landlords of commercial shopping centres or other commercial properties (including retail, office and industrial (warehouse) properties) in which there is located a store, office or warehouse owned or operated by the Nordstrom Canada Entities shall take any Proceedings or exercise any rights or remedies under such agreements or arrangements that may arise upon and/or as a result of the making of this Order, the declarations of insolvency by the Nordstrom Canada Entities or as a result of any steps taken by the Nordstrom Canada Entities pursuant to this Order and, without limiting the generality of the foregoing, no Person shall terminate, accelerate, suspend, modify, determine or cancel any such arrangement or agreement or be entitled to exercise any rights or remedies in connection therewith.

17. THIS COURT ORDERS that, until and including June 30, 2023, no Proceeding shall be commenced or continued against or in respect of Nordstrom, Inc. and its direct and indirect subsidiaries (other than the Nordstrom Canada Entities) (collectively, “**Nordstrom US**”) arising out of or in connection with any right, remedy or claim of any Person against Nordstrom US in connection with any indebtedness, indemnity, liability or obligation of any kind whatsoever of Nordstrom US under contract, statute or otherwise, whether or not such right or claim is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, unsecured, perfected, unperfected, present, future, known, or unknown, by indemnity, guarantee, surety or otherwise, and whether or not such right is executory or anticipatory in nature, including the right or ability of any Person to advance a claim for contribution, indemnity or otherwise, with respect to any matter, action, cause or chose in action, whether existing at present or commenced in future, which indebtedness, indemnity, liability or obligation is derivative of the primary liability of or related to the Nordstrom Canada Entities, except with the written consent of the Nordstrom Canada Entities, Nordstrom US and

the Monitor, or with leave of this Court; provided that, this paragraph shall not apply to any present or future bank providing the Cash Management System in connection with any claims or expenses it may suffer or incur in connection with the provision of the Cash Management System.

18. **THIS COURT ORDERS** that, without in any way altering, increasing, creating or eliminating any obligation or duty to mitigate losses or damages of any Landlord: (a) any Landlord claim pursuant to an indemnity, guarantee or surety executed by Nordstrom US in relation to any Nordstrom Canada Entity shall be unaffected and shall not be released or affected in any way in any Plan filed by the Applicants under the CCAA, or any proposal filed by the Nordstrom Canada Entities under the Bankruptcy and Insolvency Act (Canada) (“BIA”); and (b) any Landlord claim pursuant to an indemnity, guarantee or surety executed by Nordstrom US in relation to any Nordstrom Canada Entity shall be unaffected by any determination of any rights, remedies and claims of such Landlords as against the Nordstrom Canada Entities, whether made in the within proceedings under the CCAA or in any subsequent proposal or bankruptcy proceedings under the BIA, other than that any recoveries under such proceedings received by such Landlords shall constitute a reduction and offset to such claim.

19. **THIS COURT ORDERS** that, to the extent any prescription, time or limitation period relating to any Proceeding against or in respect of any Nordstrom Canada Entity 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**

20. ~~15.~~ **THIS COURT ORDERS** that during the Stay Period, all rights and remedies of any individual, firm, corporation, governmental body or agency, or any other entities (all of the foregoing, collectively being “**Persons**” and each being a “**Person**”) against or in respect of the ~~Applicant~~ Nordstrom Canada Entities 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 ~~Applicant~~ Nordstrom Canada Entities and the Monitor, or leave of this Court, provided that nothing in this Order shall (ia) empower the ~~Applicant~~ Nordstrom Canada Entities to carry on any

business which ~~the Applicant is~~they are not lawfully entitled to carry on;<sup>2</sup> (~~ii~~b) affect such investigations, actions, suits or proceedings by a regulatory body as are permitted by Section 11.1 of the CCAA;<sup>2</sup> (~~iii~~c) prevent the filing of any registration to preserve or perfect a security interest;<sup>2</sup> or (~~iv~~d) prevent the registration of a claim for lien.

## NO INTERFERENCE WITH RIGHTS

21. ~~16.~~ **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, licence or permit in favour of or held by the ~~Applicant~~Nordstrom Canada Entities, except with the prior written consent of the ~~Applicant~~Nordstrom Canada Entities and the Monitor, or leave of this Court. Without limiting the foregoing, no right, option, remedy, and/or exemption in favour of the relevant Nordstrom Canada Entities shall be or shall be deemed to be negated, suspended, waived and/or terminated as a result of this Order.

## CONTINUATION OF SERVICES

22. ~~17.~~ **THIS COURT ORDERS** that during the Stay Period, all Persons having oral or written agreements with the ~~Applicant~~Nordstrom Canada Entities or statutory or regulatory mandates for the supply or license of goods and/or services, including without limitation all computer software, 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 ~~Applicant~~Nordstrom Canada Entities, 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 ~~Applicant~~Nordstrom Canada Entities, and that the ~~Applicant~~Nordstrom Canada Entities shall be entitled to the continued use of ~~its~~their current premises, telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case,<sup>2</sup> that the normal prices or charges for all such goods or services received after the date of this Order are paid by the ~~Applicant~~Nordstrom Canada Entities in accordance with normal payment practices of the ~~Applicant~~Nordstrom Canada Entities or such other practices as may be agreed upon by the

supplier or service provider and ~~each of the Applicant~~ applicable Nordstrom Canada Entities and the Monitor, or as may be ordered by this Court.

## NON-DEROGATION OF RIGHTS

23. ~~18.~~ **THIS COURT ORDERS** that, notwithstanding anything else in this Order, no Person shall be prohibited from requiring immediate payment for goods, services, use of ~~lease~~ leased or licensed property or other valuable consideration provided on or after the date of this Order, nor shall any Person be under any obligation on or after the date of this Order to advance or re-advance any monies or otherwise extend any credit to the ~~Applicant~~ Nordstrom Canada Entities. Nothing in this Order shall derogate from the rights conferred and obligations imposed by the CCAA.<sup>6</sup>

## EMPLOYEE TRUST

24. **THIS COURT ORDERS** that the creation of the Employee Trust, as described in the Initial Heckel Affidavit, is hereby approved on substantially the terms and conditions set out in the Trust Agreement attached as Exhibit “T” to the Initial Heckel Affidavit, including, without limitation, the appointment of Gale Rubenstein, as trustee (the “Trustee”), and the Monitor, as administrator (the “Administrator”), of the Employee Trust, and authorizes and directs the Monitor to act in such capacity, and the parties thereto to execute the Trust Agreement.

25. **THIS COURT ORDERS** that the Nordstrom Canada Entities are authorized to process or cause to be processed all amounts received from the Employee Trust, including making payments to the Beneficiaries (as defined in the Trust Agreement), subject to and in accordance with the terms and conditions of the Trust Agreement.

26. **THIS COURT ORDERS** that the amounts received by the Nordstrom Canada Entities from the Employee Trust, (a) when in the hands of the Nordstrom Canada Entities; and (b) when paid to any payment processor, shall be deemed to be held in trust for and on behalf of the

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<sup>6</sup> ~~This non-derogation provision has acquired more significance due to the recent amendments to the CCAA, since a number of actions or steps cannot be stayed, or the stay is subject to certain limits and restrictions. See, for example, CCAA Sections 11.01, 11.04, 11.06, 11.07, 11.08, 11.1(2) and 11.5(1).~~

Beneficiaries, subject to and in accordance with the Trust Agreement and shall not constitute property of the Nordstrom Canada Entities including, without limitation, under the CCAA and BIA, and shall not be subject to the claims of any Person other than as provided under the Trust Agreement.

27. THIS COURT ORDERS that the creation, establishment, funding and administration of the Employee Trust shall not, in whole or in part, directly or indirectly, (a) cause Nordstrom US to be or be deemed to be; or (b) in any way be relied upon to claim or assert that Nordstrom US is or is deemed to be, either (i) an employer, or (ii) a joint, common or related employer under contract, statute, common law or otherwise of any employee of the Nordstrom Canada Entities.

28. THIS COURT ORDERS that:

- (a) each Beneficiary shall be deemed to release the Releasees (as defined in the Trust Agreement) on the payment of a distribution from the Employee Trust in respect of such Beneficiary's Eligible Employee Claim (as defined in the Trust Agreement), to the extent of such distribution (the "Payment Release");
- (b) each Beneficiary shall be deemed to release the Releasees in respect of the full amount of such Beneficiary's Eligible Employee Claim, sixty (60) days after the final payment to such Beneficiary under the Employee Trust or such later date as the Monitor, in its sole discretion, may designate; provided that, such Beneficiary has not delivered a notice of dispute to the Monitor and Employee Representative Counsel, substantially in the manner and form attached as Schedule "A" hereto, within forty-five (45) days of the final payment to such Beneficiary; provided further that, in the event of any insufficiency of funds in the Employee Trust to cover a Beneficiary's total Eligible Employee Claim, only the Payment Release shall be effective and there shall be no deemed full and final release of the full Eligible Employee Claim; and
- (c) the Settlor (as defined in the Trust Agreement) shall be deemed to be fully and completely subrogated to all rights of recovery of the Beneficiaries against Nordstrom Canada, in an amount equal to the aggregate gross amount paid to such Beneficiaries directly or indirectly from the Employee Trust.

29. **THIS COURT ORDERS** that without limiting the authorizations, protections and indemnities in favour of the Trustee set forth in the Trust Agreement, no action or proceeding may be commenced against the Trustee in respect of the Employee Trust without leave of this Court.

#### **EMPLOYEE REPRESENTATIVE COUNSEL**

30. **THIS COURT ORDERS** that Ursel Phillips Fellows Hopkinson LLP (“**Employee Representative Counsel**”) is hereby appointed as employee representative counsel to represent the interests of (a) all store-level employees; (b) all non-store level employees, other than (i) non-store level employees who will be eligible for a KERP payment, (ii) directors and officers of the Nordstrom Canada Entities, and (iii) the Senior Vice President, Regional Manager for Canada (collectively, the “**Represented Employees**”) in these CCAA proceedings, in any proceedings under the BIA or in any other proceedings respecting the insolvency of the Nordstrom Canada Entities which may be brought before this Court (collectively, the “**Insolvency Proceedings**”), for any employment, human rights or other workplace law issues affecting such Represented Employees in the Insolvency Proceedings, including, without limitation, with respect to the Trust Agreement, the Claims Process (as defined in the Trust Agreement) and the settlement or compromise of any rights, entitlements or claims of the Represented Employees (the “**Purpose**”).

31. **THIS COURT ORDERS** that the Employee Representative Counsel shall be entitled but not required to commence the process of identifying no more than three (3) Represented Employees to be nominated as Court-appointed representatives (the “**Employee Representatives**”) as soon as practicable following the date hereof. The Employee Representatives shall, upon appointment, represent all Represented Employees (excluding the Opt-Out Individuals (as hereinafter defined), if any) in the Insolvency Proceedings, to act in the overall best interests of the Represented Employees and to advise and where appropriate instruct Employee Representative Counsel, in each case, solely for the Purpose. Employee Representative Counsel may rely upon the advice, information and instructions received from the Employee Representatives in carrying out its mandate without further communications with or instructions from the Represented Employees, except as may be recommended by Employee Representative Counsel or ordered by this Court.

32. **THIS COURT ORDERS** that, with the exception of Opt-Out Individuals, (a) the Employee Representatives and Employee Representative Counsel shall represent all Represented Employees in the Insolvency Proceedings; (b) the Represented Employees shall be bound by the actions of the Employee Representatives and Employee Representative Counsel in the Insolvency Proceedings; and (c) the Employee Representatives shall be entitled, on the advice of Employee Representative Counsel, to reach any settlement agreements, advocate on behalf of the Represented Employees for the Purpose and settle or compromise any rights, entitlements or claims of the Represented Employees, subject to approval of this Court.

33. **THIS COURT ORDERS** that the Nordstrom Canada Entities shall provide Employee Representative Counsel, the Employee Representatives and their respective advisors, subject to confidentiality arrangements acceptable to the Nordstrom Canada Entities and the Monitor, without charge, the following information, documents and data (the “**Information**”) to only be used for the Purpose in the Insolvency Proceedings: (a) the names, last known addresses and last known telephone numbers and e-mail addresses (if any) of the Represented Employees (excluding Opt-Out Individuals, if any, who have opted out prior to delivery of the Information); and (b) upon request of Employee Representative Counsel, such documents and data as may be reasonably relevant to matters relating to the issues affecting the Represented Employees in the Insolvency Proceedings, and that, in so providing all such Information, the Nordstrom Canada Entities are not required to obtain express consent from such Represented Employees authorizing disclosure of Information to Employee Representative Counsel for the Purpose and, further, in accordance with section 7(3)(c) of the *Canada Personal Information Protection and Electronic Documents Act*, section 18(1)(i) of the *British Columbia Personal Information Protection Act* and section 20 of the *Alberta Personal Information Protection Act*, this Order shall be sufficient to authorize the disclosure of the Information for the Purpose, without the knowledge or consent of the individual Represented Employees.

34. **THIS COURT ORDERS** that notice of the appointment of Employee Representative Counsel shall be provided by (a) the Nordstrom Canada Entities delivering a letter on behalf of Employee Representative Counsel to the Represented Employees explaining the terms of such appointment; (b) the inclusion of the details of such appointment in the CCAA Notice (as hereinafter defined); and (c) the posting of notice of such appointment on the Monitor’s Website (as hereinafter defined) and on Employee Representative Counsel’s website.



35. **THIS COURT ORDERS** that any individual Represented Employee who does not wish to be represented by the Employee Representatives and Employee Representative Counsel in the Insolvency Proceedings shall, within thirty (30) days of the date of the letter pursuant to paragraph 34 above, notify the Monitor, in writing that such Represented Employee is opting out of representation by the Employee Representatives and Employee Representative Counsel by delivering to the Monitor an opt-out notice in the form attached as Schedule “B” hereto (each an “**Opt-Out Notice**”), and shall thereafter not be bound by the actions of the Employee Representatives or Employee Representative Counsel and shall represent themselves or be represented by any counsel that such Represented Employee may retain exclusively at their own expense (any such Represented Employee that delivers an Opt-Out Notice in compliance with the terms hereof, an “**Opt-Out Individual**”). The Monitor shall deliver copies of all Opt-Out Notices received to the Nordstrom Canada Entities and Employee Representative Counsel as soon as reasonably practicable.

36. **THIS COURT ORDERS** that, subject to the terms of the engagement letter between Nordstrom Canada and Employee Representative Counsel, Employee Representative Counsel shall be paid its reasonable and documented fees and disbursements by the Nordstrom Canada Entities on a monthly basis, promptly upon rendering its accounts to the Nordstrom Canada Entities for fulfilling its mandate in accordance with this Order, and subject to such redactions to the invoices as are necessary to maintain solicitor-client privilege between Employee Representative Counsel and the Represented Employees. In the event of any disagreement with respect to such fees and disbursements, such disagreement may be remitted to this Court for determination.

37. **THIS COURT ORDERS** that no action or proceeding may be commenced against Employee Representative Counsel or the Employee Representatives in respect of the performance of their duties under this Order, without leave of this Court on seven (7) days’ notice to Employee Representative Counsel or the Employee Representatives, as the case may be, the Nordstrom Canada Entities and the Monitor.

38. **THIS COURT ORDERS** that Employee Representative Counsel is authorized to take all steps and to do all acts necessary or desirable to carry out the terms of this Order, including dealing with any Court, regulatory body or other government ministry, department or agency,



and to take all such steps as are necessary or incidental thereto. Employee Representative Counsel and Employee Representatives shall have no liability as a result of their appointment or the fulfilment of their duties in carrying out the provisions of this Order, save and except for any gross negligence or wilful misconduct on their part.

#### **KEY EMPLOYEE RETENTION PLAN**

39. **THIS COURT ORDERS** that the Key Employee Retention Plan (the “**KERP**”), as described in the Initial Heckel Affidavit, is hereby approved and the Nordstrom Canada Entities are authorized to make payments contemplated thereunder in accordance with the terms and conditions of the KERP.

40. **THIS COURT ORDERS** that the key employees referred to in the KERP (the “**Key Employees**”) shall be entitled to the benefit of and are hereby granted a charge on the Property, which charge shall not exceed an aggregate amount of \$2.6 million (the “**KERP Charge**”), as security for amounts payable to the Key Employees pursuant to the KERP. The KERP Charge shall have the priority set out in paragraphs 54 and 56 hereof.

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

41. ~~19.~~ **THIS COURT ORDERS** that during the Stay Period, and except as permitted by subsection 11.03(2) of the CCAA, no Proceeding may be commenced or continued against any of the former, current or future directors or officers of the ~~Applicant~~ Nordstrom Canada Entities with respect to any claim against the directors or officers that arose before the date hereof and that relates to any obligations of the ~~Applicant~~ Nordstrom Canada Entities 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, ~~until a compromise or arrangement in respect of the Applicant, if one is filed, is sanctioned by this Court or is refused by the creditors of the Applicant or this Court.~~

#### **DIRECTORS’ AND OFFICERS’ INDEMNIFICATION AND CHARGE**

42. ~~20.~~ **THIS COURT ORDERS** that the ~~Applicant~~ Nordstrom Canada Entities shall indemnify ~~its~~ their directors and officers against obligations and liabilities that they may incur as directors or officers of the ~~Applicant~~ Nordstrom Canada Entities after the commencement of the

within proceedings,<sup>7</sup> 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.

43. ~~21.~~ **THIS COURT ORDERS** that the directors and officers of the ~~Applicant~~ Nordstrom Canada Entities shall be entitled to the benefit of and are hereby granted a charge (the ~~"Directors' Charge"~~<sup>8</sup>) on the Property, which charge shall not exceed an aggregate amount of \$●13.25 million, as security for the indemnity provided in paragraph ~~420~~ of this Order. The Directors' Charge shall have the priority set out in paragraphs ~~38~~54 and ~~40~~56 herein.

44. ~~22.~~ **THIS COURT ORDERS** that, notwithstanding any language in any applicable insurance policy to the contrary, (a) no insurer shall be entitled to be subrogated to or claim the benefit of the Directors' Charge; and (b) the ~~Applicant's~~ Nordstrom Canada Entities' 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 ~~420~~ of this Order.

## APPOINTMENT OF MONITOR

45. ~~23.~~ **THIS COURT ORDERS** that ~~[MONITOR'S NAME]~~ 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 ~~Applicant~~ Nordstrom Canada Entities with the powers and obligations set out in the CCAA or set forth herein and that the ~~Applicant~~ Nordstrom Canada Entities and ~~its~~their shareholders, partners, members, officers, directors, and Assistants shall advise the Monitor of all material steps taken by the ~~Applicant~~ Nordstrom Canada Entities pursuant to this Order, and shall co-operate fully with the Monitor in the exercise of its powers and discharge of its

<sup>7</sup> ~~The broad indemnity language from Section 11.51 of the CCAA has been imported into this paragraph. The granting of the indemnity (whether or not secured by a Directors' Charge), and the scope of the indemnity, are discretionary matters that should be addressed with the Court.~~

<sup>8</sup> ~~Section 11.51(3) provides that the Court may not make this security/charging order if in the Court's opinion the Applicant could obtain adequate indemnification insurance for the director or officer at a reasonable cost.~~

obligations and provide the Monitor with the assistance that is necessary to enable the Monitor to adequately carry out the Monitor's functions.

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

- (a) monitor the ~~Applicant's~~ Nordstrom Canada Entities' receipts and disbursements;
- (b) assist the Nordstrom Canada Entities with the Orderly Wind-down;
- (c) ~~(b)~~ report to this Court at such times and intervals as the Monitor may deem appropriate with respect to matters relating to the Property, the Business, ~~and such other matters as may be relevant to the proceedings herein;~~ certain shared services provided to and by the Nordstrom Canada Entities under the Wind-Down Agreement during the Orderly Wind-down and such other matters as may be relevant to the proceedings herein;
- ~~(e) — assist the Applicant, to the extent required by the Applicant, in its dissemination, to the DIP Lender and its counsel on a [TIME INTERVAL] basis of financial and other information as agreed to between the Applicant and the DIP Lender which may be used in these proceedings including reporting on a basis to be agreed with the DIP Lender;~~
- (d) advise the ~~Applicant~~ Nordstrom Canada Entities in ~~its~~ their preparation of the ~~Applicant~~ Nordstrom Canada Entities's cash flow statements and ~~reporting required by the DIP Lender, which~~ the dissemination of other financial information ~~shall be reviewed with the Monitor and delivered to the DIP Lender and its counsel on a periodic basis, but not less than [TIME INTERVAL], or as otherwise agreed to by the DIP Lender;~~
- (e) advise the ~~Applicant~~ Nordstrom Canada Entities in ~~its~~ their development of the Plan and any amendments to the Plan;
- (f) assist the ~~Applicant~~ Nordstrom Canada Entities, to the extent required by the ~~Applicant~~ Nordstrom Canada Entities, with the holding and administering of creditors' or shareholders' meetings for voting on the Plan;

- (g) have full and complete access to the Property, including the premises, books, records, data, including data in electronic form, and other financial documents of the ~~Applicant~~ Nordstrom Canada Entities, to the extent that is necessary to adequately assess the ~~Applicant's~~ Nordstrom Canada Entities' business and financial affairs or to perform its duties arising under this Order;
- (h) liaise and consult with any Assistants and any liquidator selected through the Liquidation Solicitation Process, to the extent required, with respect to all matters relating to the Property, the Business, the Orderly Wind-down and such other matters as may be relevant to the proceedings herein;
- (i) administer the Employee Trust, in its role as Administrator, in consultation with the Trustee thereof, the Nordstrom Canada Entities and Employee Representative Counsel;
- (j) ~~(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;
- (k) be at liberty to serve as a "foreign representative" of the Nordstrom Canada Entities in any proceeding outside of Canada;
- (l) assist the Nordstrom Canada Entities, to the extent required by the Nordstrom Canada Entities, with any matters relating to any foreign proceeding commenced in relation to any of the Nordstrom Canada Entities; and
- (m) ~~(i)~~ perform such other duties as are required by this Order or by this Court from time to time.

47. ~~25.~~ **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.

48. ~~26.~~ **THIS COURT ORDERS** that nothing herein contained shall require the Monitor to occupy or to take control, care, charge, possession or management (separately and/or collectively, "Possession") of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the *Ontario Environmental Protection Act*, the *Ontario Water Resources Act*, ~~or the Ontario~~ *Occupational Health and Safety Act*, 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*, and the *Alberta Occupational Health and Safety Act* 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.

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

50. ~~28.~~ **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,

including, for greater certainty, in the Monitor's capacity as Administrator of the Employee Trust, 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.

51. ~~29.~~ **THIS COURT ORDERS** that the Monitor, counsel to the Monitor~~and~~, counsel to the ~~Applicant~~ Nordstrom Canada Entities, and counsel to the directors and officers of the Nordstrom Canada Entities, 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 ~~Applicant~~ Nordstrom Canada Entities as part of the costs of these proceedings. The ~~Applicant is~~ Nordstrom Canada Entities are hereby authorized and directed to pay the accounts of the Monitor, counsel ~~for to~~ the Monitor~~and~~, counsel ~~for to~~ the ~~Applicant on a [TIME INTERVAL] basis and, in addition, the Applicant~~ Nordstrom Canada Entities and counsel to the directors and officers of the Nordstrom Canada Entities, on such terms as such parties may agree and is hereby authorized to pay to the Monitor, counsel to the Monitor, ~~and~~ counsel to the Nordstrom Canada Entities, counsel to the ~~Applicant~~ directors and officers of the Nordstrom Canada Entities and Employee Representative Counsel, retainers ~~in the amount[s] of \$●-~~, *nunc pro tunc*, ~~respectively,~~ to be held by them as security for payment of their respective fees and disbursements outstanding from time to time.

52. ~~30.~~ **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

53. ~~31.~~ **THIS COURT ORDERS** that the Monitor, counsel to the Monitor, ~~if any, and the Applicant's counsel~~ counsel to the Nordstrom Canada Entities, Employee Representative Counsel (up to the maximum amount of \$75,000) and counsel to the directors and officers of the Nordstrom Canada Entities, 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 \$●1.5 million, as security for their professional fees and disbursements incurred at ~~the~~ 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 ~~[38]~~ and ~~[40]~~ hereof.

### ~~DIP FINANCING~~

~~32. — THIS COURT ORDERS that the Applicant is hereby authorized and empowered to obtain and borrow under a credit facility from [DIP LENDER'S NAME] (the "DIP Lender") in order to finance the Applicant's working capital requirements and other general corporate purposes and capital expenditures, provided that borrowings under such credit facility shall not exceed \$● unless permitted by further Order of this Court.~~

~~33. — THIS COURT ORDERS THAT such credit facility shall be on the terms and subject to the conditions set forth in the commitment letter between the Applicant and the DIP Lender dated as of [DATE] (the "Commitment Letter"), filed.~~

~~34. — THIS COURT ORDERS that the Applicant is hereby authorized and empowered to execute and deliver such credit agreements, mortgages, charges, hypothecs and security documents, guarantees and other definitive documents (collectively, the "Definitive Documents"), as are contemplated by the Commitment Letter or as may be reasonably required by the DIP Lender pursuant to the terms thereof, and the Applicant is hereby authorized and directed to pay and perform all of its indebtedness, interest, fees, liabilities and obligations to the DIP Lender under and pursuant to the Commitment Letter and the Definitive Documents as and when the same become due and are to be performed, notwithstanding any other provision of this Order.~~

~~35. — THIS COURT ORDERS that the DIP Lender shall be entitled to the benefit of and is hereby granted a charge (the "DIP Lender's Charge") on the Property, which DIP Lender's Charge shall not secure an obligation that exists before this Order is made. The DIP Lender's Charge shall have the priority set out in paragraphs ~~[38]~~54 and ~~[40]~~56 hereof.~~

~~36. — THIS COURT ORDERS that, notwithstanding any other provision of this Order:~~

- ~~(a) — the DIP Lender may take such steps from time to time as it may deem necessary or appropriate to file, register, record or perfect the DIP Lender's Charge or any of the Definitive Documents;~~



- (b) — ~~upon the occurrence of an event of default under the Definitive Documents or the DIP Lender's Charge, the DIP Lender, upon ● days notice to the Applicant and the Monitor, may exercise any and all of its rights and remedies against the Applicant or the Property under or pursuant to the Commitment Letter, Definitive Documents and the DIP Lender's Charge, including without limitation, to cease making advances to the Applicant and set off and/or consolidate any amounts owing by the DIP Lender to the Applicant against the obligations of the Applicant to the DIP Lender under the Commitment Letter, the Definitive Documents or the DIP 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 Applicant and for the appointment of a trustee in bankruptcy of the Applicant; and~~
- (c) — ~~the foregoing rights and remedies of the DIP Lender shall be enforceable against any trustee in bankruptcy, interim receiver, receiver or receiver and manager of the Applicant or the Property.~~

37. — ~~THIS COURT ORDERS AND DECLARES that the DIP Lender shall be treated as unaffected in any plan of arrangement or compromise filed by the Applicant under the CCAA, or any proposal filed by the Applicant under the *Bankruptcy and Insolvency Act* of Canada (the "BIA"), with respect to any advances made under the Definitive Documents.~~

## VALIDITY AND PRIORITY OF CHARGES CREATED BY THIS ORDER

54. ~~38.~~ **THIS COURT ORDERS** that the priorities of the ~~Directors' Charge, the~~ Administration Charge, the Directors' Charge and the ~~DIP Lender's~~KERP Charge (collectively, the "Charges"), as among them, shall be as follows<sup>9</sup>:

- (a) First ~~=~~ Administration Charge (to the maximum amount of \$~~●~~1.5 million);

<sup>9</sup> ~~The ranking of these Charges is for illustration purposes only, and is not meant to be determinative. This ranking may be subject to negotiation, and should be tailored to the circumstances of the case before the Court. Similarly, the quantum and caps applicable to the Charges should be considered in each case. Please also note that the CCAA now permits Charges in favour of critical suppliers and others, which should also be incorporated into this Order (and the rankings, above), where appropriate.~~



(b) Second ~~DIP Lender's~~ KERP Charge (to the maximum amount of \$2.6 million); and

(c) Third ~~—~~ Directors' Charge (to the maximum amount of \$~~●~~ 13.25 million).

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

56. ~~40.~~ **THIS COURT ORDERS** that each of the ~~Directors' Charge, the Administration Charge and the DIP Lender's Charge (all as constituted and defined herein)~~ 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.

57. ~~41.~~ **THIS COURT ORDERS** that except as otherwise expressly provided for herein, or as may be approved by this Court, the ~~Applicant~~ Nordstrom Canada Entities shall not grant any Encumbrances over any Property that rank in priority to, or pari passu with, any of the ~~Directors' Charge, the Administration Charge or the DIP Lender's Charge,~~ Charges unless the ~~Applicant~~ Nordstrom Canada Entities also ~~obtains~~ obtain the prior written consent of the Monitor; ~~the DIP Lender~~ and the beneficiaries of the ~~Directors' Charge and the Administration Charge~~ Charges (collectively, the "Chargees"), or further Order of this Court.

58. ~~42.~~ **THIS COURT ORDERS** that the ~~Directors' Charge, the Administration Charge, the Commitment Letter, the Definitive Documents and the DIP Lender's Charge~~Charges shall not be rendered invalid or unenforceable and the rights and remedies of the ~~chargees entitled to the benefit of the Charges (collectively, the "Chargees") and/or the DIP Lender~~ thereunder shall not otherwise be limited or impaired in any way by (a) the pendency of these proceedings and the declarations of insolvency made herein; (b) any application(s) for bankruptcy order(s) 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 ~~Applicant~~Nordstrom Canada Entities, and notwithstanding any provision to the contrary in any Agreement:

- (i) ~~(a) neither the creation of the Charges nor the execution, delivery, perfection, registration or performance of the Commitment Letter or the Definitive Documents shall~~ not create or be deemed to constitute a breach by the ~~Applicant~~Nordstrom Canada Entities of any Agreement to which ~~it is~~they are a party;
- (ii) ~~(b) none of the Chargees shall have any liability to any Person whatsoever as a result of any breach of any Agreement caused by or resulting from the Applicant entering into the Commitment Letter, the creation of the Charges, or the execution, delivery or performance of the Definitive Documents; and~~
- (iii) ~~(c) the payments made by the Applicant~~Nordstrom Canada Entities pursuant to this Order, ~~the Commitment Letter or the Definitive Documents;~~ 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.

59. ~~43.~~ **THIS COURT ORDERS** that any Charge created by this Order over leases of real property in Canada shall only be a Charge in the ~~Applicant's interest~~Nordstrom Canada Entities' interests in such real property leases.

**SERVICE AND NOTICE**

60. ~~44.—~~ **THIS COURT ORDERS** that the Monitor shall (~~ia~~) without delay, publish in ~~[newspapers specified by the Court]~~ Globe & Mail a notice containing the information prescribed under the CCAA; (the “CCAA Notice”); and (~~ib~~) within five (5) days after the date of this Order, (~~Ai~~) make this Order publicly available in the manner prescribed under the CCAA, (~~Bii~~) send, or cause to be sent, in the prescribed manner (including by electronic message to the e-mail addresses as last shown in the Nordstrom Canada Entities’ books and records), a notice to ~~every~~all known ~~creditor who has~~creditors having a claim against the ~~Applicant~~Nordstrom Canada Entities of more than \$1,000, and (~~Ciii~~) prepare a list showing the names and addresses of ~~these~~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.

61. **THIS COURT ORDERS** that any employee of any of the Nordstrom Canada Entities who is sent a notice of termination of employment or any other communication by the Nordstrom Canada Entities 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 (4<sup>th</sup>) 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 Nordstrom Canada Entities’ books and records; provided, however, that any communication that is sent to an employee of the Nordstrom Canada Entities by electronic message to the individual’s corporate email address and/or the individual’s personal email address as last shown in the Nordstrom Canada Entities’ books and records shall be deemed to have been received twenty-four (24) hours after the time such electronic message was sent, notwithstanding the mailing of any notices of termination of employment or other employee communication.

62. ~~45.~~ **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/e-service-protocol/>~~<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~~[case website](#) shall be established in accordance with the Protocol with the following URL ~~“@”~~: <http://www.alvarezandmarsal.com/NordstromCanada> (the “**Monitor’s Website**”).

63. **THIS COURT ORDERS** that the Monitor shall create, maintain and update as necessary a list of all Persons appearing in person or by counsel in these proceedings (the “**Service List**”). The Monitor shall post the Service List, as may be updated from time to time, on the Monitor’s Website, provided that the Monitor shall have no liability in respect of the accuracy of or the timeliness of making any changes to the Service List.

64. ~~46.~~ **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 ~~Applicant~~ Nordstrom Canada Entities and the Monitor are at liberty to serve or distribute this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding ~~true~~ copies thereof by prepaid ordinary mail, courier, personal delivery ~~or~~, facsimile transmission or electronic message to the ~~Applicant's~~ Nordstrom Canada Entities' creditors or other interested parties at their respective addresses (including e-mail addresses) as last shown ~~on~~ in the books and records of the ~~Applicant~~ Nordstrom Canada Entities 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 or facsimile transmission shall be deemed to be received or electronic message sent after 5:00 p.m. Eastern Standard/Daylight Time; or (c) on the next third (3<sup>rd</sup>) business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

65. **THIS COURT ORDERS** that the Nordstrom Canada Entities 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 Nordstrom Canada Entities 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).

## GENERAL

66. ~~47.~~ **THIS COURT ORDERS** that the ~~Applicant~~ Nordstrom Canada Entities 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 ~~its~~ their respective powers and duties hereunder.

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

68. ~~49.~~ **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States, to give effect to this Order and to assist the ~~Applicant~~ Nordstrom Canada Entities, the Monitor and their respective agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the ~~Applicant~~ Nordstrom Canada Entities and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Monitor in any foreign proceeding, or to assist the ~~Applicant~~ Nordstrom Canada Entities and the Monitor and their respective agents in carrying out the terms of this Order.

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

70. ~~51.~~ **THIS COURT ORDERS** that any interested party (including the ~~Applicant~~ Nordstrom Canada Entities and the Monitor) may apply to this Court to vary or amend this Order on not less than seven (7) 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.

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

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SCHEDULE "A"NOTICE OF DISPUTE REGARDING ELIGIBLE EMPLOYEE CLAIM

I, \_\_\_\_\_ (insert name and employee number if known), am disputing that I have been paid in full in respect of my Eligible Employee Claim, as such term is defined in the Trust Agreement. *\*\*Please see the Monitor's website at [www.alvarezandmarsal.com/NordstromCanada](http://www.alvarezandmarsal.com/NordstromCanada) or Employee Representative Counsel's website at [www.upfhlaw.ca](http://www.upfhlaw.ca) for further information.* \*\*

I am a \_\_\_\_\_ (insert position) in the store located at \_\_\_\_\_ (insert address/location).

The basis for my objection is:  
 (insert full particulars regarding dispute, including all facts and calculations on which you are relying)

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Based on the foregoing, I claim that I am owed the sum of \$ \_\_\_\_\_.

Dated at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

Signature:

Address:

Tel:

Email:



**METHOD OF DELIVERY**

This notice of dispute must be sent to Employee Representative Counsel and to the Monitor at the following addresses:

To Employee Representative Counsel:

Ursel Phillips Fellows Hopkinson LLP  
555 Richmond Street West  
Suite 1200  
Toronto, ON M5V 3R1

Attention: Susan Ursel  
Email: [sursel@upfhlaw.ca](mailto:sursel@upfhlaw.ca)

To the Monitor at:

Alvarez & Marsal Canada Inc., in its  
capacity as Court-appointed Monitor of the  
Nordstrom Canada Entities  
Royal Bank Plaza, South Tower  
200 Bay Street, Suite 2900  
P.O. Box 22  
Toronto, ON M5J 2J1

Attention: Nordstrom Canada Monitor  
Email: [NordstromCanada@alvarezandmarsal.com](mailto:NordstromCanada@alvarezandmarsal.com)

**NOTE: THIS MUST BE SENT TO EMPLOYEE REPRESENTATIVE COUNSEL AND THE MONITOR NO LATER THAN FORTY-FIVE (45) DAYS AFTER YOU RECEIVE YOUR LAST PAYMENT FROM NORDSTROM CANADA'S PAYROLL**

SCHEDULE "B"FORM OF REPRESENTED EMPLOYEE OPT-OUT NOTICE

To: Alvarez & Marsal Canada Inc., in its capacity as Court-appointed  
Monitor of the Nordstrom Canada Entities  
Royal Bank Plaza, South Tower  
200 Bay Street, Suite 2900  
P.O. Box 22  
Toronto, ON M5J 2J1

Attention : Nordstrom Canada Monitor  
 Email : NordstromCanada@alvarezandmarsal.com

I hereby provide written notice that I do not wish to be represented by Ursel Phillips Fellows  
Hopkinson LLP, employee representative counsel (the "Employee Representative Counsel")  
for the Represented Employees of Nordstrom Canada Retail, Inc., Nordstrom Canada Holdings,  
LLC, Nordstrom Canada Holdings II, LLC and Nordstrom Canada Leasing LP (collectively, the  
"Nordstrom Canada Entities") in their proceedings under the Companies' Creditors  
Arrangement Act (the "CCAA Proceedings"). I understand that by opting out of this  
representation, if I wish to take part in the CCAA Proceedings, then I would need to do so as an  
independent party. I am responsible for retaining my own legal counsel should I choose to do so,  
and that I would be personally liable for the costs of my own legal representation.

I understand that a copy of this Opt-Out Form will be provided to the Employee Representative  
Counsel and to the Nordstrom Canada Entities.

Witness

Signature

Name [please print]:

Address:

Telephone:

Note: To opt out, this form must be completed and received at the above address on or  
before , 2023.

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 NORDSTROM CANADA RETAIL, INC., NORDSTROM CANADA HOLDINGS, LLC and NORDSTROM CANADA HOLDINGS II, LLC

Applicants

*Ontario*  
**SUPERIOR COURT OF JUSTICE**  
**COMMERCIAL LIST**

Proceeding commenced at Toronto

**AMENDED AND RESTATED INITIAL ORDER**

**OSLER, HOSKIN & HARCOURT LLP**

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Lawyers for the Nordstrom Canada Entities

# TAB 6

Court File No.

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

THE HONOURABLE  <del>CHIEF</del> JUSTICE <del>MORAWETZ</del>	) ) )	<del>THURSDAY</del> <u>FRIDAY</u> , THE <del>2<sup>ND</sup></del> <u>10<sup>TH</sup></u>  DAY OF MARCH, 2023
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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 NORDSTROM CANADA RETAIL, INC.,  
NORDSTROM CANADA HOLDINGS, LLC and NORDSTROM  
CANADA HOLDINGS II, LLC

**AMENDED AND RESTATED INITIAL ORDER**  
**(amending the Initial Order dated March 2, 2023)**

**THIS APPLICATION**, made by Nordstrom Canada Retail, Inc. (“**Nordstrom Canada**”), Nordstrom Canada Holdings, LLC and Nordstrom Canada Holdings II, LLC (collectively, the “**Applicants**”), pursuant to the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the “**CCAA**”) was heard this day at ~~4330 Queen Street West~~University Avenue, Toronto, Ontario.

**ON READING** the affidavit of Misti Heckel sworn March 1, 2023, and the Exhibits thereto (the “**Initial Heckel Affidavit**”), ~~and~~the affidavit of Misti Heckel sworn March ●, 2023, and the Exhibits thereto, the pre-filing report dated March 1, 2023, of Alvarez & Marsal Canada Inc. (“**A&M**”), in its capacity as proposed monitor of the Nordstrom Canada Entities (as hereinafter defined), and the first report dated March ●, 2023, of A&M, in its capacity as monitor of the Nordstrom Canada Entities (in such capacity, the “Monitor”), and on hearing the submissions of counsel to the Applicants and Nordstrom Canada Leasing LP (“**Canada Leasing LP**”, and together with the Applicants, the “**Nordstrom Canada Entities**”), ~~A&M~~the Monitor, Employee Representative Counsel (as hereinafter defined) and such other counsel present, and on reading the consent of A&M to act as ~~monitor (in such capacity, the “Monitor”)~~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 Initial Heckel Affidavit.

## PLAN OF ARRANGEMENT

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

## APPLICATION

4. ~~3.~~ **THIS COURT ORDERS AND DECLARES** that the Applicants are companies to which the CCAA applies. Although not an Applicant, Canada Leasing LP shall have the benefits of the protections and authorizations provided by this Order.

## POSSESSION OF PROPERTY AND OPERATIONS

5. ~~4.~~ **THIS COURT ORDERS** that the Nordstrom Canada Entities 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 Nordstrom Canada Entities shall continue to carry on business in a manner consistent with the preservation of their business (the “**Business**”) and Property. The Nordstrom Canada Entities shall each be authorized and empowered to continue to retain and employ the employees, 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.

6. ~~5.~~ **THIS COURT ORDERS** that the Nordstrom Canada Entities shall be entitled to continue to use the central cash management system currently in place as described in the Initial Heckel Affidavit or, with the consent of the Monitor, replace it with another substantially similar central cash management system (the “**Cash Management System**”) and that any present or future bank providing the Cash Management System shall not be under any obligation whatsoever to inquire into the propriety, validity or legality of any transfer, payment, collection or other action taken under the Cash Management System, or as to the use or application by the Nordstrom Canada Entities 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 Nordstrom Canada Entities, 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.

7. ~~6.~~ **THIS COURT ORDERS** that the Nordstrom Canada Entities 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 Nordstrom Canada Entities:

- (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 or future amounts owing in respect of customer rebates, refunds, discounts or other amounts on account of similar customer programs or obligations;
- (c) all outstanding or future amounts related to honouring customer obligations, including customer pre-payments, deposits, gift cards, programs (including, The

Nordy Club rewards program and the redemptions of Nordstrom Notes) 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 Nordstrom Canada Entities at their standard rates and charges;
- (e) with the consent of the Monitor, amounts owing for goods or services supplied to the Nordstrom Canada Entities prior to the date of this Order, by:
  - (i) 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 up to a maximum aggregate amount of \$1.5 million, if, in the opinion of the Nordstrom Canada Entities following consultation with the Monitor, such supplier or service provider is critical to the Orderly Wind-down (as hereinafter defined).

8. ~~7.~~ **THIS COURT ORDERS** that, except as otherwise provided to the contrary herein, the Nordstrom Canada Entities shall be entitled but not required to pay all reasonable expenses incurred by them in carrying on the Business in the ordinary course during the Orderly Wind-down 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 Nordstrom Canada Entities following the date of this Order or, with the consent of the Monitor, payments to obtain the release or delivery of goods contracted for prior to the date of this Order.

9.     ~~8.~~ **THIS COURT ORDERS** that the Nordstrom Canada Entities 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 Nordstrom Canada Entities' 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 Nordstrom Canada Entities in connection with the sale of goods and services by the Nordstrom Canada Entities, 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 remitted until on or after the date of this Order;
- (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 Nordstrom Canada Entities; and
- (d) taxes under the *Income Tax Act* (Canada) or other relevant taxing statute giving rise to any statutory deemed trust amounts in favour of the Crown in right of Canada or any Province thereof or any political subdivision thereof or any other taxation authority.

10. ~~9.~~ **THIS COURT ORDERS** that, until a real property lease, including a sublease and related documentation (each, a “**Lease**”) to which any Nordstrom Canada Entity is a party is disclaimed in accordance with the CCAA or otherwise consensually terminated, such Nordstrom Canada Entity 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 Nordstrom Canada Entities or the making of this Order) or as otherwise may be negotiated between such Nordstrom Canada Entity 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. Without in any way impairing, limiting or lessening the priority, protections, rights or remedies of Canada Leasing LP, any Rent in respect of Premises Fixturing Costs payable by Nordstrom Canada to Canada Leasing LP under a Lease shall be stayed and suspended until further Order of this Court.

11. ~~10.~~ **THIS COURT ORDERS** that, except as specifically permitted herein, the Nordstrom Canada Entities 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 Nordstrom Canada Entities 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 for the purpose of the Orderly Wind-down or pursuant to this Order or any other Order of the Court.

#### **ORDERLY WIND-DOWN**

12. ~~11.~~ **THIS COURT ORDERS** that the Nordstrom Canada Entities shall, subject to such requirements as are imposed by the CCAA, have the right to:

- (a) permanently or temporarily cease, downsize or shut down any of the Business or operations, and to dispose of redundant or non-material assets not exceeding

\$250,000 in any one transaction or \$1 million in the aggregate in any series of related transactions; provided that, with respect to leased premises, the Nordstrom Canada Entities may, subject to the requirements of the CCAA and paragraphs 10, 13 and 14 herein, vacate, abandon or quit the whole (but not part of) and may permanently (but not temporarily) cease, downsize or shut down any of the Business or operations in respect of any leased premises;

- (b) ~~(a)~~ terminate the employment of such of its employees or temporarily lay off such of its employees as the applicable Nordstrom Canada Entity deems appropriate;
- (c) pursue all offers for sales of material parts of the Business or the Property, in whole or part, subject to prior approval of this Court being obtained before any sale (except as permitted by paragraph 12(a) above);
- (d) ~~(b)~~ perform their obligations under the Wind-Down Agreement, including with respect to the provision of and payment for shared services; ~~and~~
- (e) ~~(c)~~ in consultation with, and with the oversight of the Monitor, (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 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; and
- (f) apply to this Court for such approval, vesting or other Orders as may be necessary to consummate sale transactions for all or any part of the Property, including, without limitation, approval of a consulting or agency agreement concerning the liquidation of inventory, furniture, fixtures, and equipment forming part of the Property, and any related relief,

all of the foregoing to permit the Nordstrom Canada Entities to proceed with an orderly wind-down of the Business (the “**Orderly Wind-down**”).

13. THIS COURT ORDERS that the Nordstrom Canada Entities shall provide each of the relevant Landlords with notice of the Nordstrom Canada Entities' intention to remove any fixtures from any leased premises at least seven (7) days prior to the date of the intended removal. The relevant Landlord shall be entitled to have a representative present in the leased premises to observe such removal and, if the Landlord disputes the Nordstrom Canada Entities' entitlement to remove any such fixture under the provisions of the applicable Lease, such fixture shall remain on the premises and shall be dealt with as agreed between any applicable secured creditors, such Landlord and the Nordstrom Canada Entities, or by further Order of this Court upon application by the Nordstrom Canada Entities on at least two (2) days notice to such Landlord and any such secured creditors. If the Nordstrom Canada Entities disclaim the Lease governing such leased premises in accordance with Section 32 of the CCAA, the Nordstrom Canada Entities shall not be required to pay Rent under such Lease pending resolution of any such dispute (other than Rent payable for the notice period provided for in Section 32(5) of the CCAA), and the disclaimer of the Lease shall be without prejudice to the Nordstrom Canada Entities' claim to the fixtures in dispute.

14. THIS COURT ORDERS that if a notice of disclaimer is delivered pursuant to Section 32 of the CCAA, then (a) during the notice period prior to the effective time of the disclaimer, the Landlord may show the affected leased premises to prospective tenants during normal business hours, on giving the Nordstrom Canada Entities and the Monitor at least twenty-four (24) hours' prior written notice; and (b) at the effective time of the disclaimer, the relevant Landlord shall be entitled to take possession of any such leased premises without waiver of or prejudice to any claims or rights such Landlord may have against the Nordstrom Canada Entities 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

15. ~~12.~~ THIS COURT ORDERS that until and including ~~March 12~~ June 30, 2023, 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 Nordstrom Canada Entities or the Monitor, or 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 Nordstrom Canada Entities and the Monitor, or with leave of this Court, and any and all Proceedings currently under way against or in respect of the Nordstrom Canada Entities, 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.

16. ~~13.~~ **THIS COURT ORDERS** that during the Stay Period, no Person having any agreements or arrangements with the owners, operators, managers or landlords of commercial shopping centres or other commercial properties (including retail, office and industrial (warehouse) properties) in which there is located a store, office or warehouse owned or operated by the Nordstrom Canada Entities shall take any Proceedings or exercise any rights or remedies under such agreements or arrangements that may arise upon and/or as a result of the making of this Order, the declarations of insolvency by the Nordstrom Canada Entities or as a result of any steps taken by the Nordstrom Canada Entities pursuant to this Order and, without limiting the generality of the foregoing, no Person shall terminate, accelerate, suspend, modify, determine or cancel any such arrangement or agreement or be entitled to exercise any rights or remedies in connection therewith.

17. ~~14.~~ **THIS COURT ORDERS** that, until and including ~~March 12~~June 30, 2023, no Proceeding shall be commenced or continued against or in respect of Nordstrom, Inc. and its direct and indirect subsidiaries (other than the Nordstrom Canada Entities) (collectively, “Nordstrom US”) arising out of or in connection with any right, remedy or claim of any Person against Nordstrom US in connection with any indebtedness, indemnity, liability or obligation of any kind whatsoever of Nordstrom US under contract, statute or otherwise, whether or not such right or claim is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, unsecured, perfected, unperfected, present, future, known, or unknown, by indemnity, guarantee, surety or otherwise, and whether or not such right is executory or anticipatory in nature, including the right or ability of any Person to advance a claim for contribution, indemnity or otherwise, with respect to any matter, action, cause or chose in action, whether existing at present or commenced in future, which indebtedness, indemnity, liability or obligation is derivative of the primary liability of or related to the Nordstrom Canada Entities, except with the written consent of the Nordstrom Canada

Entities, Nordstrom US and the Monitor, or with leave of this Court; provided that, this paragraph shall not apply to any present or future bank providing the Cash Management System in connection with any claims or expenses it may suffer or incur in connection with the provision of the Cash Management System.

18. ~~15.~~ **THIS COURT ORDERS** that, without in any way altering, increasing, creating or eliminating any obligation or duty to mitigate losses or damages of any Landlord: (a) any Landlord claim pursuant to an indemnity, guarantee or surety executed by Nordstrom US in relation to any Nordstrom Canada Entity shall be unaffected and shall not be released or affected in any way in any Plan filed by the Applicants under the CCAA, or any proposal filed by the Nordstrom Canada Entities under the Bankruptcy and Insolvency Act (Canada) (“**BIA**”); and (b) any Landlord claim pursuant to an indemnity, guarantee or surety executed by Nordstrom US in relation to any Nordstrom Canada Entity shall be unaffected by any determination of any rights, remedies and claims of such Landlords as against the Nordstrom Canada Entities, whether made in the within proceedings under the CCAA or in any subsequent proposal or bankruptcy proceedings under the BIA, other than that any recoveries under such proceedings received by such Landlords shall constitute a reduction and offset to such claim.

19. ~~16.~~ **THIS COURT ORDERS** that, to the extent any prescription, time or limitation period relating to any Proceeding against or in respect of any Nordstrom Canada Entity 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**

20. ~~17.~~ **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 Nordstrom Canada Entities 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 Nordstrom Canada Entities and the Monitor, or leave of this Court, provided that nothing in this Order shall (a) empower the Nordstrom Canada Entities 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

21. ~~18.~~ **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, licence or permit in favour of or held by the Nordstrom Canada Entities, except with the prior written consent of the Nordstrom Canada Entities and the Monitor, or leave of this Court. Without limiting the foregoing, no right, option, remedy, and/or exemption in favour of the relevant Nordstrom Canada Entities shall be or shall be deemed to be negated, suspended, waived and/or terminated as a result of this Order.

## CONTINUATION OF SERVICES

22. ~~19.~~ **THIS COURT ORDERS** that during the Stay Period, all Persons having oral or written agreements with the Nordstrom Canada Entities or statutory or regulatory mandates for the supply or license of goods and/or services, including without limitation all computer software, 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 Nordstrom Canada Entities, 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 Nordstrom Canada Entities, and that the Nordstrom Canada Entities 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 Nordstrom Canada Entities in accordance with normal payment practices of the Nordstrom Canada Entities or such other practices as may be agreed upon by the supplier or service provider and the applicable Nordstrom Canada Entities and the Monitor, or as may be ordered by this Court.



## NON-DEROGATION OF RIGHTS

23. ~~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 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 Nordstrom Canada Entities. Nothing in this Order shall derogate from the rights conferred and obligations imposed by the CCAA.

## EMPLOYEE TRUST

24. ~~21.~~ **THIS COURT ORDERS** that the creation of the Employee Trust, as described in the Initial Heckel Affidavit, is hereby approved on substantially the terms and conditions set out in the Trust Agreement attached as Exhibit “T” to the Initial Heckel Affidavit, including, without limitation, the appointment of Gale Rubenstein, as trustee (the “**Trustee**”), and the Monitor, as administrator (the “**Administrator**”), of the Employee Trust, and authorizes and directs the Monitor to act in such capacity, and the parties thereto to execute the Trust Agreement.

25. ~~22.~~ **THIS COURT ORDERS** that the Nordstrom Canada Entities are authorized to process or cause to be processed all amounts received from the Employee Trust, including making payments to the Beneficiaries (as defined in the Trust Agreement), subject to and in accordance with the terms and conditions of the Trust Agreement.

26. ~~23.~~ **THIS COURT ORDERS** that the amounts received by the Nordstrom Canada Entities from the Employee Trust, (a) when in the hands of the Nordstrom Canada Entities; and (b) when paid to any payment processor, shall be deemed to be held in trust for and on behalf of the Beneficiaries, subject to and in accordance with the Trust Agreement and shall not constitute property of the Nordstrom Canada Entities including, without limitation, under the CCAA and BIA, and shall not be subject to the claims of any Person other than as provided under the Trust Agreement.

27. ~~24.~~ **THIS COURT ORDERS** that the creation, establishment, funding and administration of the Employee Trust shall not, in whole or in part, directly or indirectly, (a) cause Nordstrom US to be or be deemed to be; or (b) in any way be relied upon to claim or assert that Nordstrom US is or is deemed to be, either (i) an employer, or (ii) a joint, common or related



employer under contract, statute, common law or otherwise of any employee of the Nordstrom Canada Entities.

28. ~~25.~~ **THIS COURT ORDERS** that:

- (a) each Beneficiary shall be deemed to release the Releasees (as defined in the Trust Agreement) on the payment of a distribution from the Employee Trust in respect of such Beneficiary's Eligible Employee Claim (as defined in the Trust Agreement), to the extent of such distribution (the "**Payment Release**");
- (b) each Beneficiary shall be deemed to release the Releasees in respect of the full amount of such Beneficiary's Eligible Employee Claim, sixty (60) days after the final payment to such Beneficiary under the Employee Trust or such later date as the Monitor, in its sole discretion, may designate; provided that, such Beneficiary has not delivered a notice of dispute to the Monitor and Employee Representative Counsel, substantially in the manner and form attached as Schedule "A" hereto, within forty-five (45) days of the final payment to such Beneficiary; provided further that, in the event of any insufficiency of funds in the Employee Trust to cover a Beneficiary's total Eligible Employee Claim, only the Payment Release shall be effective and there shall be no deemed full and final release of the full Eligible Employee Claim; and
- (c) the Settlor (as defined in the Trust Agreement) shall be deemed to be fully and completely subrogated to all rights of recovery of the Beneficiaries against Nordstrom Canada, in an amount equal to the aggregate gross amount paid to such Beneficiaries directly or indirectly from the Employee Trust.

29. ~~26.~~ **THIS COURT ORDERS** that without limiting the authorizations, protections and indemnities in favour of the Trustee set forth in the Trust Agreement, no action or proceeding may be commenced against the Trustee in respect of the Employee Trust without leave of this Court.

#### **EMPLOYEE REPRESENTATIVE COUNSEL**

30. ~~27.~~ **THIS COURT ORDERS** that Ursel Phillips Fellows Hopkinson LLP ("**Employee Representative Counsel**") is hereby appointed as employee representative counsel to represent

the interests of (a) all store-level employees; (b) all non-store level employees, other than (i) non-store level employees who will be eligible for a KERP payment, (ii) directors and officers of the Nordstrom Canada Entities, and (iii) the Senior Vice President, Regional Manager for Canada (collectively, the “**Represented Employees**”) in these CCAA proceedings, in any proceedings under the BIA or in any other proceedings respecting the insolvency of the Nordstrom Canada Entities which may be brought before this Court (collectively, the “**Insolvency Proceedings**”), for any employment, human rights or other workplace law issues affecting such Represented Employees in the Insolvency Proceedings, including, without limitation, with respect to the Trust Agreement, the Claims Process (as defined in the Trust Agreement) and the settlement or compromise of any rights, entitlements or claims of the Represented Employees (the “**Purpose**”).

31. ~~28.~~ **THIS COURT ORDERS** that the Employee Representative Counsel shall be entitled but not required to commence the process of identifying no more than three (3) Represented Employees to be nominated as Court-appointed representatives (the “**Employee Representatives**”) as soon as practicable following the date hereof. The Employee Representatives shall, upon appointment, represent all Represented Employees (excluding the Opt-Out Individuals (as hereinafter defined), if any) in the Insolvency Proceedings, to act in the overall best interests of the Represented Employees and to advise and where appropriate instruct Employee Representative Counsel, in each case, solely for the Purpose. Employee Representative Counsel may rely upon the advice, information and instructions received from the Employee Representatives in carrying out its mandate without further communications with or instructions from the Represented Employees, except as may be recommended by Employee Representative Counsel or ordered by this Court.

32. ~~29.~~ **THIS COURT ORDERS** that, with the exception of Opt-Out Individuals, (a) the Employee Representatives and Employee Representative Counsel shall represent all Represented Employees in the Insolvency Proceedings; (b) the Represented Employees shall be bound by the actions of the Employee Representatives and Employee Representative Counsel in the Insolvency Proceedings; and (c) the Employee Representatives shall be entitled, on the advice of Employee Representative Counsel, to reach any settlement agreements, advocate on behalf of the Represented Employees for the Purpose and settle or compromise any rights, entitlements or claims of the Represented Employees, subject to approval of this Court.

33. ~~30.~~ **THIS COURT ORDERS** that the Nordstrom Canada Entities shall provide Employee Representative Counsel, the Employee Representatives and their respective advisors, subject to confidentiality arrangements acceptable to the Nordstrom Canada Entities and the Monitor, without charge, the following information, documents and data (the “**Information**”) to only be used for the Purpose in the Insolvency Proceedings: (a) the names, last known addresses and last known telephone numbers and e-mail addresses (if any) of the Represented Employees (excluding Opt-Out Individuals, if any, who have opted out prior to delivery of the Information); and (b) upon request of Employee Representative Counsel, such documents and data as may be reasonably relevant to matters relating to the issues affecting the Represented Employees in the Insolvency Proceedings, and that, in so providing all such Information, the Nordstrom Canada Entities are not required to obtain express consent from such Represented Employees authorizing disclosure of Information to Employee Representative Counsel for the Purpose and, further, in accordance with section 7(3)(c) of the *Canada Personal Information Protection and Electronic Documents Act*, section 18(1)(i) of the *British Columbia Personal Information Protection Act* and section 20 of the *Alberta Personal Information Protection Act*, this Order shall be sufficient to authorize the disclosure of the Information for the Purpose, without the knowledge or consent of the individual Represented Employees.

34. ~~31.~~ **THIS COURT ORDERS** that notice of the appointment of Employee Representative Counsel shall be provided by (a) the Nordstrom Canada Entities delivering a letter on behalf of Employee Representative Counsel to the Represented Employees explaining the terms of such appointment; (b) the inclusion of the details of such appointment in the CCAA Notice (as hereinafter defined); and (c) the posting of notice of such appointment on the Monitor’s Website (as hereinafter defined) and on Employee Representative Counsel’s website.

35. ~~32.~~ **THIS COURT ORDERS** that any individual Represented Employee who does not wish to be represented by the Employee Representatives and Employee Representative Counsel in the Insolvency Proceedings shall, within thirty (30) days of the date of the letter pursuant to paragraph ~~31~~34 above, notify the Monitor, in writing that such Represented Employee is opting out of representation by the Employee Representatives and Employee Representative Counsel by delivering to the Monitor an opt-out notice in the form attached as Schedule “B” hereto (each an “**Opt-Out Notice**”), and shall thereafter not be bound by the actions of the Employee

Representatives or Employee Representative Counsel and shall represent themselves or be represented by any counsel that such Represented Employee may retain exclusively at their own expense (any such Represented Employee that delivers an Opt-Out Notice in compliance with the terms hereof, an “**Opt-Out Individual**”). The Monitor shall deliver copies of all Opt-Out Notices received to the Nordstrom Canada Entities and Employee Representative Counsel as soon as reasonably practicable.

36. ~~33.~~ **THIS COURT ORDERS** that, subject to the terms of the engagement letter between Nordstrom Canada and Employee Representative Counsel, Employee Representative Counsel shall be paid its reasonable and documented fees and disbursements by the Nordstrom Canada Entities on a monthly basis, promptly upon rendering its accounts to the Nordstrom Canada Entities for fulfilling its mandate in accordance with this Order, and subject to such redactions to the invoices as are necessary to maintain solicitor-client privilege between Employee Representative Counsel and the Represented Employees. In the event of any disagreement with respect to such fees and disbursements, such disagreement may be remitted to this Court for determination.

37. ~~34.~~ **THIS COURT ORDERS** that no action or proceeding may be commenced against Employee Representative Counsel or the Employee Representatives in respect of the performance of their duties under this Order, without leave of this Court on seven (7) days’ notice to Employee Representative Counsel or the Employee Representatives, as the case may be, the Nordstrom Canada Entities and the Monitor.

38. ~~35.~~ **THIS COURT ORDERS** that Employee Representative Counsel is authorized to take all steps and to do all acts necessary or desirable to carry out the terms of this Order, including dealing with any Court, regulatory body or other government ministry, department or agency, and to take all such steps as are necessary or incidental thereto. Employee Representative Counsel and Employee Representatives shall have no liability as a result of their appointment or the fulfilment of their duties in carrying out the provisions of this Order, save and except for any gross negligence or wilful misconduct on their part.

## KEY EMPLOYEE RETENTION PLAN

39. **THIS COURT ORDERS** that the Key Employee Retention Plan (the “**KERP**”), as described in the Initial Heckel Affidavit, is hereby approved and the Nordstrom Canada Entities are authorized to make payments contemplated thereunder in accordance with the terms and conditions of the KERP.

40. **THIS COURT ORDERS** that the key employees referred to in the KERP (the “**Key Employees**”) shall be entitled to the benefit of and are hereby granted a charge on the Property, which charge shall not exceed an aggregate amount of \$2.6 million (the “**KERP Charge**”), as security for amounts payable to the Key Employees pursuant to the KERP. The KERP Charge shall have the priority set out in paragraphs 54 and 56 hereof.

## **PROCEEDINGS AGAINST DIRECTORS AND OFFICERS**

41. ~~36.~~ **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 Nordstrom Canada Entities with respect to any claim against the directors or officers that arose before the date hereof and that relates to any obligations of the Nordstrom Canada Entities 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**

42. ~~37.~~ **THIS COURT ORDERS** that the Nordstrom Canada Entities shall indemnify their directors and officers against obligations and liabilities that they may incur as directors or officers of the Nordstrom Canada Entities 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.

43. ~~38.~~ **THIS COURT ORDERS** that the directors and officers of the Nordstrom Canada Entities 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 \$103.725

million, as security for the indemnity provided in paragraph ~~37~~42 of this Order. The Directors' Charge shall have the priority set out in paragraphs ~~54~~9 and ~~51~~6 herein.

44. ~~39.~~ **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 Nordstrom Canada Entities' 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 ~~37~~42 of this Order.

#### **APPOINTMENT OF MONITOR**

45. ~~40.~~ **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 Nordstrom Canada Entities with the powers and obligations set out in the CCAA or set forth herein and that the Nordstrom Canada Entities and their shareholders, partners, members, officers, directors, and Assistants shall advise the Monitor of all material steps taken by the Nordstrom Canada Entities 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.

46. ~~41.~~ **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 Nordstrom Canada Entities' receipts and disbursements;
- (b) assist the Nordstrom Canada Entities with the Orderly Wind-down;
- (c) 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, certain shared services provided to and by the Nordstrom Canada Entities under the Wind-Down Agreement during the Orderly Wind-down and such other matters as may be relevant to the proceedings herein;

- (d) advise the Nordstrom Canada Entities in their preparation of the Nordstrom Canada Entities' cash flow statements and the dissemination of other financial information;
- (e) advise the Nordstrom Canada Entities in their development of the Plan and any amendments to the Plan;
- (f) assist the Nordstrom Canada Entities, to the extent required by the Nordstrom Canada Entities, with the holding and administering of creditors' or shareholders' meetings for voting on the Plan;
- (g) ~~(e)~~ 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 Nordstrom Canada Entities, to the extent that is necessary to adequately assess the Nordstrom Canada Entities' business and financial affairs or to perform its duties arising under this Order;
- (h) ~~(f)~~ liaise and consult with any Assistants and any liquidator selected through the Liquidation Solicitation Process, to the extent required, with respect to all matters relating to the Property, the Business, the Orderly Wind-down and such other matters as may be relevant to the proceedings herein;
- (i) ~~(g)~~ administer the Employee Trust, in its role as Administrator, in consultation with the Trustee thereof, the Nordstrom Canada Entities and Employee Representative Counsel;
- (j) ~~(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;
- (k) ~~(i)~~ be at liberty to serve as a "foreign representative" of the Nordstrom Canada Entities in any proceeding outside of Canada;
- (l) ~~(j)~~ assist the Nordstrom Canada Entities, to the extent required by the Nordstrom Canada Entities, with any matters relating to any foreign proceeding commenced in relation to any of the Nordstrom Canada Entities; and



(m) ~~(k)~~ perform such other duties as are required by this Order or by this Court from time to time.

47. ~~42.~~ **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.

48. ~~43.~~ **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*, and the *Alberta Occupational Health and Safety Act* 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.

49. ~~44.~~ **THIS COURT ORDERS** that the Monitor shall provide any creditor of the Nordstrom Canada Entities with information provided by the Nordstrom Canada Entities 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 Nordstrom Canada Entities 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 Nordstrom Canada Entities may agree.

50. ~~45.~~ **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, including, for greater certainty, in the Monitor's capacity as Administrator of the Employee Trust, 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.

51. ~~46.~~ **THIS COURT ORDERS** that the Monitor, counsel to the Monitor, counsel to the Nordstrom Canada Entities, and counsel to the directors and officers of the Nordstrom Canada Entities, 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 Nordstrom Canada Entities as part of the costs of these proceedings. The Nordstrom Canada Entities are hereby authorized and directed to pay the accounts of the Monitor, counsel to the Monitor, counsel to the Nordstrom Canada Entities and counsel to the directors and officers of the Nordstrom Canada Entities, on such terms as such parties may agree and is hereby authorized to pay to the Monitor, counsel to the Monitor, counsel to the Nordstrom Canada Entities, counsel to the directors and officers of the Nordstrom Canada Entities and Employee Representative Counsel, retainers, *nunc pro tunc*, to be held by them as security for payment of their respective fees and disbursements outstanding from time to time.

52. ~~47.~~ **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**

53. ~~48.~~ **THIS COURT ORDERS** that the Monitor, counsel to the Monitor, counsel to the Nordstrom Canada Entities, Employee Representative Counsel (up to the maximum amount of \$75,000), and counsel to the directors and officers of the Nordstrom Canada Entities, 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 \$~~71.50,000~~ million, 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 ~~549~~ and ~~516~~ hereof.

## VALIDITY AND PRIORITY OF CHARGES CREATED BY THIS ORDER

54. ~~49.~~ **THIS COURT ORDERS** that the priorities of the Administration Charge ~~and~~ the Directors' Charge and the KERP Charge (collectively, the "**Charges**"), as among them, shall be as follows:

- (a) First – Administration Charge (to the maximum amount of \$~~71.50,000~~ million); ~~and~~
- (b) Second – ~~Directors'~~ KERP Charge (to the maximum amount of \$2.6 million); ~~and~~
- (c) Third – Directors' Charge (to the maximum amount of \$103.725 million).

55. ~~50.~~ **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.

56. ~~51.~~ **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 Nordstrom Canada Entities 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.~~

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

58. ~~53.~~ **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 Nordstrom Canada Entities, and notwithstanding any provision to the contrary in any Agreement:

- (i) the creation of the Charges shall not create or be deemed to constitute a breach by the Nordstrom Canada Entities of any Agreement to which they are a party,
- (ii) 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, and
- (iii) the payments made by the Nordstrom Canada Entities pursuant to this Order 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.

59. ~~54.~~ **THIS COURT ORDERS** that any Charge created by this Order over leases of real property in Canada shall only be a Charge in the Nordstrom Canada Entities’ interests in such real property leases.

## SERVICE AND NOTICE

60. ~~55.~~ **THIS COURT ORDERS** that the Monitor shall (a) without delay, publish in the Globe & Mail a notice containing the information prescribed under the CCAA (the “**CCAA Notice**”); 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 Nordstrom Canada Entities’ books and records), a notice to all known creditors having a claim against the Nordstrom Canada Entities 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.

61. ~~56.~~ **THIS COURT ORDERS** that any employee of any of the Nordstrom Canada Entities who is sent a notice of termination of employment or any other communication by the Nordstrom Canada Entities 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 (4<sup>th</sup>) 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 Nordstrom Canada Entities’ books and records; provided, however, that any communication that is sent to an employee of the Nordstrom Canada Entities by electronic message to the individual’s corporate email address and/or the individual’s personal email address as last shown in the Nordstrom Canada Entities’ books and records shall be deemed to have been received twenty-four (24) hours after the time such electronic message was sent, notwithstanding the mailing of any notices of termination of employment or other employee communication.

62. ~~57.~~ **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: <http://www.alvarezandmarsal.com/NordstromCanada> (the “**Monitor’s Website**”).

63. **THIS COURT ORDERS** that the Monitor shall create, maintain and update as necessary a list of all Persons appearing in person or by counsel in these proceedings (the “**Service List**”). The Monitor shall post the Service List, as may be updated from time to time, on the Monitor’s Website, provided that the Monitor shall have no liability in respect of the accuracy of or the timeliness of making any changes to the Service List.

64. ~~58.~~ **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 Nordstrom Canada Entities 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 Nordstrom Canada Entities’ creditors or other interested parties at their respective addresses (including e-mail addresses) as last shown in the books and records of the Nordstrom Canada Entities 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 (3<sup>rd</sup>) business day following the date of forwarding thereof, if sent by ordinary mail.

65. ~~59.~~ **THIS COURT ORDERS** that the Nordstrom Canada Entities 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 Nordstrom Canada Entities 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**

~~60. — **THIS COURT ORDERS** that the comeback motion in these CCAA proceedings shall be heard on March 10, 2023 (the “Comeback Hearing”).~~

#### **GENERAL**

66. ~~61.~~ **THIS COURT ORDERS** that the Nordstrom Canada Entities 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.

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

68. ~~62.~~ **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 Nordstrom Canada Entities, 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 Nordstrom Canada Entities 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 Nordstrom Canada Entities and the Monitor and their respective agents in carrying out the terms of this Order.

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

70. ~~64.~~ **THIS COURT ORDERS** that any interested party (including the Nordstrom Canada Entities and the Monitor) may apply to this Court to vary or amend this Order ~~at the Comeback Hearing~~ on not less than ~~five~~seven (~~5~~7) 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.

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

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## SCHEDULE "A"

## NOTICE OF DISPUTE REGARDING ELIGIBLE EMPLOYEE CLAIM

I, \_\_\_\_\_ (*insert name and employee number if known*), am disputing that I have been paid in full in respect of my Eligible Employee Claim, as such term is defined in the Trust Agreement. *\*\*Please see the Monitor's website at [www.alvarezandmarsal.com/NordstromCanada](http://www.alvarezandmarsal.com/NordstromCanada) or Employee Representative Counsel's website at [www.upfhlaw.ca](http://www.upfhlaw.ca) for further information.* \*\*

I am a \_\_\_\_\_ (*insert position*) in the store located at \_\_\_\_\_ (*insert address/location*).

The basis for my objection is:

(*insert full particulars regarding dispute, including all facts and calculations on which you are relying*)

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Based on the foregoing, I claim that I am owed the sum of \$ \_\_\_\_\_.

Dated at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

Signature:

---

Address:

---

Tel:

---

Email:

---



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**METHOD OF DELIVERY**

This notice of dispute must be sent to Employee Representative Counsel and to the Monitor at the following addresses:

To Employee Representative Counsel:

Ursel Phillips Fellows Hopkinson LLP  
555 Richmond Street West  
Suite 1200  
Toronto, ON M5V 3R1

Attention: Susan Ursel  
Email: [sursel@upfhlaw.ca](mailto:sursel@upfhlaw.ca)

To the Monitor at:

Alvarez & Marsal Canada Inc., in its  
capacity as Court-appointed Monitor of the  
Nordstrom Canada Entities  
Royal Bank Plaza, South Tower  
200 Bay Street, Suite 2900  
P.O. Box 22  
Toronto, ON M5J 2J1

Attention: Nordstrom Canada Monitor  
Email: [NordstromCanada@alvarezandmarsal.com](mailto:NordstromCanada@alvarezandmarsal.com)

**NOTE: THIS MUST BE SENT TO EMPLOYEE REPRESENTATIVE COUNSEL  
AND THE MONITOR NO LATER THAN FORTY-FIVE (45) DAYS  
AFTER YOU RECEIVE YOUR LAST PAYMENT FROM NORDSTROM  
CANADA'S PAYROLL**

## SCHEDULE “B”

## FORM OF REPRESENTED EMPLOYEE OPT-OUT NOTICE

To: Alvarez & Marsal Canada Inc., in its capacity as Court-appointed  
Monitor of the Nordstrom Canada Entities  
Royal Bank Plaza, South Tower  
200 Bay Street, Suite 2900  
P.O. Box 22  
Toronto, ON M5J 2J1

Attention : Nordstrom Canada Monitor  
Email : [NordstromCanada@alvarezandmarsal.com](mailto:NordstromCanada@alvarezandmarsal.com)

I hereby provide written notice that I do not wish to be represented by Ursel Phillips Fellows Hopkinson LLP, employee representative counsel (the “**Employee Representative Counsel**”) for the Represented Employees of Nordstrom Canada Retail, Inc., Nordstrom Canada Holdings, LLC, Nordstrom Canada Holdings II, LLC and Nordstrom Canada Leasing LP (collectively, the “**Nordstrom Canada Entities**”) in their proceedings under the *Companies’ Creditors Arrangement Act* (the “**CCAA Proceedings**”). I understand that by opting out of this representation, if I wish to take part in the CCAA Proceedings, then I would need to do so as an independent party. I am responsible for retaining my own legal counsel should I choose to do so, and that I would be personally liable for the costs of my own legal representation.

I understand that a copy of this Opt-Out Form will be provided to the Employee Representative Counsel and to the Nordstrom Canada Entities.

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Signature

Name [please print]: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_

Telephone: \_\_\_\_\_

**Note:** To opt out, this form must be completed and received at the above address on or before \_\_\_\_\_, 2023.

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 NORDSTROM CANADA RETAIL, INC., NORDSTROM  
CANADA HOLDINGS, LLC and NORDSTROM CANADA HOLDINGS II, LLC

Court File No:

Applicants

*Ontario*  
**SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

Proceeding commenced at Toronto

**AMENDED AND RESTATED 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](mailto:tsandler@osler.com)

Jeremy Dacks (LSO# 41851R)  
Tel: 416.862.4923  
Email: [jdacks@osler.com](mailto:jdacks@osler.com)

Martino Calvaruso (LSO# 57359Q)  
Tel: 416.862.6665  
Email: [mcalvaruso@osler.com](mailto:mcalvaruso@osler.com)

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

Lawyers for the Nordstrom Canada Entities

# TAB 7

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 **NORDSTROM CANADA RETAIL,  
INC., NORDSTROM CANADA HOLDINGS, LLC** and  
**NORDSTROM CANADA HOLDINGS II, LLC**

APPLICANTS

**AFFIDAVIT OF MISTI HECKEL  
(Sworn March 1, 2023)**

I, Misti Heckel, of the City of Renton, in the State of Washington, President of Nordstrom Canada Retail, Inc., and President and Treasurer of Nordstrom Canada Holdings, LLC and Nordstrom Canada Holdings II, LLC MAKE OATH AND SAY:

1. This affidavit is made in support of an application by Nordstrom Canada Retail, Inc., Nordstrom Canada Holdings, LLC and Nordstrom Canada Holdings II, LLC (together, the “**Applicants**”) for an initial order (the “**Initial Order**”) and related relief under the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the “**CCAA**”). This affidavit is also made in support of an amended and restated Initial Order (the “**Amended and Restated Initial Order**”) that will be sought at a hearing within 10 days of an Initial Order under the CCAA being granted (the “**Comeback Hearing**”). Although the limited partnership Nordstrom Canada Leasing LP (“**Canada Leasing LP**”) is not an applicant in this proceeding, the Applicants seek to have the stay of proceedings and other benefits of an Initial Order under the CCAA extend to

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Canada Leasing LP, which is wholly-owned by certain of the Applicants and performs functions integral to the Applicants' business. Together, the Applicants and Canada Leasing LP are defined herein as the "**Nordstrom Canada Entities**".

2. In addition to my role as President of Nordstrom Canada Retail, Inc. ("**Nordstrom Canada**"), and President and Treasurer of Nordstrom Canada Holdings, LLC and Nordstrom Canada Holdings II, LLC, I am currently the Vice President - Tax of Nordstrom, Inc. ("**Nordstrom US**"), the indirect parent of the Nordstrom Canada Entities. In my role, I have oversight of the tax function for the Nordstrom Canada Entities together with Nordstrom US and its subsidiaries ("**Nordstrom Group**") and am involved in the financial and tax matters related to the Nordstrom Canada Entities. I am familiar with the business, and have relied upon the books and records of the Nordstrom Canada Entities. As such, I have personal knowledge of the matters deposed to herein. Where I have relied on other sources of information, I have so stated and I believe them to be true. In preparing this affidavit, I have also consulted with members of the senior management teams of the Applicants and Nordstrom US, as applicable, and Nordstrom US' and the Applicants' financial and legal advisors. The Nordstrom Canada Entities and Nordstrom US do not waive or intend to waive any applicable privilege by any statement herein.

3. As described in greater detail below, the Nordstrom Canada Entities are seeking, among other relief, the following as part of the proposed Initial Order: (i) a stay of proceedings against the Nordstrom Canada Entities, the Monitor (defined below), and their respective employees, directors, advisors, officers and representatives acting in such capacities; (ii) a temporary stay of proceedings against Nordstrom US and its direct and indirect subsidiaries (other than the Nordstrom Canada Entities) relating to claims in connection with any indebtedness, indemnity, liability or obligation of Nordstrom US in respect of obligations of or related to the Nordstrom

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Canada Entities, including indemnities granted by Nordstrom US under any Canadian real property leases; (iii) a stay of potential rights, including termination rights and claims for rent reduction or abatement, asserted by third-party tenants and occupants in commercial properties where Nordstrom Canada stores are located that arise as a result of the making of the proposed Initial Order; (iv) authorization (but not the requirement) to pay certain pre-filing amounts with the consent of the Monitor to key participants in the Nordstrom Canada Entities' distribution network, payment processing systems, and to other critical suppliers, if required to ensure an orderly wind down of the Nordstrom Canada Entities' business; (v) the creation of an Employee Trust and the appointment of Employee Representative Counsel (each defined below); and (vi) the granting of an Administration Charge (defined below) of \$750,000 and a Directors' Charge (defined below) of \$10.75 million.

4. If the proposed Initial Order is granted, at the Comeback Hearing the Applicants intend to seek this Court's approval of:

- (a) a key employee retention program and related KERP Charge (defined below);
- (b) an increase in the Administration Charge to \$1.5 million;
- (c) an increase in the Directors' Charge to \$13.25 million; and
- (d) an extension of the stay of proceedings, including an extension of the stay of proceedings against Nordstrom US and its direct and indirect subsidiaries (other than the Nordstrom Canada Entities), until June 30, 2023.

5. All references to monetary amounts in this affidavit are in Canadian dollars unless noted otherwise, and do not represent amounts or measures prepared in accordance with US GAAP.

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## A. Introduction

7. Nordstrom Canada operates six Nordstrom-branded full-line stores and seven off-price Nordstrom Rack-branded stores in Ontario, Alberta and British Columbia, and the Nordstrom.ca website. Each store operated by Nordstrom Canada is leased by a third-party landlord to Canada Leasing LP and subleased by Canada Leasing LP to Nordstrom Canada by a separate sublease (each a “**Sublease**” and collectively, the “**Subleases**”) in accordance with the applicable lease. Nordstrom US, the indirect and ultimate parent of the Nordstrom Canada Entities, through its subsidiaries and affiliates, operates 358 stores in the US and Canada, and the Nordstrom.com and NordstromRack.com websites in the US. The Nordstrom Group had net consolidated sales of USD \$10.9 billion for the first three quarters of fiscal year 2022 (as of October 29, 2022). The Nordstrom Group employs approximately 59,000 individuals on a full or part-time basis, of which approximately 2,330 are employed in Canada.

8. Since entering the Canadian marketplace in September 2014, the Nordstrom Canada Entities have embarked on a program of slowly and strategically expanding their footprint and operations in Canada, with the goal of achieving long-term sustainability and profitability. However, the Nordstrom Canada Entities’ stores have not performed as anticipated for a number of reasons, including lower than expected sales and gross margin, and high operating costs. Brand awareness and customer spending remain lower than expected among Canadian consumers, and unfavourable exchange rates, including their impact on customs payments when importing products from the US, have put and continue to put an enormous strain on the Canadian business.

9. Absent the financial support of Nordstrom US, the Nordstrom Canada Entities have experienced losses during each year of operation, and the majority of their locations have posted

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losses each year. The Nordstrom Canada Entities generated an approximate USD \$55 million operating loss in fiscal year 2022. The Nordstrom Canada Entities have only been able to sustain operations over the past eight years because of the significant financial and operational support and efforts of their US parent, Nordstrom US. Without this support, as described in greater detail below, the Nordstrom Canada Entities cannot continue operating as a going concern.

10. Since 2014, Nordstrom US has absorbed most of the Nordstrom Canada Entities' cumulative losses through intercompany payments under its Transfer Pricing Policy (defined and described below). In essence, the Nordstrom Canada Entities rely on strategic management, design and product development, procurement, sourcing, manufacturing, and sales and pricing services provided by Nordstrom US, as well as on administrative and other services. Nordstrom US and its US-based affiliates have provided the Nordstrom Canada Entities with approximately USD \$950 million in funding through various means since inception, and such funding net of distributions received from the Nordstrom Canada Entities is approximately USD \$775 million.

11. The Nordstrom Canada Entities' performance has in fact declined over the years. Compared to pre-pandemic fiscal year 2019, sales decreased by 2% in fiscal year 2022, driven primarily by a 20% decrease in sales at the Nordstrom full-line stores, flat sales at Nordstrom Rack stores despite opening one additional store in 2020, and a partial offset by sales from Nordstrom.ca which had no sales in 2019. Excluding the transfer pricing payments from Nordstrom US, the Nordstrom Canadas Entities' earnings before interest and taxes ("**EBIT**") have remained consistently negative over the years, only improving slightly from a negative \$86 million in fiscal year 2019 to a negative \$72 million for fiscal year 2022 despite the growth of Nordstrom.ca and the opening of one additional Nordstrom Rack store.

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12. Given the Nordstrom Canada Entities' poor financial performance and resulting negative cash flow, Nordstrom US has determined, after considering all reasonably available options and a thorough and exhaustive review process, that it is in the best interests of its stakeholders to cease the significant financial and operational support that Nordstrom US has been providing to the Nordstrom Canada Entities while it focuses on its core business and strategic imperatives in the US. As a result, the Nordstrom Canada Entities cannot continue to operate as a going concern. The Nordstrom Canada Entities have accordingly determined that they must cease operations in Canada and as a result of such decision, are insolvent and are seeking protection from their creditors under the CCAA.

13. Further, Nordstrom US' decision to discontinue its operational and financial support of the Nordstrom Canada Entities and the Nordstrom Canada Entities' corresponding decision to cease operations will render Canada Leasing LP and Nordstrom Canada unable to satisfy their obligations in respect of each lease to which Canada Leasing LP is a party (collectively including amendments, extensions, assignments and restatements thereto, the "**Leases**" and each, a "**Lease**"). This will result in the ability of the landlords under the Leases (the "**Landlords**") to enforce certain rights and remedies, including accelerating all rents due under the Leases. The net present value of the remaining obligations, as recorded in the Nordstrom Canada Entities' summarized trial balance, over the term of the Leases are approximately \$136 million for Nordstrom full-line retail store Leases, and approximately \$45 million for Nordstrom Rack retail store Leases as of January 2023. Even after taking into account the obligation of the Landlords to mitigate their damage claims, the aggregate amounts owing to the Landlords under the Leases far surpasses \$5 million. Further, the Landlord claims arising from defaults under the Leases, together with the Nordstrom Canada Entities' other debts, exceed the realizable value of the Nordstrom

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Canada Entities' assets and the Nordstrom Canada Entities have insufficient funds to satisfy all such claims. The Nordstrom Canada Entities are therefore insolvent.

14. To wind down operations in a responsible, controlled, and orderly manner, and to maximize value for their stakeholders, the Nordstrom Canada Entities require the flexibility of the CCAA and breathing space from the exercise of creditor remedies as they prepare to liquidate their remaining inventory with assistance from a third-party professional liquidator, and vacate their leased retail stores.

15. An orderly wind down requires the involvement of many stakeholders and Court supervision. The Nordstrom Canada Entities, in consultation with Alvarez & Marsal Canada Inc. (“A&M”) (the “**Proposed Monitor**”, and if appointed, in such capacity, the “**Monitor**”), plan to solicit bids from a number of professional third-party liquidators and then select, subject to Court approval, the party that they believe will best assist in maximizing the potential proceeds from the sale of their remaining inventory and furniture, fixtures, and equipment. If an Initial Order is granted, the Nordstrom Canada Entities intend to serve a motion in the near term seeking this Court's approval of an orderly Realization Process (defined below) and of the selection of a liquidator to assist with this process.

16. I believe that the Nordstrom Canada Entities' active participation in this orderly wind down process, along with the support of Nordstrom US discussed further below, is essential to maximizing recoveries for the benefit of the stakeholders of the Nordstrom Canada Entities, as a whole. In turn, this engages:

- (a) Nordstrom Canada's employees, including employees who have expertise in the operations of Nordstrom stores – Nordstrom Canada proposes to implement a key

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employee retention program (described below), and, in an effort to provide a measure of financial security during the orderly wind down and to diminish the financial hardship Nordstrom Canada's employees may suffer, Nordstrom US has agreed to fund an Employee Trust for the benefit of eligible employees of Nordstrom Canada to ensure payment of statutory termination and severance pay in a timely manner, should this Court grant the Nordstrom Canada Entities CCAA protection. The Nordstrom Canada Entities are also asking the Court to appoint representative counsel (funded by the estate) to represent eligible Nordstrom Canada employees in the CCAA proceedings ("**Employee Representative Counsel**") to ensure their interests are adequately protected throughout, including by assisting with eligible claims under the Employee Trust;

- (b) The Landlords – to maximize recovery, the Nordstrom Canada Entities are seeking to complete the realization phase of this proceeding within 3 to 4 months. The Nordstrom Canada Entities will need to engage with the Landlords to understand their concerns with respect to the Realization Process, including in respect of signage and the removal of furniture, fixtures and equipment, with a view to arriving at a consensual process that benefits the stakeholders of the Nordstrom Canada Entities, as a whole;
- (c) The Nordstrom Canada Entities' concession parties, merchandise and other suppliers – as stated above, to maximize recovery, the Nordstrom Canada Entities are seeking to complete the realization phase of this proceeding within 3 to 4 months and intend to work with the merchandise suppliers to mitigate the effects

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of the wind down of the Canadian business on such suppliers, many of which also supply merchandise to Nordstrom US; and

- (d) Nordstrom US, which provides back-office business and management support services and financial support to the Nordstrom Canada Entities – as set out above, without these services, the Nordstrom Canada Entities could not operate and would be forced to immediately shut down in a chaotic and uncontrolled process, to the detriment of its stakeholders. Nordstrom Canada also licenses all trademarks and other intellectual property (“IP”) associated with the “NORDSTROM” brand-name from Nordstrom US, who in turn licenses certain of the IP from NIHC, Inc. to conduct its business. Thus, without Nordstrom US’ agreement to continue providing critical services and licensing IP during the wind down process, the Realization Process would be impeded, ineffective and disorderly.

17. In connection with the decision to exit the Canadian marketplace, Nordstrom US elected to terminate its intercompany agreement with each of the Nordstrom Canada Entities that provided for, among other things, the provision of management services, financial support and IP, as applicable, by Nordstrom US to the Nordstrom Canada Entities. Following the delivery of the applicable notices of termination by Nordstrom US in accordance with their terms, the Nordstrom Canada Entities determined that it was in their best interests to waive the 30-day notice termination periods under the intercompany agreements, agree to an immediate termination of such agreements, and enter into the Wind-Down Agreement (defined below) to allow for an orderly wind down of the Canadian operations. I am advised by senior management of Nordstrom US, and believe, that Nordstrom US will only agree to continue providing these crucial services and licensing IP on the condition that the orderly wind down is supervised by the Court in accordance

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with the CCAA. As President of Nordstrom Canada and President and Treasurer of Nordstrom Canada Holdings, LLC and Nordstrom Canada Holdings II, LLC, in consultation with advisors to the Nordstrom Canada Entities, I have concluded that this application under the CCAA and the proposed Initial Order is the best alternative that is available to the Nordstrom Canada Entities, and will maximize realizations and result in the best possible outcome for stakeholders of the Nordstrom Canada Entities in the circumstances.

18. Nordstrom US and the Nordstrom Canada Entities have diligently explored a number of strategies to improve the financial and operational challenges facing the Canadian business, including licensing full operations to another Canadian retailer or retail operator with market expertise, closing certain underperforming stores, and/or investing to grow Nordstrom.ca, build loyalty, and optimize inventory. None of these alternatives provide realistic solutions to the current difficulties facing the Canadian business and achieving profitability. Despite considerable effort and the exploration of all reasonable possibilities in conjunction with legal and financial advisors, the business in Canada is no longer financially sustainable.

19. A significant contributor to the lack of viability of the Nordstrom Canada Entities' business is high operating costs, in particular, rent and other payments to Landlords. Nordstrom Canada's occupancy costs as a percentage of sales are trending in the range of 7% for Nordstrom full-line stores compared to 1% in the US, and 12% for Nordstrom Rack stores compared to 6-7% in the US. In addition, a significant amount of Nordstrom Canada's inventory is purchased in USD, with merchandise necessarily being priced competitively in Canadian dollars, which negatively impacts its profit margin.

20. Recently, in light of the poor operating results in fiscal year 2022, Nordstrom US and the Nordstrom Canada Entities again reviewed all potential options for the Canadian business which has been less profitable than the US business. However, with cumulative and ongoing losses generated by the Canadian business, the unfavourable exchange rate, high operating costs, the effect of the COVID-19 pandemic, and lack of brand awareness, it was determined that the only reasonable option is for Nordstrom US to cease its operational and financial support of the Nordstrom Canada Entities and for the Nordstrom Canada Entities to wind down operations.

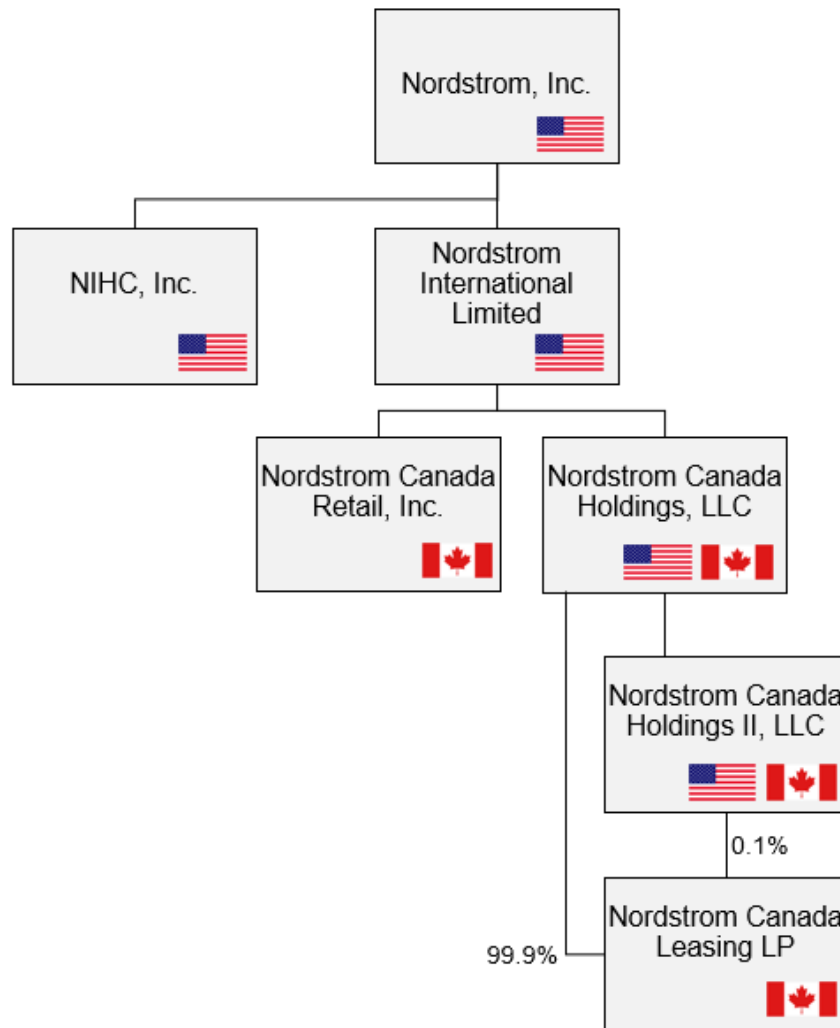
21. Each of the Leases of the full-line Nordstrom stores requires continuous operation in the leased premises, and all Leases contain restrictions that relate to liquidation sales, including in most cases blanket prohibitions of such sales. The Nordstrom Canada Entities have taken these restrictions into account in their decision to wind down operations pursuant to the CCAA; given that, the exercise of any contractual remedies by any of the Landlords would affect the time-sensitive Realization Process. The Nordstrom Canada Entities believe that the flexibility of the CCAA and the assistance of this Court and the Proposed Monitor is required to provide a platform for a consensual resolution of any issues with the Landlords and to achieve maximum recoveries.

22. In summary, the Nordstrom Canada Entities require a stay of proceedings and related relief under the CCAA in order to continue operating throughout the contemplated orderly wind down and Realization Process. The stay will provide the Nordstrom Canada Entities with the flexibility to implement a cessation of operations in a responsible and controlled manner, with the ultimate goal of developing a plan of arrangement for the benefit of all of their stakeholders.



**B. Corporate Structure****(a) Nordstrom Canada**

23. Nordstrom Canada is a corporation incorporated pursuant to the laws of British Columbia, and is an indirect subsidiary of Nordstrom US. Nordstrom Canada is the operating entity in Canada and serves as the customer retail sales entity for the Nordstrom Group in the Canadian market. Nordstrom Canada is a wholly-owned subsidiary of Nordstrom International Limited (“NIL”). NIL is in turn a wholly-owned subsidiary of Nordstrom US. Nordstrom Canada employed approximately 2,330 full and part-time employees as of January 31, 2023, and had revenues of \$515 million for fiscal year 2022 (its year ended January 28, 2023). A corporate chart depicting the structure of the Nordstrom Canada Entities is set out below with the solid lines showing a direct parent-subsidiary relationship:



**(b) Nordstrom Canada Holdings, LLC**

24. Nordstrom Canada Holdings, LLC (“NCH”) is a US single member limited liability company, wholly-owned by NIL, and is a non-resident of Canada. NCH, as general partner, owns 99.9% of Canada Leasing LP - the Canadian leasing entity. NCH thereby carries on business in Canada through a permanent establishment for Canadian tax purposes. NCH is a dual-status company in that it is a disregarded entity in the US, but is treated as a corporation in Canada, and files Canadian tax returns.

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**(c) Nordstrom Canada Holdings II, LLC**

25. Nordstrom Canada Holdings II, LLC (“NCHII”) is a US single member limited liability company and is a non-resident of Canada. NCHII owns 0.1% of Canada Leasing LP, as its limited partner. NCHII thereby carries on business in Canada through a permanent establishment for Canadian tax purposes. NCHII is also a dual status company meaning it is a disregarded entity in the US, but is treated as a corporation in Canada, and files Canadian tax returns.

**(d) Canada Leasing LP**

26. Canada Leasing LP is an Alberta limited partnership responsible for the Nordstrom Canada Entities’ real estate activities, such as leasing retail space from third-party property owners, committing capital to build and furnish the stores, and subleasing the retail space to Nordstrom Canada, who operates the stores. Canada Leasing LP is owned 99.9% and 0.1% by US limited liability companies, NCH and NCHII, respectively.

**C. Chief Place of Business**

27. The chief place of business of the Applicants is Ontario. Eight of the 13 Nordstrom Canada retail stores are located in Ontario. During fiscal year 2022, store sales in Ontario, British Columbia, and Alberta totaled \$220 million, \$148 million and \$77 million, respectively. Nordstrom Canada therefore has more retail stores and sales in Ontario than in any of the other provinces in which it operates. Further, approximately 1,330 out of Nordstrom Canada’s approximate 2,330 full and part-time employees work in Ontario.

**D. The Business of the Applicants****(a) Overview**

28. Nordstrom US is one of the leading fashion retailers in the US, providing its customers with a differentiated and seamless experience through a robust e-commerce platform and high-quality store portfolio. Nordstrom US was founded in 1901 as a retail shoe business in Seattle, Washington and was later incorporated under the laws of the state of Washington in 1946. Nordstrom US became public in 1971 and is currently traded on the New York Stock Exchange under the ticker “JWN”. Nordstrom US and Nordstrom Canada operate in one primary business segment, Retail, which offers a variety of products and services.

29. The Retail segment includes 94 Nordstrom-branded full-line stores and 241 off-price Nordstrom Rack stores, seven Nordstrom Local Stores, one ASOS | Nordstrom store, and two Last Chance clearance stores in the US, six Nordstrom-branded full-line stores and seven off-price Nordstrom Rack stores in Canada, and online operations through various online platforms and mobile applications. Nordstrom full-line stores provide different lines of products and services in addition to retail goods including, but not limited to, tailoring and gift wrapping. Nordstrom Rack stores offer lower price point merchandise from many of the same vendors as the full-line stores, and operate as outlets for clearance merchandise from nearby Nordstrom full-line stores and the website. Nordstrom Local Stores are service hubs for Nordstrom full-line online order pickups and returns, alterations, and other styling advice services to enhance customers’ shopping experience with shorter wait times and personalized services. Overall, the Retail segment offers a wide selection of premium brand name and private label merchandise focused on apparel, shoes, cosmetics, accessories, and home goods.

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30. Purchases in full-line stores are typically fulfilled through each store's inventory, but unavailable inventory may also be shipped to customers from Nordstrom US or Nordstrom Canada's fulfillment centres or from other full-line stores with available inventory. Merchandise inventories are also kept either in distribution centres or omni-channel centres located in the US or Canada.

31. As of October 29, 2022, Nordstrom US' consolidated balance sheets show total assets of approximately USD \$9.4 billion, total liabilities of approximately USD \$8.8 billion and shareholders' equity of USD \$606 million. The Nordstrom Group's net earnings for the first three quarters of fiscal year 2022 (as of October 29, 2022) totaled USD \$126 million, and the adjusted earnings before interest, taxes, depreciation and amortization ("EBITDA") for the first three quarters of fiscal year 2022 (as of October 29, 2022) were approximately USD \$714 million.

32. As set out above, the Nordstrom Canada Entities' operations include the Nordstrom.ca website, six Nordstrom-branded full-line stores and seven off-price Nordstrom Rack Stores.

**(b) Leases and Retail Stores**

**(i) Store Formats and Locations**

33. Nordstrom Canada conducts business through 13 retail locations in Ontario, Alberta and British Columbia. The following chart sets out Nordstrom Canada's current store locations by store type and geographical region:

Province	Full-Line	Rack
<i>Ontario</i>	4	4
<i>Alberta</i>	1	2
<i>British Columbia</i>	1	1

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Province	Full-Line	Rack
<i>T</i>	6	7

34. All of the Nordstrom Canada Entities' retail operations are conducted in leased facilities. Canada Leasing LP, the lessee of all of the Leases, is, to the best of its knowledge, current on all of its lease obligations.

35. The Leases for Nordstrom Canada's full-line retail stores are generally for initial terms of approximately 15 years plus the time from the 15<sup>th</sup> anniversary of the commencement date to the last day of the following February. Nordstrom Canada's full-line Leases have between 7 and 10 years remaining on their respective terms, and Nordstrom Canada's Rack Leases have between 5 and 8 years remaining on their respective terms.

36. For the Nordstrom full-line store Leases, Canada Leasing LP generally has 12 successive options to extend the term of such Leases, each for an additional period of five years, with the exception of the Lease at Yorkdale Shopping Centre which provides Canada Leasing LP with seven renewal options, with the first and last being for five years each and the second through sixth being for 10 years each.

37. For the Nordstrom Rack Leases, Canada Leasing LP generally has four successive options to extend the term of such Leases each for additional five-year terms.

38. The Nordstrom Canada Entities do not have any office, warehouse, or industrial leases in Canada.

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**(ii) Landlords**

39. Canada Leasing LP leases stores across Canada from third-party landlords. Canada Leasing LP's Leases are generally with large retail landlords who own malls, strip malls, and shopping centres across Canada.

40. The legal entities that are Landlords vary within landlord groups, often because special purpose corporations within the landlord groups have title to the real property with a portion of it leased to Canada Leasing LP. Canada Leasing LP's Leases can be organized among eight landlord groups:

<b>Landlord Group</b>	<b>Number of Nordstrom Canada Locations</b>
Cadillac Fairview	5 Full-Line
Oxford Properties Group	1 Full-Line
Cameron Development Corporation	1 Rack
Ivanhoe Cambridge	2 Rack
Orlando Corporation	1 Rack
First Capital	1 Rack
Ottawa Train Yards Inc.	1 Rack
bcIMC Realty Corporation & QuadReal Property Group Limited Partnership	1 Rack

**(iii) Lease Provisions**

41. Typical of retail store leases in Canada, many of the Leases contain provisions that impact Nordstrom Canada's store operations, including:

- (a) *Going-Out-of-Business Sale Restrictions*: The majority of Nordstrom Canada's retail Leases contain prohibitions on liquidation or going out of business sales. The

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three Leases which do not contain such blanket prohibitions instead include restrictions that all uses must be consistent with the operation of a first-class shopping centre.

- (b) *Operating Covenants:* All of the Leases for Nordstrom Canada full-line stores contain operating covenants that require such stores to be continuously, diligently, and actively operated for specified periods of time. All of the Nordstrom Canada Rack Leases contain “go dark rights” permitting the occupant to cease operations following their initial opening, provided that the Landlords under all Rack Leases have the right to recapture the Premises (defined in the Leases) in the event that operations within the Premises cease for a period of 60 consecutive days, subject to force majeure.

**(iv) Nordstrom US Indemnities**

42. Ten of Nordstrom Canada’s retail Leases (all six of the full-line retail stores, and four Nordstrom Rack stores) are the subject of an indemnity granted by Nordstrom US in favour of the applicable Landlord. Each of these indemnities expires upon the achievement of certain specific milestones or events. It is the view of Nordstrom Canada that the four Nordstrom Rack retail Lease indemnities have been released in accordance with their terms, given that Canada Leasing LP has either opened five or 10 stores and, with respect to the One Bloor Lease, the \$50 million tangible net worth threshold for Canada Leasing LP was previously met.

43. The six Nordstrom full-line retail Lease indemnities have not been released, as they expire either 15 or 20 years following the applicable store opening date. Each of these unexpired indemnities contain provisions to the effect that Nordstrom US’ obligations are not affected by the



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bankruptcy, winding down, liquidation, or other creditors' proceedings in respect of Nordstrom Canada or the disclaimer of the applicable Lease. Attached to my affidavit as **Exhibits "A" and "B"** are copies of the indemnities with respect to the full-line stores leased from Cadillac Fairview and Oxford Properties Group, respectively.

**(v) Lease Payments**

44. The amounts paid by Nordstrom Canada to Canada Leasing LP under the Subleases include amounts in respect of (i) amounts payable by Canada Leasing LP to the Landlord under the corresponding Lease, including basic rent, operating/common area maintenance costs and realty taxes, and (ii) an amount being on account of a percentage of all costs incurred by Canada Leasing LP in constructing, fixturing and furnishing the retail premises after executing the Lease (such costs referred to herein as "**Premises Fixturing Costs**"). Nordstrom Canada pays to Canada Leasing LP an aggregate of approximately \$3.2 million, including real estate taxes, in rent under the Subleases per month, which Canada Leasing LP in turn pays as rent to the Landlords under the Leases. Nordstrom Canada also pays Canada Leasing LP approximately \$5.5 million per month under the Subleases as rent on account of the Premises Fixturing Costs.

45. Canada Leasing LP provides Subleases for two different types of stores to Nordstrom Canada (full-line stores and Nordstrom Rack stores), with each having separate construction, fixturing, and furnishing requirements, and different initial lease terms, being 15 years and 10 years, respectively. Accordingly, the percentage of Premises Fixturing Costs paid by Nordstrom Canada to Canada Leasing LP under Subleases is 12.8% per annum for full-line stores and 15% per annum for Nordstrom Rack stores (except in respect of the Nordstrom Rack store at One Bloor St. Toronto, ON, for which Nordstrom Canada pays 12.8% of the Premises Fixturing Costs per

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annum). These differentiated percentages were calculated based on a financial model that considers Sublease revenue, depreciation, interest expense, and tax expense for each type of Lease.

46. Based on a summary of the January 2023 trial balance for the Nordstrom Canada Entities, there is an intercompany amount owing from Nordstrom Canada to Canada Leasing LP of approximately USD \$54 million for historical rent under the Subleases. However as stated above, Canada Leasing LP is current on amounts payable under the Leases to the third-party Landlords.

**(c) Merchandising and Sourcing**

47. The sourcing and purchasing of goods sold by Nordstrom Canada is conducted on behalf and at the cost of Nordstrom Canada at Nordstrom US' head office in Seattle by the merchandise buying and corporate procurement teams. Nordstrom Canada purchases its merchandise from a number of North American and international suppliers, many of which have long-standing relationships with Nordstrom US. Some of this merchandise is then transferred by Nordstrom Canada between their full-line and Nordstrom Rack retail stores. In addition, certain of the contracts or purchase orders involving Nordstrom Canada merchandise and concession operations were entered into or issued by Nordstrom US on behalf of, or jointly with, Nordstrom Canada. To facilitate the distribution of merchandise to Canadian stores, Nordstrom Canada uses a distribution centre in Etobicoke, Ontario which is managed and operated by a third-party, National Logistics Services (2006) Inc. ("NLS") (the "**Distribution Centre**").

48. In addition to sourcing merchandise from vendors, Nordstrom Canada stores carry brand-name merchandise sold by Concession Vendors (defined and described below). Nordstrom Canada also sells private-label merchandise ("**NPG**") in Nordstrom full-line and Nordstrom Rack retail stores and online at Nordstrom.ca.

49. Merchandise sold in Nordstrom Canada stores and online at Nordstrom.ca is generally sourced in two ways:

- (a) Approximately 62% of merchandise is purchased by Nordstrom Canada from a vendor that handles transportation, including customs and taxes. The fee for these services paid by Nordstrom Canada is included in the cost of the goods. The goods are delivered to the Distribution Centre and then distributed to stores or held in the Distribution Centre for later distribution to stores; and
- (b) Approximately 38% of merchandise that Nordstrom Canada purchases from a vendor requires Nordstrom Canada itself to handle transportation and logistics. Nordstrom Canada hires a carrier to transport the goods from the vendor location to the Distribution Centre, as well as manage customs and taxes for the goods. The goods are then distributed to the stores or held in the Distribution Centre for later distribution to stores.

50. Nordstrom Canada stores are dependent upon a significant number of products that are imported from non-Canadian markets. Approximately 60% to 70% of the merchandise sold in Nordstrom Canada stores is imported from the US into Canada (irrespective of where the merchandise is manufactured). The remaining merchandise is either obtained from within Canada or internationally.

51. Merchandise obtained internationally, the majority of which is NPG, usually involves the merchandise first entering into the US. Where the product enters the US through a Foreign Trade Zone before coming to Canada, it does not go through US customs, but rather goes through customs in Canada. Where the product is imported directly from the US, US customs are paid for

by the US supplier upon import, and Nordstrom Canada pays Canadian customs. Nordstrom Canada has also issued a bond with customs brokers in the approximate amount of \$1.3 million. This amount has been deposited with the surety to cover any amounts drawn down under the bond.

52. Generally, commitments to suppliers are made three to nine months in advance and secured with a purchase order (“**PO**”) number. The POs are then usually sent to the suppliers 45 days in advance of the shipment window commencing.

53. A significant amount of Nordstrom Canada’s merchandise is purchased in USD. As a result, exchange rate fluctuations between the Canadian and US dollars have contributed to the losses experienced by Nordstrom Canada’s business, including as a result of the customs payments described above.

**(i) Merchandise Vendors**

54. Most of the merchandise sold in Nordstrom Canada stores is obtained from vendors located in Canada and the US. For fiscal year 2022, Nordstrom Canada made approximately \$254 million in payments for merchandise obtained from vendors in Canada and the US. For fiscal year 2022, Nordstrom Canada made approximately \$36 million in payments for merchandise imported from vendors outside Canada and the US. In addition, NPG, which makes up approximately 9% of Nordstrom Canada’s sales, is sourced through Nordstrom US (in the name of and cost to Nordstrom Canada) and is primarily imported from outside North America. Nordstrom Canada made approximately \$16 million in payments to third-party vendors for NPG in fiscal year 2022.

55. Upon commencement of this CCAA proceeding, to the extent possible, Nordstrom Canada, under supervision of the Monitor, intends to immediately cancel all POs that have been placed but where title has not yet transferred to Nordstrom Canada or payment has not yet been made. PO

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adjustments would occur in three different ways: (1) POs that are active in the Nordstrom system and have not registered any shipping activity against them would be automatically cancelled; (2) POs that are active in the Nordstrom system and have shipping activity registered would continue to flow to the Distribution Centre and be sold in the contemplated Realization Process; and (3) orders where a PO commitment has been provided to the supplier but no PO has been systematically issued will be considered cancelled.

56. Upon commencement of this CCAA proceeding, to the extent possible, Nordstrom Canada intends to immediately cancel all POs that have been placed with overseas vendors but have not been paid for or not yet resulted in the transfer of title to Nordstrom Canada. For any POs already paid for or where title has transferred to Nordstrom Canada (in the case of both North American and overseas vendors), Nordstrom Canada intends to receive the merchandise and include it in the contemplated Realization Process.

**(d) Distribution**

57. The Distribution Centre supplies and replenishes products sold in Nordstrom Canada's stores and is managed and operated by NLS pursuant to a master warehousing and distribution agreement effective October 28, 2013. NLS is responsible for all services required to operate the warehouse and Distribution Centre, including receiving, audit, storage, and value added services; pick/packing, flow through cross dock transfer and RTV shipping; verifying and inspecting shipments; preparing outbound shipments for tender to third-party transportation providers for transportation to Nordstrom Canada's stores; and inventory management. Fulfillment options are handled by individual stores and local transportation companies.

58. Until December 31, 2022, Nordstrom Canada also engaged a third-party logistics business, Interhold Distribution (“**Interhold**”) for the Vancouver full-line store so that inbound loads from NLS were first delivered to Vancouver, and then delivered to the store by a smaller truck. Interhold was replaced by Raven Force Carriers (“**Raven Force**”), who provides warehouse space, and secure yard, receiving, auditing, inspection, storage, loading, and monitoring store delivery services. Quick as a Wink Courier Service Ltd. is the carrier who takes goods from Raven Force to the store, utilizing one of four custom Nordstrom Canada-owned trailers. Deliveries are scheduled with the stores based on set schedules and can be adjusted based on demand.

59. Merchandise arrives at the Distribution Centre and is either stored temporarily in the Distribution Centre or immediately transported to Nordstrom Canada’s stores. As of January 28, 2023, there was approximately \$15 million retail value of inventory located at the Distribution Centre.

60. Nordstrom Canada engages third-party logistics companies to transport merchandise from vendor or manufacturer origins around the globe to and between distribution centres, consolidators and stores in the US and Canada. Expeditors International of Washington, Inc. and United Parcel Service Canada Ltd. (“**UPS**”) are engaged for international-origin and US-origin shipments. Livingston International is engaged for US-origin shipments, to import and clear all goods through the required customs agencies, which includes all necessary duties, taxes and importation fees. Savino Del Bene, BTX Global Logistics (“**BTX**”), Hercules Forwarding Inc. and UPS are third-party logistics companies engaged as carriers or brokers to facilitate transportation to Nordstrom Canada locations. Bison Transportation, Canada Cartage, UPS, TForce Final Mile, LLC and BTX handle Canada-origin merchandise transportation.

61. The Nordstrom Canada Entities believe that, given the quantity and value of merchandise at the Distribution Centre and other title transferred goods in transit not yet at the Distribution Centre, the continued services of NLS and certain other transportation providers are critical to the success of the contemplated wind down and Realization Process for the benefit of all stakeholders.

62. Nordstrom Canada also must pay customs brokers and government customs agencies, clearing houses, freight forwarders and other supply chain providers for costs incurred in transporting products from outside of Canada to the Distribution Centre and ultimately to the stores. Nordstrom Canada estimates that as of February 27, 2023, merchandise at the cost of approximately \$8.4 million was in transit to Canada or from Canadian ports to the Distribution Centre. The Nordstrom Canada Entities are seeking the authority (but not the requirement) to pay, with the consent of the Monitor, transportation and logistics providers, customs brokers and other supply chain providers for amounts incurred before the commencement of these proceedings, if required, to ensure the continued flow of inventory through their supply chain during the contemplated wind down and to best maximize recoveries to the Canadian estate during the Realization Process.

63. Title generally passes to Nordstrom Canada when merchandise is loaded on Nordstrom-directed transportation. If the vendor takes its own carrier to deliver merchandise to NLS in the Distribution Centre, Nordstrom Canada takes title of the merchandise once the merchandise arrives at the destination and is received and loaded at the Distribution Centre. If Nordstrom Canada directs a third-party carrier to deliver merchandise, title for Canada- and United States-origin merchandise passes to Nordstrom Canada at origin, after loading with the carrier.

(e) **Concession Vendors**

64. Nordstrom Canada (and in certain limited cases, Nordstrom US) is a party to agreements with 17 concession vendors (the “**Concession Vendors**”). The majority of the Concession Vendors operate in Vancouver, while some operate in Toronto (at both the Yorkdale and Eaton Centre store locations).

65. Most of the Concession Vendors operate branded fixtured premises, which are the property of Nordstrom Canada, although the Concession Vendors retain rights to their brand IP. Most Concession Vendors operating in Nordstrom Canada provide and pay for their own employees. There are approximately 140 Concession Vendor employees who work in Nordstrom Canada’s stores.

66. All Concession Vendors are paid on a monthly settlement schedule (based on fiscal months). Point of Sale (“**POS**”) sales for Concession Vendors are held in a Nordstrom Canada liabilities account, separate from wholesale POS sales which are posted to Nordstrom Canada’s general ledger. The Concession Vendor POS sales plus services (including deposits) are posted to this account. At the end of each month, the revenue share retained by Nordstrom Canada is manually moved from the liabilities account to Nordstrom Canada’s general ledger to be recorded as a sale. For Concession Vendors that remit Canadian federal and provincial taxes on their own, the tax collected by Nordstrom Canada is returned to the vendor as part of the settlement process. Nordstrom Canada remits Canadian federal and provincial taxes on behalf of certain Concession Vendors. The tax collected remains with Nordstrom Canada until it is paid via the applicable agency filing and payment date.



67. The Nordstrom Canada Entities intend on immediately engaging with the Concession Vendors to determine the most efficient way to wind down their concessions in Canada.

**(f) Beauty Hardshops**

68. Nordstrom Canada is also party to agreements with “beauty vendors”, whose product is sold to Nordstrom Canada on a wholesale basis such that the beauty inventory is owned by Nordstrom Canada. The product is generally sold at counters or kiosks in Nordstrom Canada full-line stores (referred to as hardshops). These agreements also generally provide that all fixtures and assets are owned proportionately by each brand and Nordstrom Canada based on each brand’s financial contribution made at the time of build out. In certain cases, Nordstrom Canada fully owns the fixtures and assets as it has paid the entirety of the build out cost. Unlike the Concession Vendors, the employees involved with the beauty hardshops are employed by Nordstrom Canada. In certain cases, some beauty vendors may provide some financial reimbursement to Nordstrom Canada for employees dedicated to representing their brand.

69. Nordstrom Canada also has a blow-dry bar called “Dry Bar” in its full-line store in Vancouver. Dry Bar is staffed with Nordstrom Canada employees and is operated pursuant to a licensing agreement.

**(g) Restaurants and Licensed Operations**

70. Nordstrom Canada owns and operates restaurants and cafes in some full-line retail stores. These restaurants and cafes are staffed with Nordstrom Canada employees. The Nordstrom Canada Entities intend that the restaurant and cafe operations will remain open until just before the commencement of the Realization Process.

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71. In addition to Nordstrom Canada-owned and operated restaurants and cafes, Nordstrom US is party to a trademark license and services agreement with MomoMilk, LLC (“**Milk Bar**”), dated as of November 18, 2022. The parties opened and operate a Milk Bar-branded department in the Nordstrom full-line Vancouver store and are in the process of negotiating a contract specific to the Vancouver store at the time of filing. This department is staffed entirely by Nordstrom Canada employees.

**(h) Support Services Provided by Nordstrom US and Transfer Pricing Policy**

72. The Nordstrom Canada Entities’ business is dependent on Nordstrom US for administrative and business support services, including legal, finance, accounting, bill processing, payroll, human resources, merchandising, strategy, and information technology project support (collectively, the “**Shared Services**”) and for their ability to use the IP. Prior to the commencement of these proceedings, Nordstrom US provided these Shared Services and license for the IP under an inter-affiliate license and services agreement, effective as of February 3, 2019, between Nordstrom US and Nordstrom Canada (the “**License and Services Agreement**”). Nordstrom Canada cannot operate or function without the provision of the Shared Services from Nordstrom US, and if the Shared Services are not continuously provided, Nordstrom Canada would be required to immediately cease operations. Attached to my affidavit as **Exhibit “C”** is a copy of the License and Services Agreement.

73. Under the License and Services Agreement, Nordstrom US provided the Shared Services and license or sublicense, as applicable, of IP to Nordstrom Canada, and Nordstrom Canada agreed to operate the Canadian retail stores and Nordstrom.ca. The transfer pricing policy, as reflected in the License and Services Agreement (the “**Transfer Pricing Policy**”) between Nordstrom Canada

and Nordstrom US is set up such that Nordstrom Canada and Nordstrom US each agreed to pay the other the USD amount necessary such that Nordstrom Canada realized an arm's-length Rate of Return (operating profit divided by net sales) within the range of 4.5% to 6.5%.

74. As of January 28, 2023, a transfer pricing payment of approximately USD \$20 million had been made for fiscal year 2022. The remainder of the annual transfer pricing payment to achieve the aforementioned Rate of Return for fiscal year 2022 in the amount of approximately USD \$55 million is discussed further below.

75. In addition to the License and Services Agreement, Nordstrom US entered into inter-affiliate services agreements with the other Nordstrom Canada Entities relating to Shared Services, as follows:

- (a) Inter-affiliate services agreement between Nordstrom US and Canada Leasing LP, dated as of December 10, 2014, in which Nordstrom US provided legal, finance, accounting and tax, bill processing, payroll, human resources, property maintenance, operations, strategy, IT project support, site selection, and construction management services to Canada Leasing LP;
- (b) Inter-affiliate services agreement between Nordstrom US and NCH, dated as of October 10, 2016, in which Nordstrom US provided payroll, finance, accounting, treasury, and legal services to NCH; and
- (c) Inter-affiliate services agreement between Nordstrom US and NCHII, dated as of October 10, 2016, in which Nordstrom US provided payroll, finance, accounting, treasury, and legal services to NCHII.

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76. These previous inter-affiliate services agreements are attached to this affidavit as **Exhibits “D”, “E”, and “F”** (collectively, with the License and Services Agreement, the “**Intercompany Agreements**”).

77. The intercompany payments owing under these agreements are set out below.

78. On March 1, 2023, Nordstrom US notified Nordstrom Canada that it would be terminating the Intercompany Agreements in accordance with their respective terms. Following the delivery of the applicable notices of termination by Nordstrom US in accordance with their terms, the Nordstrom Canada Entities determined that it was in their best interests to waive the 30-day notice termination periods under the Intercompany Agreements, agreed to an immediate termination of such agreements, and entered into a new administrative services agreement effective March 1, 2023 (the “**Wind-Down Agreement**”) to allow for an orderly wind down of the Canadian operations. Pursuant to the Wind-Down Agreement, Nordstrom US agreed to continue providing Shared Services and grant a limited license or sublicense, as applicable, to use the IP to the Nordstrom Canada Entities solely for the purposes of effecting an orderly wind down as part of a CCAA proceeding. In addition, pursuant to the Wind-Down Agreement, Nordstrom US has also agreed to provide the Nordstrom Canada Entities with up to \$15 million in debtor-in-possession financing, on reasonable terms, should such financing be required in these proceedings. A copy of the Wind-Down Agreement is attached to this affidavit as **Exhibit “G”**.

79. Under the Wind-Down Agreement, Nordstrom Canada, on behalf of the Nordstrom Canada Entities, has agreed to pay an arm’s-length fee to Nordstrom US for the provision of Shared Services, which fee shall be net of the arm’s-length fee payable by Nordstrom US to Nordstrom Canada, on behalf of the Nordstrom Canada Entities, for any services provided by employees of

the Nordstrom Canada Entities to Nordstrom US pursuant to the Wind-Down Agreement. It is anticipated that the total net cost to Nordstrom Canada under the Wind-Down Agreement during the orderly wind down will be approximately \$6.3 million. The Wind-Down Agreement provides for a lessening of the monthly payments over the course of the proceedings to reflect the gradual reduction in the level of support required by the Nordstrom Canada Entities. The amounts payable under the Wind-Down Agreement were developed in consultation with the Proposed Monitor and are subject to the consent of the Monitor. As the Transfer Pricing Policy no longer applies, the related intercompany payments described above will cease.

80. Nordstrom Canada and Canada Leasing LP also entered into an inter-affiliate services agreement, dated as of December 10, 2014, in which Canada Leasing LP provides property management services to Nordstrom Canada, and Nordstrom Canada provides payroll, finance, and accounting services to Canada Leasing LP through its shared services arrangements with Nordstrom US. The Wind-Down Agreement provides for the continuation of this agreement. The inter-affiliate services agreement between Nordstrom Canada and Canada Leasing LP is attached to this affidavit as **Exhibit “H”**.

81. Nordstrom US is not prepared to provide the Shared Services to the Nordstrom Canada Entities outside of a CCAA proceeding or to a third-party operator of the business, and will only provide such services in accordance with the terms of the Wind-Down Agreement.

**(i) Intellectual Property**

82. Prior to the commencement of these proceedings, all IP relating to the “NORDSTROM” brands were licensed by Nordstrom US to Nordstrom Canada for Nordstrom Canada’s use to conduct its business. Pursuant to the License and Services Agreement, Nordstrom US (who

licenses certain of the IP from NIHC, Inc.) granted Nordstrom Canada a non-exclusive, non-transferable right to use the (1) trademarks, service marks, and trade names, and (2) any information, data, process, method technique, technology, standard, documentation, idea, discovery, invention, know-how or trade secrets listed in Exhibit A to the License and Services Agreement.

83. As described above, on March 1, 2023, Nordstrom US notified Nordstrom Canada that it would be terminating the License and Services Agreement. The Wind-Down Agreement provides for Nordstrom US to grant Nordstrom Canada a license or sublicense, as applicable, to use the essential IP for the duration, and limited purposes, of the wind down and Realization Process as part of the CCAA proceedings. The liquidator selected to assist with the Realization Process will be entitled, through Nordstrom Canada, to also use the IP on a limited basis for the sole purposes of the liquidation sale. Nordstrom US is not prepared to license the IP to a third-party operator of the business, and will only provide such limited license in accordance with the terms of the Wind-Down Agreement.

**(j) Employees**

**(i) General**

84. As of January 31, 2023, Nordstrom Canada employed approximately 1,830 full-time employees and 505 part-time employees, which includes 2,010 Nordstrom full-line employees and 320 Nordstrom Rack employees. A typical full-line Nordstrom Canada store is staffed by approximately 230-350 employees, with the exception of Vancouver Pacific Centre, which has approximately 600 employees. Nordstrom Rack stores in Canada are each staffed by approximately 30-60 employees. The staff includes both full and part-time store employees and

store management (including the store manager, department managers, and assistant department managers, among others). Nordstrom Canada also employs visual merchandisers, asset protection personnel, stylists, employee relations advisors, baristas, bartenders, and beauty stylists, among others. Department managers and other store employees report to and work under the supervision of the store manager. The store manager oversees and is responsible for operations in their store, and ultimately reports to the regional manager.

85. There are approximately 70 employees across Nordstrom Canada full-line stores who are employed by Nordstrom Canada pursuant to designated selling associate (“**DSA**”) agreements. The DSAs are responsible for promoting sales of merchandise sold by a particular Concession Vendor. The DSA agreements provide that the applicable Concession Vendor will reimburse Nordstrom Canada for certain salary contributions, side pay, bonuses, and other benefits of the DSA.

86. In addition to Nordstrom Canada’s store level employees, Nordstrom Canada also employs certain hybrid employees (who work both in-store and remotely), including human resources and regional operations directors and managers. There are also a small number of employees who work fully remotely, including technology employees, contact centre employees, and recruiters.

87. There are also 19 contingent workers who provide services to Nordstrom Canada but are not employed by Nordstrom Canada.

88. Nordstrom US and the Nordstrom Canada Entities are proposing a number of measures as part of these CCAA proceedings to assist the Nordstrom Canada employees to deal with the loss of employment caused by the cessation of the Nordstrom Canada Entities’ operations. These measures are discussed further below, and include the formation of an Employee Trust funded by

Nordstrom US, the appointment of Employee Representative Counsel, and a key employee retention program.

**(ii) Retirement and Benefit Plans**

89. Nordstrom Canada sponsors a group registered retirement savings plan issued by Canada Life Assurance Company (Policy No. 67650) effective January 1, 2014 (“**RRSP**”), a deferred profit-sharing plan (Registration No. 1272202) amended effective January 1, 2021 (“**DPSP**” and with the RRSP, the “**Nordstrom Canada Retirement Plans**”), and a full suite of group health and welfare benefits for certain eligible employees (the “**Canadian Group Benefits**”). Assets of the DPSP are held and invested pursuant to a trust agreement with Investors Group Trust Co. Ltd.

90. Nordstrom Canada employees who are considered full-time are eligible to participate in the Nordstrom Canada Retirement Plans immediately upon their hire date. A full-time employee is defined as an employee who has been designated a full-time employee by Nordstrom Canada and works an average of 28 hours per week. Part-time employees of Nordstrom Canada are not eligible to participate in these plans. Participants are able to contribute to the RRSP up to the lesser of 18% of earnings and the maximum permitted under the *Income Tax Act* (Canada), and Nordstrom Canada will match employee contributions up to 4% of an employee’s eligible earnings through contributions to the DPSP.

91. Nordstrom Canada provides Canadian Group Benefits to its full-time employees. Full-time employees generally receive the following benefits, which are fully paid for by Nordstrom Canada: short-term disability for certain full-time employees, Basic Life Insurance, Basic AD&D, a supplemental unemployment benefit plan for certain full-time employees, EAP, Talkspace (virtual therapy), Bright Horizons (child care support), Rethink (which provides support for parents,



household members, and caretakers of children with learning, social, or behavioral challenges or developmental disabilities) and the Nordstrom Wellbeing Program (which includes a discount program among other benefits). Employees share the costs of Extended Health, Vision and Dental coverage. Long-term disability insurance and optional life insurance are fully paid for by employees.

92. Other benefits offered to full-time employees include two floating holidays and five sick days. All employees are eligible for Nordstrom Canada's vacation plan at hire.

### **(iii) Stock Plans**

93. Certain Canadian employees have received a non-qualified stock option award (the "Option") and/or a restricted stock unit award (the "RSU") that can be converted into the publicly traded shares of Nordstrom US. The Option and the RSU are governed by the terms of their respective award agreements and the terms of the Nordstrom US 2019 Equity Incentive Plan. There are six Canadian employees who are eligible for such benefits. Nordstrom Canada also has outstanding options under the 2010 Equity Incentive Plan for one Canadian employee.

94. As of February 9, 2023, there were 9,965 outstanding Options granted to two Nordstrom Canada employees: one employee has 678 Options which are vested and unexercised, and the other employee has 9,287 Options which are unvested.

95. Such Options were issued in two separate awards in 2021 and 2022. The 2021 Option vests over a four-year vesting period, with 50% vesting on March 10, 2024, and 50% on March 10,

2025. The 2022 Option also vests over a four-year period, with 50% vesting on March 10, 2025, and 50% on March 10, 2026.<sup>1</sup>

96. The RSUs vest over a four-year vesting period with 25% being vested after one year, 50% being vested after two years, 75% being vested after 3 years and 100% being vested after 4 years of continuous service following the vesting commencement date. Upon a recipient's Termination Date, any portion of the RSU which has not yet vested shall be forfeited.

97. There are 19,517 outstanding RSUs that have been granted to Canadian employees.

98. The Options and RSUs are subject to a Clawback Policy adopted by the Board of Directors of Nordstrom US, as amended from time to time.

99. It is anticipated that employees will continue to have health, dental and other benefits coverage while they are working during the CCAA proceedings and that such benefits coverage will continue thereafter for at least the period required by statute. Nordstrom Canada also anticipates coordinating with local governments on job search assistance programs for impacted employees.

**(k) Nordy Club Rewards, Notes, Credit Card Program and Gift Cards**

100. Nordstrom US and Nordstrom Canada each provide customers with access to a variety of customer enhancement experiences, payment products and services, including gift cards and a selection of Nordstrom-branded Visa credit cards in the US and Canada, as well as a Nordstrom-branded private label credit card for Nordstrom purchases. Customers may also participate in The

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<sup>1</sup> Previous option grants had different vesting periods, but are all completely vested.

Nordy Club to receive benefits that vary depending on the level of spend, including early access to the Anniversary Sale, enhanced alteration and stylist benefits, and incremental accumulation of points toward Nordstrom Notes.

**(i) Nordy Club Rewards**

101. Nordy Club Rewards is a rewards program offered by both Nordstrom US and Nordstrom Canada. In Canada, membership in the Nordy Club Rewards program is free and is available to any Canadian resident who is 18 years of age or older. Customers can sign up for the Nordy Club Rewards program in store or online, and once signed up, members earn one Nordy Club point per dollar spent at Nordstrom. Nordy Club points do not have a cash value; they are automatically converted to a Nordstrom Note once a certain Nordy Club point total is reached. Nordy Club members may also receive additional benefits depending on status (member, influencer, ambassador), including priority access to events and free basic alterations. Nordy Club points may expire if the Nordy Club account has had no activity for 12 consecutive months. In most cases, the points associated with inactive accounts expire on a quarterly basis – that is, in any calendar year, at the end of each quarter, the points associated with all accounts that have not had any points or Nordstrom Notes earned or redeemed for 12 or more consecutive months will expire.

102. As of January 28, 2023, approximately 840,000 Canadian customers had net outstanding Nordy Club points, worth approximately \$2.5 million should they be converted to Nordstrom Notes. It is contemplated that Nordy Club points will stop accruing should the proposed Initial Order be granted, any Nordy Club points in an amount sufficient to convert to Nordstrom Notes will be converted, and those not converted to Nordstrom Notes at such time will automatically expire.

**(ii) Nordstrom Notes**

103. A Nordstrom Note is generally awarded under both the US and Canadian programs upon reaching certain Nordy Club point accumulation thresholds, or by meeting certain other qualification requirements during special promotions. In Canada, Nordstrom Notes can be used to purchase qualifying items at Nordstrom Canada full-line or Nordstrom Canada Rack stores, and at Nordstrom.ca. Nordstrom Notes issued in Canada are denominated in Canadian dollars; however, as a convenience, a customer can redeem their Nordstrom Notes in a US Nordstrom full-line or Nordstrom Rack store, subject to a currency exchange rate. The Canadian Dollar to US Dollar exchange rate that will be applied to Nordstrom Note redemption in the US will be the rate provided to Nordstrom by Thomson Reuters at the time of purchase. Nordstrom Notes will expire if the customer's related Nordy Club account has had no activity for 12 consecutive months. In most cases, the points associated with inactive accounts expire on a quarterly basis. Nordstrom Notes have no cash value other than at a Nordstrom store or at Nordstrom.ca, and therefore cannot be cashed out.

104. As of January 28, 2023, approximately 178,000 Canadian customers had outstanding Nordstrom Notes worth a total value of approximately \$5.6 million. It is contemplated that no new Nordstrom Notes will be available to customers should the proposed Initial Order be granted; however, it is anticipated that existing Nordstrom Notes will be honoured in Canadian stores during the Realization Process. The notes will not be honoured on Nordstrom.ca from the date of commencement of the proceedings. In the view of Nordstrom Canada, honouring existing Nordstrom Notes in store through the orderly wind down period will promote goodwill among customers during the proceedings and will assist in maximizing value for stakeholders as a whole by, among other factors, attracting customers to the Canadian retail stores.

**(iii) Nordstrom Credit Card Program**

105. Nordstrom Canada offers customers an MBNA co-branded Nordstrom Credit Card Program. Cardholders who use the Nordstrom credit card for purchases at Nordstrom Canada full-line or Nordstrom Canada Rack stores are entitled to receive Nordstrom reward points, which are then automatically converted to a Nordstrom Rewards Note (different from Nordstrom Notes, discussed above). Cardholders earn two Nordstrom reward points for every dollar spent using the Nordstrom credit card in Nordstrom Canada retail stores or online at Nordstrom.ca, and one Nordstrom reward point for every dollar spent using the Nordstrom credit card elsewhere. The terms of the Nordstrom Rewards Notes given to cardholders indicate that such Nordstrom Rewards Notes can only be used in Canada; however, stores have the discretion to accept the Nordstrom Rewards Notes in the US, subject to a currency conversion rate. MBNA handles all acquisition and servicing of the credit card program, including tracking spend for points accrual, and sending information on points to Nordstrom Canada so that Nordstrom Canada can send a Nordstrom Rewards Note to the cardholder. As of October 2022, there were approximately 7,000 enrolled customers in Canada, of which 2,169 are active users of the card. MBNA owns the list of customers holding the credit cards and communicates with them directly.

106. MBNA gave notice to Nordstrom Canada under the agreement in November 2022 that it does not intend to renew the credit card program. Nordstrom Canada intends to work with MBNA to address the termination of the program and appropriate communications to cardholders.

**(iv) Nordstrom Gift Cards**

107. Nordstrom customers can purchase gift cards in Canada to be redeemed for merchandise in Nordstrom Canada stores or through Nordstrom.ca. Nordstrom gift cards are sold in Nordstrom

Canada stores and on Nordstrom.ca. When purchased directly from Nordstrom Canada or on Nordstrom.ca, these gift cards are activated when purchased in store or online. Pursuant to agreements with certain third-party gift card resellers, gift cards are also sold at third-party retailers. The gift cards are inactive when distributed to resellers and activated at the reseller's POS when purchased. At this time, the reseller is obliged to make payment to the appropriate entity in the Nordstrom Group.

108. As of January 28, 2023, Canadian customers had outstanding gift cards worth a total value of approximately \$16 million. It is contemplated that no new gift cards will be available to customers at Nordstrom Canada's stores should the proposed Initial Order be granted. It is anticipated that existing gift cards will be honoured in Canadian stores during the Realization Process.

109. Nordstrom intends to forthwith direct its third-party service providers responsible for activating gift cards to cease doing so as of the filing of this Application. This will not affect outstanding gift cards. In the view of Nordstrom Canada, honouring outstanding gift cards will promote goodwill among customers during the orderly wind down and will assist in maximizing value for stakeholders as a whole by, among other factors, attracting customers to the Canadian retail stores.

**(l) Nordstrom.ca Website**

110. The Nordstrom Canada e-commerce business has been conducted through the Nordstrom.ca website which is owned by Nordstrom Canada. As part of the orderly wind down of the Nordstrom Canada Entities' business, it is contemplated that all transactional functionality will be removed from the Nordstrom.ca website should the proposed Initial Order be granted.

Thereafter, the site will only serve as a messaging page for customers outlining store locations and frequently asked questions in relation to these proceedings. It will also provide a link to the Monitor's website for these proceedings.

**(m) Other Suppliers**

111. The Nordstrom Canada Entities rely on the following service providers to operate: (i) logistics or supply chain providers, including transportation providers, customs brokers, freight forwarders and security and armoured truck carriers; (ii) providers of information, internet, telecommunications and other technology, including e-commerce providers and related services; and (iii) providers of payment, credit, debit and gift card processing related services. It is therefore proposed that the Nordstrom Canada Entities be entitled, but not required, to pay amounts owing for certain goods or services supplied to the Nordstrom Canada Entities prior to the date of the proposed Initial Order, with the consent of the Monitor. In order for the Nordstrom Canada Entities to continue to operate during the proposed stay period, it is also proposed that these services, and others including utility services, continue to be supplied and paid for pursuant to the proposed Initial Order.

**(n) Banking and Cash Management System**

112. The Nordstrom Canada Entities maintain a centralized cash management system which is administered by Nordstrom US from its head office in Seattle to collect, transfer and disburse funds generated by the operations of the Nordstrom Canada Entities (the “**Cash Management System**”).

113. The Nordstrom Canada Entities are dependent upon Nordstrom US for treasury, banking and related services that were provided through the License and Services Agreement with Nordstrom US and will be provided going forward pursuant to the Wind-Down Agreement.

114. The Nordstrom Canada Entities have 13 active bank accounts, with 10 maintained at the Bank of Nova Scotia (“**Scotiabank**”), two at Wells Fargo Bank, and one at Toronto-Dominion Bank. Store receipts are deposited into the depository account at Scotiabank and debit/credit card receipts are deposited into the main Nordstrom Canada cash account at Scotiabank on a daily basis. The Canadian bank accounts at each entity are as follows:

- (a) Nordstrom Canada: 7 bank accounts
- (b) Canada Leasing LP: 4 bank accounts
- (c) NCH: 1 bank account
- (d) NCHII: 1 bank account

115. The Nordstrom Canada Entities maintain six accounts that process all outgoing wires, Automatic Clearing House, and cheque payments for disbursements to landlords, vendors, employees, taxes and Nordstrom US for intercompany charges. These accounts are funded by the main cash account in the respective Canadian entity. In addition, the Nordstrom Canada Entities hold nominal cash to ensure sufficient float at stores. Excess cash is deposited into the Nordstrom Canada Entities’ main cash account as needed, which is typically twice a week.

116. The Nordstrom Canada Entities utilize the Nordstrom Group’s US bank corporate card relationship primarily for travel, store, and other miscellaneous expenses, which is paid by Nordstrom Canada. The Nordstrom Canada Entities estimate that, on average, approximately



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\$300,000 is charged to Canadian credit cards on a monthly basis. The obligations of the Nordstrom Canada Entities under these credit cards have been guaranteed by Nordstrom US pursuant to a guaranty made and entered into by Nordstrom US in favour of US Bank National Association dated June 17, 2022.

117. The proposed Initial Order contemplates continuation of the Nordstrom Canada Entities' Cash Management System during the CCAA proceedings, which is necessary for a controlled and orderly wind down.

#### **E. Financial Position of the Nordstrom Canada Entities**

118. As a publicly traded company, Nordstrom US files consolidated financial statements with the US Securities and Exchange Commission. These financial statements include the consolidated results of operations in the US and Canada. A copy of Nordstrom US' audited financial statements for the year ended January 29, 2022 is attached as **Exhibit "I"** to this affidavit. A copy of Nordstrom US' financial statements for the quarter ending October 29, 2022 is attached as **Exhibit "J"** to this affidavit.

119. Although the Canadian operations do not prepare stand-alone financial statements, the Nordstrom Canada Entities have prepared a summarized trial balance as of January 28, 2023, a copy of which is attached as **Exhibit "K"** to this affidavit. The summarized trial balance reflects the consolidated financial position of all of the Nordstrom Canada Entities and has not been audited. Certain information contained in the summarized trial balance is outlined below.

120. As of October 29, 2022, the Nordstrom Canada Entities made up the following approximate percentages of the Nordstrom Group's total assets, inventory, and accounts receivable:

- (a) 4.0% of total assets;
- (b) 3.1% of total inventory; and
- (c) 2.7% of total accounts receivable.

**(a) Assets**

121. As of January 28, 2023, the Nordstrom Canada Entities had combined total assets with a book value of approximately \$500,784,000, consisting of approximately \$208,636,000 in current assets and approximately \$292,147,000 in long-term assets.

122. The Nordstrom Canada Entities' summarized trial balance reflects that, as of January 28, 2023, Nordstrom Canada had paid approximately USD \$10.3 million to Nordstrom US to reduce or pay off intercompany balances in fiscal year 2022. This amount includes payment for the provision of Shared Services by Nordstrom Canada, net of the amounts Nordstrom Canada received through the Transfer Pricing Policy. The intercompany balances are described more fully below.

**(i) Current Assets**

123. As of January 28, 2023, the Nordstrom Canada Entities' current assets consisted of the following (approximate values):

- (a) Cash – \$44,068,000

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- (b) Accounts Receivable – \$4,797,000
- (c) Intercompany Receivables – \$60,911,000
- (d) Inventory (owned) – \$92,826,000
- (e) Prepaid Expenses – \$4,043,000
- (f) Income Tax Receivable – \$1,992,000

124. The majority of the Nordstrom Canada Entities' current assets are therefore comprised of cash, cash equivalents, intercompany receivables, and inventories.

125. The Cash Flow Forecast (described below) indicates that the Nordstrom Canada Entities are expected to have an opening combined consolidated cash position of approximately \$36 million after adjusting for March rents and other amounts scheduled to be paid in the ordinary course prior to the commencement of the CCAA proceedings.

**(ii) Non-Current Assets**

126. As of January 28, 2023, the Nordstrom Canada Entities' non-current assets consisted of the following (approximate values):

- (a) Right of Use Asset (asset representing a lessee's right to use the asset over the life of the lease) – \$118,784,000
- (b) Property, Plant and Equipment – \$159,668,000
- (c) Other Assets – \$13,696,000

127. Given the fact that certain IP had been licensed or sublicensed, as applicable, by Nordstrom US to Nordstrom Canada pursuant to the License and Services Agreement, Nordstrom Canada has no non-current assets or goodwill related to tradenames or trademarks on its summarized trial balance.

**(b) Liabilities**

128. As of January 28, 2023, the Nordstrom Canada Entities' total liabilities were approximately \$561,024,000, consisting of current liabilities of approximately \$377,499,000 (excluding operating leases) and long-term liabilities of approximately \$183,526,000.

**(i) Current Liabilities**

129. As of January 28, 2023, the Nordstrom Canada Entities' current liabilities (excluding operating leases) included (approximate values):

- (a) Intercompany Payables – \$302,556,000 (discussed below)
- (b) Accounts Payable – \$45,630,000
- (c) Accrued Wages – \$6,058,000
- (d) Accrued Other – \$23,255,000

**(ii) Long-Term Liabilities**

130. As of January 28, 2023, the Nordstrom Canada Entities' long-term liabilities included (approximate values):

- (a) Operating Leases (current and noncurrent) – \$180,763,000

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(b) Other Liabilities – \$2,763,000

131. The realizable value of the Nordstrom Canada Entities' assets will be insufficient to satisfy the claims of their creditors. These claims include the claims of the Landlords resulting from payment and other defaults under their respective Leases, which will be unavoidable following the cessation of operational and financial support from Nordstrom US to the Nordstrom Canada Entities, even after taking into account the mitigation obligation of the Landlords. The Nordstrom Canada Entities have insufficient financial resources to satisfy all of their obligations which will result from the cessation of such support for the business from Nordstrom US, and are therefore insolvent.

(c) **Stockholders' Equity**

132. As of January 28, 2023, the stockholders' equity in respect of the Nordstrom Canada Entities was negative \$60,241,000, consisting of the following (approximate values):

(a) Common Stock – \$110,000

(b) Retained Earnings – negative \$236,658,000

(c) Contributed Surplus – \$176,308,000

133. Nordstrom US' losses from the expansion into Canada are much higher than the negative retained earnings entry on the balance sheet. Excluding the intercompany payments (which are built into the retained earnings entry), the retained earnings would reflect additional losses of approximately \$511 million.

**(d) The Nordstrom Canada Entities' Financial Performance**

134. Since 2014, the Nordstrom Canada Entities have experienced yearly losses across the majority of their 13 Canadian locations.

135. For the year ended January 28, 2023, the Nordstrom Canada Entities generated revenue of \$515,046,000. These results lag behind Nordstrom US' operations and are insufficient to absorb the Nordstrom Canada Entities' occupancy and other operating costs, including Shared Service costs.

136. Reflecting the Nordstrom Canada Entities' high occupancy and other operating costs (described in more detail below), its EBITDA for the year ended January 28, 2023 was negative \$34,563,000, prior to taking into account the intercompany payments.

137. Most of the Nordstrom Canada Entities' losses were absorbed by Nordstrom US through the intercompany payments under the Transfer Pricing Policy. As Nordstrom US has terminated its support of the Nordstrom Canada Entities' losses, the Nordstrom Canada Entities cannot continue operating. As noted above, notwithstanding Nordstrom US absorbing most of the losses, the Nordstrom Canada Entities have still accumulated negative retained earnings exceeding \$237 million as reflected on its summarized trial balance.

138. Nordstrom Canada's gross occupancy costs are currently trending in the range of 7% of its sales for full-line stores compared to 1% in the US, and 12% for Nordstrom Rack stores compared to 6-7% in the US.

139. The continued appreciation of the US dollar relative to the Canadian dollar has also added substantial strain on the business. A significant amount of Nordstrom Canada's inventory is

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purchased in USD, with merchandise necessarily being priced competitively in Canadian dollars. Accordingly, given the weakness of the Canadian dollar, Nordstrom Canada must pay relatively more for its inventory which is purchased in USD, negatively impacting its profit margin.

**(e) Intercompany Balance**

140. As of January 28, 2023, the Nordstrom Canada Entities, Nordstrom US, and NIL have a number of intercompany balances, summarized below. No intercompany transfers, including the projected USD \$55 million transfer pricing amount due to Nordstrom Canada as contemplated by the Transfer Pricing Policy, have been made since October 24, 2022 while the Nordstrom Group considered its options with respect to the Canadian business. A summary of the intercompany balances is below:

- (a) NCH is the only company with a large payable to NIL, in the amount of USD \$226 million. This represents the USD \$223 million loan made from NIL to NCH pursuant to the Master Loan Agreement, effective as of April 18, 2014, and accrued, unpaid interest through January 28, 2023. The loan was utilized to fund equity contributions from NCH to Canada Leasing LP for the initial build out of the Canadian stores between May 2014 and February 2020.
- (b) Intercompany rent is charged by Canada Leasing LP to Nordstrom Canada and is generally settled on a quarterly basis. The companies have settled more recent outstanding amounts, but Nordstrom Canada still owes Canada Leasing LP USD \$54 million for historic unsettled rent and real estate taxes. After the commencement of these proceedings, Nordstrom Canada intends to make the basic rent payments under the Subleases that are then paid to the third-party Landlords

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under the Leases. Nordstrom Canada does not intend to make the intercompany rent payments in respect of the Premises Fixturing Costs.

- (c) Nordstrom Canada owes Nordstrom US USD \$9.3 million for Shared Services provided from Nordstrom US to Nordstrom Canada.
- (d) The fiscal year 2022 transfer pricing payment from Nordstrom US to Nordstrom Canada pursuant to the former Transfer Pricing Policy of USD \$55 million.
- (e) Canada Leasing LP, NCH, and NCHII have small payables to Nordstrom US relating to Shared Service allocations (e.g., payroll, finance, accounting, etc.).

141. At any given time, the intercompany balances reflect unpaid amounts due from Nordstrom Canada to Nordstrom US, such as amounts owing for Shared Services, purchases of inventory, and other adjustments to reimburse Nordstrom US where it has incurred costs on behalf of Nordstrom Canada. The intercompany balance also reflects the intercompany payments made or reconciled by Nordstrom US in favour of Nordstrom Canada (which effectively reduced the amounts Nordstrom Canada owes to Nordstrom US for Shared Services).

142. The estimated transfer pricing adjustment needed for Nordstrom Canada to arrive at the target Rate of Return of 4.5% to 6.5% for the month of February 2023 (prior to the termination of the agreement) is approximately USD \$6 million.



(f) **Secured Debt**

143. Nordstrom US (as Borrower), the Lenders named therein, and Wells Fargo Bank, National Association (“**Wells Fargo**”), as Agent, Swing Line Lender and an L/C Issuer<sup>2</sup>, are parties to a revolving credit agreement, dated as of May 6, 2022, providing for Nordstrom US to borrow revolving loans, bid loans, and request letters of credit in the aggregate amount of USD \$800,000,000 (the “**Credit Agreement**”). The Credit Agreement matures on May 6, 2027. Attached to my affidavit as **Exhibit “L”** is a copy of the Credit Agreement without schedules and exhibits. There are no loans or letters of credit currently outstanding under the Credit Agreement.

144. The Credit Agreement requires that each Loan Party cause all property of such Loan Party that constitutes Collateral to be subject at all times to a first priority, perfected Lien in favour of the Agent to secure the Obligations (pursuant to the terms of Section 5.11 of the Credit Agreement).

145. Pursuant to a guaranty agreement among Nordstrom US, NIHC, Inc., Nordstrom Card Services, Inc., and Nordstrom Canada, as guarantors, and Wells Fargo, as Agent, dated as of May 6, 2022 (the “**Guaranty Agreement**”), Nordstrom Canada guaranteed to each Lender, each L/C Issuer, each other Secured Party and the Agent the prompt payment of the Obligations in full when due. Attached to my affidavit as **Exhibit “M”** is the Guaranty Agreement.

146. Pursuant to a Canadian security agreement between Nordstrom Canada and Wells Fargo, as Agent, dated as of May 6, 2022 (“the **Canadian Security Agreement**”), to secure the prompt payment and performance in full when due of the Obligations and costs and expenses incurred in

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<sup>2</sup> All capitalized terms in this section not otherwise defined have the meaning given to them in the Credit Agreement.

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connection with enforcement and collection of the Obligations, Nordstrom Canada granted a continuing security interest in all of its present and after-acquired undertakings, property and assets in favour of the Agent for the benefit of the Secured Parties. Attached to my affidavit as **Exhibit “N”** is the Canadian Security Agreement.

147. Prior to the Credit Agreement Amendment (defined below), pursuant to Section 7.1(g) of the Credit Agreement, it would have been an Event of Default under the Credit Agreement for Nordstrom Canada, as a Loan Party, to voluntarily commence proceedings under the CCAA and any such voluntary commencement would have resulted in the automatic acceleration of payment of the Loans and all other Obligations. Pursuant to a First Amendment to the Credit Agreement dated and effective as of March 1, 2023 (the “**Credit Agreement Amendment**”), Nordstrom US, the Guarantors, Wells Fargo and the Lenders party thereto amended the Credit Agreement to, among other things: (i) remove Nordstrom Canada as a Loan Party thereunder; (ii) irrevocably release Nordstrom Canada from its guaranty provided pursuant to the Guaranty Agreement; (iii) irrevocably release and discharge the security interest granted by Nordstrom Canada to the Agent pursuant to the Canadian Security Agreement; (iv) remove each of the Nordstrom Canada Entities from the definitions of Subsidiary and/or Affiliate (each defined in the Credit Agreement) except in limited circumstances; and (v) otherwise amend the Loan Documents to ensure that the wind down and any acts taken by Nordstrom US under agreements related to the wind down, including with respect to the Employee Trust and potential DIP facility, do not create a Default or Event of Default under any Loan Document. Accordingly, the Agent and the other Secured Parties are no longer secured creditors of Nordstrom Canada. Attached to my affidavit as **Exhibit “O”** is a copy of the Credit Agreement Amendment without schedules and exhibits.

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148. The remaining debt agreements of the Nordstrom Group – an Indenture, dated as of March 11, 1998, and an Indenture, dated as of December 3, 2007 – constitute senior unsecured debt obligations of Nordstrom US. The Nordstrom Canada Entities do not have any commitments under, and have not granted any guarantees or security in connection with, these agreements.

149. There are no other creditors that hold general security over the assets of the Nordstrom Canada Entities. PPSA search results dated as of February 23, 2023, for Ontario, and February 24, 2023, for Alberta and British Columbia are attached as **Exhibit “P”**.

#### **F. Urgent Need for Relief**

150. To support the Nordstrom Group’s expansion into Canada since 2014, Nordstrom US and its US-based affiliates have provided the Nordstrom Canada Entities with approximately USD \$950 million, including USD \$439 million in capital contributions, USD \$99.5 million in waived intercompany charges, USD \$102.7 million in market support payments, USD \$16.8 million in market penetration payments, and USD \$292 million in transfer pricing payments. The Nordstrom Canada Entities have made distributions to Nordstrom US and its US-based affiliates of USD \$175.5 million to arrive at net funding from Nordstrom US and its US-based affiliates of USD \$775 million. However, after considering all reasonable alternatives, Nordstrom US has determined that it will no longer invest resources in the Nordstrom Canada Entities, and it will no longer support the continued operations of Nordstrom Canada.

151. As set out above, Nordstrom US and the Nordstrom Canada Entities have explored other strategies to avoid winding down the Canadian operations, including licensing full operations to another Canadian retailer or retail operator with market expertise, closing certain underperforming stores, and/or investing to grow Nordstrom.ca, build loyalty, and optimize inventory. None of these

alternatives would provide realistic solutions to the current difficulties facing the Canadian business and achieving profitability.

152. Following a thorough review of Nordstrom Canada's operations and financial performance, and after the careful consideration of all reasonably available options, I am informed by senior management of Nordstrom US that its board of directors determined that, in an exercise of its business judgment, and after consulting with legal and financial advisors, it is in the best interests of Nordstrom US to discontinue its operational and financial support of the Nordstrom Canada Entities and to focus on its core business and strategic imperatives in the US.

153. Due to its operational and financial dependence on Nordstrom US, the Nordstrom Canada Entities cannot continue operations without the full support of Nordstrom US, including a license to use Nordstrom US' IP relating to the "NORDSTROM" brand name. As that support on a going concern basis is no longer available, the Nordstrom Canada Entities have no choice but to cease operations in Canada and to conduct an immediate orderly and responsible wind down of operations for the benefit of their stakeholders.

154. As set out above, the collective corporate actions of the Nordstrom Canada Entities, including discontinuing operations, the conducting of "store closing" sales and the discontinuing of the payment of rent after the conclusion of such sales are defaults under the Leases and may result in the acceleration of some or all rents due under the Leases or the ability of the Landlords to accelerate all rents due thereunder. I am aware that the Landlords have contingent claims for future rent payments and the unamortized value of tenant allowances paid by the Landlords, and possibly other claims, including for damages they may incur under other leases with third-parties due to the Nordstrom Canada Entities discontinuing operations under the Leases, far exceed \$5

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million and which, together with the Nordstrom Canada Entities' other liabilities, exceed the realizable value of the Nordstrom Canada Entities' total assets. As a result, without the funding and financial support from Nordstrom US required to keep Nordstrom Canada operational, the Nordstrom Canada Entities have insufficient assets to satisfy their debts, cannot meet their obligations as they become due, and are insolvent.

155. The Nordstrom Canada Entities have determined that an orderly and controlled wind down under the supervision of the Court and the Monitor would be in the best interests of all stakeholders. However, the continued support, assistance and cooperation of Nordstrom US is still required to conduct an orderly and controlled wind down of the Nordstrom Canada Entities' operations. The continued provision of Shared Services by Nordstrom US is essential for the Nordstrom Canada Entities to operate. Nordstrom Canada also requires a license from Nordstrom US to use the "NORDSTROM" name and other IP to conduct an orderly realization of its remaining merchandise. I am informed by senior management of Nordstrom US that Nordstrom US is only willing to continue to support Nordstrom Canada through the provision of Shared Services and IP pursuant to the Wind-Down Agreement, if: (1) it is for limited purposes of an orderly wind down; and (2) the wind down is court-supervised under the CCAA.

156. The Intercompany Agreements were terminated on March 1, 2023, pursuant to notices of termination delivered by Nordstrom US, including the License and Services Agreement that formalized the former Transfer Pricing Policy. Nordstrom US and the Nordstrom Canada Entities subsequently entered into the Wind-Down Agreement to be effective as of March 1, 2023, to provide for, among other things, the immediate termination of the Intercompany Agreements, and the provision of Shared Services and restricted use of IP during this CCAA proceeding.

157. On March 1, 2023, after being informed of the decision of Nordstrom US to discontinue its support of the Canadian operations, the board of directors of Nordstrom Canada resolved to commence this CCAA proceeding.

#### **G. Relief Sought**

158. The Applicants believe that this CCAA proceeding is the most practical method to ensure a fair and orderly wind down of the Nordstrom Canada Entities' business, which will maximize recoveries in the interests of all stakeholders. The Applicants are hopeful that the proposed CCAA proceedings will culminate in a consensual plan of compromise or arrangement, with broad support among stakeholders.

##### **(a) Stay of Proceedings**

159. The Nordstrom Canada Entities urgently require a stay of proceedings and other protections provided by the CCAA so that they will have the breathing space to develop and conduct a controlled and orderly wind down of operations for the benefit of their stakeholders. It would be detrimental to the Nordstrom Canada Entities' ability to conduct a responsible wind down and Realization Process in the best interests of its stakeholders if proceedings were commenced or rights or remedies executed against the Nordstrom Canada Entities in the short period available to maximize recoveries for all stakeholders.

160. The Applicants request a stay in favour of, and an extension of the protections and authorizations of the Initial Order to, Canada Leasing LP, a limited partnership closely intertwined with the operations of the Applicants in respect of Canadian real estate activities, including (i) leasing retail space from third-party property owners; (ii) committing capital for store construction and remodel activities; and (iii) subleasing retail space to Nordstrom Canada. The extension of the

benefit of the stay to Canada Leasing LP is necessary to maintain stability and value in the CCAA process. Any proceedings commenced against Canada Leasing LP would necessarily involve key personnel of the Applicants, who collectively hold a 100% interest in Canada Leasing LP. For example, to respond to any claim, the Applicants would need to provide evidentiary support through witnesses or documents. The need to provide such support could be a significant distraction for the Applicants' key personnel and would distract from the paramount goal of achieving an orderly and controlled wind down. As counterparty to the store Leases, Canada Leasing LP also needs the breathing space of a stay to prevent the exercise of Landlord remedies during the pendency of the Realization Process.

161. Having regard to the circumstances, the granting of a CCAA stay is in the best interests of the Nordstrom Canada Entities and their stakeholders. The stay will provide the Nordstrom Canada Entities with the breathing space required to develop and oversee an orderly wind down process, which in turn will help to protect the interests of the Nordstrom Canada Entities' stakeholders, including employees, suppliers, landlords, and customers, all with the eventual goal of developing and implementing a plan of arrangement to distribute recoveries to unsecured creditors.

**(b) Request for a Co-Tenancy Stay**

162. Many retail leases provide that tenants or occupants have certain rights against their landlords upon an anchor tenant's insolvency or upon an anchor tenant ceasing operations. In order to assist the Landlords in dealing with the effects of the wind down of the Canadian operations on an orderly basis, the Applicants are also seeking to stay rights, including but not limited to termination rights and reduction or abatement of rent, that tenants or occupants may have against the landlords, owners, operators or managers of the commercial properties where Nordstrom

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Canada's stores are located that arise as a result of the Nordstrom Canada Entities' insolvency, cessation of business in Nordstrom Canada's stores or as a result of any steps taken by the Nordstrom Canada Entities pursuant to the proposed Initial Order.

**(c) Stay of Related Litigation Against Nordstrom US**

163. The draft Initial Order proposes, subject to certain exceptions regarding the Cash Management System, a temporary stay of any proceeding against or in respect of Nordstrom US arising out of or in connection with any obligation of Nordstrom US that is derivative of the primary liability of or related to any of the Nordstrom Canada Entities, including in respect of indemnities granted by Nordstrom US in respect of any Leases.

164. Each of the full-line store retail Leases is subject to an indemnity provided by Nordstrom US in favour of the Landlord. All of these indemnities contain language providing that the indemnifiers' obligations are not affected by the bankruptcy or insolvency of the tenant or disclaimer of the Lease. The draft Initial Order also provides that no attempt shall be made to compromise or otherwise release the Landlord indemnity claims as part of the CCAA proceedings.

165. Nordstrom US is also party to a number of other agreements with, or on behalf of, the Nordstrom Canada Entities, which will be dealt with in these CCAA proceedings.

166. The Nordstrom Canada Entities believe that this relief is necessary to allow the Nordstrom Canada Entities to have sufficient breathing space under the CCAA to focus their resources on a fair and orderly wind down process. Any litigation against Nordstrom US in respect of indemnities granted by Nordstrom US pursuant to any Leases or otherwise relating to the Nordstrom Canada Entities would necessarily require the participation of the Nordstrom Canada Entities and would result in a significant distraction of senior management from the goals of this proceeding. Further,



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it is crucial that Nordstrom US be focused on providing the Shared Services to support the wind down process over the next several months and not be distracted by litigation in respect of Nordstrom US indemnities or other potential claims related to the Nordstrom Canada Entities at this time. Moreover, such litigation would be duplicative of the process involved in Canada to determine the amount of the claims.

167. It is the intention of the Nordstrom Canada Entities to establish a CCAA claims process during these CCAA proceedings. The amount of these claims against Nordstrom US, if any, will not be known until a claims process with respect to such claims has been completed.

**(d) Proposed Monitor**

168. A&M is the Proposed Monitor. I am advised by Alan Hutchens of A&M that A&M is a “trustee” within the meaning of section 2 of the *Bankruptcy and Insolvency Act*, and is not subject to any of the restrictions on who may be appointed as monitor set out in section 11.7(2) of the CCAA. I understand that A&M has extensive experience acting as monitor or financial advisor to debtor companies in large retail insolvencies under the CCAA, including Bed Bath & Beyond Canada, Toys “R” Us Canada, Forever 21, Comark Holdings (Ricki’s, cleo and Bootlegger) and Target Canada.

169. The Proposed Monitor has consented to act as the Monitor of the Nordstrom Canada Entities under the CCAA. A copy of the Proposed Monitor’s consent to act as Monitor is attached to my affidavit as **Exhibit “Q”**.

170. I understand that the Proposed Monitor will file a pre-filing report with the Court as Proposed Monitor in conjunction with the Applicants’ request for relief under the CCAA.

**(e) Administration Charge**

171. Pursuant to the proposed Initial Order, it is proposed that the Proposed Monitor, along with its counsel, counsel to the Nordstrom Canada Entities, Employee Representative Counsel (up to the maximum amount of \$75,000), and counsel to the directors and officers of the Nordstrom Canada Entities will be granted a Court-ordered charge on the present and future assets, property and undertakings of the Nordstrom Canada Entities (“**Property**”), as security for their respective fees and disbursements relating to services rendered in respect of the Nordstrom Canada Entities up to a maximum of \$750,000 (the “**Administration Charge**”) until the Comeback Hearing. The Applicants propose that the Administration Charge be increased to \$1.5 million at the Comeback Hearing. The Administration Charge is proposed to have first priority over all other charges and security interests.

**(f) Directors’ and Officers’ Protection**

172. I am advised by Tracy Sandler of Osler, Hoskin & Harcourt LLP, counsel for the Nordstrom Canada Entities, and believe that, in certain circumstances, directors can be held liable for certain obligations of a company owing to employees and government entities, which may include unpaid accrued wages and unpaid accrued vacation pay, together with unremitted sales, goods and services, and harmonized sales taxes.

173. It is my understanding that the Applicants’ present and former directors and officers who are or were in office or employed by any of the Applicants are among the potential beneficiaries under a liability insurance policy that covers the directors and officers of the entire Nordstrom Group that has an aggregate limit of USD \$10 million. This policy covers directors’ statutory liabilities for taxes imposed on a Company for which Insured Persons (each defined therein) are

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legally obligated to pay as a result of the Company's insolvency. In addition, the policy covers taxes assessed on an Insured Person under s. 227.1 of the *Income Tax Act* (Canada) and related fines or penalties and certain other statutory liabilities. The USD \$10 million limit under the policy covers both Nordstrom US and its subsidiaries (referred to collectively as the “**Company**” in the policy). I do not believe that this insurance policy provides sufficient coverage against the potential liability that the directors could incur in relation to this CCAA proceeding, in particular, in light of the extensive operations and hence potential liabilities associated with Nordstrom US.

174. In light of the potential liabilities and the insufficiency of available insurance, I, as President of Nordstrom Canada and President and Treasurer of NCH and NCHII, and the other directors and officers of the Nordstrom Canada Entities, have indicated that our continued service and involvement in this proceeding is conditional upon the granting of an Order under the CCAA which grants a charge in favour of the directors and officers of the Nordstrom Canada Entities in the amount of \$10.75 million on the Property of the Nordstrom Canada Entities (the “**Directors’ Charge**”) until the Comeback Hearing. The Applicants propose that the Directors’ Charge be increased to \$13.25 million at the Comeback Hearing. The Directors’ Charge would be subordinate to the proposed Administration Charge and in priority to all other security interests. The Directors’ Charge would act as security for the indemnification obligations for directors’ potential liabilities, as set out above. The Directors’ Charge is necessary so that the Nordstrom Canada Entities may benefit from the directors and officers’ experience with the business during the realization and wind down efforts. The Directors’ Charge would only be relied upon to the extent of the insufficiency of existing insurance.

**(g) Cash Flow Forecast**

175. The Applicants, with the assistance of the Proposed Monitor, have prepared 13-week cash flow projections as required by the CCAA. A copy of the cash flow projections is attached as **Exhibit “R”**. The cash flow projections demonstrate that the Nordstrom Canada Entities have sufficient liquidity to continue going concern operations during the proposed stay period should an Initial Order be granted. It is not currently contemplated that the Nordstrom Canada Entities will require debtor-in-possession financing; however, Nordstrom US has agreed in the Wind-Down Agreement to provide up to \$15 million of such financing on reasonable terms if needed.

176. The Applicants anticipate that the Monitor will provide oversight and assistance and will report to the Court in respect of the Nordstrom Canada Entities’ actual results relative to cash flow forecast during this proceeding. Existing accounting procedures and the proposed continuation of the Cash Management System will provide the Monitor with the ability to accurately track the flow of funds and assist with any issues that may arise.

**(h) Payments During the CCAA Proceedings**

177. During the course of this proceeding, the Nordstrom Canada Entities intend to make payments for goods and services supplied to it post-filing in the ordinary course, as set out in the cash flow projections described above and as permitted by the proposed Initial Order.

178. The proposed Initial Order provides that the Nordstrom Canada Entities be authorized, with the consent of the Monitor, but not required, to make certain payments for goods and services actually supplied to the Nordstrom Canada Entities prior to the date of the Initial Order, to: (i) 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

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customs and duties for goods; (ii) providers of information, internet, telecommunications and other technology, including e-commerce providers and related services; and (iii) providers of payment, credit, debit and gift card processing related services. These categories of suppliers are fundamental to continuing operations and the proposed liquidation sale, and any disruptions of their services could jeopardize the orderly wind down, given the expedited timelines for the proposed Realization Process. Accordingly, the Applicants seek additional flexibility in ensuring the supply of required services remains uninterrupted. For third-party suppliers or service providers other than those listed above, the draft Initial Order also proposes permitting payments in respect of pre-filing amounts up to a maximum aggregate amount of \$1 million with the consent of the Monitor (proposed to be increased to \$1.5 million in the Amended and Restated Initial Order), if, in the opinion of the Nordstrom Canada Entities, the supplier is critical to the orderly wind down of the Nordstrom Canada Entities' business.

**(i) Liquidation Consultant and Realization Process**

179. As part of the overall wind down process for the Canadian business, the Applicants intend to seek the Court's approval to, in consultation with the Monitor, implement a proposed realization process ("**Realization Process**") to liquidate Nordstrom Canada's remaining inventory, and furniture, fixtures and equipment (collectively, the "**Merchandise & FF&E**"). The Applicants intend to, in consultation with the Monitor, explore the possibility of monetizing the Leases as part of the Realization Process.

180. The Applicants intend to file a motion seeking approval of the Realization Process and an agreement with a third-party liquidator as soon as possible should the proposed Initial Order be

granted. The Nordstrom Canada Entities intend to propose the following timeline for the first stage of the CCAA proceedings subject to the direction of this Honourable Court:

<b>Proposed Date</b>	<b>Step</b>
March 2, 2023	Hearing of application for Initial Order
March 10, 2023	Hearing for CCAA comeback motion and Amended and Restated Initial Order, including stay extension and approval of Key Employee Retention Program
March 13, 2023	Serve motion seeking approval of Realization Process and sale guidelines
March 20, 2023	Hearing to approve the Realization Process and sale guidelines
March 21, 2023	Commence liquidation of Canadian stores
June 30, 2023	Projected liquidation sale end date and Nordstrom Canada to vacate leased premises
TBD	Claims process motion to be brought at the appropriate time, likely when the liquidation is close to complete

181. The Nordstrom Canada Entities believe that engaging an experienced professional liquidator to undertake a sale of the Merchandise & FF&E will produce better sales results than an attempt by the Nordstrom Canada Entities to sell the Merchandise & FF&E without such professional assistance. At the same time, I believe that the involvement of the Nordstrom Canada Entities in the Realization Process is essential to maximizing the proceeds. The Applicants accordingly believe that it is crucial to seek Court approval of the Realization Process as soon as possible to maximize the amounts available to their stakeholders.

**(j) Key Employee Retention Program**

182. The Applicants propose in connection with this Application to provide Nordstrom Canada's store employees and store management with working notice of termination, effective at

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the outset of the Realization Process. Given the essential role that employees would play in the Realization Process, Nordstrom Canada in consultation with the Proposed Monitor has developed a key employee retention program (the “**KERP**”) to incentivize certain key active employees to remain in their positions through the CCAA proceedings. I understand that the Proposed Monitor and Employee Representative Counsel (as discussed below) support the KERP. It is intended that approval of the KERP and related KERP Charge will be sought as part of the proposed Amended and Restated Initial Order at the Comeback Hearing.

183. The proposed KERP provides for a one-time lump sum payment to eligible employees who have been identified by Nordstrom Canada, in consultation with the Proposed Monitor, as critical for a successful CCAA proceeding. In particular, the vast majority of KERP participants and KERP funds are directed towards store-level employees, with a view to maximizing value through the Realization Process.

184. The proposed KERP payments are to be calculated as a percentage of the employee’s base salary to help ensure that the proposed KERP amounts reflect the individual’s level of duties and responsibilities. The maximum proposed KERP payments would total approximately \$2.6 million, to be divided as follows:

- (a) Up to 13 Store Managers to be eligible for a KERP payment of 20% of base salary, for a total maximum payout of approximately \$359,000;
- (b) Up to 117 Department Managers to be eligible for a KERP payment of 15% of base salary, for a total maximum payout of approximately \$1.2 million;

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- (c) Up to 42 Assistant Department Managers in Nordstrom full-line stores to be eligible for a KERP payment of 10% of base salary, for a total maximum payout of approximately \$193,000;
- (d) Up to 56 Asset Protection personnel to be eligible for a KERP payment of 10% of base salary, for a total maximum payout of approximately \$263,000; and
- (e) 37 non-store personnel to be eligible for a KERP payment of between 5% and 25% of base salary, for a total maximum payout of approximately \$532,000, as detailed in **Redacted Exhibit “S”**.

185. It is proposed in the Amended and Restated Initial Order that a KERP Charge in an aggregate amount not exceeding \$2.6 million will be granted as security on the Property for amounts payable to the key employees pursuant to the KERP.

186. Payments to employees under the proposed KERP would be in lieu of any other incentive compensation arrangements to which the participants may claim to be entitled and would be conditional upon the terms and conditions set out in the KERP award letter to be provided to eligible employees, including that such employees have not resigned or been terminated due to misconduct prior to the KERP payment date. If a KERP eligible employee resigns or is terminated due to misconduct prior to payment of the KERP, Nordstrom Canada, in consultation with the Monitor, may select another employee to occupy their role, in which case the new incumbent shall be eligible for a KERP payment on the same terms and conditions as the former employee.



**(k) Employee Trust**

187. The Applicants are also asking the Court to approve a trust established for the benefit of employees of Nordstrom Canada (the “**Employee Trust**”) and funded outside of the estate by Nordstrom US.

188. The Nordstrom Canada Entities and Nordstrom US have always considered team members to be integral to Nordstrom’s business. However, given that Nordstrom Canada will be winding down its operations and ceasing to carry on business, it will be providing notice of termination to the vast majority of its employees at the outset of the Realization Process. The Nordstrom Canada Entities and Nordstrom US wish to provide Nordstrom Canada employees with a measure of financial security during the wind down process. Nordstrom US has therefore agreed to fund the Employee Trust to ensure that all Nordstrom Canada employees receive the full amount of termination and severance pay owed to them under applicable employment standards legislation as soon as possible without having to await the results of a claims process and implementation of a plan with distributions on account of proven claims. If approved, the Employee Trust will provide funding for payment to employees of at least their full statutory termination entitlements even if they are not required to work for their entire notice period.

189. The Employee Trust provides Nordstrom US with a right of subrogation against Nordstrom Canada in respect of amounts paid to Eligible Employees (defined below) pursuant to the Employee Trust.

190. The Employee Trust was established in consultation with the Proposed Monitor and is supported by Employee Representative Counsel (as described below). The agreement establishing the Employee Trust (the “**Trust Agreement**”) provides that the Proposed Monitor is the

administrator (the “**Administrator**”) and Gale Rubenstein, in her personal capacity, is the trustee (the “**Trustee**”). A copy of the proposed Trust Agreement is attached as **Exhibit “T”** to this affidavit. All defined terms in this section are as set out in the Trust Agreement.

191. The Trust Agreement provides:

- (a) The beneficiaries of the Employee Trust (“**Eligible Employees**”) include all active and inactive employees of Nordstrom Canada as of the filing date, other than those who have given or received notice of termination or who are terminated for cause post-filing;
- (b) The distribution by the Employee Trust to Nordstrom Canada for payment to an Eligible Employee will be equal to  $A - B$  (the “**Eligible Employee Claim**”) where:
  - (i) A is such Eligible Employee’s statutory minimum termination entitlement under applicable employment standards legislation (as applicable, “**ESA**”); and
  - (ii) B is all amounts earned by such Eligible Employee up to their Regular Wages for a Regular Work Week in respect of actual post-filing services provided following the effective date of notice of termination;
- (c) Payments to employees of funds distributed by the Employee Trust will be made directly by Nordstrom Canada’s third-party payroll provider pursuant to Nordstrom Canada’s existing payroll system. The Employee Trust will distribute funds to Nordstrom Canada on a pay period by pay period basis, based on estimates jointly developed by Nordstrom Canada and the Monitor, as Administrator of the Employee Trust. Any surplus or deficiency from the previous pay period(s) will be reconciled in the next pay period. On or after the final distribution, Nordstrom Canada and the Monitor will consult and perform a final “true up”;

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- (d) Nordstrom US will provide an initial contribution of \$14 million (the “**First Contribution**”) to fund the Employee Trust. Nordstrom US will make additional contributions to fund Eligible Employee Claims as requested by the Administrator and Trustee, up to a total maximum contribution of \$25 million;
- (e) A deemed release by each Eligible Employee of Nordstrom Canada, Nordstrom US and other Releasees (defined in the Trust Agreement) will be effective on the payment of a distribution from the Employee Trust in respect of an Eligible Employee Claim, to the extent of such distribution (the “**Deemed Release**”). This is proposed to operate as a “rolling release”; that is, for each distribution funded from the Employee Trust, the employee will be deemed to release all Releasees in respect of the Eligible Employee Claim for the amount the individual receives plus appropriate remittances or withholdings (the “**Payment Release**”). Once the final distribution has been made by the Employee Trust and paid by Nordstrom Canada, the Eligible Employee will be deemed to have released Nordstrom Canada, Nordstrom US and the other Releasees in respect of the full amount of the Eligible Employee Claim, subject to any dispute, as described below; and
- (f) For the appointment of the Trustee, including the role and responsibilities of the Trustee and certain protections and indemnities in favour of the Trustee.

192. For additional clarity, other than Eligible Employee Claims, the Employee Trust does not cover damages or claims by Nordstrom Canada employees against Nordstrom Canada, Nordstrom US or any related entities from any existing or potential litigation or other proceedings in respect

of their employment. Any other employee claims or potential claims against the Nordstrom Canada Entities will be dealt with through the claims process, once established.

193. Nordstrom Canada is proposing that any dispute with respect to an Eligible Employee Claim must be made within 45 days of the final payment thereof by notice to the Administrator (Proposed Monitor) and Employee Representative Counsel (discussed below), specifying the grounds and particulars of the dispute. The Deemed Release will not come into effect for any Eligible Employee who commences a dispute until the dispute is finally resolved. The directions of this Court for dispute resolution will be sought if necessary.

194. The Employee Trust will be fully revocable until certain conditions set out below are fulfilled, as detailed in the Trust Agreement:

- (a) the Court grants an Initial Order that:
  - (i) approves and authorizes the creation of the Employee Trust on the terms and conditions set out in the Trust Agreement;
  - (ii) provides for a deemed release of claims by Eligible Employees no less favourable to Nordstrom Canada, Nordstrom US and their affiliates than the Deemed Release summarized above;
  - (iii) appoints the Monitor to act in such capacity, and in addition to the other powers granted to the Monitor therein, authorizes and directs the Monitor to act as Administrator of the Employee Trust;
  - (iv) provides that no action or proceeding may be commenced against the Trustee in respect of the Employee Trust without leave of the Court;
  - (v) declares that Nordstrom US shall not be, and shall not be deemed to be, an employer or a common, related or successor employer with respect to any Nordstrom Canada employee by virtue of settling the Trust or the payments made thereunder;
  - (vi) deems that Nordstrom US shall have full subrogation rights against Nordstrom Canada in respect of any and all amounts paid by the Trust to Eligible Employees pursuant to this Trust Agreement; and

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- (vii) establishes a stay of proceedings on substantially the terms and conditions requested by the Applicants;
- (b) the Initial Order becomes a final order; and
- (c) notices of termination of employment by Nordstrom Canada have been sent to Eligible Employees.

195. In summary, Nordstrom Canada is of the view the Employee Trust is of great benefit to its employees, estate, and stakeholders because:

- (a) It will provide for a timely payment and satisfaction of all statutory termination and severance claims of Eligible Employees;
- (b) no funds from any of the Nordstrom Canada Entities will be used to fund the Employee Trust;
- (c) Nordstrom US is the settlor of the Employee Trust and will provide all funds required for payment under the Employee Trust, subject to the conditions of the Trust Agreement; and
- (d) the Employee Trust will bear the costs of its establishment and administration.

**(l) Employee Representative Counsel**

196. The Nordstrom Canada Entities propose that the Court appoint Ursel Phillips Fellows Hopkinson LLP (“**Ursel Phillips**”) as Employee Representative Counsel, with Susan Ursel acting as senior counsel, to represent all Nordstrom Canada’s store-level employees and all non-KERP eligible non-store employees (which combined represents approximately 98.5% of all Nordstrom Canada’s employees), including, but not limited to, assisting with questions regarding Eligible

Employee Claims and other issues with respect to the Employee Trust. The fees and expenses of Employee Representative Counsel will be funded by the Nordstrom Canada Entities on the terms of a retainer to be entered into between Employee Representative Counsel and Nordstrom Canada.

197. I am advised by Mr. Poysa and believe that Ursel Phillips has been appointed by the court as representative counsel in other CCAA proceedings and restructurings, including Sears Canada and Essar Steel Algoma. I am advised by Mr. Poysa and believe that Ursel Phillips has extensive experience representing large groups of employees and former employees in matters involving employment-based claims in respect of termination entitlements and benefits in insolvency matters. I am advised by Mr. Poysa and believe that Ursel Phillips also has extensive experience in establishing and advising members and trustees of employee benefit and retirement plans across Canada, and is well qualified to represent Nordstrom Canada employees in the CCAA proceeding.

198. I am advised by Mr. Poysa and believe that Ursel Phillips has been consulted regarding the Employee Trust and supports the Court's approval of the Employee Trust.

199. To the best of my knowledge, the employees proposed to be represented by Ursel Phillips have a common interest in these CCAA proceedings. I am not aware of any material conflict existing between the interests of such employees or groups of employees at this time. If any material conflict does arise in the future, Employee Representative Counsel may attend before the Court to seek directions at that time.

200. The Applicants are proposing that:

- (a) Employee Representative Counsel be appointed immediately, before the appointment of any employees as Court-appointed representatives (the “**Employee Representatives**”), because of the importance of establishing the Employee Trust

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at the earliest possible time for the benefit of the employees, the estate and other stakeholders;

- (b) Employee Representative Counsel be authorized, but not required, to identify no more than three employees to be nominated to the Court as Employee Representatives as soon as practicable, with the goal of one employee being selected from each of the three groups or regions in which Nordstrom Canada is organized – British Columbia, Alberta and Ontario; and
- (c) Employees who do not wish to be represented by Ursel Phillips will be entitled to opt-out of representation and will be notified of such entitlement.

201. Nordstrom Canada recognizes that the employees are an important stakeholder group and deserve adequate and meaningful representation in the CCAA proceeding that is funded by the estate at no cost to the employees.

202. I am advised by Mr. Poysa and believe that Ursel Phillips intends to (i) establish a toll-free dedicated phone line and a dedicated email address through which Nordstrom Canada employees can obtain information about the CCAA proceeding; and (ii) post information for Nordstrom Canada employees on the Ursel Phillips website, which will be regularly updated with information dedicated to Nordstrom Canada employees about the CCAA process, including a section for frequently asked questions.

203. Nordstrom Canada believes that Employee Representative Counsel will contribute to overall costs savings and a streamlining of the CCAA process by serving as a single point of contact between thousands of employees, the Nordstrom Canada Entities, the Monitor, and the Court.

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**H. Conclusion**

204. I believe that the Nordstrom Canada Entities and Nordstrom US have made every reasonable effort, and assessed every available option in their extensive efforts to find a way to succeed in Canada. However, no way was identified that could stop the significant losses projected for the foreseeable future.

205. I am confident that granting the Initial Order sought by the Applicants is in the best interests of the Nordstrom Canada Entities and their stakeholders, generally. Without the stay of proceedings, the Nordstrom Canada Entities face an immediate cessation of operations rather than an orderly and responsible wind down. I believe that the CCAA proceeding is the only viable method to effect a fair and orderly wind down process for the benefit of all stakeholders.

**SWORN BEFORE ME** at the City of  
Toronto in the Province of Ontario, on March  
1, 2023.



Commissioner for Taking Affidavits  
(or as may be)

**HANNAH DAVIS**  
**LSO# 85047N**



**MISTI HECKEL**



This is Exhibit “A” referred to in the Affidavit of Misti Heckel  
sworn March 1, 2023.

A handwritten signature in blue ink, appearing to read 'H Davis', is positioned above a horizontal line.

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*Commissioner for Taking Affidavits (or as may be)*

**HANNAH DAVIS**

THIS AGREEMENT is dated the 22nd day of January, 2013.

B E T W E E N :

ONTREA, INC.  
("Landlord")

OF THE FIRST PART

- and -

NORDSTROM, INC.  
("Indemnifier")

OF THE SECOND PART

In order to induce Landlord to enter into the Lease, (the "Lease") dated the 22th day of January, 2013 and made between Landlord and Nordstrom Canada Leasing LP ("Tenant") and for other good and valuable consideration, the receipt and sufficiency whereof is hereby acknowledged, Indemnifier hereby makes the following indemnity and agreement (this "Indemnity" or this "Agreement") with and in favour of Landlord:

1. (a) Indemnifier hereby agrees with Landlord that, subject to a release referred to in Section 2, Section 17 or Section 18 below, at all times during the Entire Term of the Lease (the "**Indemnity Period**"), it will (i) make the due and punctual payment of all rent and other monies payable under the Lease by Tenant whether to Landlord or otherwise; (ii) effect prompt and complete performance and observance of all and singular the terms, covenants and conditions contained in the Lease on the part of Tenant to be kept, observed and performed; and (iii) indemnify and save harmless Landlord from any direct loss, costs or damages arising out of any failure by Tenant to pay the aforesaid rent and monies payable under the Lease or resulting from any failure by Tenant to observe or perform any of the terms, covenants and conditions contained in the Lease.
- (b) Indemnifier's covenants and obligations set out in paragraph (a) above will not be affected by any disaffirmation, disclaimer, repudiation, rejection or termination of the Lease or by any other event or occurrence which would have the effect at law of terminating any obligations of Tenant prior to expiry of the Indemnity Period whether pursuant to court proceedings or otherwise and no surrender of the Lease to which Landlord has not provided its written consent (all of which are referred to collectively and individually in this Agreement as an "**Unexpected Termination**"), and the occurrence of any such Unexpected Termination shall not, subject to the terms contained herein, reduce the period of time in which Indemnifier's covenants and obligations hereunder apply. Notwithstanding anything contained herein to the contrary, in no event shall an Unexpected Termination include any termination of the Lease by Tenant as expressly permitted by the terms of the Lease.
2. This Indemnity is absolute and unconditional and the obligations of Indemnifier and the rights of Landlord under this Indemnity shall not be prejudiced, waived, released, discharged, mitigated, impaired or affected by (a) any extension of time, indulgences or modifications which the Landlord extends to or makes with the Tenant in respect of the performance of any of the obligations of the Tenant (or any other obligated Person) under the Lease; (b) any waiver by or failure of Landlord to enforce any of the terms, covenants and conditions contained in the Lease by Tenant or by or by any trustee, receiver, liquidator or any other Person; (c) any assignment, subletting or other parting with possession of all or any part of Tenant's Store by Tenant or by any trustee, receiver, liquidator or any other Person; (d) any consent which Landlord gives to any such transfer; (e) any amendment to the Lease or any waiver by the Tenant of any of its rights under the Lease, provided, however, that if

Lease must first have been approved by the Indemnifier in order for Indemnifier to be liable for the increase of such obligations (whether such increase is in amount, duration or otherwise), or (f) any Unexpected Termination (as that term is defined in Section 1(b) above). The obligations of Indemnifier are as primary obligor and not as a guarantor of Tenant's obligations. Notwithstanding the foregoing, the Indemnifier shall be released and this Indemnity shall be of no further force or effect in the event that the named Tenant in the Lease (Nordstrom Canada Leasing LP) is released from its obligations under the Lease pursuant to the express terms of the Lease.

3. The Indemnifier hereby expressly waives notice of the acceptance of this Indemnity Agreement and, except as provided below in the event that Tenant is not an Affiliate of Indemnifier, all notice of non-performance, non-payment or non-observance on the part of the Tenant of the terms, covenants and conditions in the Lease but without prejudicing the foregoing, any notice which the Landlord desires to give to the Indemnifier shall be sufficiently given if delivered by a reputable courier or delivery service to the Indemnifier, or, if mailed, by prepaid registered mail addressed to the Indemnifier the Indemnifier's address set out below. If Tenant is not an Affiliate of Indemnifier, Landlord shall provide copies of all notices of non-performance, non-payment or non-observance on the part of the Tenant of the terms, covenants and conditions in the Lease and Indemnifier shall not be deemed to have received any such notices given to Tenant until such notices are separately given to Indemnifier.

To Landlord:

c/o The Cadillac Fairview Corporation  
Limited  
5<sup>th</sup> Floor, 20 Queen Street West  
Toronto, Ontario  
M5H 3R4  
Attention: Executive Vice President,  
National Property Operations

To Indemnifier:

NORDSTROM, INC.  
1700 Seventh Avenue, Suite 1000  
Seattle, Washington 98101-4407  
Attention: Real Estate Notices

Either party may at any time change its address for notification purposes by mailing or sending as aforesaid a notice stating the change and setting forth the new address, provided, however, that at no time shall Landlord or Indemnifier be obligated to give notification to more than three (3) addressees.

4. If an Event of Default has occurred under the Lease or a default under this Indemnity, Indemnifier waives any right to require Landlord to (a) proceed against Tenant or pursue any rights or remedies against Tenant with respect to the Lease; (b) proceed against or exhaust any security of Tenant held by Landlord; or (c) pursue any other remedy whatsoever in Landlord's power. Landlord has the right to enforce this Indemnity regardless of the acceptance of additional security from Tenant.
5. Without limiting the generality of the foregoing, the liability of Indemnifier under this Indemnity is not and is not deemed to have been waived, released, discharged, impaired or affected by reason of the release or discharge of Tenant in any receivership, bankruptcy, winding-up or other creditors' proceedings or any Unexpected Termination (as that term is defined in Section 1(b) above) and shall, subject to the terms contained herein, continue with respect to the periods prior thereto and thereafter, for and with respect to the Indemnity Period as if an Unexpected Termination or any receivership, bankruptcy, wind-up or other creditors' proceedings had not occurred. The liability of Indemnifier shall not be affected by any repossession of the Tenant Store by Landlord provided, however, that the net payments received by Landlord after deducting all costs and expenses of repossessing and reletting the Tenant Store shall be credited from time to time by Landlord against the indebtedness of

6. No action or proceedings brought or instituted under this Indemnity and no recovery in pursuance thereof shall be a bar or defense to any further action or proceeding which may be brought under this Indemnity by reason of any further default or default hereunder or in the performance and observance of the terms, covenants and conditions contained in the Lease.
7. No modification of this Indemnity shall be effective unless it is in writing and is executed by both the Indemnifier and two authorized representatives of the Landlord.
8. All of the terms, covenants and conditions of this Indemnity extend to and are binding upon Indemnifier, and its successors and assigns.
9. Capitalized terms not otherwise defined herein shall have the same meaning assigned to them in the Lease.
10. The use of words in the singular or plural, or with a particular gender, shall not limit the scope or exclude the application of any provision of this Agreement to such person or persons or circumstances as the context otherwise permits.
11. Indemnifier hereby represents and warrants to and covenants and agrees with Landlord that:
  - (a) Indemnifier has full power and authority to enter into this Agreement and to perform Indemnifier's obligations contained herein; and
  - (b) this Agreement is valid and binding upon Indemnifier and enforceable against Indemnifier in accordance with its terms.
12. If a part of this Agreement or the application of it to any Person hereunder or circumstance is to any extent held or rendered invalid, unenforceable or illegal, that part:
  - (a) is independent of the remainder of this Agreement and is severable from it, and its invalidity, unenforceability or illegality does not affect, impair or invalidate the remainder of this Agreement; and
  - (b) continues to be applicable to and enforceable to the fullest extent permitted by law against any Person hereunder and circumstance, except those as to which it has been held or rendered invalid, unenforceable or illegal.
13. The Indemnifier agrees to execute such further assurances in connection with this Agreement as the Landlord may reasonably require.
14. This Agreement shall be construed in accordance with the laws of the Province in which the Shopping Centre is located.
15. This Agreement is the sole agreement between Landlord and Indemnifier relating to the indemnity and there are no other written or verbal agreements or representations relating thereto. This Agreement may not be amended except in writing and signed by Indemnifier and Landlord.
16. Wherever in this Indemnity reference is made to either Landlord or Tenant, the reference is deemed to apply also to the heirs, executors, administrators, successors and assigns of Landlord and the heirs, executors, administrators, permitted successors, and permitted assigns of Tenant. Any assignment by Landlord of any of its interests in the Lease operates automatically as an assignment to such assignee of the benefit of this Indemnity and all of the terms, covenants and conditions of this Indemnity enure to the benefit of and may be enforced by Landlord and its successors and assigns.
17. Notwithstanding anything to the contrary contained herein, in accordance with Article 22 of the Lease, if an assignment is completed to a Permitted Transferee who has, or whose

obligations under this Agreement as of the effective date of the assignment.

18. Notwithstanding anything to the contrary contained herein, the Indemnifier shall be released from its obligations under this Agreement and the Indemnity Period shall end upon the later to occur of: (a) the expiry of the Tenant Operating Covenant, and (b) the date Indemnifier provides audited financial statements to Landlord demonstrating that Nordstrom Leasing LP has a net worth of not less than Five Hundred Million Dollars (\$500,000,000.00).

IN WITNESS WHEREOF Landlord and Indemnifier have executed this Agreement.

) **ONTREA, INC.**  
)  
) (Landlord)  
)  
) Per:   
) Authorized Signature  
)  
) Per:   
) **Finley McEwen** Authorized Signature  
) **Senior Vice President Development**  
) I/We have authority to bind the corporation.  
)  
)  
) **NORDSTROM, INC.**  
) (Indemnifier)  
) Per:   
) Authorized Signature  
)  
)  
) I/We have authority to bind the corporation.

This is Exhibit “B” referred to in the Affidavit of Misti Heckel  
sworn March 1, 2023.

A handwritten signature in blue ink, appearing to read 'H Davis', is positioned above a horizontal line.

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*Commissioner for Taking Affidavits (or as may be)*

**HANNAH DAVIS**



Toronto, Ontario M5J 2J2  
Attn. Vice President, Retail Operations

To Indemnifier:

NORDSTROM, INC.  
1700 Seventh Avenue, Suite 1000  
Seattle, Washington 98101-4407  
Attention: Real Estate Notices

Either party may at any time change its address for notification purposes by mailing or sending as aforesaid a notice stating the change and setting forth the new address, provided, however, that at no time shall Landlord or Indemnifier be obligated to give notification to more than three (3) addressees.

4. If an Event of Default has occurred under the Lease or a default occurs under this Indemnity, Indemnifier waives all rights (if any) to require Landlord to: (a) proceed against Tenant or any other entity or pursue any rights or remedies against Tenant or any other entity with respect to the Lease or otherwise; (b) proceed against or exhaust any security or other recourse against Tenant or any other entity held by Landlord; or (c) pursue any other right or remedy whatsoever in Landlord's power. Except as provided in Section 2 above, Landlord has the right to enforce this Indemnity regardless of the acceptance of additional security from Tenant or any other entity and/or regardless of any release or discharge of Tenant or other entity by Landlord, by others and/or by operation of law.
5. Without limiting the generality of the foregoing, the liability of Indemnifier under this Indemnity is not and shall not be deemed to have been waived, released, discharged, reduced, impaired or affected by reason of the release or discharge of Tenant in any receivership, bankruptcy, winding-up, liquidation or other creditors' proceedings or any Unexpected Termination and shall continue with respect to the periods prior thereto and thereafter, for and with respect to the Entire Term of the Lease, as extended, renewed and/or overhauled from time to time (the "**Indemnity Period**") as if an Unexpected Termination or any receivership, bankruptcy, wind-up, liquidation or other creditors' proceedings had not occurred, and in furtherance hereof, Indemnifier agrees, upon any such Unexpected Termination or any receivership, bankruptcy, wind-up, liquidation or other creditors' proceedings, to, at the option of Landlord, in Landlord's reasonable discretion, exercisable at any time after such Unexpected Termination or any receivership, bankruptcy, wind-up, liquidation or other creditors' proceedings, to enter into a new lease of the leased premises for the balance of the Entire Term of the Lease as if the Unexpected Termination or any receivership, bankruptcy, wind-up, liquidation or other creditors' proceedings had not occurred upon the same terms and conditions as are contained in the Lease. The liability of Indemnifier shall not be affected by any repossession of the Tenant Store by Landlord provided, however, that the net payments received by Landlord after deducting all costs and expenses of repossessing and reletting the Tenant Store shall be credited from time to time by Landlord against the indebtedness of Indemnifier hereunder and Indemnifier shall pay any balance owing to Landlord from time to time within twenty (20) days of written demand.

6. No action or proceedings brought or instituted under this Indemnity and no recovery in pursuance thereof shall be a bar or defense to any further action or proceeding which may be brought under this Indemnity by reason of any further default or default hereunder or in the performance and observance of the terms, covenants and conditions contained in the Lease.
7. No modification of this Indemnity shall be effective unless it is in writing and is executed by both Indemnifier and two authorized representatives of Landlord.
8. Capitalized terms not otherwise defined herein shall have the same meaning assigned to them in the Lease.
9. The use of words in the singular or plural, or with a particular gender, shall not limit the scope or exclude the application of any provision of this Indemnity to such person or persons or circumstances as the context otherwise permits.
10. Indemnifier hereby represents and warrants to and covenants and agrees with Landlord that:
  - (a) Indemnifier has full power and authority to enter into this Indemnity and to perform Indemnifier's obligations contained herein; and
  - (b) Indemnifier is a corporation validly existing and in good standing under the laws of the State of Washington and has the authority and power to execute and deliver this Indemnity, enter into and perform its obligations under this Indemnity; and
  - (c) the execution and entry into this Indemnity are not in violation of, and will not create any material adverse condition under any lease, contract, agreement, or other instrument to which it is a party, or any judicial order or judgment of any nature by which it is bound. All necessary and appropriate action has been taken by Indemnifier authorizing and approving the execution of and entry into the Indemnity, and the performance by it of its obligations under this Indemnity; and
  - (d) there is no action, suit or proceeding outstanding, pending or, to its information and belief, threatened by or against or affecting it which involves or affects this Indemnity and liability hereunder or which, if successful, would affect that ability of the Indemnifier to perform its obligations hereunder; and
  - (e) this Indemnity is valid and binding upon Indemnifier and enforceable against Indemnifier in accordance with its terms.
11. If a part of this Indemnity or the application of it to any Person hereunder or circumstance is to any extent held or rendered invalid, unenforceable or illegal, that part:
  - (a) is independent of the remainder of this Indemnity and is severable from it, and its invalidity, unenforceability or illegality does not affect, impair or invalidate the remainder of this Indemnity; and



- (b) continues to be applicable to and enforceable to the fullest extent permitted by law against Indemnifier and/or any other Person hereunder and in all circumstances, save and except and only to the extent with respect to those provisions which have been held or rendered invalid, unenforceable or illegal. To the extent that any such provision is found to be invalid, illegal or unenforceable, the parties will act in good faith to reach agreement upon and implement a substitute for such provision, to the extent possible, a new provision with content, purpose and effect upon the parties as close as possible to the provision so determined to be invalid, illegal or unenforceable.
12. The Indemnifier agrees to execute such further assurances in connection with this Agreement as the Landlord may reasonably require from time to time.
  13. This Indemnity shall be construed in accordance with the laws of the Province in which the Shopping Centre is located. Indemnifier hereby irrevocably submits to the exclusive jurisdiction of the Courts of the Province of Ontario situated in the City of Toronto in any action or proceeding whatsoever by Landlord to enforce its rights and/or remedies hereunder and/or with respect to the Lease and Indemnifier waives objection to the venue of any proceeding in such court or that such court provides an inconvenient forum.
  14. This Indemnity is the sole agreement between Landlord and Indemnifier relating to the indemnity and there are no other written or verbal agreements or representations relating thereto. This Indemnity may not be amended except in writing and signed by Indemnifier and Landlord.
  15. Wherever in this Indemnity reference is made to any of Landlord, Indemnifier and/or Tenant, the reference shall also bind and enure to the benefit of each of the party's heirs, executors, administrators, liquidators, trustees, successors and permitted assigns. Without limiting the generality of the foregoing, Landlord may assign the benefit of this Indemnity together with its interest in the Lease to any entity, in whole or in part, without notice to Indemnifier or other formality. Any assignment by Landlord of any of its interest in the Lease shall operate automatically as an assignment to such assignee of the benefit of this Indemnity and all of the terms, covenants and conditions of this Indemnity enure to the benefit of and may be enforced by Landlord and its successors and assigns.
  16. Notwithstanding anything to the contrary contained herein, so long as no Event of Default has occurred and is subsisting, if an assignment of Tenant's entire interest in the Lease is completed to a Permitted Transferee in accordance with terms of the Lease and said Permitted Transferee has, or whose indemnifier (who provides an indemnity in favour of Landlord on substantially the same terms and conditions contained herein) has, a tangible net worth of at least Two Hundred Fifty Million Dollars (\$250,000,000.00), then the Landlord shall thereafter release the Indemnifier from its future obligations under this Indemnity as of and from the effective date of the assignment.

17. Notwithstanding anything to the contrary contained herein, so long as no Event of Default has occurred and is subsisting, upon the later to occur of: (a) the expiry of the Tenant Operating Covenant, and (b) the date that Nordstrom Canada Retail, Inc. has opened eight (8) stores in Canada, Landlord shall be deemed to have released Indemnifier from its future obligations under this Indemnity as of and from the effective date thereof.
18. Whenever any reference is made herein to the Lease or the obligations of Tenant thereunder, such reference shall be deemed to include all written amendments and modifications to the Lease and any written change of or written increase in Tenant's obligations thereunder, and any and all agreements and instruments executed by Tenant concurrently with the Lease or pursuant thereto and/or which relate to the Tenant's Store from time to time.
19. Indemnifier covenants and agrees that all of its right, title and interest in and under any loans, notes, debts and other liabilities or obligations whatsoever owed by Tenant to it, whether in existence or hereafter created or incurred, for whatever amount, and any and all security therefor shall be now and hereafter at all times during the continuance of an Event of Default be fully subordinated and postponed to Landlord's rights and remedies hereunder and pursuant to the Lease. Indemnifier shall not ask, demand or sue for, or take or receive payment of, or realize upon, all or any part of such loans, notes, debts or any other liabilities or obligations whatsoever or any security therefor during the continuance of an Event of Default until and unless all of the covenants, terms and obligations hereunder are fully paid, performed and satisfied.
20. From and after the date hereof and throughout existence of this indemnity and/or if an Unexpected Termination occurs, Indemnifier will not either directly or indirectly: (a) liquidate or dissolve or sell, transfer, lease, issue or otherwise dispose of (in one transaction or in a series of transactions) all or a material part its assets whether owned or hereafter acquired; and/or (b) permit the sale, sale and leaseback, assignment, encumbrance, conveyance, transfer, issuance or other disposition or dealings (individually or in the aggregate) of all or a material part of its assets whether now owned or hereinafter owned or acquired by it at any time, unless in each and every case, the entity which then holds all or a material part of Indemnifier's assets concurrently executes and delivers a new indemnity agreement on the same terms and conditions as contained herein in favour of Landlord.
21. The terms, conditions, indemnities, liabilities, agreements, commitments, covenants and obligations of Indemnifier under of this Indemnity are separate and independent the one of the other, and shall give rise to separate and independent rights and remedies and causes of action against Indemnifier in the event of any breach by Indemnifier of the terms, conditions, indemnities, liabilities, agreements, commitments, covenants and/or obligations contained hereunder.
22. This Indemnity may be signed in one or more counterparts, each of which once signed shall be deemed to be an original. All such counterparts together shall constitute one and the same instrument. Notwithstanding the date of execution of any counterpart, each counterpart shall be deemed to bear the effective date set forth above. The signature of

any of the parties may also be evidenced by a facsimile, email and/or PDF copy of this Indemnity bearing such signature.

IN WITNESS WHEREOF Landlord and Indemnifier have executed this Indemnity with effect as of the date first above written.

**YORKDALE SHOPPING CENTRE  
HOLDINGS INC.**

(Landlord)

Per: 

Name: **Bradley P. Jones**

Title: Vice President, National Retail Leasing

Per: 

Name: **CELIA HITCH**

Title: ASSISTANT SECRETARY

(I/We have authority to bind the corporation)

**NORDSTROM CANADA LEASING LP**

By: NORDSTROM CANADA HOLDINGS, LLC,  
its General Partner

By: 

Robert B. Sari, Secretary

(I/We have authority to bind the corporation)

This is Exhibit "C" referred to in the Affidavit of Misti Heckel  
sworn March 1, 2023.

A handwritten signature in blue ink, appearing to read 'H Davis', is positioned above a horizontal line.

---

*Commissioner for Taking Affidavits (or as may be)*

**HANNAH DAVIS**

## **INTER-AFFILIATE LICENSE AND SERVICES AGREEMENT**

This INTER-AFFILIATE LICENSE AND SERVICES AGREEMENT (the “**Agreement**”) is made as of February 3, 2019 (the “**Effective Date**”) by and between Nordstrom, Inc., a Washington corporation, with principal offices at 1617 Sixth Avenue, Suite 500, Seattle, WA 98101 (“**Nordstrom**”) and Nordstrom Canada Retail, Inc., a British Columbia corporation, with principal offices at 1700 7<sup>th</sup> Ave, Suite 1000, Seattle, WA, U.S.A. 98101 (“**NCRI**”), each a “**Party**” or collectively “**Parties**”.

**WHEREAS**, NCRI desires to license Nordstrom’s intellectual property and Nordstrom desires to license such intellectual property to NCRI;

**WHEREAS**, the Parties desire to provide services to each other and each Party is prepared to render such services in accordance with this Agreement;

**WHEREAS**, the Parties recognize there is significant business risk associated with operating in Canada and Nordstrom desires to bear those risks;

**NOW, THEREFORE**, in consideration of the mutual promises and covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

### **ARTICLE I** **TERM AND TERMINATION**

#### **Section 1.1      Term.**

This Agreement shall be effective commencing on the Effective Date and remain in full force and effect until otherwise terminated as provided in Section 1.2.

#### **Section 1.2      Termination.**

This Agreement may be terminated by either Party, at any time, with thirty (30) days written notice to the other Party. This right of termination may be exercised by either Party whether or not good cause has been demonstrated to the other Party. Following termination, neither Party shall have any further obligations under this Agreement except as specifically provided herein.

### **ARTICLE II** **INTELLECTUAL PROPERTY AND SERVICES**

#### **Section 2.1      Intellectual Property**

Nordstrom hereby grants to NCRI a non-exclusive, non-transferable, license for the term of the Agreement to the intellectual property set forth in **Exhibit A**, which is attached hereto and incorporated herein by reference, and any additional trademarks that may be registered by Nordstrom during the term of this Agreement (the “**Intellectual Property**”).

#### **Section 2.2      Services**

Each Party will provide services to the other as set forth in **Exhibit B**, which is attached hereto and incorporated herein by reference, and which may be amended from time to time by mutual written agreement of the Parties (individually and collectively, the “**Services**”).

**Section 2.3 Provision of Services**

Each Party shall, at all times, provide sufficient personnel or resources to perform any Services. The Party performing Services shall be an independent contractor and/or service provider. Nothing contained herein shall be construed to create or imply a joint venture, principal and agent, employer and employee, partnership or any other relationship other than that of an independent contractor. Accordingly, neither Party shall have the right or power of authority to create any obligation, express or implied, on behalf of the other in connection with the performance of this Agreement.

Each Party may, at its own election, provide Services through its own employees and be under its direction and control. In such case, the Party providing Services shall be responsible for its employees' salaries, benefits, wages, supervision, insurance (including liability and worker's compensation coverage) and other incidentals of their employment. Alternatively, a Party may, at its own election, provide the Services through a duly qualified independent agent. However, neither Party may assign this Agreement in whole or in part to a third Party except as discussed in Article VII ("Assignability").

Each Party reserves the right to engage in the various business activities set forth in Exhibit C, which is attached hereto and incorporated herein by reference, and which may be amended from time to time by mutual written agreement of the Parties. Such activities may or may not involve the other Party and do not require any written notification to the other Party. Notwithstanding the foregoing, each Party shall continue its obligations as described in the Agreement.

**Section 2.4 Requisition of Services.**

Each Party acknowledges it has sole responsibility under this Agreement to provide sufficient documentation to enable the Party performing the Services to fulfill its responsibilities. Each Party shall exercise its best efforts, upon receipt of sufficient documentation, to provide the Services. In the event sufficient documentation is not provided such that it results in an economic cost, that economic cost shall either be directly assumed or reimbursed by the Party receiving the Services.

Each Party agrees to use its best efforts in its scheduling to ensure the other Party is able to fulfill its responsibilities without delay.

**Section 2.5 Indemnification.**

The Party providing Services agrees to indemnify and hold the Party receiving such Services harmless against any loss, liability, claim or expense arising out of or related to the Services provided under this Agreement.

The Party receiving Services agrees to indemnify the other Party and hold it harmless against any loss, liability, claim or expenses arising out of or in connection with its duties or obligations under this Agreement.

**Section 2.6 Risk of Loss.**

NCRI shall only bear the risk of loss for the Services provided to Nordstrom pursuant to Exhibit B, including but not limited to: third Party regulations or actions, such as (but not limited to) product recalls, violations of laws, changes in laws or any Force Majeure situations. Nordstrom will bear any other risk of loss between the Parties. For purposes of this Agreement, the term "Force Majeure" shall mean circumstances beyond a Party's reasonable control.

**Section 2.7 Regulatory Requirements.**

Each Party shall exercise best efforts to comply with regulatory requirements and associated requests by the other Party. The Party receiving Services shall assume any and all risks of compliance with regulatory laws, regulations, filing responsibilities and other regulatory requirements.

The Parties will promptly notify each other of any information of regulatory significance concerning any Services or Intellectual Property. The Parties will cooperate to the extent necessary to enable each Party to file such reports and maintain such records as may be required of each Party by any regulatory agency. In the event that either Party is contacted by a regulatory agency, the contacted Party shall promptly notify the other Party. The Parties will fully cooperate in responding to any inquiries, requests for information or other investigations.

### **ARTICLE III**

#### **COMPENSATION**

##### **Section 3.1 Fees.**

Each Party agrees to pay the other the amount set forth in **Exhibit B** in exchange for any Services and Intellectual Property provided. Any ancillary services or intellectual property provided outside the scope of this Agreement may be billed with adequate supporting documentation, as needed.

If it is subsequently determined that the mutually agreed upon periodic billings do not reflect an arm's length price, the Parties agree to make any necessary year-end compensating adjustments to ensure that the fees paid provide an arm's length result.

The Parties are responsible for any sales, use, value-added or other taxes, and any tariffs, duties, fees or other charges, imposed by any government authority (collectively, "**Taxes**") as a result of the Services or Intellectual Property, with the exception of taxes based on net income. If a Party has the legal obligation to pay or collect Taxes for which it is responsible under this section, the appropriate amount will be invoiced to and paid by the Party receiving Services unless it provides the Party providing Services with a valid exemption/resale certificate.

##### **Section 3.2 Payment Schedule.**

Any payment set forth in Section 3.1 shall not be paid at the end of each monthly accounting period, but shall accrue during successive monthly accounting periods and be paid within thirty (30) days after the end of each quarterly accounting period. Accordingly, the quarterly payment schedule shall be established such that any and all accrued amounts are paid within thirty (30) days of Nordstrom's fiscal year end.

### **ARTICLE IV**

#### **FORCE MAJEURE AND DEFAULT**

##### **Section 4.1 Force Majeure.**

Any delay in performance or any non-performance by either Party (the "Non-Performing Party") will not constitute a breach of this Agreement if and to the extent the delay or non-performance is caused by a Force Majeure as defined in Section 2.6. If any such delay or non-performance occurs, then the time for performance will be extended by the number of days of such delay that occur after notice of the cause of delay is given to the other Party, together with the details thereof. If this notice is not given within ten (10) business days after

the cause of the delay or non-performance first becomes known, then the Non-Performing Party will be deemed to have waived its rights to extend the time for its performance due to that cause.

#### **Section 4.2 Right to Cover.**

In the event a Party is unable or unwilling to perform or provide any of the Services, it may contract with any other person or entity to perform such Services as it deems reasonably appropriate. The contracting Party will provide the other Party with timely notice of such an arrangement. Such contract shall not relieve the contracting Party of, nor be deemed an assignment of, its rights or obligations under this Agreement.

#### **Section 4.3 Default.**

Except as provided in Section 4.1, upon the occurrence of a material default by either Party in performing its obligations under this Agreement, the non-defaulting Party shall serve the other Party with a written notice of default, which shall include a detailed explanation of the default. Should the defaulting Party not cure the default within thirty (30) days of the date of such notice, then the Agreement shall be deemed terminated and the non-defaulting Party may avail itself of the remedies provided in Article V ("Dispute Resolution and Remedies").

### **ARTICLE V** **DISPUTE RESOLUTION AND REMEDIES**

The Parties shall attempt in good faith to resolve any dispute arising out of or relating to this Agreement promptly by negotiation between their respective representatives. If the matter is not resolved within thirty (30) days of a Party's request for negotiation, it may be escalated to the Parties' executive committees for resolution.

In addition to the remedies specifically set forth herein, the Parties shall have all remedies otherwise available to them at law or in equity. The remedies herein provided shall be cumulative, and the exercise of any one remedy shall not preclude the non-defaulting Party from exercising any other remedy available to it.

### **ARTICLE VI** **NOTICES**

Any notice required or permitted to be given hereunder shall be either delivered in person or delivered via certified mail, return receipt requested, addressed to the appropriate Party at the following addresses:

Nordstrom Canada Retail, Inc.  
P.O. Box 10424  
Pacific Centre  
1300 – 777 Dunsmuir Street  
Vancouver, BC V7Y 1K2

Nordstrom, Inc.  
Attention: Corporate Secretary  
1700 Seventh Avenue, Suite 700  
Seattle, Washington 98101

With a copy to:  
c/o Nordstrom, Inc.  
Attention: Corporate Secretary  
1700 Seventh Avenue, Suite 700  
Seattle, WA 98101

Either Party may change its address by written notice to the other Party.



**ARTICLE VII**  
**ASSIGNABILITY**

This Agreement binds and inures to the benefit of the Parties, their successors and assigns. Except as provided in the preceding sentence, neither Party may assign or delegate any right or duty under this Agreement, without the prior written consent of the other Party, such consent not to be unreasonably withheld.

**ARTICLE VIII**  
**REPRESENTATIONS**

Each Party represents and warrants to the other that it is validly organized, in good standing and qualified to do business under any applicable law, and has the requisite corporate power and authority and has obtained all necessary approvals and consents to enter into this Agreement and to make the commitments set forth in this Agreement.

**ARTICLE IX**  
**CONFIDENTIALITY**

During the course of fulfilling their obligations under this Agreement, the Parties may be exposed to or come into possession of information which is confidential and proprietary to the other. In addition, NCRI acknowledges that Nordstrom is a public company and may furnish Protected Information (as defined below) to NCRI that may include “material nonpublic information” within the meaning of the federal securities laws. For purposes of this Article IX, the Party receiving Protected Information is referred to as the “Recipient” and the Party disclosing such information is referred to as the “Disclosing Party.”

**Section 9.1**      **Protected Information.**

“Protected Information” means information, in any format, that Disclosing Party designates as confidential or that reasonably should be understood to be confidential, proprietary or a trade secret given its nature and circumstances of disclosure. Confidential Information includes, but is not limited to, business and marketing plans, technology and technical information, product plans and designs, research and development activities, business processes, costs, pricing, profits, compensation, financial information, and Personal Information.

Personal Information is a subset of Confidential Information and means all data that identifies or can be used to identify, contact or locate a natural person such as name, address, and telephone number, email address, credit card number, medical records, driver’s license, social security number, marital status, ethnicity, age, or photograph as well as less obvious information such as IP address or information gathered from online data collection technologies.

**Section 9.2**      **Exclusions.**

Excluding Personal Information, which shall always be treated as confidential, Confidential Information shall not include any information that (i) is or becomes publicly available without Recipient’s breach of this Agreement, (ii) was known to Recipient prior to its disclosure by Disclosing Party pursuant to the terms of this Agreement, (iii) Disclosing Party has approved for release, in writing, or, (iv) which has been independently developed by Recipient. In any dispute between the Parties with respect to these exclusions the burden of proof shall be on Recipient with a standard of clear and convincing evidence.

**Section 9.3 Use of Protected Information.**

Recipient shall: (i) not disclose Confidential Information to any third Party without Disclosing Party's prior written consent, except as expressly set forth in the Agreement, and (ii) take security precautions, in the same manner it takes to protect its own confidential information, but in no event less than reasonable care or the measures required by applicable privacy and security laws or industry standards, to safeguard the Confidential Information.

Recipient may only disclose Confidential Information: (i) to its employees, consultants, attorneys, insurers, auditors ("Representatives"), and to its Affiliates' Representatives on a need-to-know basis, if such Representatives have entered into an agreement no less protective of the Confidential Information than what is contained in this Agreement; (ii) If Recipient is required to do so by law or court order, provided Recipient gives Disclosing Party prior written notice (to the extent legally permitted) and reasonable assistance, at Disclosing Party's expense, to allow Disclosing Party the opportunity to seek a protective order. In the event that a protective order or other remedy is not obtained, or that Disclosing Party waives compliance with these provisions, the Recipient agrees to furnish only that portion of the Confidential Information which the Recipient is legally required to furnish and will exercise its best efforts to obtain assurances that any Confidential Information disclosed will be treated as confidential.

**Section 9.4 Return of and Title to Protected Information.**

All Protected Information is and shall remain the property of the Disclosing Party. Upon written request, the Recipient shall promptly return or destroy Disclosing Party's Protected Information and provide confirmation of such destruction. Nothing in this Agreement is intended to grant any express or implied right to Recipient to or under any patents, copyrights, trademarks, or trade secret information except as otherwise provided in this Agreement.

**Section 9.5 Recipient Liability.**

Recipient shall be fully liable for any breach of this Article IX by its officers, directors, partners, employees, agents or representatives.

**Section 9.6 Duration of Confidentiality Obligation.**

The Parties' confidentiality obligations shall survive and remain in effect for so long as any of the Protected Information remains confidential or proprietary to Disclosing Party.

**Section 9.7 Remedies.**

The Parties acknowledge and agree that any violation of this Agreement will cause irreparable harm to Disclosing Party. The Parties therefore acknowledge and agree that the harmed Party may seek injunctive relief from a court of competent jurisdiction in addition to any other remedy available at law or equity.

**ARTICLE X**  
**MISCELLANEOUS****Section 10.1 Governing Law, Venue and Attorneys' Fees.**

This Agreement shall be governed by the laws of the State of Washington, excluding its conflict of laws rules. The Parties hereby submit to the jurisdiction and venue of the state and federal courts of Washington State for purposes of all legal proceedings arising out of or relating to this Agreement. Any award or judgment of any of said courts may be entered and enforced in any other domestic or foreign court of competent jurisdiction, and shall be awarded full faith and credit. If either Party brings an action against the other by reason of a breach or alleged violation, enforcement of any provision, or otherwise arising out of this Agreement, the prevailing Party in such suit shall be entitled to its costs of suit and reasonable attorneys' fees which shall be payable whether or not such action is prosecuted to judgment.

**Section 10.3 Severability.**

The Parties agree that each provision herein shall be treated as a separate and independent clause, and the unenforceability of any one clause shall in no way impair the enforceability of any of the other clauses. If one or more provisions contained in this Agreement shall for any reason be held to be unenforceable at law, such provision(s) shall be construed so as to be enforceable to the maximum extent compatible with the applicable law as it shall then appear.

**Section 10.4 Facsimile and Electronic Signatures.**


This Agreement may be executed as facsimile originals and each copy of this Agreement bearing the facsimile transmitted signature of either of the authorized representatives listed below shall be deemed to be an original. This Agreement also may be executed by use of an electronic signature process.

**Section 10.5 Cumulative Rights.**

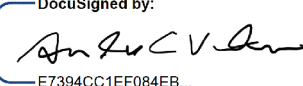
The rights and remedies contained in this Agreement shall be construed as cumulative, and no one remedy shall be exclusive of any other remedy, or of any other legal or equitable remedy which either Party might otherwise have in the event of breach or default in the terms hereof, and the exercise of one right or remedy by such Party shall not impair its right to any other right or remedy until all obligations imposed upon the other Party have been fully performed.

**IN WITNESS WHEREOF**, the Parties hereto acknowledge and agree to be bound by the terms and conditions herein as of the Effective Date.

NORDSTROM, INC.

By:  \_\_\_\_\_  
Name: Robert A. Sarn  
Its: Secretary

NORDSTROM CANADA RETAIL, INC.

By:  \_\_\_\_\_  
Name: E7394CC1EF084EB...  
Its: Vice President, Finance

**Exhibit A**  
**INTELLECTUAL PROPERTY**

**1) Trademarks, Service Marks and Trade Names.**

Nordstrom hereby grants to NCRI, a non-exclusive, non-transferable, license for the term of the Agreement to the following Intellectual Property, owned by Nordstrom, as well as other such trademarks, service marks and trade names owned and identified from time to time by Nordstrom:

<b>Serial Number</b>	<b>Reg. Number</b>	<b>Word Mark</b>
88175298		NORDY
88175294		THE NORDY CLUB
87186510		Z BY ZELLA BODY
87961191	5590469	UNBOXED
87377664	5587126	14TH & UNION
87728810		WIT & WONDER
87173560	5576411	1901
87834600		BISTRO VERDE
87579306	5571876	ZELMOTION
87914099		MELROSE AND MARKET
87843951		DEPARTMENT BENTO
87498275		BP
87202636	5492960	LEWIT
87555210		CHELSEA28
87448309		TREASURE & BOND
87387392		TREASURE & BOND
87377811		TREASURE & BOND T & B
87118404		LEITH
86811196	5601650	TUCKER + TATE
86692938	5590612	JWN
86740818		C·A·S·L·O·N
86819643	5576223	THE RAIL
86740837	5576204	C·A·S·L·O·N
86545672	5570899	MONTE ROSSO
86928364	5408081	MELROSE & MARKET
86898161	5008177	SHOP. GET REWARDED. REPEAT.
86880030	5520000	Z BY ZELLA
86852920	5065866	THOSE WHO KNOW, GO
86851469	5541407	R
86748486	4941039	GIVE THE CARD THAT GIVES

86728754	5530593	LEITH
86508811	5311745	TREASURE & BOND
86475649	4731670	FRUITITUDE
86460639	5119960	ZELLA PRO
86444691	5407839	MELROSE & MARKET
86395159	5324125	SHOP. GIVE. EMPOWER.
86395151	5324124	SHOP. GIVE. EMPOWER.
86380413	5330025	HALOGEN
86351689	4763380	POP-IN@NORDSTROM
86317528	5237412	ZELLA BODY
86292736	4663768	BRASS PLUM
86265515	5200237	WILD PEARL
86222110	5200225	SUN & SHADOW
86174697	4588783	BP
86174693	4588782	BP.
86172586	4827786	BP
86165496	4537869	IN HOUSE NORDSTROM
86109928	4635710	SALE
86109926	4525901	ANNIVERSARY SALE
86092202	4626172	BAZILLE
86092198	4728506	RUSCELLO
86070979	4784119	ZELLA PRO
86054572	5195894	TREASURE, &, BOND, T, B
86052819	5181889	T & B
86052817	5186763	T & B
86050876	5200166	TREASURE & BOND
86048012	5195891	CHELSEA28
86048002	5200164	CHELSEA28
86880025		Z BY ZELLA
86834735		ZELFUSION
86781233		SUSINA
86694219		R
86691369		LEITH
86668685		CASLON
85555528	4384929	SHOPPING GENIUS
85649670		BAR VERDE
85929199	4777714	Z BY ZELLA GIRL
85873926	4937067	LEITH

85842553	5041377	ZELPROTEK
85830556	4553483	BEAUTY 24/7
85822783	4909111	HARPER CANYON
85797710	4909093	BROLETTO
85794628	4902195	BP. UNDERCOVER
85756714	5027349	FREE PRESS
85743163	4951610	NORDSTROM RACK
85692561	4629138	THE RAIL
85577484	4867321	PHASE 3
85577470	4855911	PHASE 3
85572186	4874651	SUSINA
85545254	4822375	THE RAIL
85486190	4905297	TUCKER + TATE
85486186	4905296	TUCKER + TATE
85472277	4782200	TILDON
85472273	4782199	TILDON
85466541	4782195	RUBY & BLOOM
85457230	5105199	FREE PRESS
85456991	4782187	STEM BABY
85452168	4790790	ZELLA GIRL
85452156	4777440	ZELLA GIRL
85426431	4735531	Z BY ZELLA
85358212	4317773	NORDSTROM MAKERS
85292064	4641489	14TH & UNION
85270965	4782141	ZELLA
85241694	4022713	HAUTELOOK
85162735	4547875	LEITH
85116871	4339105	TREASURE & BOND
85110723	4077796	THE WEDDING SUITE
85049432	3893991	NORDSTROM RACK
85034671	3953787	TRUNK CLUB
85034201	4335197	HALOGEN
85528890	4808771	14TH & UNION
85426420	4735530	C2 BY CALIBRATE
85570961	4253128	HAPPY STYLE HUNTING
85257166	4168854	WANTFUL
85249927	4192107	WALLIN & BROS.
78833729	3543681	BP.

78833726	3520658	BP.
78976100	2980055	NORDSTROM RACK NR
78954519	3826542	STEM
78954510	3815872	TROUVÉ
78929908	3868787	SHIMERA
78869974	3198938	EBAR
78861986	3730109	FRENCHI
78838769	3345851	T.B.D.
78829158	3776346	MAKE + MODEL
78697544	3690650	PUBLIC OPINION
78639311	3341149	NORDSTROM NOTES
78612878	3079598	ENCORE
78537791	3029052	NORDSTROM
78506877	3108762	JOHN W. NORDSTROM
78436539	3308200	NORDSTROM
78317289	3111132	NORDSTROM EBAR
78310580	2854000	HALOGEN
78250483	3038313	GIFTS WE LOVE
78174764	2753232	NORDSTROM
78132496	2734806	LAST CHANCE
78088813	3197192	SMARTCARE
78443932	3518114	TESORI
77979379	3823196	1901
77967145	4451615	SEJOUR
77942736	3962979	THE RACK
77942725	3866811	RACK
77891652	4035574	SIXTH & PINE
77885424	4376739	CALIBRATE
77867497	3869399	POINT OF VIEW
77798058	4335127	1901
77771608	4328562	ABOUND
77769311	4214297	DENIMRACK
77622049	3643201	BLUE STOVE
77422714	3558876	ZELTEK
77422721	4070872	ZELTEK
77405173	4045704	FREE PRESS
77386737	3944653	BP.
77273563	4002666	GLINT

77273562	3664261	RUBY & BLOOM
77266613	3430158	SPA NORDSTROM
77266611	3430157	SPA NORDSTROM
77148779	3838238	HALOGEN
77025247	3712408	ZELLA
77018027	3664027	BIALA
77018023	3814881	HINGE
76272346	2802958	NORDSTROM IN HOUSE CAFE AND COFFEE BAR
76071967	2579928	NARRATIVE
75981595	2565974	DESIGNER FINALE
75981491	2650058	NORDSTROM
75917330	2643587	VIA C
75903263	2732527	CASLON
75903262	2810932	CASLON
75810747	2845144	HALOGEN
75791830	2518292	THE WAY YOU FEEL IS ABOUT TO CHANGE
75783707	2520863	THE WAY YOU FEEL IS ABOUT TO CHANGE
75658445	2378940	NORDSTROM
75637286	2316586	PURE STUFF
75592027	2309147	FRENCHI
75315766	2290451	ICE STORM
74459888	2065348	CLASSIQUES ENTIER
74405894	1865449	THE RAIL
74391095	1819340	N
74339038	1887965	N
74255675	1740054	DEBUT
74253765	1730156	NORDY
74213599	1769507	STUDIO 121
74170004	1832258	RUBBISH
74709919	2072520	N SIGNIA
74508624	2006606	N
74319911	1896989	PINE PEAK BLUES
73773157	1557370	INDIVIDUALIST
73728625	1523966	PETITE FOCUS
73580518	1409938	NORDSTROM RACK
73409518	1281000	NORDSTROM
73408701	1280223	BRASS PLUM
73408616	1280785	NORDSTROM



**2) Know How.**

Any information, data, process, method technique, technology, standard, documentation, idea, discovery, invention, know-how or trade secret that is related to or useful to NCRI in operating physical and online stores in Canada.

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**Exhibit B**  
**SERVICES PROVIDED**

**1. The following Services will be provided by NCRI to Nordstrom:**

- a. Canada Retail Operations
- b. Nordstrom.ca Operations

For the avoidance of doubt, the Parties intend that NCRI shall:

- Act as the seller/merchant of record for sales transactions, as well as purchase and maintain a stock of inventory, in Canada, sufficient to meet forecasted demand;
- Recruit and train a qualified workforce located in Canada;
- Implement appropriate security protocols to protect against risks that may occur in the Canada businesses;
- Provide Nordstrom with information, in an agreed form and on an agreed schedule, sufficient to allow Nordstrom to provide its identified Services from the United States; and
- Aside from those Services provided by Nordstrom, assume responsibility for all operational risks associated with both Canada Retail and Nordstrom.ca businesses.

**2. The following Services will be provided by Nordstrom to NCRI:**

- a. Legal
- b. Finance
- c. Accounting
- d. Bill Processing
- e. Payroll
- f. Human Resources
- g. Merchandising
- h. Strategy
- i. IT Project Support

**3. In consideration of the Agreement, each party agrees to pay the other the US dollar amount necessary such that NCRI, as a limited risk operator, realizes an arms-length routine Rate of Return between 4.5% and 6.5%, to be reviewed and updated as needed. "Rate of Return" is defined as operating profit divided by net sales.**

**EXHIBIT C**  
**SCOPE OF AGREEMENT**

The following rights have been reserved by each Party as set forth in Section 2.2 of the Agreement:

- (a) **Services** - the right to increase or decrease the level of services.
- (b) **Financing Activities** - the right to offer financing assistance in conjunction with its operation or expansion. Any material financing activities would be subject to a separate agreement.
- (c) **Affiliated Entities** - the right to request services be provided to any affiliated entities.
- (d) **Non-Affiliated Entities** - the right to contract with a non-affiliated Party to receive some or all of the services described in this Agreement. In the event that a contract with a non-affiliated Party is executed, the Parties hereby agree that the cost structure of a non-affiliated contract will have no bearing or adjustment on this Agreement.
- (e) **Service Activities** - the right to provide services to unaffiliated entities. In the event that a contract with a non-affiliated Party is executed, the Parties hereby agree that the cost structure of a non-affiliated contract will have no bearing or adjustment on this Agreement.

This is Exhibit “D” referred to in the Affidavit of Misti Heckel  
sworn March 1, 2023.

A handwritten signature in blue ink, appearing to read 'H Davis', is positioned above a horizontal line.

---

*Commissioner for Taking Affidavits (or as may be)*

**HANNAH DAVIS**

## INTER-AFFILIATE SERVICES AGREEMENT

THIS INTER-AFFILIATE SERVICES AGREEMENT (the "Agreement") is entered into as of December 10, 2014 ("Effective Date") by and between Nordstrom, Inc., a Washington corporation, with principal offices at 1700 Seventh Ave, Suite 1000, Seattle, WA 98101 ("Nordstrom") and Nordstrom Canada Leasing LP, a limited partnership under the laws of Alberta, with principal offices at P.O. box 10424, Pacific Centre, 1300 – 777 Dunsmuir Street, Vancouver, BC V7Y 1K2 ("NCL").

**WHEREAS**, NCL desires to obtain Nordstrom's services; and

**WHEREAS**, Nordstrom is prepared to render such services in accordance with the Agreement;

**NOW, THEREFORE**, in consideration of the mutual promises and covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

### ARTICLE I TERM AND TERMINATION

#### Section 1.1 Term.

This Agreement shall be effective commencing on the Effective Date and remain in full force and effect until otherwise terminated as provided in Section 1.2.

#### Section 1.2 Termination.

This Agreement may be terminated by either party, at any time, with thirty (30) days written notice to the other party. This right of termination may be exercised by either party whether or not good cause has been demonstrated to the other party. Following termination, neither party shall have any further obligations under this Agreement except as specifically provided herein.

### ARTICLE II SERVICES

#### Section 2.1 Services Provided.

Nordstrom will provide services to NCL as set forth in Exhibit A, which is attached hereto and incorporated herein by reference, and which may be amended from time to time by mutual written agreement of the parties (individually and collectively, the "Services").

#### Section 2.2 Provision of Services.

Nordstrom shall, at all times, provide sufficient personnel or resources to perform any Services. Nordstrom shall be an independent contractor and/or service provider. Nothing contained herein shall be construed to create or imply a joint venture, principal and agent, employer and

employee, partnership or any other relationship other than that of an independent contractor. Accordingly, Nordstrom has no right or power of authority to create any obligation, express or implied, on behalf of NCL in connection with the performance of this Agreement.

Nordstrom may, at its own election, provide Services through its own employees under its direction and control. In such case, Nordstrom shall be responsible for the employees' salaries, benefits, wages, supervision, insurance (including liability and worker's compensation coverage) and other incidentals of their employment. Alternatively, Nordstrom may, at its own election, provide the Services through a duly qualified independent agent. However, Nordstrom cannot assign this Agreement in whole or in part to a third party except as discussed in Article VII ("Assignability").

Each party reserves the right to engage in the various business activities set forth in Exhibit B, which is attached hereto and incorporated herein by reference, and which may be amended from time to time by mutual written agreement of the parties. Such activities may or may not involve the other party and do not require any written notification to the other party. Notwithstanding the foregoing, each party shall continue its obligations as described in the Agreement.

### **Section 2.3 Requisition of Services.**

NCL acknowledges it has sole responsibility under this Agreement to provide sufficient documentation to enable Nordstrom to fulfill its responsibilities. Nordstrom shall exercise its best efforts, upon receipt of sufficient documentation, to execute the Services. In the event sufficient documentation is not provided such that it results in an economic cost, that economic cost shall either be directly assumed or reimbursed by NCL.

NCL agrees to use its best efforts in its scheduling of Services to ensure Nordstrom is able to fulfill its responsibilities without delay.

### **Section 2.4 Indemnification.**

Nordstrom agrees to indemnify and hold harmless NCL against any loss, liability, claim or expense arising out of or in connection with the provision of Services under this Agreement.

NCL agrees to indemnify and hold harmless Nordstrom against any loss, liability, claim or expense arising out of or in connection with its duties or obligations under this Agreement.

### **Section 2.5 Risk of Loss.**

NCL shall bear the loss associated with third party regulations or actions, such as (but not limited to) product recalls, violations of laws, changes in laws or any Force Majeure situations. For purposes of this Agreement, the term "Force Majeure" shall mean circumstances beyond a party's reasonable control.

## **Section 2.6 Regulatory Requirements.**

Each party shall exercise best efforts to comply with regulatory requirements and associated requests by the other party. NCL shall assume any and all risks of compliance with regulatory laws, regulations, filing responsibilities and other regulatory requirements.

The parties will promptly notify each other of any information of regulatory significance concerning any Services. The parties will cooperate to the extent necessary to enable each party to file such reports and maintain such records as may be required of each party by any regulatory agency. In the event that either party is contacted by a regulatory agency, the contacted party shall promptly notify the other party. The parties will fully cooperate in responding to any inquiries, requests for information or other investigations.

## **ARTICLE III** **COMPENSATION**

### **Section 3.1 Fees.**

NCL agrees to pay Nordstrom the U.S. dollar amount set forth in **Exhibit A**. Any ancillary services provided that are outside the scope of this Agreement may be billed with adequate supporting documentation, as needed.

If it is subsequently determined that the mutually agreed upon periodic billings do not reflect an arm's length price, the parties agree to make any necessary year-end compensating adjustments to ensure that the fees paid provide an arm's length result.

NCL is responsible for any sales, use, value-added or other taxes, and any tariffs, duties, fees or other charges, imposed by any government authority (collectively, "Taxes") as a result of the Services, with the exception of taxes based on net income. If Nordstrom has the legal obligation to pay or collect Taxes for which it is responsible under this section, the appropriate amount will be invoiced to and paid by NCL unless NCL provides Nordstrom with a valid exemption/resale certificate.

### **Section 3.2 Payment.**

Any payment set forth in Section 3.1 shall not be paid at the end of each monthly accounting period, but shall accrue during successive monthly accounting periods and be paid within thirty (30) days after the end of each quarterly accounting period. Accordingly, the quarterly payment schedule shall be established such that any and all accrued amounts are paid within thirty (30) days of Nordstrom's fiscal year end.

**ARTICLE IV**  
**FORCE MAJEURE AND DEFAULT**

**Section 4.1 Force Majeure.**

Any delay in performance or any non-performance by either party (the "Non-Performing Party") will not constitute a breach of this Agreement if and to the extent the delay or non-performance is caused by a Force Majeure as defined in Section 2.5. If any such delay or non-performance occurs, then the time for performance will be extended by the number of days of such delay that occur after notice of the cause of delay is given to the other party, together with the details thereof. If this notice is not given within ten (10) business days after the cause of the delay or non-performance first becomes known, then the Non-Performing Party will be deemed to have waived its rights to extend the time for its performance due to that cause.

**Section 4.2 Right to Cover.**

In the event Nordstrom is unable or unwilling to perform or provide any of the Services, it may contract with any other person or entity to perform such Services as it deems reasonably appropriate. Nordstrom will provide NCL with timely notice of such an arrangement. Such contract shall not relieve Nordstrom of, nor be deemed an assignment of, its rights or obligations under this Agreement.

**Section 4.3 Default.**

Except as provided in Section 4.1, upon the occurrence of a material default by either party in performing its obligations under this Agreement, the non-defaulting party shall serve the other party with a written notice of default, which shall include a detailed explanation of the default. Should the defaulting party not cure the default within thirty (30) days of the date of such notice, then the Agreement shall be deemed terminated and the non-defaulting party may avail itself of the remedies provided in Article V ("Dispute Resolution and Remedies").

**ARTICLE V**  
**DISPUTE RESOLUTION AND REMEDIES**

The parties shall attempt in good faith to resolve any dispute arising out of or relating to this Agreement promptly by negotiation between their respective representatives. If the matter is not resolved within thirty (30) days of a party's request for negotiation, it may be escalated to the parties' executive committees for resolution.

In addition to the remedies specifically set forth herein, the parties shall have all remedies otherwise available to them at law or in equity. The remedies herein provided shall be cumulative, and the exercise of any one remedy shall not preclude the non-defaulting party from exercising any other remedy available to it.



**ARTICLE VI**  
**NOTICES**

Any notice required or permitted to be given hereunder shall be either delivered in person or delivered via certified mail, return receipt requested, addressed to the appropriate party at the following addresses:

Nordstrom Canada Leasing LP  
P.O. Box 10424  
Pacific Centre  
1300 – 777 Dunsmuir Street  
Vancouver, BC V7Y 1K2

Nordstrom, Inc.  
Attention: Corporate Secretary  
1700 Seventh Avenue, Suite 1000  
Seattle, WA 98101

With a copy to:  
c/o Nordstrom, Inc.  
Attention: Corporate Secretary  
1700 Seventh Avenue, Suite 1000  
Seattle, WA 98101

Either party may change its address by written notice to the other party.

**ARTICLE VII**  
**ASSIGNABILITY**

This Agreement binds and inures to the benefit of the parties, their successors and assigns. Except as provided in the preceding sentence, neither party may assign or delegate any right or duty under this Agreement, without the prior written consent of the other party, such consent not to be unreasonably withheld.

**ARTICLE VIII**  
**REPRESENTATIONS**

Each party represents and warrants to the other that it is validly organized, in good standing and qualified to do business under any applicable law, and has the requisite corporate power and authority and has obtained all necessary approvals and consents to enter into this Agreement and to make the commitments set forth in this Agreement.

**ARTICLE IX**  
**CONFIDENTIALITY**

During the course of fulfilling their obligations under this Agreement, the parties may be exposed to or come into possession of information which is confidential and proprietary to the other. In addition, NCL acknowledges that Nordstrom is a public company and may furnish Protected Information (as defined below) to NCL that may include “material nonpublic information” within the meaning of the federal securities laws. For purposes of this Article IX,

the party receiving Protected Information is referred to as the “Recipient” and the party disclosing such information is referred to as the “Disclosing Party.”

### **Section 9.1 Protected Information.**

“Protected Information” means information, in any format, that Disclosing Party designates as confidential or that reasonably should be understood to be confidential, proprietary or a trade secret given its nature and circumstances of disclosure. Confidential Information includes, but is not limited to, business and marketing plans, technology and technical information, product plans and designs, research and development activities, business processes, costs, pricing, profits, compensation, financial information, and Personal Information.

Personal Information is a subset of Confidential Information and means all data that identifies or can be used to identify, contact or locate a natural person such as name, address, and telephone number, email address, credit card number, medical records, driver’s license, social security number, marital status, ethnicity, age, or photograph as well as less obvious information such as IP address or information gathered from online data collection technologies.

### **Section 9.2 Exclusions.**

Confidential Information shall not include any information that (i) is or becomes publicly available without Recipient’s breach of this Agreement, (ii) was known to Recipient prior to its disclosure by Disclosing Party pursuant to the terms of this Agreement, (iii) Disclosing Party has approved for release, in writing, or, (iv) which has been independently developed by Recipient. In any dispute between the Parties with respect to these exclusions the burden of proof shall be on Recipient with a standard of clear and convincing evidence.

### **Section 9.3 Use of Protected Information.**

Recipient shall: (i) not disclose Confidential Information to any third party without Disclosing Party’s prior written consent, except as expressly set forth in the Agreement, and (ii) take security precautions, in the same manner it takes to protect its own confidential information, but in no event less than reasonable care or the measures required by applicable privacy and security laws or industry standards, to safeguard the Confidential Information.

Recipient may only disclose Confidential Information: (i) to its employees, consultants, attorneys, insurers, auditors (“Representatives”), and to its Affiliates’ Representatives on a need-to-know basis, if such Representatives have entered into an agreement no less protective of the Confidential Information than what is contained in this Agreement; (ii) If Recipient is required to do so by law or court order, provided Recipient gives Disclosing Party prior written notice (to the extent legally permitted) and reasonable assistance, at Disclosing Party’s expense, to allow Disclosing Party the opportunity to seek a protective order. In the event that a protective order or other remedy is not obtained, or that Disclosing Party waives compliance with these provisions, the Recipient agrees to furnish only that portion of the Confidential Information which the Recipient is legally required to furnish and will exercise its best efforts to obtain assurances that any Confidential Information disclosed will be treated as confidential.

**Section 9.4 Return of and Title to Protected Information.**

All Protected Information is and shall remain the property of the Disclosing Party. Upon written request, the Recipient shall promptly return or destroy Disclosing Party's Protected Information and provide confirmation of such destruction. Nothing in this Agreement is intended to grant any express or implied right to Recipient to or under any patents, copyrights, trademarks, or trade secret information except as otherwise provided in this Agreement.

**Section 9.5 Recipient Liability.**

Recipient shall be fully liable for any breach of this Article IX by its officers, directors, partners, employees, agents or representatives.

**Section 9.6 Duration of Confidentiality Obligation.**

The parties' confidentiality obligations shall survive and remain in effect for so long as any of the Protected Information remains confidential or proprietary to Disclosing Party.

**Section 9.7 Remedies.**

The parties acknowledge and agree that any violation of this Agreement will cause irreparable harm to Disclosing Party. The parties therefore acknowledge and agree that the harmed party may seek injunctive relief from a court of competent jurisdiction in addition to any other remedy available at law or equity.

**ARTICLE X**  
**MISCELLANEOUS**

**Section 10.1 Governing Law, Venue and Attorneys' Fees.**

This Agreement shall be governed by the laws of the State of Washington, excluding its conflict of laws rules. The parties hereby submit to the jurisdiction and venue of the state and federal courts of Washington State for purposes of all legal proceedings arising out of or relating to this Agreement. Any award or judgment of any of said courts may be entered and enforced in any other domestic or foreign court of competent jurisdiction, and shall be awarded full faith and credit. If either party brings an action against the other by reason of a breach or alleged violation, enforcement of any provision, or otherwise arising out of this Agreement, the prevailing party in such suit shall be entitled to its costs of suit and reasonable attorneys' fees which shall be payable whether or not such action is prosecuted to judgment.

**Section 10.2 Amendments.**

This Agreement may be amended only in writing and signed by both parties.

**Section 10.3 Severability.**

The parties agree that each provision herein shall be treated as a separate and independent clause, and the unenforceability of any one clause shall in no way impair the enforceability of any of the other clauses. If one or more provisions contained in this Agreement shall for any reason be held to be unenforceable at law, such provision(s) shall be construed so as to be enforceable to the maximum extent compatible with the applicable law as it shall then appear.

**Section 10.4 Facsimile and Electronic Signatures.**

This Agreement may be executed as facsimile originals and each copy of this Agreement bearing the facsimile transmitted signature of either of the authorized representatives listed below shall be deemed to be an original. This Agreement also may be executed by use of an electronic signature process.

**Section 10.5 Cumulative Rights.**

The rights and remedies contained in this Agreement shall be construed as cumulative, and no one remedy shall be exclusive of any other remedy, or of any other legal or equitable remedy which either party might otherwise have in the event of breach or default in the terms hereof, and the exercise of one right or remedy by such party shall not impair its right to any other right or remedy until all obligations imposed upon the other party have been fully performed.

**Section 10.6 Entire Agreement.**

This Agreement contains the entire understanding of the parties with respect to the matters covered, and no other previous agreement, statement or promise made by either party that is not contained in the terms of this Agreement or an applicable Exhibit shall be binding or valid, unless specifically incorporated by reference or attachment hereto.

**IN WITNESS WHEREOF**, the parties hereto acknowledge and agree to be bound by the terms and conditions herein as of the Effective Date.

NORDSTROM, INC.

By: Robert SanjName: Robert Sanj, EVP, General CounselTitle: James A. Howell

James A. Howell

NORDSTROM CANADA LEASING LP

By: \_\_\_\_\_

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

Title: VP - Treasurer

**EXHIBIT A**  
**SERVICES PROVIDED**

**(1) The following Services will be provided by Nordstrom to NCL. In consideration of such Services, NCL will pay to Nordstrom all reasonable costs and expenses incurred:**

- (a) Legal
- (b) Finance
- (c) Accounting and Tax
- (d) Bill Processing
- (e) Payroll
- (f) Human Resources
- (g) Property Maintenance

**(2) The following Services will be provided by Nordstrom to NCL. In consideration of such Services, NCL will pay to Nordstrom all reasonable costs and expenses incurred plus a mutually agreed upon customary mark-up :**

- (a) Operations
- (b) Strategy
- (c) IT Project Support
- (d) Site Selection
- (e) Construction Management

**EXHIBIT B**  
**SCOPE OF AGREEMENT**

The following rights have been reserved by each party as set forth in Section 2.2 of the Agreement:

- (a) **Services** - the right to increase or decrease the level of services required.
- (b) **Financing Activities** - the right to offer financing assistance in conjunction with its operation or expansion. Any material financing activities would be subject to a separate agreement.
- (c) **Affiliated Entities** - the right to request Services be provided to any affiliated entities.
- (d) **Non-Affiliated Entities** - the right to contract with a non-affiliated party to receive some or all of the Services described in this Agreement. In the event that a contract with a non-affiliated party is executed, the parties hereby agree that the cost structure of a non-affiliated contract will have no bearing or adjustment on this Agreement.
- (e) **Service Activities** - the right to provide services to unaffiliated entities. In the event that a contract with a non-affiliated party is executed, the parties hereby agree that the cost structure of a non-affiliated contract will have no bearing or adjustment on this Agreement.

This is Exhibit "E" referred to in the Affidavit of Misti Heckel  
sworn March 1, 2023.

A handwritten signature in blue ink, appearing to read "H Davis", is positioned above a horizontal line.

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*Commissioner for Taking Affidavits (or as may be)*

**HANNAH DAVIS**

**INTER-AFFILIATE SERVICES AGREEMENT**  
**(Nordstrom, Inc. / Nordstrom Canada Holdings LLC)**

THIS INTER-AFFILIATE SERVICES AGREEMENT (the "Agreement") is entered into as of October 10, 2016 (the "Effective Date") by and between Nordstrom, Inc., a Washington corporation, with offices at 1700 7<sup>th</sup> Avenue, Suite 1000, Seattle, Washington 98101 ("Nordstrom") and Nordstrom Canada Holdings LLC, a Delaware limited liability company, with offices at 1617 Sixth Avenue, Seattle, Washington 98101 ("NCH").

**WHEREAS**, Nordstrom desires to provide services to NCH; and

**WHEREAS**, Nordstrom is prepared to render such services in accordance with the Agreement;

**NOW, THEREFORE**, in consideration of the mutual promises and covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

**ARTICLE I**  
**TERM AND TERMINATION**

**Section 1.1 Term.**

This Agreement shall be effective commencing on the Effective Date and remain in full force and effect until otherwise terminated as provided in Section 1.2.

**Section 1.2 Termination.**

This Agreement may be terminated by either party, at any time, with thirty (30) days written notice to the other party. This right of termination may be exercised by either party whether or not good cause has been demonstrated to the other party. Following termination, neither party shall have any further obligations under this Agreement except as specifically provided herein.

**ARTICLE II**  
**SERVICES**

**Section 2.1 Services Provided.**

Nordstrom will provide to NCH the services set forth in Exhibit A, which is attached hereto and incorporated herein by reference, and which may be amended from time to time by mutual written agreement of the parties (individually and collectively, the "Services").

**Section 2.2 Provision of Services.**

Nordstrom shall, at all times, provide sufficient personnel or resources to perform any Services. Nordstrom shall be an independent contractor and/or service provider. Nothing contained herein shall be construed to create or imply a joint venture, principal and agent, employer and



employee, partnership or any other relationship other than that of an independent contractor. Accordingly, neither party shall have the right or power of authority to create any obligation, express or implied, on behalf of the other in connection with the performance of this Agreement.

Nordstrom may, at its own election, provide Services through its own employees and be under its direction and control. In such case, Nordstrom shall be responsible for the employees' salaries, benefits, wages, supervision, insurance (including liability and worker's compensation coverage) and other incidentals of their employment. Alternatively, Nordstrom may, at its own election, provide the Services through a duly qualified independent agent. However, neither party may assign this Agreement in whole or in part to a third party except as discussed in Article VII ("Assignability").

Each party reserves the right to engage in the various business activities set forth in Exhibit B, which is attached hereto and incorporated herein by reference, and which may be amended from time to time by mutual written agreement of the parties. Such activities may or may not involve the other party and do not require any written notification to the other party. Notwithstanding the foregoing, each party shall continue its obligations as described in the Agreement.

### **Section 2.3 Requisition of Services.**

Each party acknowledges it has sole responsibility under this Agreement to provide sufficient documentation to enable Nordstrom to fulfill its responsibilities. Each party shall exercise its best efforts, upon receipt of sufficient documentation, to execute the Services. In the event sufficient documentation is not provided such that it results in an economic cost, that economic cost shall either be directly assumed or reimbursed by NCH.

Nordstrom agrees to use its best efforts in its scheduling of Services to ensure NCH is able to fulfill its responsibilities without delay.

### **Section 2.4 Indemnification.**

Nordstrom agrees to indemnify NCH and hold it harmless against any loss, liability, claim or expense arising out of or in connection with its Services under this Agreement.

NCH agrees to indemnify Nordstrom and hold it harmless against any loss, liability, claim or expense arising out of or in connection with its duties or obligations under this Agreement.

### **Section 2.5 Risk of Loss.**

NCH shall bear the loss associated with third party regulations or actions, such as (but not limited to) product recalls, violations of laws, changes in laws or any Force Majeure situations. For purposes of this Agreement, the term "Force Majeure" shall mean circumstances beyond a party's reasonable control.

### **Section 2.6 Regulatory Requirements.**

Each party shall exercise best efforts to comply with regulatory requirements and associated requests by the other party. NCH shall assume any and all risks of compliance with regulatory laws, regulations, filing responsibilities and other regulatory requirements.

The parties will promptly notify each other of any information of regulatory significance concerning any Services. The parties will cooperate to the extent necessary to enable each party to file such reports and maintain such records as may be required of each party by any regulatory agency. In the event that either party is contacted by a regulatory agency, the contacted party shall promptly notify the other party. The parties will fully cooperate in responding to any inquiries, requests for information or other investigations.

### **ARTICLE III** **COMPENSATION**

#### **Section 3.1 Fees.**

NCH agrees to pay Nordstrom for the actual and reasonable costs of the Services rendered when presented with a request for payment and adequate documentation of the costs incurred. Alternatively, NCH shall pay a flat fee of \$5,000 per year for any de minimus Services rendered by Nordstrom under this Agreement. Any ancillary services provided that are outside the scope of this Agreement may be billed by Nordstrom with adequate supporting documentation, as needed.

If it is subsequently determined that the mutually agreed upon periodic billings do not reflect an arm's length price, the parties agree to make any necessary year-end compensating adjustments to ensure that the fees paid provide an arm's length result.

NCH is responsible for any sales, use, value-added or other taxes, and any tariffs, duties, fees or other charges, imposed by any government authority (collectively, "Taxes") as a result of the Services, with the exception of taxes based on net income. If Nordstrom has the legal obligation to pay or collect Taxes for which such party is responsible under this section, the appropriate amount will be invoiced to and paid by NCH unless it provides Nordstrom with a valid exemption/resale certificate.

#### **Section 3.2 Payment.**

Any payment set forth in Section 3.1 shall not be paid at the end of each monthly accounting period, but shall accrue during successive monthly accounting periods and be paid within thirty (30) days after the end of each quarterly accounting period. Accordingly, the quarterly payment schedule shall be established such that any and all accrued amounts are paid within thirty (30) days of Nordstrom's fiscal year end.

**ARTICLE IV**  
**FORCE MAJEURE AND DEFAULT**

**Section 4.1 Force Majeure.**

Any delay in performance or any non-performance by either party (the “Non-Performing Party”) will not constitute a breach of this Agreement if and to the extent the delay or non-performance is caused by a Force Majeure as defined in Section 2.5. If any such delay or non-performance occurs, then the time for performance will be extended by the number of days of such delay that occur after notice of the cause of delay is given to the other party, together with the details thereof. If this notice is not given within ten (10) business days after the cause of the delay or non-performance first becomes known, then the Non-Performing Party will be deemed to have waived its rights to extend the time for its performance due to that cause.

**Section 4.2 Right to Cover.**

In the event Nordstrom is unable or unwilling to perform or provide any of the Services, it may contract with any other person or entity to perform such Services as it deems reasonably appropriate. Nordstrom will provide NCH with timely notice of such an arrangement. Such contract shall not relieve Nordstrom of, nor be deemed an assignment of, its rights or obligations under this Agreement.

**Section 4.3 Default.**

Except as provided in Section 4.1, upon the occurrence of a material default by either party in performing its obligations under this Agreement, the non-defaulting party shall serve the other party with a written notice of default, which shall include a detailed explanation of the default. Should the defaulting party not cure the default within thirty (30) days of the date of such notice, then the Agreement shall be deemed terminated and the non-defaulting party may avail itself of the remedies provided in Article V (“Dispute Resolution and Remedies”).

**ARTICLE V**  
**DISPUTE RESOLUTION AND REMEDIES**

The parties shall attempt in good faith to resolve any dispute arising out of or relating to this Agreement promptly by negotiation between their respective representatives. If the matter is not resolved within thirty (30) days of a party's request for negotiation, it may be escalated to the parties' executive committees for resolution.

In addition to the remedies specifically set forth herein, the parties shall have all remedies otherwise available to them at law or in equity. The remedies herein provided shall be cumulative, and the exercise of any one remedy shall not preclude the non-defaulting party from exercising any other remedy available to it.

## ARTICLE VI NOTICES

Any notice required or permitted to be given hereunder shall be either delivered in person or delivered via certified mail, return receipt requested, addressed to the appropriate party at the following addresses:

Nordstrom, Inc.  
Attention: Corporate Secretary  
1700 7<sup>th</sup> Avenue, Suite 1000  
Seattle, WA 98101

Nordstrom Canada Holdings LLC  
P.O. Box 2229  
Seattle, WA 98111

Either party may change its address by written notice to the other party.

## ARTICLE VII ASSIGNABILITY

This Agreement binds and inures to the benefit of the parties, their successors and assigns. Except as provided in the preceding sentence, neither party may assign or delegate any right or duty under this Agreement, without the prior written consent of the other party, such consent not to be unreasonably withheld.

## ARTICLE VIII REPRESENTATIONS

Each party represents and warrants to the other that it is validly organized, in good standing and qualified to do business under any applicable law, and has the requisite corporate power and authority and has obtained all necessary approvals and consents to enter into this Agreement and to make the commitments set forth in this Agreement.

## ARTICLE IX CONFIDENTIALITY

During the course of fulfilling their obligations under this Agreement, the parties may be exposed to or come into possession of information which is confidential and proprietary to the other. For purposes of this Article IX, the party receiving Protected Information is referred to as the "Recipient" and the party disclosing such information is referred to as the "Disclosing Party."

### Section 9.1 Protected Information.

"Protected Information" means information, in any format, that Disclosing Party designates as confidential or that reasonably should be understood to be confidential, proprietary or a trade secret given its nature and circumstances of disclosure. Confidential Information includes, but is not limited to, business and marketing plans, technology and technical information, product plans and designs, research and development activities, business processes, costs, pricing, profits, compensation, financial information, and Personal Information.

Personal Information is a subset of Confidential Information and means all data that identifies or can be used to identify, contact or locate a natural person such as name, address, and telephone number, email address, credit card number, medical records, driver's license, social security number, marital status, ethnicity, age, or photograph as well as less obvious information such as IP address or information gathered from online data collection technologies.

### **Section 9.2 Exclusions.**

Confidential Information shall not include any information that (i) is or becomes publicly available without Recipient's breach of this Agreement, (ii) was known to Recipient prior to its disclosure by Disclosing Party pursuant to the terms of this Agreement, (iii) Disclosing Party has approved for release, in writing, or, (iv) which has been independently developed by Recipient. In any dispute between the Parties with respect to these exclusions the burden of proof shall be on Recipient with a standard of clear and convincing evidence.

### **Section 9.3 Use of Protected Information.**

Recipient shall: (i) not disclose Confidential Information to any third party without Disclosing Party's prior written consent, except as expressly set forth in the Agreement, and (ii) take security precautions, in the same manner it takes to protect its own confidential information, but in no event less than reasonable care or the measures required by applicable privacy and security laws or industry standards, to safeguard the Confidential Information.

Recipient may only disclose Confidential Information: (i) to its employees, consultants, attorneys, insurers, auditors ("Representatives"), and to its Affiliates' Representatives on a need-to-know basis, if such Representatives have entered into an agreement no less protective of the Confidential Information than what is contained in this Agreement; (ii) If Recipient is required to do so by law or court order, provided Recipient gives Disclosing Party prior written notice (to the extent legally permitted) and reasonable assistance, at Disclosing Party's expense, to allow Disclosing Party the opportunity to seek a protective order. In the event that a protective order or other remedy is not obtained, or that Disclosing Party waives compliance with these provisions, the Recipient agrees to furnish only that portion of the Confidential Information which the Recipient is legally required to furnish and will exercise its best efforts to obtain assurances that any Confidential Information disclosed will be treated as confidential.

### **Section 9.4 Return of and Title to Protected Information.**

All Protected Information is and shall remain the property of the Disclosing Party. Upon written request, the Recipient shall promptly return or destroy Disclosing Party's Protected Information and provide confirmation of such destruction. Nothing in this Agreement is intended to grant any express or implied right to Recipient to or under any patents, copyrights, trademarks, or trade secret information except as otherwise provided in this Agreement.

### **Section 9.5 Recipient Liability.**

Recipient shall be fully liable for any breach of this Article IX by its officers, directors, partners, employees, agents or representatives.

**Section 9.6 Duration of Confidentiality Obligation.**

The parties' confidentiality obligations shall survive and remain in effect for so long as any of the Protected Information remains confidential or proprietary to Disclosing Party.

**Section 9.7 Remedies.**

The parties acknowledge and agree that any violation of this Agreement will cause irreparable harm to Disclosing Party. The parties therefore acknowledge and agree that the harmed party may seek injunctive relief from a court of competent jurisdiction in addition to any other remedy available at law or equity.

**ARTICLE X**  
**MISCELLANEOUS**

**Section 10.1 Governing Law, Venue and Attorneys' Fees.**

This Agreement shall be governed by the laws of the State of Washington, excluding its conflict of laws rules. The parties hereby submit to the jurisdiction and venue of the state and federal courts of Washington State for purposes of all legal proceedings arising out of or relating to this Agreement. Any award or judgment of any of said courts may be entered and enforced in any other domestic or foreign court of competent jurisdiction, and shall be awarded full faith and credit. If either party brings an action against the other by reason of a breach or alleged violation, enforcement of any provision, or otherwise arising out of this Agreement, the prevailing party in such suit shall be entitled to its costs of suit and reasonable attorneys' fees which shall be payable whether or not such action is prosecuted to judgment.

**Section 10.2 Amendments.**

This Agreement may be amended only in writing and signed by both parties.

**Section 10.3 Severability.**

The parties agree that each provision herein shall be treated as a separate and independent clause, and the unenforceability of any one clause shall in no way impair the enforceability of any of the other clauses. If one or more provisions contained in this Agreement shall for any reason be held to be unenforceable at law, such provision(s) shall be construed so as to be enforceable to the maximum extent compatible with the applicable law as it shall then appear.

**Section 10.4 Facsimile and Electronic Signatures.**

This Agreement may be executed as facsimile originals and each copy of this Agreement bearing the facsimile transmitted signature of either of the authorized representatives listed below shall



be deemed to be an original. This Agreement also may be executed by use of an electronic signature process.

**Section 10.5 Cumulative Rights.**

The rights and remedies contained in this Agreement shall be construed as cumulative, and no one remedy shall be exclusive of any other remedy, or of any other legal or equitable remedy which either party might otherwise have in the event of breach or default in the terms hereof, and the exercise of one right or remedy by such party shall not impair its right to any other right or remedy until all obligations imposed upon the other party have been fully performed.

**Section 10.6 Entire Agreement.**


This Agreement contains the entire understanding of the parties with respect to the matters covered, and no other previous agreement, statement or promise made by either party that is not contained in the terms of this Agreement or an applicable Exhibit shall be binding or valid, unless specifically incorporated by reference or attachment hereto.


[Signatures on the Following Page]

IN WITNESS WHEREOF, the parties hereto acknowledge and agree to be bound by the terms and conditions herein as of the Effective Date.

NORDSTROM, INC., a Washington  
corporation

NORDSTROM CANADA HOLDINGS LLC,  
a Delaware limited liability company

By:   
Name: Robert B. Sari  
Title: Executive Vice President,  
General Counsel, Corporate  
Secretary

By:   
Name: Andrew Vukobratovic  
Title: Vice President and Treasurer



**EXHIBIT A**  
**SERVICES PROVIDED**

**The following Services will be provided by Nordstrom to NCH:**

- (a) Payroll
- (b) Finance
- (c) Accounting
- (d) Treasury
- (e) Legal

**EXHIBIT B**  
**SCOPE OF AGREEMENT**

The following rights have been reserved by each party as set forth in Section 2.2 of the Agreement:

- (a) **Services** - the right to increase or decrease the level of services required.
- (b) **Financing Activities** - the right to offer financing assistance in conjunction with its operation or expansion. Any material financing activities would be subject to a separate agreement.
- (c) **Affiliated Entities** - the right to request Services be provided to any affiliated entities.
- (d) **Non-Affiliated Entities** - the right to contract with a non-affiliated party to receive some or all of the Services described in this Agreement. In the event that a contract with a non-affiliated party is executed, the parties hereby agree that the cost structure of a non-affiliated contract will have no bearing or adjustment on this Agreement.
- (e) **Service Activities** - the right to provide services to unaffiliated entities. In the event that a contract with a non-affiliated party is executed, the parties hereby agree that the cost structure of a non-affiliated contract will have no bearing or adjustment on this Agreement.

This is Exhibit "F" referred to in the Affidavit of Misti Heckel  
sworn March 1, 2023.

A handwritten signature in blue ink, appearing to read 'H Davis', is positioned above a horizontal line.

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*Commissioner for Taking Affidavits (or as may be)*

**HANNAH DAVIS**

**INTER-AFFILIATE SERVICES AGREEMENT**  
**(Nordstrom, Inc. / Nordstrom Canada Holdings II LLC)**

THIS INTER-AFFILIATE SERVICES AGREEMENT (the "Agreement") is entered into as of October 10, 2016 (the "Effective Date") by and between Nordstrom, Inc., a Washington corporation, with offices at 1700 7<sup>th</sup> Avenue, Suite 1000, Seattle, Washington 98101 ("Nordstrom") and Nordstrom Canada Holdings II LLC, a Delaware limited liability company, with offices at 1617 Sixth Avenue, Seattle, Washington 98101 ("NCHII").

**WHEREAS**, Nordstrom desires to provide services to NCHII; and

**WHEREAS**, Nordstrom is prepared to render such services in accordance with the Agreement;

**NOW, THEREFORE**, in consideration of the mutual promises and covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

**ARTICLE I**  
**TERM AND TERMINATION**

**Section 1.1 Term.**

This Agreement shall be effective commencing on the Effective Date and remain in full force and effect until otherwise terminated as provided in Section 1.2.

**Section 1.2 Termination.**

This Agreement may be terminated by either party, at any time, with thirty (30) days written notice to the other party. This right of termination may be exercised by either party whether or not good cause has been demonstrated to the other party. Following termination, neither party shall have any further obligations under this Agreement except as specifically provided herein.

**ARTICLE II**  
**SERVICES**

**Section 2.1 Services Provided.**

Nordstrom will provide to NCHII the services set forth in Exhibit A, which is attached hereto and incorporated herein by reference, and which may be amended from time to time by mutual written agreement of the parties (individually and collectively, the "Services").

**Section 2.2 Provision of Services.**

Nordstrom shall, at all times, provide sufficient personnel or resources to perform any Services. Nordstrom shall be an independent contractor and/or service provider. Nothing contained herein shall be construed to create or imply a joint venture, principal and agent, employer and

employee, partnership or any other relationship other than that of an independent contractor. Accordingly, neither party shall have the right or power of authority to create any obligation, express or implied, on behalf of the other in connection with the performance of this Agreement.

Nordstrom may, at its own election, provide Services through its own employees and be under its direction and control. In such case, Nordstrom shall be responsible for the employees' salaries, benefits, wages, supervision, insurance (including liability and worker's compensation coverage) and other incidentals of their employment. Alternatively, Nordstrom may, at its own election, provide the Services through a duly qualified independent agent. However, neither party may assign this Agreement in whole or in part to a third party except as discussed in Article VII ("Assignability").

Each party reserves the right to engage in the various business activities set forth in Exhibit B, which is attached hereto and incorporated herein by reference, and which may be amended from time to time by mutual written agreement of the parties. Such activities may or may not involve the other party and do not require any written notification to the other party. Notwithstanding the foregoing, each party shall continue its obligations as described in the Agreement.

### **Section 2.3 Requisition of Services.**

Each party acknowledges it has sole responsibility under this Agreement to provide sufficient documentation to enable Nordstrom to fulfill its responsibilities. Each party shall exercise its best efforts, upon receipt of sufficient documentation, to execute the Services. In the event sufficient documentation is not provided such that it results in an economic cost, that economic cost shall either be directly assumed or reimbursed by NCHII.

Nordstrom agrees to use its best efforts in its scheduling of Services to ensure NCHII is able to fulfill its responsibilities without delay.

### **Section 2.4 Indemnification.**

Nordstrom agrees to indemnify NCHII and hold it harmless against any loss, liability, claim or expense arising out of or in connection with its Services under this Agreement.

NCHII agrees to indemnify Nordstrom and hold it harmless against any loss, liability, claim or expense arising out of or in connection with its duties or obligations under this Agreement.

### **Section 2.5 Risk of Loss.**

NCHII shall bear the loss associated with third party regulations or actions, such as (but not limited to) product recalls, violations of laws, changes in laws or any Force Majeure situations. For purposes of this Agreement, the term "Force Majeure" shall mean circumstances beyond a party's reasonable control.

### **Section 2.6 Regulatory Requirements.**

Each party shall exercise best efforts to comply with regulatory requirements and associated requests by the other party. NCHII shall assume any and all risks of compliance with regulatory laws, regulations, filing responsibilities and other regulatory requirements.

The parties will promptly notify each other of any information of regulatory significance concerning any Services. The parties will cooperate to the extent necessary to enable each party to file such reports and maintain such records as may be required of each party by any regulatory agency. In the event that either party is contacted by a regulatory agency, the contacted party shall promptly notify the other party. The parties will fully cooperate in responding to any inquiries, requests for information or other investigations.

### **ARTICLE III** **COMPENSATION**

#### **Section 3.1 Fees.**

NCHII agrees to pay Nordstrom for the actual and reasonable costs of the Services rendered when presented with a request for payment and adequate documentation of the costs incurred. Alternatively, NCHII shall pay a flat fee of \$5,000 per year for any de minimus Services rendered by Nordstrom under this Agreement. Any ancillary services provided that are outside the scope of this Agreement may be billed by Nordstrom with adequate supporting documentation, as needed.

If it is subsequently determined that the mutually agreed upon periodic billings do not reflect an arm's length price, the parties agree to make any necessary year-end compensating adjustments to ensure that the fees paid provide an arm's length result.

NCHII is responsible for any sales, use, value-added or other taxes, and any tariffs, duties, fees or other charges, imposed by any government authority (collectively, "Taxes") as a result of the Services, with the exception of taxes based on net income. If Nordstrom has the legal obligation to pay or collect Taxes for which such party is responsible under this section, the appropriate amount will be invoiced to and paid by NCHII unless it provides Nordstrom with a valid exemption/resale certificate.

#### **Section 3.2 Payment.**

Any payment set forth in Section 3.1 shall not be paid at the end of each monthly accounting period, but shall accrue during successive monthly accounting periods and be paid within thirty (30) days after the end of each quarterly accounting period. Accordingly, the quarterly payment schedule shall be established such that any and all accrued amounts are paid within thirty (30) days of Nordstrom's fiscal year end.

## ARTICLE IV FORCE MAJEURE AND DEFAULT

### Section 4.1 Force Majeure.

Any delay in performance or any non-performance by either party (the "Non-Performing Party") will not constitute a breach of this Agreement if and to the extent the delay or non-performance is caused by a Force Majeure as defined in Section 2.5. If any such delay or non-performance occurs, then the time for performance will be extended by the number of days of such delay that occur after notice of the cause of delay is given to the other party, together with the details thereof. If this notice is not given within ten (10) business days after the cause of the delay or non-performance first becomes known, then the Non-Performing Party will be deemed to have waived its rights to extend the time for its performance due to that cause.

### Section 4.2 Right to Cover.

In the event Nordstrom is unable or unwilling to perform or provide any of the Services, it may contract with any other person or entity to perform such Services as it deems reasonably appropriate. Nordstrom will provide NCHII with timely notice of such an arrangement. Such contract shall not relieve Nordstrom of, nor be deemed an assignment of, its rights or obligations under this Agreement.

### Section 4.3 Default.

Except as provided in Section 4.1, upon the occurrence of a material default by either party in performing its obligations under this Agreement, the non-defaulting party shall serve the other party with a written notice of default, which shall include a detailed explanation of the default. Should the defaulting party not cure the default within thirty (30) days of the date of such notice, then the Agreement shall be deemed terminated and the non-defaulting party may avail itself of the remedies provided in Article V ("Dispute Resolution and Remedies").

## ARTICLE V DISPUTE RESOLUTION AND REMEDIES

The parties shall attempt in good faith to resolve any dispute arising out of or relating to this Agreement promptly by negotiation between their respective representatives. If the matter is not resolved within thirty (30) days of a party's request for negotiation, it may be escalated to the parties' executive committees for resolution.

In addition to the remedies specifically set forth herein, the parties shall have all remedies otherwise available to them at law or in equity. The remedies herein provided shall be cumulative, and the exercise of any one remedy shall not preclude the non-defaulting party from exercising any other remedy available to it.

## ARTICLE VI NOTICES

Any notice required or permitted to be given hereunder shall be either delivered in person or delivered via certified mail, return receipt requested, addressed to the appropriate party at the following addresses:

Nordstrom, Inc.  
Attention: Corporate Secretary  
1700 7<sup>th</sup> Avenue, Suite 1000  
Seattle, WA 98101

Nordstrom Canada Holdings II LLC  
P.O. Box 2229  
Seattle, WA 98111

Either party may change its address by written notice to the other party.

## ARTICLE VII ASSIGNABILITY

This Agreement binds and inures to the benefit of the parties, their successors and assigns. Except as provided in the preceding sentence, neither party may assign or delegate any right or duty under this Agreement, without the prior written consent of the other party, such consent not to be unreasonably withheld.

## ARTICLE VIII REPRESENTATIONS

Each party represents and warrants to the other that it is validly organized, in good standing and qualified to do business under any applicable law, and has the requisite corporate power and authority and has obtained all necessary approvals and consents to enter into this Agreement and to make the commitments set forth in this Agreement.

## ARTICLE IX CONFIDENTIALITY

During the course of fulfilling their obligations under this Agreement, the parties may be exposed to or come into possession of information which is confidential and proprietary to the other. For purposes of this Article IX, the party receiving Protected Information is referred to as the "Recipient" and the party disclosing such information is referred to as the "Disclosing Party."

### Section 9.1 Protected Information.

"Protected Information" means information, in any format, that Disclosing Party designates as confidential or that reasonably should be understood to be confidential, proprietary or a trade secret given its nature and circumstances of disclosure. Confidential Information includes, but is not limited to, business and marketing plans, technology and technical information, product plans and designs, research and development activities, business processes, costs, pricing, profits, compensation, financial information, and Personal Information.



Personal Information is a subset of Confidential Information and means all data that identifies or can be used to identify, contact or locate a natural person such as name, address, and telephone number, email address, credit card number, medical records, driver's license, social security number, marital status, ethnicity, age, or photograph as well as less obvious information such as IP address or information gathered from online data collection technologies.

#### **Section 9.2 Exclusions.**

Confidential Information shall not include any information that (i) is or becomes publicly available without Recipient's breach of this Agreement, (ii) was known to Recipient prior to its disclosure by Disclosing Party pursuant to the terms of this Agreement, (iii) Disclosing Party has approved for release, in writing, or, (iv) which has been independently developed by Recipient. In any dispute between the Parties with respect to these exclusions the burden of proof shall be on Recipient with a standard of clear and convincing evidence.

#### **Section 9.3 Use of Protected Information.**

Recipient shall: (i) not disclose Confidential Information to any third party without Disclosing Party's prior written consent, except as expressly set forth in the Agreement, and (ii) take security precautions, in the same manner it takes to protect its own confidential information, but in no event less than reasonable care or the measures required by applicable privacy and security laws or industry standards, to safeguard the Confidential Information.

Recipient may only disclose Confidential Information: (i) to its employees, consultants, attorneys, insurers, auditors ("Representatives"), and to its Affiliates' Representatives on a need-to-know basis, if such Representatives have entered into an agreement no less protective of the Confidential Information than what is contained in this Agreement; (ii) If Recipient is required to do so by law or court order, provided Recipient gives Disclosing Party prior written notice (to the extent legally permitted) and reasonable assistance, at Disclosing Party's expense, to allow Disclosing Party the opportunity to seek a protective order. In the event that a protective order or other remedy is not obtained, or that Disclosing Party waives compliance with these provisions, the Recipient agrees to furnish only that portion of the Confidential Information which the Recipient is legally required to furnish and will exercise its best efforts to obtain assurances that any Confidential Information disclosed will be treated as confidential.

#### **Section 9.4 Return of and Title to Protected Information.**

All Protected Information is and shall remain the property of the Disclosing Party. Upon written request, the Recipient shall promptly return or destroy Disclosing Party's Protected Information and provide confirmation of such destruction. Nothing in this Agreement is intended to grant any express or implied right to Recipient to or under any patents, copyrights, trademarks, or trade secret information except as otherwise provided in this Agreement.

#### **Section 9.5 Recipient Liability.**

Recipient shall be fully liable for any breach of this Article IX by its officers, directors, partners, employees, agents or representatives.

**Section 9.6 Duration of Confidentiality Obligation.**

The parties' confidentiality obligations shall survive and remain in effect for so long as any of the Protected Information remains confidential or proprietary to Disclosing Party.

**Section 9.7 Remedies.**

The parties acknowledge and agree that any violation of this Agreement will cause irreparable harm to Disclosing Party. The parties therefore acknowledge and agree that the harmed party may seek injunctive relief from a court of competent jurisdiction in addition to any other remedy available at law or equity.

**ARTICLE X**  
**MISCELLANEOUS**

**Section 10.1 Governing Law, Venue and Attorneys' Fees.**

This Agreement shall be governed by the laws of the State of Washington, excluding its conflict of laws rules. The parties hereby submit to the jurisdiction and venue of the state and federal courts of Washington State for purposes of all legal proceedings arising out of or relating to this Agreement. Any award or judgment of any of said courts may be entered and enforced in any other domestic or foreign court of competent jurisdiction, and shall be awarded full faith and credit. If either party brings an action against the other by reason of a breach or alleged violation, enforcement of any provision, or otherwise arising out of this Agreement, the prevailing party in such suit shall be entitled to its costs of suit and reasonable attorneys' fees which shall be payable whether or not such action is prosecuted to judgment.

**Section 10.2 Amendments.**

This Agreement may be amended only in writing and signed by both parties.

**Section 10.3 Severability.**

The parties agree that each provision herein shall be treated as a separate and independent clause, and the unenforceability of any one clause shall in no way impair the enforceability of any of the other clauses. If one or more provisions contained in this Agreement shall for any reason be held to be unenforceable at law, such provision(s) shall be construed so as to be enforceable to the maximum extent compatible with the applicable law as it shall then appear.

**Section 10.4 Facsimile and Electronic Signatures.**

This Agreement may be executed as facsimile originals and each copy of this Agreement bearing the facsimile transmitted signature of either of the authorized representatives listed below shall

be deemed to be an original. This Agreement also may be executed by use of an electronic signature process.

**Section 10.5 Cumulative Rights.**

The rights and remedies contained in this Agreement shall be construed as cumulative, and no one remedy shall be exclusive of any other remedy, or of any other legal or equitable remedy which either party might otherwise have in the event of breach or default in the terms hereof, and the exercise of one right or remedy by such party shall not impair its right to any other right or remedy until all obligations imposed upon the other party have been fully performed.

**Section 10.6 Entire Agreement.**


This Agreement contains the entire understanding of the parties with respect to the matters covered, and no other previous agreement, statement or promise made by either party that is not contained in the terms of this Agreement or an applicable Exhibit shall be binding or valid, unless specifically incorporated by reference or attachment hereto.


[Signatures on the Following Page]

IN WITNESS WHEREOF, the parties hereto acknowledge and agree to be bound by the terms and conditions herein as of the Effective Date.

NORDSTROM, INC., a Washington  
corporation

NORDSTROM CANADA HOLDINGS II LLC,  
a Delaware limited liability company

By:   
Name: Robert B. Sari  
Title: Executive Vice President,  
general counsel and  
Corporate Secretary

By:   
Name: Andrew Vickers  
Title: Vice President & Treasurer

**EXHIBIT A**  
**SERVICES PROVIDED**

**The following Services will be provided by Nordstrom to NCHII:**

- (a) Payroll
- (b) Finance
- (c) Accounting
- (d) Treasury
- (e) Legal

**EXHIBIT B**  
**SCOPE OF AGREEMENT**

The following rights have been reserved by each party as set forth in Section 2.2 of the Agreement:

- (a) **Services** - the right to increase or decrease the level of services required.
- (b) **Financing Activities** - the right to offer financing assistance in conjunction with its operation or expansion. Any material financing activities would be subject to a separate agreement.
- (c) **Affiliated Entities** - the right to request Services be provided to any affiliated entities.
- (d) **Non-Affiliated Entities** - the right to contract with a non-affiliated party to receive some or all of the Services described in this Agreement. In the event that a contract with a non-affiliated party is executed, the parties hereby agree that the cost structure of a non-affiliated contract will have no bearing or adjustment on this Agreement.
- (e) **Service Activities** - the right to provide services to unaffiliated entities. In the event that a contract with a non-affiliated party is executed, the parties hereby agree that the cost structure of a non-affiliated contract will have no bearing or adjustment on this Agreement.

This is Exhibit “G” referred to in the Affidavit of Misti Heckel  
sworn March 1, 2023.

A handwritten signature in blue ink, appearing to read 'H Davis', is positioned above a horizontal line.

---

*Commissioner for Taking Affidavits (or as may be)*

**HANNAH DAVIS**

## WIND-DOWN AGREEMENT

**THIS WIND-DOWN AGREEMENT** (the “**Agreement**”) is dated as of March 1, 2023, and shall be effective as of such date (the “**Effective Date**”) by and between Nordstrom, Inc., a corporation organized and existing under the laws of the State of Washington (“**Nordstrom US**”), and Nordstrom Canada Retail, Inc., a corporation incorporated under the laws of British Columbia (“**Nordstrom Canada**”), Nordstrom Canada Leasing LP, a limited partnership formed under the laws of Alberta (“**NCL**”), Nordstrom Canada Holdings, LLC, a Delaware limited liability company (“**NCH**”), and Nordstrom Canada Holdings II, LLC, a Delaware limited liability company (“**NCHII**”, and together with Nordstrom Canada, NCL, and NCH, the “**Nordstrom Canada Entities**”).

### RECITALS

#### **WHEREAS:**

- A. Nordstrom US was party to (i) an inter-affiliate license and services agreement with Nordstrom Canada, effective as of February 3, 2019 (the “**License and Services Agreement**”), pursuant to which, inter alia, Nordstrom US (x) provided Nordstrom Canada with legal, finance, accounting, bill processing, payroll, human resources, merchandising, strategy and IT support services in support of Nordstrom Canada’s retail business operations; and (y) granted a non-exclusive, non-transferable license to use the Intellectual Property (as defined in the License and Services Agreement and which, for the avoidance of doubt, included trademarks owned by NIHC, Inc. and sublicensed to Nordstrom Canada pursuant to the License and Services Agreement) to Nordstrom Canada, and Nordstrom Canada provided Nordstrom US with services in respect of the Canadian retail operations and Nordstrom.ca operations; (ii) an inter-affiliate services agreement with NCH, effective as of October 10, 2016, pursuant to which Nordstrom US provided NCH with payroll, finance, accounting, treasury and legal services; (iii) an inter-affiliate services agreement with NCHII, effective as of October 10, 2016, pursuant to which Nordstrom US provided NCHII with payroll, finance, accounting, treasury and legal services; and (iv) an inter-affiliate services agreement with NCL, effective as of December 10, 2014, pursuant to which Nordstrom US provided NCL with legal, finance, accounting and tax, bill processing, payroll, human resources, property maintenance, operations, strategy, IT project support, site selection and construction management services (collectively, (i) through (iv), the “**Intercompany Agreements**”).
- B. The transfer pricing policy that was in effect as between Nordstrom US and Nordstrom Canada (the “**Transfer Pricing Policy**”) was reflected in Exhibit B of the License and Services Agreement, and provided that Nordstrom Canada and Nordstrom US would pay the other the US dollar amount necessary such that Nordstrom Canada, as a limited risk retailer, realized an arm’s length Rate of Return (defined in the License and Services Agreement as operating profit divided by net sales) within the range of 4.5% to 6.5%.
- C. The Nordstrom Canada Entities rely on strategic management, design, product development and manufacturing for Nordstrom-branded products, procurement, sourcing, sales and pricing services provided by Nordstrom US, as well as on administrative and other services, and, absent the continued provision of such services, the Nordstrom Canada



Entities would be required to immediately cease operations. Absent the financial support of Nordstrom US, the Nordstrom Canada Entities experienced losses during each year of operation.

- D. The Board of Directors of Nordstrom US determined to cease the financial and operational support that Nordstrom US has been providing to the Nordstrom Canada Entities and to terminate the Intercompany Agreements. Accordingly, on March 1, 2023, Nordstrom US issued a written notice of termination to each Nordstrom Canada Entity, advising that such Nordstrom Canada Entity's Intercompany Agreement would terminate at the end of the prescribed thirty (30) day notice period in accordance with the terms of such agreement (the "**Termination Notice Period**").
- E. As a result of such decision by Nordstrom US, the Nordstrom Canada Entities have determined that they cannot continue to operate as a going concern and have resolved to cease operations and wind-up their business.
- F. Nordstrom Canada, NCH and NCHII intend to file an application before the Ontario Superior Court of Justice (Commercial List) (the "**Court**") to commence proceedings (the "**CCAA Proceedings**") under the Companies' Creditors Arrangement Act pursuant to an initial order (as amended from time to time, the "**Initial Order**") and conduct an orderly wind-down of the business of the Nordstrom Canada Entities (the "**Wind-down**") and liquidation of their retail operations in the CCAA Proceedings. Nordstrom Canada, NCH and NCHII also intend to seek a stay in favour of, and an extension of the protections and authorizations of the Initial Order to, NCL, which would not be an applicant under the CCAA Proceedings. Alvarez & Marsal Canada, Inc. has consented to act as monitor of the Nordstrom Canada Entities in the CCAA Proceedings (in such capacity, the "**Monitor**").
- G. The Nordstrom Canada Entities have accordingly agreed to waive the Termination Notice Period, and in consideration for such waiver, among other things, Nordstrom US has agreed to (i) provide the Services (as defined below); and (ii) grant a limited and temporary non-exclusive, non-transferable license and sublicense, as applicable, to use the Intellectual Property in Canada, in each case, to Nordstrom Canada, on the terms and conditions set forth herein, solely in connection with and to support the Wind-down and the CCAA Proceedings.
- H. The parties to this Agreement desire that any intercompany agreements, including the Intercompany Agreements, and any transfer pricing policy or policies governing intercompany transactions, including the Transfer Pricing Policy, in all cases, currently in place or existing as of the Effective Date between Nordstrom US and any or all of the Nordstrom Canada Entities cease being effective as of the Effective Date.

**NOW, THEREFORE**, in consideration of the promises, the mutual covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

## 1. TERMINATION

Each Nordstrom Canada Entity hereby waives the Termination Notice Period provided for in its respective Intercompany Agreement only, such that each such Intercompany Agreement is hereby terminated and of no further force or effect as of the date hereof. Nordstrom US and the Nordstrom Canada Entities each hereby acknowledges and agrees to such waiver and termination.

## 2. SERVICES

### (a) Services Provided to the Nordstrom Canada Entities

Nordstrom US hereby agrees to perform, through its own resources or through its contractual relationships with its U.S. affiliated legal entities (other than NCH and NCHII, the “**Nordstrom US Entities**”) or as provided by third parties pursuant to duly executed agreements, certain services for the Nordstrom Canada Entities, as further described on **Schedule A** hereto, all solely in connection with the Nordstrom Canada Entities’ CCAA Proceedings and the Wind-down (collectively, including any Additional Services (as defined below), the “**Services**”). The parties agree that, in consultation with the Monitor, the level of support and Services will reduce over time generally during the CCAA Proceedings and during the Wind-down to reflect the reduction in level of support and Services required by the Nordstrom Canada Entities as the CCAA Proceedings and the Wind-down advance towards their conclusion.

### (b) Additional Services Provided by Nordstrom US

At the Nordstrom Canada Entities’ request, and with the consent of the Monitor, other services (“**Additional Services**”) may be provided or arranged by Nordstrom US pursuant to this Agreement.

### (c) Standby Debtor-in-Possession Facility

Nordstrom US shall make available to the Nordstrom Canada Entities in the CCAA Proceedings a standby debtor-in-possession credit facility, on reasonable terms, of up to CAD\$15 million, upon the written request of the Nordstrom Canada Entities, in consultation with the Monitor.

### (d) Services Provided to Nordstrom US

The Nordstrom Canada Entities hereby agree to perform, on an interim basis and with the consent of the Monitor, through their own resources or as provided by third parties pursuant to duly executed agreements, certain services for Nordstrom US, as further described on **Schedule A** hereto, during the CCAA Proceedings and the Wind-down. The parties agree that, in consultation with the Monitor, the level of such services will reduce over time generally during the CCAA Proceedings and during the Wind-down, as the CCAA Proceedings and the Wind-down advance towards their conclusion and Nordstrom US secures alternative sources for such services, as applicable. In consideration for the services provided by the Nordstrom Canada Entities, Nordstrom US agrees to pay to Nordstrom Canada, on behalf of the applicable Nordstrom Canada Entity providing such service, an arm’s length fee as agreed upon between Nordstrom US and Nordstrom Canada from time to time with the consent of the Monitor, which fee shall be set-off

and credited against the Fee (as defined below) payable by Nordstrom Canada, on behalf of the Nordstrom Canada Entities, to Nordstrom US for the applicable period.

**(e) Nordstrom Canada / NCL**

Nordstrom Canada and NCL are party to an inter-affiliate services agreement, effective as of December 10, 2014, pursuant to which Nordstrom Canada provides NCL with payroll, finance and accounting services, and NCL provides Nordstrom Canada with property management services (the “**Canadian Intercompany Agreement**”). Nordstrom Canada and NCL hereby acknowledge that the terms and conditions of the Canadian Intercompany Agreement remain in full force and effect as of the date hereof.

**3. FEES**

**(a) Fees**

In consideration for the Services and any related materials and property provided by Nordstrom US to the Nordstrom Canada Entities hereunder, Nordstrom Canada, on behalf of the Nordstrom Canada Entities, agrees to pay Nordstrom US an arm’s length fee (the “**Fee**”) as agreed upon between Nordstrom Canada and Nordstrom US from time to time with the consent of the Monitor. As reflected on **Schedule B** hereto, Nordstrom Canada and Nordstrom US anticipate that the Fee shall be adjusted from time to time, with the consent of the Monitor, to reflect the reduction in level of support and Services required by the Nordstrom Canada Entities during the CCAA Proceedings and during the Wind-down and any Additional Services provided during the Term (as defined below). Nordstrom Canada and Nordstrom US agree to review **Schedule B** hereto and the required level of the services set forth therein from time to time and will make any necessary adjustments as they mutually agree (including with respect to the level of services required by the Nordstrom Canada Entities after July 2023), with the consent of the Monitor.

**(b) Payment of Fees**

The Fee shall accrue and be charged on a monthly basis commencing as of the Effective Date and shall be paid, net of the fee payable by Nordstrom US to Nordstrom Canada for the corresponding period pursuant to Section 2(d), no later than ten (10) days after the end of each such month. The Fee shall be prorated for any period of less than one (1) month.

**(c) Exclusive of Sales Taxes**

All amounts payable by (i) Nordstrom Canada, on behalf of the Nordstrom Canada Entities, to Nordstrom US; and (ii) Nordstrom US to the Nordstrom Canada Entities (determined before any netting contemplated by Section 2(d) and Section 3(b)), pursuant to this Agreement do not include any value-added, sales, use, consumption, multi-staged, ad valorem, personal property, customs, excise, stamp, transfer, or similar taxes, duties, or charges (collectively “**Sales Taxes**”), and all Sales Taxes are the responsibility and for the account of the payer (the “**Payer**”) of such fees. Subject to the following sentence, if Nordstrom US or any Nordstrom Canada Entity (the “**Collector**”) is required by law or by administration thereof to collect any applicable Sales Taxes, the Payer shall pay such Sales Taxes to the Collector concurrent with the payment of any consideration payable pursuant to this Agreement, unless the Payer qualifies for an exemption

from any such applicable Sales Taxes, in which case the Payer shall, in lieu of payment of such applicable Sales Taxes, deliver to the Collector such certificates, elections, or other documentation required by law or the administration thereof to substantiate and effect the exemption claimed. The amount of any Sales Tax collectible by a Collector shall be included in the calculation of the net amount of the Fee payable pursuant to Section 3(a).

**(d) Currency**

All payments required herein shall be made in United States dollars (“**US Dollars**”) unless otherwise agreed by Nordstrom Canada and Nordstrom US. Any reported amount in currencies other than the US Dollar shall be translated into US Dollars at the prevailing bookkeeping rate used by Nordstrom Canada during the period in which the amount is recognized under the generally accepted accounting principles as applied by Nordstrom Canada for financial reporting purposes.

**(e) Non-Residency**

As Nordstrom US is a non-resident of Canada, as that term is defined in the Income Tax Act (Canada) (as amended from time to time, together with all regulations promulgated thereunder from time to time, the “**ITA**”), if Nordstrom Canada is required to withhold tax on payments to Nordstrom US in accordance with Section 3(f) and Section 3(g), then payments under this Agreement by Nordstrom Canada shall be reduced by the amount of such withholding taxes and Nordstrom Canada shall remit such withholding taxes to the applicable taxing authorities. Nordstrom Canada shall provide Nordstrom US with a copy of any information reporting forms required to be filed by Nordstrom Canada with the applicable taxing authorities on or before the filing due date for such forms. If, after Nordstrom Canada has paid such amounts, Nordstrom Canada receives a refund, rebate or credit on account of such taxes, then Nordstrom Canada shall promptly remit such refund, rebate or credit amount to Nordstrom US.

**(f) Regulation 105**

- (i) Subject to the terms of Section 3(f)(ii) and Section 3(f)(iii) hereof, where Nordstrom Canada makes a payment to Nordstrom US for Services rendered by Nordstrom US inside Canada, Nordstrom Canada shall reduce the gross payment amount allocable to such Services by 15% of the gross payment amount pursuant to Regulation 105 of the ITA and shall remit such withheld amount to the applicable taxing authorities. A further 9% of the gross payment amount will be withheld and remitted to the applicable taxing authorities if the Services are provided in the province of Quebec.
- (ii) Where Nordstrom Canada is required to make a payment to Nordstrom US for Services rendered by Nordstrom US in whole or in part inside Canada, Nordstrom Canada shall withhold all applicable amounts as outlined in Section 3(f)(i) on the entire payment unless Nordstrom US provides Nordstrom Canada, within ten (10) days of the request for payment from Nordstrom Canada, with records evidencing the portion of the required payment that is in respect of the Services rendered by Nordstrom US inside Canada. If such records are timely provided, Nordstrom Canada shall

withhold all applicable amounts as outlined in Section 3(f)(i) on the payment that is in respect of Services rendered by Nordstrom US inside Canada.

- (iii) Where Nordstrom Canada is required to make a payment to Nordstrom US for any amounts invoiced (or otherwise charged) by Nordstrom US's consultants or other service providers in respect of Services provided to Nordstrom Canada, Nordstrom Canada shall withhold all applicable amounts on the payment as outlined in Section 3(f)(i) unless Nordstrom US provides Nordstrom Canada, within ten (10) days of the request for payment from Nordstrom Canada, with records evidencing that the required payment is a reimbursement of amounts invoiced (or otherwise charged) by Nordstrom US's consultants or other service providers in respect of Services provided to Nordstrom Canada outside of Canada.
- (iv) Where prior to any applicable payment by Nordstrom Canada to Nordstrom US, Nordstrom US has furnished Nordstrom Canada with a valid waiver issued by the tax authorities either reducing or eliminating the requirement to withhold tax for the services in question, Nordstrom Canada will take into account any relief provided by the applicable waiver, and reduce its withholding obligation accordingly, however only in the circumstances where Nordstrom Canada determines such reduction is appropriate and in accordance with the provisions of the applicable waiver.

**(g) Withholding Taxes**

In the event that any withholding taxes or other duties are levied on any payments due to Nordstrom US from Nordstrom Canada (other than those covered in Section 3(f)), Nordstrom Canada intends to fully comply with its requirements and remit such withholding taxes to the applicable taxing authorities. Nordstrom Canada will take into account any relief provided by an applicable income tax convention, and reduce its withholding obligation accordingly, however only in the circumstances where Nordstrom Canada determines such reduction is appropriate and in accordance with the provisions of the applicable income tax convention. Nordstrom Canada shall not be required to pay Nordstrom US any additional amount in respect to taxes withheld by Nordstrom Canada on payments made to Nordstrom US and, as outlined in Section 3(e), shall pay to Nordstrom US each amount due on which such withholding taxes or other duties are levied as a net amount. Where Nordstrom US is eligible to receive a reduced rate of tax or exemption provided by an applicable income tax convention in respect of a payment made by Nordstrom Canada to Nordstrom US, Nordstrom US will complete and retain the Canadian tax Form NR301 (DECLARATION OF ELIGIBILITY FOR BENEFITS UNDER A TAX TREATY FOR A NON-RESIDENT TAXPAYER) as support for residency requirements under the applicable income tax convention.

**(h) Transfer Pricing Policies**

Any transfer pricing policy or policies governing intercompany transactions, including the Transfer Pricing Policy, currently in place or existing as of the Effective Date between Nordstrom



US and any of the Nordstrom Canada Entities are hereby terminated and shall cease to be in effect as of the Effective Date.

#### **4. LIMITED LICENSE TO USE INTELLECTUAL PROPERTY**

##### **(a) Grant of License to Nordstrom Canada**

During the Term, Nordstrom US grants to Nordstrom Canada an irrevocable, non-exclusive, non-transferable license or sublicense, as applicable, to use the Intellectual Property as used by Nordstrom Canada as of the Effective Date in Canada for all legal purposes in connection with the Wind-down and the CCAA Proceedings, subject to and upon the terms and conditions of this Agreement. Notwithstanding anything to the contrary herein contained, Nordstrom US and Nordstrom Canada agree that the rights granted herein and the restrictions herein contained shall be subject to the laws of Canada and all rules, regulations, directives, laws and legislation associated therewith as the same may be in force from time to time.

##### **(b) Consent of Nordstrom US**

Nordstrom Canada shall not sublicense, make available or otherwise transfer any of its rights in the Intellectual Property hereunder without the prior written consent of Nordstrom US. Notwithstanding the foregoing, Nordstrom US acknowledges and agrees that Nordstrom Canada intends to engage a liquidator (the “**Liquidator**”) to assist in running a liquidation sale of inventory and furniture, fixtures and equipment (the “**Liquidation Sale**”) in support of the Wind-down, and that such Liquidator and Liquidation Sale shall be approved by the Court in the CCAA Proceedings. Nordstrom Canada shall be entitled, subject to the terms hereof, to sublicense the Intellectual Property to such Liquidator for use only to the extent and duration required in the Liquidator’s operation of the Liquidation Sale.

##### **(c) Use**

Nordstrom Canada shall not use or cause any third party to use the Intellectual Property in any manner that (i) contravenes any law, code, statute or regulation; (ii) impairs the validity or enforceability of the Intellectual Property; (iii) impairs the quality or appearance of the products or services sold and provided by Nordstrom US with which the Intellectual Property is used; or (iv) disparages the Intellectual Property or any of the Nordstrom US Entities, it being acknowledged and agreed that certain merchandise of Nordstrom Canada that includes or makes use of the Intellectual Property will be sold at a discount during the Liquidation Sale. Without limitation, Nordstrom Canada shall use the Intellectual Property at all times in accordance with at least the same standards of quality, appearance, service and other standards that were observed by Nordstrom Canada immediately prior to the Effective Date in connection with its operations and pursuant to the License and Services Agreement. Nordstrom Canada agrees that all proprietary right, title, interest and goodwill in any Intellectual Property shall inure to the benefit of Nordstrom US (or its licensors), that the uses of the Intellectual Property by Nordstrom Canada shall not create any interest or right express or implied or otherwise, in the Intellectual Property in any Nordstrom Canada Entity except as set forth in this Agreement, and that the Nordstrom Canada Entities do not and will not assert any claim to any ownership thereof. If, by operation of law, or otherwise, any Nordstrom Canada Entity is deemed to or appears to own any property rights in the Intellectual Property owned by any Nordstrom US Entity, the Nordstrom Canada Entities shall, at Nordstrom

US's request, execute any and all documents necessary to confirm or otherwise establish Nordstrom US's (or its designee) rights therein. Nordstrom US is free to use, or license others to use, the Intellectual Property in any manner whatsoever.

**(d) Preservation, Protection & Return or Destruction**

- (i) The Nordstrom Canada Entities shall, where commercially reasonable, cause any displays or other signage with the Intellectual Property to bear such notices as Nordstrom US may reasonably request.
- (ii) The Nordstrom Canada Entities shall use all commercially reasonable efforts to (A) return to Nordstrom US or destroy, or cause to be returned to Nordstrom US or destroyed, in each case, at the election of Nordstrom US, all inventory, signage, tagging, labels, goods, furniture, fixtures and equipment of the Nordstrom Canada Entities that include any Intellectual Property and remain with the Nordstrom Canada Entities upon the conclusion of the Liquidation Sale (the “**Remaining Branded Goods**”); provided that, Nordstrom US shall pay (x) such arm's length consideration as agreed upon between Nordstrom US and Nordstrom Canada with the consent of the Monitor for the Remaining Branded goods to be returned to Nordstrom US, and (y) the reasonable and documented costs for the destruction of the Remaining Branded Goods to be destroyed, and (B) enter into an agreement with the Liquidator that provides for the matters set forth in Section 4(d)(ii)(A).

**5. TERM AND TERMINATION**

**(a) Term**

This Agreement shall commence as of the Effective Date and shall continue in effect until the earlier of: (i) the date on which the stay of proceedings in favour of the Nordstrom Canada Entities pursuant to the Initial Order finally expires without being extended; (ii) the date on which the CCAA Proceedings are terminated; or (iii) the date that this Agreement is terminated in accordance with its terms; provided that, Nordstrom US and the Nordstrom Canada Entities, in consultation with the Monitor, may agree to a later date of termination of this Agreement (the period during which this Agreement is in effect, the “**Term**”).

**(b) Termination**

This Agreement may be terminated by mutual agreement among the parties and with the consent of the Monitor.

**(c) Consequences upon Termination**

Upon termination or expiration of this Agreement, the parties shall continue to be bound by the provisions of Section 3 (Fees), Section 6 (Limitation of Liability), Section 7 (Confidentiality), Section 8 (Cooperation), Section 9 (Compliance with Laws), Section 11 (Relationship Between the Parties), and Section 12 (Miscellaneous). Further, in the event of the termination of this

Agreement under any of its provisions, the parties shall not be relieved of their liabilities accruing up to the time of termination.

## **6. LIMITATION OF LIABILITY**

### **(a) Nordstrom Canada's Liability**

The Nordstrom Canada Entities will indemnify, defend and hold Nordstrom US harmless from and against any and all claims, demands, suits, losses, damages and liabilities (including, without limitation, interest and reasonable attorneys' fees) arising out of or resulting from any failure by any of the Nordstrom Canada Entities to comply with any law, ordinance or regulation applicable to its business or a breach of this Agreement by any of the Nordstrom Canada Entities.

### **(b) Nordstrom US's Liability**

Nordstrom US will indemnify, defend and hold the Nordstrom Canada Entities harmless from and against any and all claims, demands, suits, losses, damages and liabilities (including, without limitation, interest and reasonable attorneys' fees) arising out of or resulting from Nordstrom US's failure to comply with any law, ordinance, or regulation applicable to its business or Nordstrom US's breach of this Agreement.

### **(c) Notice**

A party's obligation to defend and indemnify the other hereunder is subject to the conditions that the party seeking indemnification promptly notifies the other party in writing of any such claim, the party seeking indemnification cooperates fully in defense of the claim and the indemnifying party has control of the defense of the claim.

## **7. CONFIDENTIALITY**

Each party agrees to hold in confidence and otherwise not disclose or make available to any third party (other than to such party's employees, accountants, attorneys, agents and other representatives on a need-to-know basis) any Confidential Information. For purposes of this Agreement, "**Confidential Information**" means all documents, records, data and information maintained or otherwise revealed in connection with the performance of this Agreement. The parties' obligations under this Agreement regarding Confidential Information shall not apply to any Confidential Information which (a) was known by the party before it was disclosed and was not subject to any obligation of confidentiality; (b) was in the public domain or entered the public domain through no fault of the party; or (c) must be disclosed by virtue of the CCAA Proceedings (including the terms and existence of this Agreement), as required by law or regulatory authorities with valid jurisdiction over such party, or pursuant to a court order or ruling.

## **8. COOPERATION**

### **(a) Mutual Assistance**

The parties agree to mutually assist one another (i) to ensure that the Services and other services and support provided under this Agreement are satisfactorily performed; and (ii) to defend any claims.



**(b) Books and Records**

The parties shall at all times keep complete and accurate books and records related to the Services and other services and support provided hereunder. Upon reasonable notice and during usual business hours, Nordstrom US may review, inspect and audit the relevant books and records of the Nordstrom Canada Entities, and Nordstrom Canada, in consultation with the Monitor, may review, inspect and audit the relevant books and records of Nordstrom US to ascertain compliance with this Agreement. Any such review, inspection or audit of books and records may be undertaken through an agent or employee of the party or by independent certified public accountants or counsel designated by such party. Each party is responsible for its own expenses incurred in any review, inspection or audit sought by it and conducted in accordance with this Section. For greater certainty, Nordstrom US agrees to provide the Monitor and its advisors with access to any books and records relating to the Nordstrom Canada Entities or Nordstrom US as the Monitor may reasonably require in order to complete the Wind-down and the administration of the Nordstrom Canada Entities' estates.

**9. COMPLIANCE WITH LAWS**

**(a) Compliance with the Law**

- (i) Nordstrom US must strictly comply with all applicable laws, rules, regulations and governmental orders, now or hereafter in effect, relating to its performance of this Agreement. Nordstrom US further agrees to make, obtain, and maintain in force at all times during the term of this Agreement, all filings, registrations, reports, licenses, permits and authorizations (collectively "**Authorizations**") required under applicable law or order in order for Nordstrom US to perform its obligations under this Agreement. The Nordstrom Canada Entities will provide Nordstrom US with such assistance as Nordstrom US may reasonably request in making or obtaining any such Authorizations.
- (ii) Each of the Nordstrom Canada Entities undertakes to obtain all licenses, permits or approvals required by any governmental authority in connection with the Wind-down and Liquidation Sale, including compliance with all applicable rules, policies and procedures of any governmental authority in the United States or Canada. Nordstrom US and each of the Nordstrom Canada Entities each agree to provide the other such information and assistance as may reasonably be required by the other in connection with securing such licenses, permits and approvals, and to take timely action to obtain all required import and export documents.

**(b) Changes in the Law**

Nordstrom US will inform each of the Nordstrom Canada Entities of all actual and anticipated changes in the law or regulatory environment that might have an impact on the provision of Services under this Agreement.

## 10. REPRESENTATIONS

### (a) Nordstrom Canada's Representations

- (i) Nordstrom Canada represents that it is an unlimited company formed under and governed by the laws of British Columbia in good standing under the laws of such jurisdiction and that the officers of Nordstrom Canada are authorized to execute this Agreement on behalf of Nordstrom Canada.
- (ii) Nordstrom Canada is duly registered under Subdivision (d) of Division V of Part IX of the Excise Tax Act (Canada) ("ETA") with respect to the goods and services tax and harmonized sales tax and its registration number is 845592500RT0001.

### (b) NCH's Representations

- (i) NCH covenants and represents on its own behalf that it is a limited liability company formed under and governed by the laws of Delaware in good standing under the laws of such jurisdiction and that the officers of NCH are authorized to execute this Agreement on behalf of NCH.
- (ii) NCH represents, in its capacity as the general partner of NCL, that (A) NCL is a limited partnership formed under and governed by the laws of Alberta in good standing under the laws of such jurisdiction and that the officers of NCH are authorized to execute this Agreement on behalf of NCL, and (B) NCL is duly registered under Subdivision (d) of Division V of Part IX of the ETA with respect to the goods and services tax and harmonized sales tax and its registration number is 848390035RT0001.

### (c) NCHII's Representations

- (i) NCHII represents that it is a limited liability company formed under and governed by the laws of Delaware in good standing under the laws of such jurisdiction and that the officers of NCHII are authorized to execute this Agreement on behalf of NCHII.

### (d) Nordstrom US's Representations

Nordstrom US represents that:

- (i) it is a Washington corporation and is qualified to do business under the laws of such jurisdiction and that the officers of Nordstrom US are authorized to execute this Agreement on Nordstrom US's behalf;
- (ii) Nordstrom US either owns the exclusive right, title and interest in and to the Intellectual Property or has the right to grant to Nordstrom Canada the license or sublicense, as applicable, to use the Intellectual Property as provided in this Agreement;

- (iii) to the knowledge of Nordstrom US, (A) all of the Intellectual Property is valid and enforceable, and (B) the use of any Intellectual Property does not infringe any rights of third parties;
- (iv) it is not registered under Subdivision (d) of Division V of Part IX of the ETA with respect to the goods and services tax and harmonized sales tax; and
- (v) it is a resident of the United States and a “qualifying person” for purposes of the Canada-United States Income Tax Convention.

## **11. RELATIONSHIP BETWEEN THE PARTIES**

Each of Nordstrom US, in providing Services and any related materials and property to the Nordstrom Canada Entities hereunder, and the Nordstrom Canada Entities, in providing any services contemplated herein to Nordstrom US, is acting only as an independent contractor. The parties agree that the relationship between them is not that of partners (except for the relationship between NCH and NCL) and, except as expressly authorized in writing or pursuant to the terms of this Agreement, none of the parties has the authority to act on behalf of or bind any other party (except for the relationship between NCH and NCL). Nordstrom US has the sole right and obligation to supervise, manage, direct and perform the Services, unless otherwise provided herein.

## **12. MISCELLANEOUS**

### **(a) Governing Law; Venue**

This Agreement is governed by, and construed in accordance with, the laws of the Province of Ontario and the laws of Canada applicable therein. The parties irrevocably attorn to the exclusive jurisdiction of the Court with respect to any dispute or determination relating to this Agreement.

### **(b) Amendments**

No provision of this Agreement shall be amended or waived except by a written agreement executed by the parties hereto and with the consent of the Monitor.

### **(c) Severability**

If any one or more provisions of this Agreement shall be found to be illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

### **(d) Headings and Section References**

The descriptive headings contained herein are for convenience only and shall not control or affect the meaning, interpretation or construction of any provision of this Agreement.

**(e) No Strict Construction**

The language used in this Agreement is the language chosen by the parties to express their mutual intent, and no rule of strict construction shall be applied against any party.

**(f) Including**

Where the word “including” or “includes” is used in this Agreement, it means “including (or includes) without limitation”.

**(g) Number and Gender**

Unless the context otherwise requires, words importing the singular include the plural and vice versa and words importing gender include all genders.

**(h) Entire Agreement**

This Agreement sets forth the entire understanding between the parties concerning the subject matter of this Agreement and incorporates all prior negotiations and understandings. There are no covenants, promises, agreements, conditions or understandings, either oral or written, between the parties relating to the subject matter of this Agreement other than those set forth herein. No representation or warranty has been made by or on behalf of any party to this Agreement (or any officer, manager, employee or agent thereof) to induce any other party to enter into this Agreement or to abide by or consummate any transactions contemplated by any terms of this Agreement, except representations and warranties, if any, expressly set forth herein.

**(i) Successors and Assigns**

This Agreement shall be binding upon and inure to the benefit of the successors and legal representatives of the respective parties hereto. This Agreement may not be assigned by any party without the prior written consent of the other parties. This Agreement shall cease to be effective and shall automatically terminate if any of the Nordstrom Canada Entities or any assignee of the applicable Nordstrom Canada Entity is not an Affiliate of Nordstrom US (and the Nordstrom Canada Entities hereby waive any application of the stay of proceedings granted in the CCAA Proceedings on such termination). “**Affiliate**” means any other Person (where “**Person**” means any individual, corporation, partnership, limited liability company, unlimited liability company, joint venture, association, joint-stock company, trust or other entity or organization, including a government or political subdivision, agency or instrumentality thereof) directly or indirectly controlling or controlled by or under direct or indirect common control with such specified Person. For purposes of this definition, “**control**” when used with respect to any specified Person means the power to direct the management and policies of such Person, directly or indirectly, whether through the ownership or control, directly or indirectly, of a majority of the outstanding voting securities, through the right to elect a majority of the board of directors, board of managers or other body charged with management thereof, by contract or otherwise, and the terms “controlling” and “controlled” have meanings relative to the foregoing.

**(j) Further Assurances**

- (i) The parties agree, upon the reasonable request of the other, to execute, acknowledge and deliver any and all such further instruments, and to do and perform any and all such other acts as may be necessary or appropriate in order to carry out the intent and purposes of this Agreement. The parties agree to mutually assist one another to ensure that any services provided under this Agreement and the license of Intellectual Property contemplated herein, are performed in accordance with the terms and conditions in this Agreement.
- (ii) The Nordstrom Canada Entities agree to cooperate with Nordstrom US to give information to Nordstrom US and provide Nordstrom US with access to their respective shareholders, members, directors, officers, employees, agents and affiliates as necessary for the performance of the Services.

**(k) Notices**

All notices required by this Agreement shall be in writing to the addresses set forth below, or such other addresses as may be designated in writing by the respective party. Any notices shall be deemed effectively given when received by the other party.

If to the Nordstrom Canada Entities:

Misti Heckel

c/o Osler, Hoskin & Harcourt LLP  
Attention: Tracy Sandler  
1 First Canadian Place  
100 King St., West, Suite 6200  
Toronto, ON M5X 1B8  
Email: tsandler@osler.com

If to Nordstrom US:

Michael Maher

c/o Fasken Martineau DuMoulin LLP  
Attention: Aubrey Kauffman  
Bay Adelaide Centre  
333 Bay Street, Suite 2400, P.O. Box 20  
Toronto, ON M5H 2T6  
Email: akauffman@fasken.com

**(l) Counterparts**

This Agreement may be executed in counterparts and delivered by means of facsimile, portable document format (PDF) or other electronic means, each of which when so executed and delivered shall be an original, but all such counterparts together shall constitute one and the same instrument.

*[Signature Page to Follow]*

IN WITNESS WHEREOF, the parties have executed this Agreement as of the Effective Date.

**NORDSTROM, INC.**

By: Michael Maher  
 Name: Michael Maher  
 Title: Interim Chief Financial Officer  
 and Chief Accounting Officer

**NORDSTROM CANADA RETAIL, INC.**

By: Misti Heckel  
 Name: Misti Heckel  
 Title: President

**NORDSTROM CANADA LEASING  
 LP, an Alberta limited partnership**

By: Nordstrom Canada Holdings, LLC, its  
 General Partner

By: Misti Heckel  
 Name: Misti Heckel  
 Title: President and Treasurer

**NORDSTROM CANADA HOLDINGS, LLC**

By: Misti Heckel  
 Name: Misti Heckel  
 Title: President and Treasurer

**NORDSTROM CANADA  
 HOLDINGS II, LLC**

By: Misti Heckel  
 Name: Misti Heckel  
 Title: President and Treasurer

**SCHEDULE A**

The following Services will be provided by Nordstrom US to the Nordstrom Canada Entities:

- i. Accounting, accounts payable, financial reporting, finance
- ii. Assets protection
- iii. Cash management
- iv. Communication and public relations
- v. Human resources and payroll
- vi. Office administration
- vii. Risk management and legal
- viii. Tax compliance
- ix. IT
- x. Real estate
- xi. Merchandising and procurement
- xii. Store management
- xiii. Loss prevention
- xiv. Insurance
- xv. Customer service
- xvi. Store design and construction
- xvii. Treasury
- xviii. Internal audit
- xix. International administration
- xxi. Other ad hoc consulting requests by Nordstrom Canada

The following services will be provided by the Nordstrom Canada Entities to Nordstrom US:

- i. Human resources
- ii. IT
- iii. Communications

**SCHEDULE B**

The Fee (as defined in Section 3(a) of the Agreement) for the Services paid by Nordstrom Canada to Nordstrom US will reduce over time generally as follows to reflect the reduction in level of support and Services required by the Nordstrom Canada Entities:

<b>Time Period (month end)</b>	<b>Estimated Services Charge (net)</b>
March 31, 2023	CAD\$2,300,000
April 30, 2023	CAD\$1,600,000
May 31, 2023	CAD\$1,400,000
June 30, 2023	CAD\$700,000
July 31, 2023	CAD\$300,000
<b>Total</b>	<b>CAD\$6,300,000</b>



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

Court File No: CV-23-00695619-00CL

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF **NORDSTROM  
CANADA RETAIL, INC., NORDSTROM CANADA HOLDINGS, LLC** and **NORDSTROM CANADA  
HOLDINGS II, LLC**

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

PROCEEDING COMMENCED AT TORONTO

**APPLICATION RECORD  
VOLUME 1 OF 5**

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