

**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

IN THE MATTER OF A PLAN OF COMPROMISE OR  
ARRANGEMENT OF THE BODY SHOP CANADA LIMITED, IN  
THE CITY OF TORONTO, IN THE PROVINCE OF ONTARIO  
(the "**Applicant**")

**MOTION RECORD OF THE APPLICANT  
(Motion returnable December 13, 2024)**

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

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ONTARIO (the “**Applicant**”)

**NOTICE OF MOTION  
(RETURNABLE DECEMBER 13, 2024)**

The Applicant, The Body Shop Canada Limited (“**TBS Canada**”), will make a motion to a Judge presiding over the Commercial List on December 13, 2024 at 10:00 a.m., or as soon after that time as the motion can be heard.

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

- ☐ In writing under subrule 37.12.1(1);
- ☐ In writing as an opposed motion under subrule 37.12.1(4);
- ☐ In person;
- ☐ By telephone conference;
- ☒ By video conference.

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**THE MOTION IS FOR**

- (a) an Order that no party, including TBS Canada, the Monitor (as defined below), the UK Purchaser (as defined below) and their respective directors, officers, employees and other representatives, shall have any liability or obligation, including in respect of any claims based on any statutory or common law right to rescission or damages, arising from the failure of TBS Canada, the Monitor or the UK Purchaser to provide SPE (as defined below), the Purchaser (as defined below) and their respective directors, officers and shareholders, as applicable, with any disclosure that may be required under section 5 of the *Arthur Wishart Act (Franchise Disclosure)*, 2000, S.O. 2000, c. 3, or any similar laws of any jurisdiction in Canada, solely in connection with the execution of the master franchise agreement (together with all related or ancillary agreements, the “**Franchise Agreement**”) by the Purchaser;<sup>1</sup>and
- (b) such further and other relief as this Honourable Court may deem just.

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<sup>1</sup> For clarity, the relief requested does not apply to any disclosure that may be required by the UK Purchaser in respect of any: (i) renewal of the Franchise Agreement (as defined below) by the Purchaser; or (ii) resale of the Franchise Agreement by the Purchaser.

## THE GROUNDS FOR THE MOTION ARE

### A. Background and Overview

- (a) TBS Canada is a retailer specializing in the sale of skincare, haircare, bath and body products under “The Body Shop” brand;
- (b) TBS Canada is a wholly owned subsidiary of TBSI Realisations Limited (formerly The Body Shop International Limited) (the “**UK Parent**”). TBS Canada has historically relied on the UK Parent for several accounting and cash management services;
- (c) TBS Canada found itself in a liquidity crisis when the UK Parent unexpectedly filed for administration on February 13, 2024 (the “**UK Administration**”), and funding for TBS Canada was cut off with no advance notice;
- (d) On March 1, 2024, TBS Canada filed a notice of intention (“**NOI**”) to make a proposal under the *Bankruptcy and Insolvency Act*. Alvarez & Marsal Canada Inc. (“**A&M**”) was appointed as the proposal trustee;
- (e) On July 5, 2024, this Court made an order (the “**Initial Order**”), among other things, authorizing the continuation of the NOI proceeding under the *Companies Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (“**CCAA**”), and appointing A&M as the Court-appointed monitor of TBS Canada (the “**Monitor**”);

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- (f) On July 5, 2024, this Court also made an order (the “**Sale Process Order**”) that, among other things, approved a sale process to identify one or more purchasers of TBS Canada, its business or assets (the “**Sale Process**”);

**B. Sale Process**

- (a) The Sale Process was structured having regard to two key considerations:
- (i) First, a separate process was ongoing in the UK to find potential buyers for the UK Parent’s business or assets (the “**UK Sale Process**”); and
  - (ii) Second, TBS Canada did not own “The Body Shop” trademark or its associated intellectual property. Instead, TBS Canada held a license to sell “The Body Shop” products through a distribution and franchise agreement with the UK Parent;
- (b) These considerations meant that:
- (i) the bid deadline in the Sale Process would not be set until a purchaser was identified in the UK Sale Process, and it was clear whether such purchaser would appoint a new operator to license “The Body Shop” intellectual property for continued use in Canada or acquire the shares of TBS Canada; and
  - (ii) any purchaser of TBS Canada’s assets and business would need to settle the terms of a licensing, franchise or other arrangement with

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the purchaser of the UK Parent's business or assets, in order to operate the "The Body Shop" business in Canada or sell any branded inventory;

- (c) On September 6, 2024, after learning that the UK Parent had closed its transaction with a purchaser (the "**UK Purchaser**") for substantially all of its assets, and that the UK Purchaser intended to transition the Canadian business into a franchise, the Monitor advised interested parties that the deadline for submitting offers was October 8, 2024 and other key dates in the Sale Process;

### **C. The Transaction and the Franchise Agreement**

- (a) An affiliate of Serruya Private Equity Inc. ("**SPE**") — 1001072685 Ontario Inc. (the "**Purchaser**") — was ultimately identified as the successful bidder through the Sale Process. The Purchaser is led by Michael Serruya, an experienced businessman who has been involved in many franchise arrangements during the course of his career, including Yogen Früz, Cold Stone Creamery and Pinkberry, among others;
- (b) As part of the Sale Process, the Purchaser conducted extensive due diligence on TBS Canada's business. The Purchaser was advised and understood that to operate the "The Body Shop" business in Canada or sell any branded inventory, any purchaser of TBS Canada's assets and business would need to settle the terms of a franchise or other arrangement

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with the UK Purchaser, who owns the intellectual property and would be the source of inventory for the Canadian operations;

- (c) The Purchaser therefore received a significant amount of information regarding the proposed franchise or other arrangement. Among other things, the Purchaser: (i) was provided with a template master franchise agreement and a business planning model from the UK Purchaser; (ii) regularly engaged with the franchise team of the UK Purchaser to conduct business and financial diligence and discuss a Canadian franchise agreement; (iii) discussed with the UK Purchaser various matters concerning licensing, intellectual property, pricing and payment terms for branded inventory, and establishing operational and merchandising guidelines;
- (d) Over the course of the same period, the Purchaser also engaged in numerous discussions with TBS Canada and the Monitor to settle the terms of the Transaction;
- (e) On December 6, 2024, TBS Canada entered into an asset purchase agreement (the “**APA**”) pursuant to which it agreed to sell substantially all of its assets to the Purchaser (the “**Transaction**”);
- (f) The closing date of the Transaction is December 16, 2024 (the “**Closing Date**”);



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- (g) The Transaction will offer various benefits for TBS Canada and its stakeholders. If approved, the Transaction will result in the continuation of a significant number of TBS Canada's retail stores, provide continued employment to approximately 400 of TBS Canada's employees plus additional seasonal employees, preserve relationships with landlords and continue the "The Body Shop" business in Canada as a going concern;
- (h) One of the conditions of closing of the Transaction is the Purchaser entering into the Franchise Agreement;

**D. Franchise Disclosure Issues**

- (a) The Purchaser settled franchise terms with the UK Purchaser on or about November 25, 2024, and was prepared to enter into the Franchise Agreement which would allow the "The Body Shop" business to continue to operate in Canada;
- (b) However, the parties have been unable to enter into the Franchise Agreement due to the need to satisfy certain disclosure requirements under Canadian franchise laws, which is not possible within the required timeframe for the Transaction to proceed;
- (c) Under franchise laws in some Canadian provinces where TBS Canada's retail stores are located, a franchisor (the UK Purchaser) must give a franchisee (the Purchaser) a franchise disclosure document ("**FDD**") at least

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- 14 days before the earlier of: (a) the franchise agreement is signed; and (b) the payment of any consideration to the franchisor relating to the franchise;
- (d) The FDD must include, among other things, all material facts, financial statements, and copies of proposed franchise agreements, all of which is for the purpose of helping a franchisee make an informed decision about whether or not to invest in a franchise;
  - (e) The UK Purchaser is unable to provide the required FDD in advance of the required closing date of the Transaction, given the limited time available. To require the UK Purchaser to prepare an FDD would delay the closing of the Transaction by at least several months, perhaps indefinitely if TBS Canada cannot maintain operation of the Canadian business in the interim;
  - (f) Pursuant to Canadian franchise law, absent an exemption from application of the governing statute or an exemption from the requirement to deliver an FDD, if the UK Purchaser fails to provide the FDD or provides an FDD that is deficient in some way, the Purchaser may have the right to rescind the Franchise Agreement and to claim damages against the UK Purchaser, TBS Canada and the Monitor;
  - (g) Accordingly, given this regulatory obstacle posed by franchise legislation in certain provinces, and the potential exposure to the UK Purchaser, TBS Canada and the Monitor, the parties have not yet executed the Franchise Agreement, despite it being a condition to the closing of the Transaction;

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- (h) The Purchaser has confirmed that it has all of the important and material facts and documents needed to make an informed investment decision, and that it does not require any additional disclosure, in the form of a FDD or otherwise, as it will not improve its understanding of TBS Canada or affect its decision to proceed with the Transaction or sign the Franchise Agreement;
- (i) The Purchaser intends to enter into the Franchise Agreement with the UK Purchaser prior to the closing of the Transaction to satisfy the closing condition, and does not intend to exercise any potential right the Purchaser may have to rescind the Franchise Agreement owing to the UK Purchaser's inability to deliver an FDD;
- (j) In fact, the Purchaser is agreeable, as a condition precedent of the Transaction closing, to provide TBS Canada, the Monitor and the UK Purchaser with a release from any known claims that may be available to the Purchaser under Canadian franchise law arising from the failure of the UK Purchaser to provide SPE and the Purchaser with an FDD in connection with the execution of the Franchise Agreement by the Purchaser;
- (k) The Purchaser has received independent legal advice in respect of the release and relief requested on this motion;
- (l) Given the unusual set of circumstances at issue, TBS Canada, the Monitor and the UK Purchaser have concerns about their potential liability under

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Canadian franchise law, even though the Purchaser has agreed to provide the release;

- (m) In the circumstances, in order to facilitate a closing of the Transaction, the parties have agreed that TBS Canada should seek the above-described relief prior to the Purchaser and the UK Purchaser entering into the Franchise Agreement;

**E. The Relief Requested is Appropriate in the Circumstances**

- (a) The purposes of franchise disclosure requirements have been fulfilled in the circumstances of this case. Franchise legislation is aimed at protecting franchisees and addressing the usual power imbalance as between franchisor and franchisee, including by imposing disclosure requirements on the franchisor so that the franchisee can make a properly informed decision about whether or not to invest in a franchise;
- (b) The Purchaser is affiliated with a sophisticated commercial party with extensive experience with franchises, including as franchisor;
- (c) The Purchaser has confirmed that it is able to make an informed investment decision and does not require further disclosure, and has even agreed to provide a release at the appropriate time;
- (d) Without the requested relief, the Transaction cannot be completed by the Closing Date;

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- (e) If the Transaction cannot close on the Closing Date, it will detrimentally impact recoveries for TBS Canada's stakeholders and the continued employment of TBS Canada's employees, and TBS Canada may be required to commence a liquidation process;
- (f) No stakeholders will suffer prejudice as a result of the requested relief;
- (g) The requested relief is supported by the Monitor, the Purchaser and the UK Purchaser;
- (h) The requested relief is appropriate in the circumstances, and this Court has broad jurisdiction to grant it in order to further the purposes of the CCAA; and
- (i) TBS Canada relies on:
  - (i) Section 11 of the CCAA;
  - (ii) *Arthur Wishart Act (Franchise Disclosure)*, 2000, S.O. 2000, c. 3, or any similar laws of any jurisdiction in Canada;
  - (iii) Rules 1.04, 2.03 and 37 of the *Rules of Civil Procedure*; and
  - (iv) Such further and other grounds as counsel may advise and this Honourable Court may permit.

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

- (a) Affidavit 7 of Jordan Searle and its Exhibits;
- (b) Affidavit of Michael Serruya sworn December 6, 2024;
- (c) Second Report of the Monitor, to be issued; and
- (d) Such further and other evidence as the lawyers may advise and this Honourable Court may permit.

December 6, 2024

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PROCEEDING COMMENCED AT  
TORONTO

**NOTICE OF MOTION**

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**AFFIDAVIT #7 OF JORDAN SEARLE  
(Sworn December 7, 2024)**

I, **JORDAN SEARLE**, of the City of Toronto, in the Province of Ontario,  
MAKE OATH AND SAY:

1. I am the General Manager and the sole director of The Body Shop Canada Limited (“**TBS Canada**” or the “**Company**”). I have been the General Manager since February 10, 2023. I am also a former officer and director of TBS Canada’s U.S. affiliate, Buth-Na-Bodhaige Inc. (“**TBS US**”). I have been actively engaged in the discussions and negotiations surrounding the financial circumstances of TBS Canada since prior to the commencement of these proceedings. As such I have personal knowledge of the matters referred to in this Affidavit. Where I have relied upon other sources of information, I have stated the source of that information and verily believe such information to be true.

2. I swear this Affidavit in support of a motion (the “**First Motion**”) by TBS Canada for, among other things, an order (the “**Declaration Order**”) that no party, including the



Company, the Monitor (as defined below), The Body Shop International Limited (the “**UK Purchaser**”), nor their respective directors, officers, employees or other representatives, shall have any liability or obligation, including in respect of any claims based on any statutory or common law right to rescission or damages, arising from the failure of TBS Canada, the Monitor or the UK Purchaser to provide Serruya Private Equity Inc., 1001072685 Ontario Inc. (the “**Purchaser**”), or any other party, and their respective directors, officers and shareholders, as applicable, with any disclosure that may be required under section 5 of the *Arthur Wishart Act (Franchise Disclosure)*, 2000, S.O. 2000, c. 3, or any similar provision in any other provincial franchise statutes or any similar laws of any jurisdiction in Canada, solely in connection with the execution of the Franchise Agreement (as defined below) by the Purchaser.

3. I also swear this Affidavit in support of a motion by TBS Canada for, among other things, the following orders (the “**Second Motion**”, and together with the First Motion, the “**Motions**”):

(a) an order (the “**Approval and Vesting Order**”):

- (i) approving the asset purchase agreement (the “**APA**”) dated as of December 6, 2024 between TBS Canada, as seller, and the Purchaser and vesting all of TBS Canada’s right, title and interest in and to the Purchased Assets (as defined below) in the Purchaser;
- (ii) granting a sealing order to the extent necessary to retain confidentiality over certain commercially sensitive information in

relation to the APA (defined below as the “**Confidential Information**”); and

- (iii) authorizing TBS Canada to change its name following the closing of the Transaction and change the style of cause in this CCAA proceeding;
- (b) an order (the “**Assignment Order**”) pursuant to section 11.3 of the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the “**CCAA**”), among other things, assigning, conveying and transferring to the Purchaser the rights and obligations of TBS Canada under the Material Agreements (as defined below); and
- (c) an ancillary order (the “**Ancillary Order**”), among other things:
  - (i) authorizing and empowering the Monitor (as defined below) to, among other things, exercise any powers that may be properly exercised by any board of directors of TBS Canada;
  - (ii) declaring that pursuant to sections 5(1)(b)(iv) and 5(5) of the *Wage Earner Protection Program Act* (“**WEPPA**”), TBS Canada meets the criteria prescribed by section 3.2 of the *Wage Earner Protection Program Regulations*, SOR/2008-222 (the “**WEPP Regulations**”); and
  - (iii) extending the stay of proceedings from December 13, 2024 to March 31, 2025.

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## A. BACKGROUND AND OVERVIEW

4. TBS Canada is a retailer specializing in the sale of skincare, haircare and bath and body products under the “The Body Shop” brand.

5. TBS Canada and TBS US are wholly owned subsidiaries of TBSI Realisations Limited (formerly The Body Shop International Limited)<sup>1</sup> (the “**UK Parent**”), and have historically relied on the UK Parent for several accounting and cash management services. These services were provided pursuant to a cash management system and cash pooling arrangement. TBS Canada also licensed the use of the “The Body Shop” brand in Canada from the UK Parent.

6. TBS Canada found itself in a liquidity crisis when the UK Parent unexpectedly filed for administration in the United Kingdom on February 13, 2024 (the “**UK Administration**”)<sup>2</sup>, effectively halting all financial support for the Company and its operations within Canada.

7. On March 1, 2024, TBS Canada filed a notice of intention to make a proposal (the “**NOI**”) under the *Bankruptcy and Insolvency Act*, R.S.C., 1985, c. B-3. Alvarez & Marsal Canada Inc. (“**A&M**”) was appointed to act as the proposal trustee.

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<sup>1</sup> The UK Purchaser (as defined below) acquired the rights to “The Body Shop International Limited” name and the UK Parent has changed its name to TBSI Realisation Limited.

<sup>2</sup> Tony Wright, Geoff Rowley and Alastair Massey of FRP Advisory were appointed as joint administrators of the UK Parent.

8. On March 8, 2024, TBS US commenced proceedings under chapter 7 of title 11 of the United States Code in the United States Bankruptcy Court for the Southern District of New York.

9. On July 5, 2024 (the “**Filing Date**”), an order (the “**Initial Order**”) was made, among other things, converting the NOI proceeding to a proceeding under the CCAA and appointing A&M as the Court-appointed monitor of TBS Canada (in such capacity, the “**Monitor**”).

10. An order was also made on July 5, 2024 (the “**Sale Process Order**”) that, among other things, approved a sale process to identify one or more purchasers of the Company, its business or assets (the “**Sale Process**”).

11. On October 4, 2024, this Court made an order, which: (i) extended the stay of proceedings up to and including December 13, 2024 (the “**Stay Period**”); (ii) declared the UK Purchaser to be a critical supplier pursuant to section 11.4 of the CCAA; and (iii) granted a critical supplier charge in favour of the UK Purchaser (the “**Critical Supplier Charge**”) to secure the purchase price of certain inventory acquired by TBS Canada.

12. TBS Canada has now entered into a definitive agreement with the Purchaser to acquire substantially all of the business and assets of the Company as a going concern (the “**Transaction**”), the details of which are more particularly described below.

13. Due to timing constraints, the parties are unable to meet certain disclosure obligations mandated by Canadian franchise law that are engaged in connection with the Transaction. This failure could potentially result in liability for the Monitor, TBS Canada,

and the UK Purchaser. It is a condition to the closing of the Transaction that TBS Canada obtains the Declaration Order to protect these parties from such potential liability.

14. If the Declaration Order is granted, the Company will immediately thereafter seek this Court's approval of the APA and the Transaction contemplated therein and certain related relief contemplated in the proposed Assignment Order and Ancillary Order.

15. The Transaction will offer various benefits for the Company and its stakeholders. If approved, the Transaction will result in the continuation of a significant number of TBS Canada's retail stores, provide continued employment to at least 400 of the Company's employees and approximately 100 of its seasonal employees, preserve relationships with landlords and continue the "The Body Shop" business in Canada as a going concern.

## **B. THE SALE PROCESS**

### **(i) The Key Terms of the Sale Process**

16. TBS Canada and the Monitor designed the Sale Process to encourage potential transactions that would, among other things, allow TBS Canada to continue to operate as a going concern in order to maximize value for its stakeholders, preserve as many jobs as possible and limit, to the extent possible, any disruptions to landlords, suppliers, customers and other stakeholders.

17. The Sale Process was structured having regard to the fact that TBS Canada does not own the "The Body Shop" trademark or its associated intellectual property. Instead, the Company held a license to sell "The Body Shop" products through a distribution and

franchise agreement with the UK Parent. The Sale Process and the procedures for the Sale Process are attached to my Affidavit as **Exhibit “A”**.

18. At the time the Sale Process Order was issued, a separate process was ongoing in the UK Administration to find potential buyers for the business or assets of the UK Parent (the “**UK Sale Process**”). In consideration of the indeterminate nature of the UK Sale Process, the Sale Process provided that the bid deadline would not be set until a purchaser was identified in the UK Sale Process and it was clear whether such purchaser would appoint a new operator to license the “The Body Shop” intellectual property for continued use in Canada or acquire the shares of TBS Canada.

19. The interconnected nature of the UK Parent and TBS Canada gave rise to a number of unique considerations for bidders in the Sale Process, including the following:

- (a) *Intellectual Property Agreement*: To operate the “The Body Shop” business in Canada or sell any branded inventory, the purchaser of TBS Canada’s assets and business would need to settle the terms of a franchise or other arrangement with the UK Purchaser, who owns the intellectual property. The Sale Process mandated that parties submitting bids outline any proposed franchise or similar arrangement with the UK Purchaser to qualify as a “Qualified Bid”;
- (b) *Pricing Structure*: Historically, as a corporate subsidiary, TBS Canada purchased inventory from the UK Parent at original cost value. The purchaser would need to negotiate a new pricing structure and related payment terms for the purchase of branded inventory from the UK

Purchaser. This change could materially impact the profitability of the future business; and

- (c) *Shared Services and Operating Platforms*: TBS Canada historically relied on the UK Parent for various shared services and operating platforms, including IT, accounting, finance, logistics, and other services. Any purchaser would need to establish an entirely new operating platform for the business to replace the shared services previously provided by the UK Parent.

**(ii) The Implementation of the Sale Process**

20. The initial phase of the Sale Process commenced prior to the Filing Date. In early June 2024, A&M, in its capacity as proposal trustee of TBS Canada, engaged with a select group of private equity and retail investors located in Canada, the United States and internationally. At that time, A&M invited parties to execute a confidentiality agreement in order to obtain access to a data room to explore the opportunity to acquire the Company, its business or assets.

21. On the Filing Date, this Court granted the Sale Process Order, authorizing the Company to continue the Sale Process and establishing formal procedures for the sale of TBS Canada, or all or any portion of its business and assets.

22. The Monitor and TBS Canada contacted 55 parties, comprised of 30 Canadian and 25 U.S./International parties to solicit interest in acquiring the Company or some or



all of its assets. These parties were provided with a teaser regarding TBS Canada's business and details around the Sale Process.

23. Of the parties contacted, 21 parties ("**Interested Parties**") executed a non-disclosure agreement and were provided with certain marketing materials, financial information and granted access to a data room containing confidential information about TBS Canada, its assets and its operations. Interested Parties were also provided with a form of asset purchase agreement to mark up and submit as part of their bid. Certain Interested Parties also attended management meetings with members of TBS Canada's management and operations teams.

24. The Monitor and TBS Canada engaged with the UK Parent's franchise team (prior to the closing of the UK Transaction), the UK Purchaser and Interested Parties on a potential franchise arrangement, including providing Interested Parties with a template master franchise agreement and business planning model that each current franchisee of the UK Purchaser maintains for its local market. Over the course of the Sale Process, seven of the Interested Parties held virtual meetings with TBS Canada, the UK Purchaser and the Monitor to discuss potential franchising arrangements and future business plans. I attended many of these meetings to assist Interested Parties in understanding the Company's business in Canada.

### **(iii) The Bid Deadline**

25. On September 6, 2024, it was announced that a consortium bid led by Aurea Group (now the UK Purchaser) had successfully acquired the assets of the UK Parent. The UK Purchaser advised TBS Canada that it would prefer to continue the Canadian business

and operations through a franchise arrangement rather than a corporate subsidiary or a joint venture.

26. On the same date, the Monitor sent a letter (the **“Process Letter”**) to Interested Parties advising that the deadline for submitting offers was October 8, 2024 (the **“Bid Deadline”**) and establishing other key dates in the Sale Process. The Process Letter is attached to my Affidavit as **Exhibit “B”**.

27. The key dates and milestones set out in the Process Letter were as follows:

Milestone	Deadline
Bid Deadline	5:00 pm EST on Tuesday, October 8, 2024
Selection of a Successful Bid	Friday, October 11, 2024, or such later date as may be determined by the Company, in consultation with the Monitor
Outside Date	Friday, November 15, 2024

28. The key milestones were established with a view to allowing Interested Parties enough time to engage with the UK Purchaser and establish the terms of any franchise agreement or similar arrangement.

29. On or about the Bid Deadline, the Monitor received four bids. Of the bids received, only two of the bids were “Qualified Bids” within the meaning of the Sale Process (the **“Qualified Bids”** and the parties who submitted such bids being the **“Qualified Bidders”**). Each of the Qualified Bids was structured as an asset purchase transaction, conditional on the prospective purchaser entering into a franchise agreement with the UK Purchaser. As described below, one of the Qualified Bidders is the Purchaser that was ultimately

selected as the successful bidder. The other two bids were: (i) an alternative transaction structure whereby the purchaser proposed a partnership or joint venture arrangement with the UK Purchaser to continue the operations of TBS Canada; and (ii) a bid in the form of a preliminary expression of interest that was not sufficiently advanced to qualify as a Qualified Bid.

**(iv) Selection of the Successful Bidder**

30. Following the Bid Deadline, the Monitor and TBS Canada advanced discussions with the Qualified Bidders. TBS Canada and the Monitor also dedicated considerable time to engaging with the UK Purchaser and its franchise team on the Qualified Bids received and the pricing terms of a potential franchise arrangement and a related transition services agreement.

31. While the Process Letter contemplated that TBS Canada would select a winning bidder by October 11, 2024, discussions between the Qualified Bidders and the UK Purchaser had not progressed sufficiently to finalize the terms of a franchise agreement by that date and the Qualified Bidders continued their due diligence. TBS Canada, in accordance with the Sale Process and following consultation with the Monitor, determined to extend this deadline to allow further time to settle the terms of a potential franchise arrangement and proposed acquisition of the Company's business.

32. On October 11, 2024, the Monitor posted an update on its website and advised the Company's stakeholders that the October 11<sup>th</sup> deadline had been extended. Attached to my Affidavit as **Exhibit "C"** is a copy of a screenshot of the Monitor's notice from its website.

33. In the weeks that followed, the Company and the Monitor continued to engage in discussions with each of the Qualified Bidders and the UK Purchaser on the steps needed to reach an actionable transaction. A number of issues required resolution before a franchise agreement could be finalized with the UK Purchaser, including guidelines for operations, merchandising and intellectual property, pricing and payment terms for inventory and the terms of a transition services agreement to ensure the UK Purchaser continued to provide certain critical services (e.g. IT services) following the closing of the transaction.

34. I believe that although several parties showed interest in TBS Canada's business, the necessity to finalize the terms of a franchise agreement and transition services arrangements introduced significant deal risk and uncertainty. This deterred parties and prolonged negotiations between the Qualified Bidders and the UK Purchaser.

35. Having regard to the key dates of the Sale Process, including the November 15, 2024 outside date, and the protracted nature of the negotiations between the parties, TBS Canada and the Monitor re-engaged with certain Interested Parties and new participants on or about the week of November 11, 2024. This was done to re-assess their level of interest and their capacity to enter into a transaction with deal certainty on an expedited basis. While certain Interested Parties expressed interest in pursuing a transaction, no Interested Parties (other than the Qualified Bidders who had previously submitted Qualified Bids on the Bid Deadline) submitted a bid in respect of the Company or its assets.

36. While ongoing negotiations were significantly advanced with one of the Qualified Bidders, TBS Canada and the UK Purchaser were unfortunately unable to settle the terms of a transaction and franchise arrangement with either of the Qualified Bidders or any other Interested Party by the November 15<sup>th</sup> outside date.

37. Nevertheless, TBS Canada, the Monitor and the UK Purchaser continued to engage with the Qualified Bidders and certain other Interested Parties. On November 18, 2024, the UK Purchaser advised the Company and the Monitor that they were prepared to finalize a transaction with one of the Qualified Bidders, which is an affiliate of the Purchaser ("**Purchaser Affiliate**"), as its preferred franchise partner. While the other Qualified Bidder was well advanced in negotiations with the UK Purchaser, it was ultimately unable to reach an arrangement on a franchise agreement with the UK Purchaser.

38. In the days that followed, the UK Purchaser, TBS Canada, the Monitor and the Purchaser Affiliate negotiated the terms of an asset purchase transaction. At the same time, I understand the UK Purchaser maintained discussions with the other Qualified Bidder and other Interested Parties about potential transactions if the transaction with the Purchaser Affiliate did not close.

39. On November 20, 2024, TBS Canada and the Purchaser Affiliate, on behalf of the Purchaser, entered into a non-binding term sheet in respect of the Transaction. On November 21, 2024, the Purchaser Affiliate paid a sizeable deposit to the Monitor on behalf of the Purchaser, to be held in escrow (the "**Deposit**").

40. In the days that followed payment of the Deposit, counsel for the Company and the Purchaser negotiated the terms of a definitive APA in respect of the Transaction. At the same time, the Purchaser worked to finalize franchise terms and the terms of a transition services arrangement with the UK Purchaser. The Purchaser required the Transaction to close on December 4, 2024, a closing condition that was negotiated by the Purchaser such that it would capture the benefit of the lucrative holiday sale period.

### C. FRANCHISE MATTERS

41. As described herein, the Sale Process was structured to provide sufficient time for parties to negotiate franchise and pricing terms with the UK Purchaser. This approach aimed to ensure that a franchise agreement (or an alternative arrangement) could be finalized either before, or concurrently with, an asset purchase agreement with TBS Canada. Throughout the Sale Process, the Company and the Monitor worked with the UK Purchaser to advance this process. This included advising the UK Purchaser to engage Canadian legal counsel to address Canadian franchise law issues.

42. On or about November 25, 2024, the Company and the Monitor learned that the Purchaser had settled franchise terms with the UK Purchaser and was prepared to enter into a master franchise agreement that would allow the “The Body Shop” business to continue to operate in Canada.

43. On November 26, 2024, the UK Purchaser informed the Company and the Monitor that while it had settled the terms of a master franchise agreement with the Purchaser, it was not prepared to execute the master franchise agreement (together with all related or ancillary agreements, the “**Franchise Agreement**”) at that time, as it was unable to

provide a franchise disclosure document to the Purchaser, as may be required under certain provincial franchise legislation.

44. I have been advised by Davies that under the franchise legislation in effect in certain Canadian provinces,<sup>3</sup> a franchisor (the UK Purchaser) must provide a franchisee (the Purchaser) with a franchise disclosure document (“**FDD**”) containing all material facts, including any prescribed information and documents in the applicable provincial franchise statute (including financial statements as prescribed and copies of all proposed franchise agreements or related agreements to assist the franchisee to make an informed investment decision). Davies has explained to me that the franchisor must provide the FDD at least 14 days *prior to* the earlier of the signing of a franchise agreement or the payment of consideration on behalf of the prospective franchisee.

45. Davies has advised that a franchisor’s failure to deliver an FDD, or the delivery of a deficient FDD, would allow the franchisee to rescind the franchise agreement and claim damages. This includes damage claims against a “broker”, which may include parties who market a franchise.

46. The Company and the Monitor are concerned about the risk of being exposed to damage claims due to the failure to provide the FDD, given that they marketed TBS Canada and its business through the Sale Process, which required tripartite negotiations to reach an executable transaction. The UK Purchaser has also indicated its

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<sup>3</sup> Alberta, British Columbia, Manitoba, New Brunswick, Ontario and Prince Edward Island.

unwillingness to enter into the Franchise Agreement due to the risk that the Purchaser may rescind the agreement or seek damages under franchise legislation.

47. While the Purchaser and the Company had significantly advanced an APA, it became clear on November 27, 2024, that due to the franchise disclosure issues, the Transaction could not close by December 4, 2024, as originally required by the Purchaser.

48. In the days that followed, the UK Purchaser, the Purchaser, the Company and the Monitor, and their respective counsel, engaged in discussions to find potential solutions to address the franchise disclosure issues while ensuring the Transaction could close in a timely manner. Unfortunately, the UK Purchaser has advised it is not in a position to provide the FDD for several months.

49. TBS Canada cannot defer the closing of the Transaction without significantly impacting recoveries for its creditors. The Company's highest revenues are generated during the holiday season. In January, both sales and inventory will be reduced and any purchaser will be required to inject significant working capital. In addition, a number of the Company's leases expire at the end of 2024 and the first quarter of 2025. All of these issues will inevitably impact the economics of the Transaction or any alternative transaction. Further, several shared services provided to TBS Canada by the UK Purchaser, including IT services and point-of-sale systems, will terminate on December 31, 2024. TBS Canada will be unable to operate unless it orders new inventory and negotiates a new agreement with the UK Purchaser, incurring additional costs and



expenses. Failure to close the Transaction at this time may result in TBS Canada being required to commence a liquidation process.

50. As a result, the Company is seeking the Declaration Order to facilitate the closing of the Transaction on December 16, 2024 and provide parties with the assurance that they will be insulated from any rescission or damage claims arising from non-compliance with franchise disclosure obligations.

51. Each of the UK Purchaser, the Purchaser, the Monitor and the Company support this relief and agreed to finalize the APA and the Franchise Agreement on the understanding that TBS Canada will seek the Declaration Order.

#### **D. THE TRANSACTION**

52. On December 6, 2024, TBS Canada, in consultation with its legal advisors and the Monitor, entered into the APA with the Purchaser. The Purchaser is an affiliate of the Purchaser Affiliate and owned and controlled by Serruya Private Equity Inc. ("**SPE**").

53. The Closing Date for the Transaction is December 16, 2024.

54. Pursuant to the APA, TBS Canada has agreed to sell to the Purchaser substantially all of its assets. A redacted copy of the APA is attached to this Affidavit as **Exhibit "D"**. An unredacted copy of the APA will be filed as a confidential appendix to the Monitor's report filed in connection with these Motions.

55. The Transaction is subject to, among other things, this Court granting the Declaration Order and the Court's approval in the form of the Approval and Vesting Order.

56. The key terms and conditions of the APA are summarized below.

**(a) Purchased and Excluded Assets**

57. The Purchaser will acquire substantially all of TBS Canada's assets on an "as is, where is" basis, free and clear of all claims and encumbrances, including the charges ordered by the Court pursuant to the Initial Order.<sup>4</sup>

58. The purchased assets under the APA include, among other things, the following (collectively, the "**Purchased Assets**"):

- (a) **Purchased Locations**: the rights of TBS Canada under leases and other agreements in respect of a prescribed minimum number of TBS Canada's retail locations (the "**Purchased Locations**"), which are a significant number of the retail locations;
- (b) **Inventory**: all of TBS Canada's inventory, including inventory located at the Excluded Locations (as defined below);
- (c) **FF&E**: fixtures, furniture and equipment located at the Purchased Locations, with an option to acquire the fixtures, furniture and equipment located at the Excluded Locations;

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<sup>4</sup> Such encumbrances will be set out in Schedule B to the draft form of Approval and Vesting Order and include the charges ordered by the Court pursuant to the Initial Order and an Order made on October 4, 2024 (*i.e.* the Administration Charge, D&O Charge, Critical Supplier Charge and KERP Charge) and any charges or security interests registered under any personal property registry systems.

- (d) **Prepaid Expenses:** all deposits and prepaid expenses of TBS Canada relating to the Purchased Assets;
- (e) **Assumed Contracts:** certain contracts needed to operate TBS Canada's business, including the leases associated with the Purchased Locations (the "**Assumed Contracts**"), subject to obtaining a consent to assignment or the Assignment Order in respect of those contracts that require consent of the counterparty to assign; and
- (f) **Books and Records:** all books and records of Seller, other than those required by law to be retained by Seller.

59. The Purchaser may remove any Assumed Contract from the list of Purchased Assets and a fixed number of Purchased Locations from the list of Purchased Assets, provided that a prescribed minimum number of Purchased Locations are acquired by the Purchaser. The APA found as Exhibit "D" to this Affidavit redacts the exact number of Purchased Locations that the Purchaser has agreed to acquire and the number of Purchased Locations that may be removed from the list of Purchased Assets.

60. I understand a final schedule of Assumed Contracts and Purchased Locations will be provided to the counterparties to the applicable contracts and leases prior to the Closing Date.

61. The APA contemplates a transition services period following the Closing Date, during which period TBS Canada will, among other things, assist the Purchaser with the wind-down and liquidation of the inventory located at stores that are not Purchased Locations (the "**Excluded Locations**"). As more particularly described below, the

Purchaser will pay TBS Canada, in advance, for its costs associated with liquidating the Excluded Stores.

62. The Purchaser is not acquiring any “Excluded Assets”. The Excluded Assets include, among other things, the following:

- (a) **Cash**: TBS Canada’s cash and cash equivalents (other than petty cash);
- (b) **Accounts Receivable**: accounts receivable, including intercompany accounts receivable;
- (c) **Claims**: the rights of the Company as against the UK Parent, Aurelius Investment Lux One SARL, Aurelius IV UK Acquico Seven Limited, Aurelius IV UK Acquico Eight Ltd., or any of their affiliates including, without limitation, those rights pursuant to the proof of debt submitted by TBS Canada in the UK Administration on May 17, 2024;
- (d) **Intercompany Contracts**: any contract between TBS Canada and any current or previous affiliate, including the Selective Master Distribution & Franchise Agreement between the Company and the UK Parent effective as of October 4, 2023;
- (e) **Excluded Locations**: the rights of TBS Canada under any lease in respect of an Excluded Location;
- (f) **Bank Accounts**: any bank accounts of TBS Canada; and

- (g) **Income Tax**: any income tax instalments paid by TBS Canada and the right to a refund of income taxes.

**(b) The Purchase Price**

63. The purchase price payable under the APA (the “**Purchase Price**”) is comprised of cash and the assumption of certain liabilities.

64. The Purchase Price is subject to certain adjustments in respect of prepaid rent and the petty cash located in the retail stores as of the Closing Date. If there are amounts owing to either the Purchaser or TBS Canada by the other party following the adjustments, they will be paid after the closing of the Transaction.

65. The Purchase Price has been redacted from the APA attached as Exhibit “D” to this Affidavit and is subject of a sealing order request, as further detailed below.

66. The Purchase Price will provide reasonable and fair consideration which will allow TBS Canada to orderly wind down its operations.

**(c) Employee-Related Matters**

67. The Purchaser will offer employment to approximately 400 of the Company’s employees and 100 of its seasonal employees, on terms and conditions that are substantially similar to those in effect immediately prior to the Closing Date (including recognizing any such employees’ past service) (those employees who accept the Purchaser’s offer of employment being the “**Transferred Employees**”). The Purchaser has agreed to assume all liabilities of TBS Canada relating to the Transferred Employees, arising from and after the Closing Date.

**(d) Transition Services**

68. The APA provides that TBS Canada and the Purchaser will provide certain transition services to one another to assist with the transition of the “The Body Shop” business, the liquidation of the inventory at the Excluded Locations, and the administration of these CCAA proceedings. These services include administrative and back-office support to prepare payroll and tax forms, facilitating payment of priority payables, completing any claims process, and assisting with communications with internal and external stakeholders.

69. The transition services will be provided by each party at no cost, except the Purchaser has agreed to pay TBS Canada, in advance, for all amounts payable under any leases in respect of the Excluded Locations during the liquidation or other contracts that are Excluded Assets to the extent required by the Purchaser to operate the business during the transition period, costs, benefits and taxes relating to employees who are employed at the Excluded Locations and insurance applicable to the Excluded Locations. In addition, the Company has agreed to remain in possession of its head office lease for up to six months from the Closing Date, on the condition that the Purchaser will pay all rent and amounts owing thereunder.

**(e) Closing Conditions and Covenants**

70. The closing of the Transaction is subject to customary closing conditions, including an Approval and Vesting Order approving the APA and the Transaction and vesting the Purchased Assets in the Purchaser free and clear of all claims and encumbrances.

71. Importantly, the Transaction is not conditional upon financing or any regulatory or other government approval.

72. The other key closing conditions include (i) TBS Canada obtaining the Declaration Order, (ii) TBS Canada obtaining consents to the assignment of, or the Assignment Order assigning, the Material Agreements (as defined below) to the Purchaser, and (iii) the Purchaser, or an affiliate, entering into the Franchise Agreement, including an agreement in respect of transition services with the UK Purchaser.

73. It is also a condition of closing of the Transaction that the Purchaser deliver to TBS Canada, the Monitor, and the UK Purchaser a release, releasing them from: (i) the requirement to provide an FDD in relation to the execution of the Franchise Agreement; and (ii) any known and existing claims or liability, including a statutory right to rescission or damages, that may be available to the Purchaser under Canadian franchise law in connection with the failure of UK Purchaser to provide the Purchaser with an FDD (the “**Release**”).

74. For the reasons set out herein, I support the Transaction and believe that it represents the best available deal for TBS Canada to continue its operations as a going concern.

## **E. UPDATES ON EMPLOYEE MATTERS**

75. On October 9, 2024, Mr. Andrew Hatnay of Koskie Minsky LLP, counsel for certain former employees of TBS Canada, wrote Davies Ward Phillips & Vineberg LLP, counsel for the Company and Cassels Brock Blackwell LLP (“**Cassels**”), counsel for the Monitor,

a letter which is attached to my Affidavit as **Exhibit “E”**. In the letter, Mr. Hatnay, among other things, requested the Company to bring a receivership application to permit certain former employees to access the WEPPA and asked for an update on the Sale Process.

76. I understand from Davies that they had a call with the Monitor’s counsel, the Monitor and certain representatives of Koskie Minsky on October 16, 2024, where among other things, they discussed the WEPPA and the Monitor provided certain updates on the Sale Process.

77. I understand from Davies that if certain criteria under the WEPPA are met, former employees of TBS Canada can access the WEPPA, without the need to appoint a receiver or file TBS Canada for bankruptcy. Accordingly, during the meeting with Koskie Minsky, counsel for the Company committed to seeking WEPPA relief pursuant to the WEPP Regulations for TBS Canada’s former employees if a successful bid was identified in the Sale Process that would satisfy the WEPPA criteria.

78. On October 28, 2024, Ms. Natalie Levine of Cassels sent Koskie Minsky the letter attached to my Affidavit at **Exhibit “F”**, which memorializes this commitment by the Company.

79. On November 25, 2024, Ms. Levine contacted Mr. Hatnay to offer a call on the proposed transaction with the Purchaser (which remained unsigned at that time).

80. I understand that on December 5, 2024, Davies and Cassels had a call with Koskie Minsky to discuss the Transaction.



81. I am advised by Davies that subject to approval of this Court, the WEPPA criteria would be met upon the closing of the Transaction and as a result, TBS Canada is seeking this Court's approval of same. I provide a more detailed explanation of the WEPPA relief sought by TBS Canada in paragraphs 115 to 119 below.

## **F. RELIEF SOUGHT**

82. As described above, TBS Canada is seeking the following orders: (i) Declaration Order, (ii) Approval and Vesting Order; (iii) Assignment Order; and (iv) Ancillary Order. Further details about the orders and the Company's reasons for seeking the orders are set out in the paragraphs that follow.

### **(i) Declaration Order**

83. The Company is seeking the Declaration Order providing that no party, including the Company, the Monitor and the UK Purchaser shall have any liability in connection with the failure to provide the Purchaser with any disclosure that may be required by applicable franchise laws.

84. As described above, this relief is a condition to the closing of the Transaction.

85. I do not believe that any of TBS Canada's stakeholders will be adversely impacted by the Declaration Order. To the contrary, the Declaration Order will facilitate the closing of the Transaction in circumstances where the UK Purchaser is unable to deliver the FDD in relation to the execution of the Franchise Agreement prior to the Closing Date, let alone 14 days before the execution of such agreement or the payment of consideration to the UK Purchaser. For the reasons described above, I believe that it will detrimental to the

Company's stakeholders and reduce recoveries if the Transaction does not close on or before the Closing Date.

86. The Purchaser, the sole party whose rights are affected by the Declaration Order, is affiliated with a sophisticated commercial party with substantial experience in franchise arrangements (including as a franchisor) and is in favour of the relief. I understand that the Purchaser will be submitting an affidavit in support of the Declaration Order. Further, the Monitor and the UK Purchaser also support the requested relief.

**(ii) Approval and Vesting Order**

**(a) Approving the Transaction**

87. TBS Canada believes that the Transaction is the most favourable option available in the circumstances for maximizing value for its stakeholders and continuing the business as a going concern.

88. After a thorough and protracted Sale Process, where over 55 potential bidders were solicited, the Transaction represents the best viable going concern transaction available. Importantly, the Purchaser has the support of the UK Purchaser, without which the "The Body Shop" brand cannot continue in Canada.

89. I believe that the Transaction will result in a positive outcome for TBS Canada's stakeholders. TBS Canada currently employs approximately 600 employees (including seasonal employees). The Transaction will preserve at least 400 of the Company's store level and head office jobs and 100 seasonal jobs, maintain the operation of a significant number of the Purchased Locations and limit business disruption.

90. In addition, the Transaction is also favourable because of SPE's track record of success in the retail industry, which positions The Body Shop business for success under its stewardship. SPE, which owns and controls the Purchaser, has founded or acquired a number of companies in the past, including Yogen Früz, Pinkberry, Swensen's Ice Cream, St. Louis Bar and Grill and Second Cup Coffee Co. (now sold), among others.

91. The Purchaser and its owners have also demonstrated their commitment to closing the Transaction and have provided the Deposit to the Monitor in a sizeable amount, and it is only refundable in limited circumstances.

92. I understand from the Monitor that it supports TBS Canada's request for approval of the APA and the Transaction. I am also advised that the UK Purchaser has expressed its support for the relief TBS Canada is seeking on the Second Motion.

**(b) Vesting Out Charges and Encumbrances**

93. The APA requires the Approval and Vesting Order to transfer the Purchased Assets to the Purchaser free and clear of all encumbrances. TBS Canada has provided the service list with notice of the Second Motion, including any party who holds a security registration<sup>5</sup> or Court-ordered charge against the assets of the Company.

94. TBS Canada will pay all amounts outstanding under its key employee retention plan on the closing of the Transaction. As a result, the Approval and Vesting Order

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<sup>5</sup> As described in prior affidavits, the following parties have security registrations against TBS Canada: (a) Enterprise Fleet Management Canada, Inc. and (b) HSBC Bank Canada and Hong Kong Bank of Canada (which have now been acquired by the Royal Bank of Canada). Aurelius IV UK Acquico Seven Limited ("**Aurelius Seven**") previously held registrations in every territory and province in Canada but Aurelius Seven has released the security granted by the Company.

provides that the KERP Charge (as defined in the Initial Order) will be discharged on the filing of the Monitor's Certificate (as defined in the Approval and Vesting Order).

95. The Approval and Vesting Order also provides that the Critical Supplier Charge granted to the UK Purchaser will be discharged and released effective on the closing of the Transaction.

96. As described above, the UK Purchaser was designated a critical supplier and granted the Critical Supplier Charge as security for the purchase price of certain inventory acquired by TBS Canada. The terms of the inventory transaction are described in further detail in my Affidavit sworn September 25, 2024. As noted above, the Purchaser will acquire all of TBS Canada's inventory. The outstanding purchase price for the inventory will be paid by TBS Canada on or before the Closing Date. As a result, no amounts will be owed to the UK Purchaser by the Company, and the Critical Supplier Charge should be discharged.

**(c) Sealing Order**

97. TBS Canada is seeking an order sealing an unredacted copy of the APA, a summary of the bids received in the Sale Process and the Monitor's liquidation analysis (collectively the "**Confidential Information**"), each of which will be attached as a confidential appendix to the report of the Monitor filed in connection with the Motions.

98. Pursuant to the APA, TBS Canada is required to redact any information from the APA that the Purchaser determines is commercially sensitive. The Purchaser has asked for the Confidential Information to be sealed. The Confidential Information includes

information about the Purchase Price and related financial information and the details of other bids received in the Sale Process.

99. I believe that disclosure of the Confidential Information could pose a serious risk to the objective of maximizing value in these CCAA proceedings. If the Transaction does not close, disclosure of the Confidential Information would impair the integrity of any subsequent process to find a purchaser for the assets of TBS Canada.

100. I am advised by the Monitor that it is in support of sealing the Confidential Information.

**(d) Change of Style of Cause**

101. TBS Canada has agreed that upon the closing of the Transaction, TBS Canada shall change its legal corporate name in order to avoid confusion with the “The Body Shop” brand that will continue to be operated by the Purchaser following the Closing Date. TBS Canada will change its name to “OLD TBS Canada Limited”.

102. Accordingly, TBS Canada is also seeking to amend the style of cause for the CCAA proceedings to reflect the name change pursuant to the Approval and Vesting Order.

**(iii) The Assignment Order**

103. TBS Canada is seeking the Assignment Order to assign the leases in connection with the Purchased Locations and other contracts the Purchaser considers material to continue to operate the “The Body Shop” business as a going concern beyond closing of the Transaction (the “**Material Agreements**”). A complete list of the Material Agreements to be assigned will be included as Schedule “A” to the draft Assignment Order, which will be included as part of the motion record.

104. Several of the Material Agreements that the Purchaser will be assuming pursuant to the APA require consents from their respective counterparties (**“Third Party Consents”**) in order to assign them to the Purchaser.

105. Under the APA, TBS Canada and the Purchaser must use commercially reasonable efforts to obtain all Third Party Consents required to assign the Material Agreements. It is a condition of closing of the Transaction that if any Third Party Consents cannot be obtained, TBS Canada is required to obtain a court order under section 11.3 of the CCAA assigning the relevant Material Agreements to the Purchaser.

106. Unfortunately, given the relatively short time frame between the signing of the APA and the Closing Date, TBS Canada is not confident that it will obtain all of the Third Party Consents identified by the Purchaser. Out of an abundance of caution, TBS Canada is seeking for all of the Material Agreements to be subject to the Assignment Order (even those for which Third Party Consents have been obtained or are not explicitly required, or where the need for such consent remains unclear). If a Third Party Consent is obtained for any Material Agreement prior to the hearing, the relevant contract will be removed from the list of Material Agreements to be assigned included as Schedule “A” to the Assignment Order.

107. TBS Canada intends to use best efforts to serve the counterparties to each of the Material Agreements to the last known address or contact with the motion record relating to the Second Motion, and for those with only a mailing address, sending a letter directing them to the Monitor’s website where a copy of the motion record will be made available.

108. As described above, the Purchaser may make adjustments to the Purchased Locations and Assumed Contracts prior to the Closing Date. As a result, certain leases and Assumed Contracts may be removed or added to the list of Material Agreements to be assigned to the Purchaser.

109. As described above, an updated schedule will be provided to affected counterparties prior to the Closing Date if any changes to the list of Material Agreements have occurred.

110. Pursuant to the APA, TBS Canada has agreed to pay all monetary defaults in relation to the Material Agreements that are leases for Purchased Locations and the Purchaser has agreed to pay the monetary defaults in relation to the balance of the Material Agreements, other than those arising by reason of TBS Canada's insolvency, the commencement of these CCAA proceedings or TBS Canada's failure to perform a non-monetary obligation (the "**Cure Costs**"). The Cure Costs are set out in the schedule to the APA. The Assignment Order confirms that no Cure Costs will be payable by TBS Canada to the contract counterparties, other than as set out in the schedule.

#### **(iv) The Ancillary Order**

111. TBS Canada is seeking the Ancillary Order to, among other things: (a) expand the Monitor's powers, (b) enable TBS Canada's former employees to access benefits under the WEPPA; and (c) extend the Stay Period to March 31, 2025.

#### **(a) Enhanced Powers for the Monitor**

112. I am the General Manager and sole director of TBS Canada. I will resign from these positions, effective immediately on the Closing Date. In addition, I understand the

Company's officers will also resign effective as of the Closing Date. As a result, TBS Canada will have no directors or officers to make decisions in respect of TBS Canada, including to wind down these CCAA proceedings.

113. In the circumstances, the Company believes it is not only appropriate but also necessary for the Court to grant the Ancillary Order, enhancing the Monitor's powers following the Closing Date by authorizing and empowering it to, among other things:

- (a) exercise any powers that may be properly exercised by a board of directors of TBS Canada;
- (b) execute administrative filings as may be required on behalf of the Company;
- (c) take any and all actions in order to facilitate: (i) the performance of the Company's obligations following the closing of the Transaction, including its obligation to perform transition services and liquidate the Excluded Locations; (ii) the winding down of TBS Canada; (iii) a process for soliciting, determining and resolving any claims against TBS Canada and their present and former directors and officers; and (iv) the termination of these CCAA proceedings;
- (d) act as an authorized representative of TBS Canada in respect of dealings with any taxing or regulatory authority or in connection with the UK Administration, and any claims that may need to be filed therein;



- (e) engage, retain or terminate the services of any employee, including employees needed to liquidate the inventory at any of the Excluded Locations; and
- (f) apply to the Court for advice and directions or any further orders necessary or advisable to carry out the Monitor's powers and duties under the Ancillary Order, or any other order of the Court granted in this CCAA proceeding.

114. I am advised by the Monitor that is supports the Ancillary Order enhancing its powers and is prepared to exercise such an expanded role in accordance with the terms of the Ancillary Order.

**(b) WEPPA Relief for Former Employees**

115. I am advised by Davies and believe that the WEPPA allows eligible former employees to collect certain benefits, including wages, termination and severance pay, that may be owed to those former employees where the former employer is involved in CCAA proceedings and provided that certain criteria under section 3.2 of the WEPP Regulations are met.

116. I am also advised that section 3.2 of the WEPP Regulations requires the Court to make certain determinations in respect of TBS Canada in order for the WEPPA to apply in a CCAA proceeding, including to determine whether all of TBS Canada's employees in Canada have been terminated, other than any retained to wind down its business operations.

117. TBS Canada is the sole employer for individuals who work in the “The Body Shop” business in Canada. As of the date of this Affidavit, TBS Canada employed approximately 600 employees, including seasonal employees.

118. As previously disclosed to this Court, 220 of TBS Canada’s employees were terminated following the initial filing of the NOI on March 1, 2024.

119. In connection with the closing of the Transaction, the balance of TBS Canada’s employees will be terminated (though many will be offered employment by the Purchaser). There are two categories of employee terminations:

- (a) employees who will not be offered employment with the Purchaser but will continue to be employed by TBS Canada for the purpose of liquidating Excluded Locations. These employees will be given working notice on or after the Closing Date (such employees, together with the 220 employees terminated following the filing of the NOI, the “**Former Employees**”); and
- (b) the Transferred Employees, who as described in paragraph 67 above will be offered employment by the Purchaser and will be terminated by TBS Canada immediately prior to the closing of the Transaction. The Transferred Employees who accept the offer of employment will become employees of the Purchaser as of the Closing Date.

120. The Former Employees have claims against TBS Canada in respect of the following: statutory termination and severance pay, health benefits coverage (or pay in lieu thereof), group RRSP contributions, vacation pay, bonuses, and in some cases, reasonable notice damages at common law.

121. TBS Canada therefore believes that its request for a declaration under the WEPPA is appropriate in the circumstances because it will assist the Former Employees in accessing the WEPPA for severance and termination amounts. I am advised by the Monitor and believe that it supports this request.

**(c) Extension of the Stay Period**

122. TBS Canada is seeking an extension of the Stay Period From December 13, 2024 until March 31, 2025.

123. Although the Transaction is scheduled to close on December 16, 2024, as described above, a number of steps need to take place post-closing to transition the business to the Purchaser, including the requirement that TBS Canada remain in possession of its head office lease for a period of up to six months following the Closing Date. The extension of the Stay Period will provide TBS Canada with the time needed to close the Transaction, transition the business to the Purchaser and liquidate the Excluded Locations.

124. I am also advised by Macfarlanes LLP, the Company's UK counsel, that the potential timing of any dividend to creditors of the UK Parent is estimated to be approximately 18 months. We are advised that this timing is owing in part to the fact that there is deferred consideration owing to the UK Parent as part of the sale transaction with the UK Purchaser, which will not be fully paid until August 2025. Accordingly, TBS Canada will not be in a position to make distributions to creditors of TBS Canada from amounts paid by the UK Parent, if any, until at least 2025.

125. As a result, TBS Canada is not in a position to terminate this CCAA proceeding or completely wind down its operations in the near future.

126. TBS Canada will have sufficient funds on hand following the closing of the Transaction to perform its obligations during the extension of the Stay Period.

127. TBS Canada has acted, and continues to act, in good faith and with due diligence in these CCAA proceedings, including through the Sale Process and consummating the Transaction. I understand that the Monitor supports the extension of the Stay Period.

#### **G. CONCLUSION**

128. I believe the relief requested on the Motions is in the best interest of the Company and will maximize returns for TBS Canada's stakeholders.

129. I am of the view that TBS Canada is acting in good faith and with due diligence in seeking the relief sought on the Motions and that if granted, the relief will not prejudice any of the Company's stakeholders.

SWORN remotely by Jordan Searle at the City Toronto, in the Province of Ontario, before me on the 7<sup>th</sup> day of December, 2024 in accordance with O. Reg 431/20, Administering Oath or Declaration Remotely.



Alex Barnes



Jordan Searle

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

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

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

**AFFIDAVIT OF JORDAN SEARLE**  
**SWORN DECEMBER 7, 2024**

**DAVIES WARD PHILLIPS & VINEBERG LLP**  
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**Alexander Barnes (LSO#89981N)**  
Email: abarnes@dwpv.com  
Tel: 416.863.4131

Lawyers for the Body Shop Canada Limited

This is Exhibit "A" referred to in the Affidavit of Jordan Searle sworn by Jordan Searle at the City of Toronto, in the Province of Ontario, before me on December 7, 2024 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



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*Commissioner for Taking Affidavits (or as may be)*

**ALEXANDER BARNES (LSO# 89981N)**

## **SALE PROCESS**

On March 1, 2024, The Body Shop Canada Limited (the "**Company**") filed a notice of intention to make a proposal under the *Bankruptcy and Insolvency Act* (the "**NOI**") and Alvarez & Marsal Canada Inc. was appointed as the proposal trustee (the "**Proposal Trustee**").

On July [5], 2024, the Company continued the NOI proceeding under the *Companies' Creditors Arrangement Act* (the "**CCAA Proceeding**") and Alvarez & Marsal Canada Inc. was appointed as the monitor (the "**Monitor**").

On July [5], 2024, the Ontario Superior Court of Justice (Commercial List) (the "**Court**") made an order, which, among other things approved this sale process (the "**Sale Process**").

The purpose of the Sale Process is to identify one or more purchasers of the Company, the Business and/or Assets (each as defined below). Set forth below are the procedures (the "**Procedures**") that shall govern the Sale Process and any transactions consummated as a result thereof.

### **1. Defined Terms**

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

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

"**Bid**" has the meaning given to it in Section 6;

"**Bid Deadline**" has the meaning given to it in Section 6;

"**Bid Requirements**" has the meaning given to it in Section 7;

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

"**Business**" means the skincare, haircare, bath and body products retail business carried on by the Company;

"**CCAA**" has the meaning given to it in the introduction;

"**CCAA Proceeding**" has the meaning given to it in the introduction;

"**Company**" has the meaning given to it in the introduction;

"**Confidentiality Agreement**" means the confidentiality agreement entered into between the Company and an Interested Party;

"**Court**" has the meaning given to it in the introduction;

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

**"Deposit"** has the meaning given to it in Section 7(i);

**"dollars"** or **"\$"** means Canadian dollars;

**"Interested Party"** means potential bidders and includes (a) parties that have approached the Company, the Proposal Trustee, the Monitor, the UK Parent or the UK Administrators indicating an interest in the opportunity, and (b) strategic parties whom the Company or the Monitor believe may be interested in purchasing the Company or all or part of the Business and Assets (each, an **"Interested Party"** and together **"Interested Parties"**);

**"Outside Date"** means the date that is set out in the Process Letter by which a transaction contemplated by a Bid must close;

**"Procedures"** has the meaning given to it in the introduction;

**"Process Letter"** has the meaning given to it in Section 2;

**"Proposal Trustee"** has the meaning given to it in the introduction;

**"Purchase Price"** has the meaning given to it in Section 7(b);

**"Qualified Bid"** has the meaning given to it in Section 7;

**"Qualified Bidder"** has the meaning given to it in Section 7;

**"Sale Approval Motion"** has the meaning given to it in Section 9;

**"Sale Process"** has the meaning given to it in the introduction;

**"Successful Bid"** has the meaning given to it in Section 8;

**"Successful Bidder"** has the meaning given to it in Section 8;

**"UK Administrators"** means collectively, Geoff Rowley and Alastair Massey of FRP Advisory, as joint administrators of the UK Parent;

**"UK Parent"** means The Body Shop International Limited;

**"UK Purchaser(s)"** means the purchaser or purchasers of "The Body Shop" brand and related intellectual property from the UK Parent; and

**"UK Sale Process"** means the sale process underway in respect of the UK Parent and its assets.

## 2. Timeline

The Monitor shall, no later than five Business Days after a purchaser has been identified in the UK Sale Process, for some or all of the assets of the UK Parent or its business, (a) send a process letter to the service list for the CCAA proceeding and each Interested Party (the **"Process Letter"**), which advise of the commencement of certain key milestones under these Procedures, and (b)



post the Process Letter on the Monitor's website. The following table sets out the key milestones for the Sale Process:

Milestone	Deadline
Commencement of Sale Process	Ongoing
Solicitation of interest and distribution of Confidentiality Agreement	Ongoing
Distribution of the Process Letter to Interested Parties	Five Business Days after the UK Purchaser(s) has been identified in the UK Sale Process for some or all of the assets of the UK Parent, or such other date as the Company and the Monitor determine
Bid Deadline (5:00pm EST)	The date that is set out in the Process Letter , or such other later date or time as may be agreed by the Company, in consultation with the Monitor (the " <b>Bid Deadline</b> ")
Selection of Successful Bid	No later than five Business Days after the Bid Deadline, or such other date as the Company and the Monitor determine
Sale Approval Motion	As soon as practicable after the selection of the Successful Bid
Outside Date	The date that is set out in the Process Letter

### 3. The Procedures

These Procedures set out the manner in which a party becomes a Qualified Bidder and a Bid becomes a Qualified Bid, the receipt, evaluation and negotiation of Qualified Bids received, and the ultimate selection of Successful Bid and the Court's approval thereof. The Company shall supervise the Procedures and will generally consult with the Monitor in respect of all matters arising out of these Procedures. In the event that there is disagreement as to the interpretation or application of these Procedures, the Court will have the jurisdiction to hear and resolve such dispute.

### 4. "As Is, Where Is"

The sale of the Company, the Business or any part of the Assets will be on an "as is, where is" basis and without surviving representations or warranties of any kind, nature or description by the Company, the Monitor or any of their agents or advisors, except to the extent set forth in the relevant sale or investment agreement with a Successful Bidder. By participating in this process, each Interested Party is deemed to acknowledge and represent that it has had an opportunity to conduct any and all due diligence regarding the Business, the Assets or the Company prior to making its Bid, that it has relied solely on its own independent review, investigation, and/or inspection of any documents and/or regarding the Business, the Assets or the Company in making its Bid, and that it did not rely on any written or oral statements, representations, promises,

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

## **5. Solicitation of Interest and Due Diligence**

The Proposal Trustee or the Monitor, as applicable, with the assistance of the Company will send to all Interested Parties (a) a written description of the opportunity, outlining the Procedures and inviting Interested Parties to express their interest pursuant to the Sale Process, and (b) a Confidentiality Agreement, in each case, in form and substance satisfactory to the Company.

The Data Room will be made available to any Interested Party who has executed and delivered a Confidentiality Agreement to the Company prior to the Bid Deadline. An Interested Party's right to access the Data Room or receive any non-public information about the Company shall terminate immediately upon the Bid Deadline.

## **6. Bid Deadline**

An Interested Party that wishes to make a bid to acquire the Business, the Company or all, substantially all or any part of the Assets, must deliver an executed copy of a bid (the "**Bid**") to the Monitor by email to the following address:

Alvarez & Marsal Canada Inc.  
Royal Bank Plaza, South Tower  
200 Bay Street, Suite 2900  
P.O. Box 22  
Toronto ON M5J 2J1 Canada

**Attention:** Josh Nevsky/Mitchell Binder  
**Email:** [jnevsky@alvarezandmarsal.com](mailto:jnevsky@alvarezandmarsal.com)  
[binder@alvarezandmarsal.com](mailto:binder@alvarezandmarsal.com)

so as to be received by it not later than 5:00 p.m. (Eastern Time) on the Bid Deadline.

## **7. The UK Purchaser(s)**

The transaction contemplated by a Qualified Bid shall be conditional on the UK Purchaser(s) entering into a license arrangement, franchise agreement or similar arrangement with Qualified Bidder.

The Company and the Monitor may share Qualified Bids with the UK Purchaser(s), including for the purpose of facilitating discussions and advancing license or other arrangements with the UK Purchaser(s) in respect of the use of "The Body Shop" brand by Qualified Bidders.

## **8. Bid Requirements**

A Bid will be deemed to be a "**Qualified Bid**" if it is determined by the Company, in consultation with the Monitor, to satisfy the following conditions (the "**Bid Requirements**") and each Interested Party that submits a Qualified Bid will be deemed to be a "**Qualified Bidder**":

- (a) Irrevocable Bid: It includes a letter stating that the Bid is irrevocable until Court approval of the Successful Bid;
- (b) Purchase Agreement. It includes a sealed duly authorized and executed definitive purchase agreement together with all completed schedules thereto containing the detailed terms and conditions of the proposed transaction, including identification of the assets proposed to be acquired, the obligations to be assumed, the purchase price (the "**Purchase Price**"), the detailed structure and financing of the proposed transaction;
- (c) License or other Arrangement. It describes any license arrangement, franchise agreement, or similar arrangement, with the UK Purchaser in respect of the right of such Qualified Bidder to use "The Body Shop" brand;
- (d) Proof of Financial Ability to Perform. It includes written evidence upon which the Company, in consultation with the Monitor, may reasonably conclude that the Interested Party has the necessary financial ability to close the contemplated transaction on or before the Outside Date and provide adequate assurance of future performance of all obligations to be assumed in such contemplated transaction. Such information should include, among other things, the following:
  - (i) evidence of the Interested Party's internal resources and proof of any debt or equity funding commitments that are needed to close the contemplated transaction;
  - (ii) contact names and phone numbers for verification of financing sources; and
  - (iii) any such other form of financial disclosure or credit-quality support information or enhancement requested by and reasonably acceptable to the Company demonstrating that such Interested Party has the ability to close the contemplated transaction;
- (e) Unconditional Bid. It is not conditioned on (i) the outcome of unperformed due diligence and/or (ii) obtaining financing;
- (f) Parties. It fully discloses the identity of each person (including any person that controls such person) that will be directly or indirectly sponsoring or participating in the Bid, including whether any prior or current member of the Company's board, management, any employee or consultant to the Company or any creditor) or shareholder of the Company is involved in any way with the Bid or assisted with the Bid, and the complete terms of any such participation as well as evidence of corporate authority to sponsor or participate in the Bid;
- (g) Acknowledgement. It includes an acknowledgement and representation that the Interested Party: (i) has relied solely upon its own independent review, investigation and/or inspection of any documents regarding the Business and/or the Assets to be acquired, liabilities to be assumed or the Company in making its Bid; and (ii) did not rely upon any written or oral statements, representations, promises, warranties conditions or guaranties whatsoever, whether express or implied (by operation of law or otherwise), regarding the Business, Assets to be acquired, liabilities to be assumed, the Company or the completeness of any information

provided in connection therewith, except as expressly provided in any definitive transaction documents;

- (h) Authorization. It includes evidence, in form and substance reasonably satisfactory to the Monitor, of authorization and approval from the Interested Party's board of directors (or comparable governing body) with respect to the submission, execution, delivery and closing of the transaction contemplated by the Bid, and identifies any anticipated shareholder, regulatory or other approvals outstanding, and the anticipated time frame and any anticipated impediments for obtaining such approvals;
- (i) Deposit. It is accompanied by a cash deposit (the "**Deposit**") in an amount equal to 10% of the Purchase Price that shall be paid to the Monitor in trust, which Deposit shall be held and dealt with in accordance with these Procedures;
- (j) Employees. If applicable, it contains full details of the proposed number of employees of the Company who will become employees of the Qualified Bidder and the proposed terms and conditions of employment to be offered to those employees;
- (k) Other. It contains such other information as may reasonably be requested by the Company or the Monitor; and
- (l) Bid Deadline. It is received by the Monitor, at the address specified in Section 6 (including by email) on or before the Bid Deadline.

The Company, in consultation with the Monitor, may waive any one or more minor and non-material violations of the requirements specified for Qualified Bids and deem such non-compliant Bids to be Qualified Bids.

## **9. Evaluation of Qualified Bids and Subsequent Actions**

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

Following such evaluation, the Company may accept, subject to Court approval, one of the Qualified Bids (each a "**Successful Bid**" and the offeror(s) making such Successful Sale Bid being a "**Successful Bidder**") and take such steps as may be necessary to finalize definitive transaction documents for the Successful Bid with the Successful Bidder.

No later than five Business Days after the Bid Deadline, or such other date as the Company and the Monitor determine, the Company shall advise the Qualified Bidders if a Successful Bid has been accepted, or conditionally accepted, as the case may be.

**10. Sale Approval Motion and Acceptance of Qualified Bids**

The Company shall use reasonable efforts to make a motion to the Court (the “**Sale Approval Motion**”) to approve the Successful Bid as soon as practicable following the determination by it of the Successful Bidder. The Company will be deemed to have accepted the Successful Bid only when it has been approved by the Court. All Qualified Bids (other than the Successful Bid) shall be deemed rejected by the Company on and as of the date of approval of the Successful Bid by the Court.

**11. Deposits**

All Deposits shall be held by the Monitor in a single interest bearing account designated solely for such purpose. A Deposit paid by a Successful Bidder shall be dealt with in accordance with the definitive documents for the transactions contemplated by the Successful Bid. Deposits, and any interest earned thereon, paid by Qualified Bidders not selected as a Successful Bidder shall be returned to such Qualified Bidders within three Business Days of Court approval of the Successful Bid.

**12. Modifications and Termination**

The Company or the Monitor shall have the right to adopt such other rules for the Procedures (including rules that may depart from those set forth herein) that will better promote the sale of the Company, the Business or all or any part of the Assets under these Procedures. The Company or the Monitor shall apply to the Court if they wish to materially modify or terminate the process set out in these Procedures. For certainty, any amendments to the Bid Deadline or other dates set out in these Procedures shall not constitute a material modification.

This is Exhibit "B" referred to in the Affidavit of Jordan Searle sworn by Jordan Searle at the City of Toronto, in the Province of Ontario, before me on December 7, 2024 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



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*Commissioner for Taking Affidavits (or as may be)*

**ALEXANDER BARNES (LSO# 89981N)**



September 6, 2024

**Re: The Body Shop Canada Limited – Process Letter**

On March 1, 2024, The Body Shop Canada Limited (“**TBS Canada**”) filed a notice of intention to make a proposal under the *Bankruptcy and Insolvency Act* (the “**NOI**”). On July 5, 2024, TBS Canada continued the NOI proceeding under the *Companies’ Creditors Arrangement Act* (the “**CCAA**”) and Alvarez & Marsal Canada Inc. was appointed as the monitor (the “**Monitor**”).

Also on July 5, 2024, TBS Canada obtained an Order (the “**Sale Process Order**”) from the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) approving a sale process (the “**Sale Process**”). Further information regarding the Sale Process, including the sale process procedures (the “**Procedures**”), can be found in the Sale Process Order accessible [here](#). Capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Procedures.

TBS Canada is a subsidiary of The Body Shop International (the “**UK Parent**”). The UK Parent is currently in an administration proceeding in the United Kingdom (the “**UK Administration Proceeding**”). TBS Canada was recently advised that a purchaser has been identified for the business and assets of the UK Parent (the “**UK Purchaser**”) and the UK Purchaser intends to continue to operate the business of the UK Parent on a going-concern basis.

TBS Canada and the Monitor have also been advised that as part of the UK Purchaser’s strategy it intends that the Canadian region be converted into a “franchise territory” and that TBS Canada’s business continue under new ownership pursuant to a franchise agreement to be established with the UK Purchaser.

This Process Letter is being provided pursuant to section 2 of the Procedures. It is intended to provide Interested Parties with information with respect to the submission of a Bid for the business and/or assets of TBS Canada, including: (i) certain key milestones under the Procedures, (ii) the process for submitting a Bid, including Bid requirements, and (iii) advancing a potential franchise arrangement with the UK Purchaser.

**Key Milestones**

The following table sets out the key milestones for the Sale Process:

<b>Milestone</b>	<b>Deadline</b>
Bid Deadline	5:00 pm EST on Tuesday, October 8, 2024 (“ <b>Bid Deadline</b> ”)
Selection of Successful Bid	Friday, October 11, 2024, or such later date as may be determined by the Company, in consultation with the Monitor.
Outside Date	Friday, November 15, 2024

**Bid Requirements**

As set out in the Sale Process Order, your Bid must comply with the Bid Requirements set out in the Procedures and listed below:

- A. *Irrevocable Bid*: It includes a letter stating that the Bid is irrevocable until Court approval of the Successful Bid;

- B. Purchase Agreement: It includes a sealed, duly authorized and executed definitive purchase agreement together with all completed schedules thereto containing the detailed terms and conditions of the proposed transaction, including identification of the assets proposed to be acquired, the obligations to be assumed, the purchase price (the “**Purchase Price**”) and the detailed structure and financing of the proposed transaction;
- C. Franchise Arrangement: It describes any franchise arrangement, or similar arrangement, with the UK Purchaser in respect of the right of such Qualified Bidder to use “The Body Shop” brand;
- D. Proof of Financial Ability to Perform: It includes written evidence upon which the Company, in consultation with the Monitor, may reasonably conclude that the Interested Party has the necessary financial ability to close the contemplated transaction on or before the Outside Date and provide adequate assurance of future performance of all obligations to be assumed in such contemplated transaction. Such information should include, among other things, the following: (i) evidence of the Interested Party’s internal resources and proof of any debt or equity funding commitments that are needed to close the contemplated transaction; (ii) contact names and phone numbers for verification of financing sources; and (iii) any such other form of financial disclosure or credit-quality support information or enhancement requested by and reasonably acceptable to the Company demonstrating that such Interested Party has the ability to close the contemplated transaction;
- E. Unconditional Bid: It is not conditioned on: (i) the outcome of unperformed due diligence; and/or (ii) obtaining financing;
- F. Parties: It fully discloses the identity of each person (including any person that controls such person) that will be directly or indirectly sponsoring or participating in the Bid, including whether any prior or current member of the Company’s board, management, any employee or consultant to the Company or any creditor or shareholder of the Company is involved in any way with the Bid or assisted with the Bid, and the complete terms of any such participation as well as evidence of corporate authority to sponsor or participate in the Bid;
- G. Acknowledgement: It includes an acknowledgement and representation that the Interested Party: (i) has relied solely upon its own independent review, investigation and/or inspection of any documents regarding the Business and/or the Assets to be acquired, liabilities to be assumed or the Company in making its Bid; and (ii) did not rely upon any written or oral statements, representations, promises, warranties, conditions or guaranties whatsoever, whether express or implied (by operation of law or otherwise), regarding the Business, Assets to be acquired, liabilities to be assumed, the Company or the completeness of any information provided in connection therewith, except as expressly provided in any definitive transaction documents;
- H. Authorization: It includes evidence, in form and substance reasonably satisfactory to the Monitor, of authorization and approval from the Interested Party’s board of directors (or comparable governing body) with respect to the submission, execution, delivery and closing of the transaction contemplated by the Bid, and identifies any anticipated shareholder, regulatory or other approvals outstanding, and the anticipated time frame and any anticipated impediments for obtaining such approvals;
- I. Deposit: It is accompanied by a cash deposit (the “**Deposit**”) in an amount equal to 10% of the Purchase Price that shall be paid to the Monitor in trust, which Deposit shall be held and dealt with in accordance with these Procedures;
- J. Employees: If applicable, it contains full details of the proposed number of employees of the Company who will become employees of the Qualified Bidder and the proposed terms and conditions of employment to be offered to those employees; and



K. Other: It contains such other information as may reasonably be requested by the Company or the Monitor.

#### Franchise Arrangement

In advance of the Bid Deadline, the Monitor will be arranging for Interested Parties to meet with the UK Purchaser and with certain of the UK Parent's employees who will be responsible for the UK Purchaser's go-forward franchise arrangements. The purpose of these meetings will be to allow Interested Parties to explore the terms of a potential franchise arrangement with the UK Purchaser, including but not limited to: (i) the form of agreement; (ii) operating, strategy, growth and marketing considerations; (iii) establishing a price for future inventory purchases; and (iv) other relevant matters.

#### Bid Submission

Interested Parties wishing to pursue a transaction are being asked to submit a Bid by email on or before the Bid Deadline to the attention of:

Josh Nevsky  
Managing Director  
[jnevsky@alvarezandmarsal.com](mailto:jnevsky@alvarezandmarsal.com)

Mitch Binder  
Associate  
[mbinder@alvarezandmarsal.com](mailto:mbinder@alvarezandmarsal.com)

Bids that, among other factors, maximize value for TBS Canada's stakeholders, provide for execution certainty and speed, have no or minimal conditionality, and demonstrate an ability and willingness to complete the transaction in an expeditious manner will be favored. We also remind you of the importance of the mission and values of "The Body Shop" and suggest that you describe in your Bid how that will be taken into consideration in the future operation of the business.

Neither the Monitor, nor TBS Canada, its affiliates and its advisors assume any liability or obligation whatsoever to any Interested Party in connection with the Sale Process, including, but not limited to, as a result of the rejection of any or all of the Bids, the acceptance of another Interested Party's Bid or the amendment or termination of the Sale Process and, for further clarity, the Monitor and TBS Canada expressly reserve the right at any time, with or without providing notice or reasons, to do any of the foregoing. No party will be entitled for any reason (including, without limitation, any modification of the Procedures contemplated herein) to reimbursement for any costs or expenses incurred in reliance upon the Procedures described in this letter, as such Procedures may be modified from time to time. No finder's fees, commissions, expenses or other compensation will be paid by TBS Canada, its affiliates or its advisors to agents, consultants, advisors or other intermediaries of any party. TBS Canada, its affiliates and its advisors reserve the right to amend any information which has been made available to Interested Parties whether by way of addition, deletion, amendment or otherwise.

Pursuant to the Confidentiality Agreement, under no circumstances are you permitted to contact any of the UK Parent, the UK Purchaser or TBS Canada's executives, employees, directors, shareholders, affiliates, lenders, customers, suppliers, vendors or service providers with respect to any transaction unless consented to by TBS Canada or the Monitor. All communications or inquiries regarding the Sale Process or any other matters, relating to this letter should be directed to the Monitor.

We appreciate your interest and look forward to receiving your Bid.



This is Exhibit "C" referred to in the Affidavit of Jordan Searle sworn by Jordan Searle at the City of Toronto, in the Province of Ontario, before me on December 7, 2024 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



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*Commissioner for Taking Affidavits (or as may be)*

**ALEXANDER BARNES (LSO# 89981N)**



LOCATIONS / CANADA / CANADA OFFICE / THE BODY SHOP CANADA LIMITED

## ALVAREZ & MARSAL CANADA INC.

Access all Engagement updates and court filed materials for all active engagements in which either Alvarez and Marsal Canada Inc. or one of its affiliates is appointed in a court officer role.

OVERVIEW SERVICES CANADA INSIGHTS PEOPLE LOCATIONS

The Body Shop Canada Limited



## INTRODUCTION

**October 11, 2024**

Update on the Sale Process for TBS Canada. Capitalized terms used below have the meaning given to them in the Sale Process Order granted by the Court on July 5, 2024.

- Pursuant to the Sale Process Order, the Monitor and TBS Canada are conducting the Sale Process in accordance with its terms, including the milestones set out in the Process Letter (accessible [here](#)).
- On the Bid Deadline of October 8, 2024, the Monitor and TBS Canada received a number of Bids for the business of TBS Canada.
- At this time, TBS Canada, in consultation with the Monitor, is reviewing the Bids received and also working with certain of the Bidders and the UK Purchaser to advance and finalize a potential franchise arrangement as among the parties.
- Pursuant to the Sale Process and Process Letter, the selection of a Successful Bid was to occur October 11, 2024, or such later date as may be determined by TBS Canada, in consultation with the Monitor. In accordance with the Sale Process and following consultation with the Monitor, TBS Canada is extending this milestone to allow further time to finalize the terms of a potential franchise arrangement and the proposed acquisition of TBS Canada's business, and will provide a further update at the appropriate time.

## July 5, 2024

On July 5, 2024, the Court granted various orders, including:

- an order (the “Initial Order”), among other things, authorizing under the Companies’ Creditors Arrangement Act, the continuation of this BIA proposal proceeding commenced pursuant to a NOI. Pursuant to the Initial Order, A&M was appointed as monitor of the Company (the “Monitor”);
- an order (the “Sale Process Order”) approving the sale and investor solicitation process (the “SISP”); and
- an order (the “Discharge and Termination Order”) discharging the Proposal Trustee upon the filing of a certificate, terminating this NOI proceeding.

## July 4, 2024

On July 4, 2024, the motion to seek orders appointing Ms. Stephanie Hood as the Representative of terminated employees who were employed by the Company and terminated on or about March 1, 2024 and afterward (the “Terminated Canadian Employees”) and appointing Koskie Minsky LLP as Representative Counsel to the Terminated Canadian Employees was dismissed.

## May 30, 2024

A hearing is scheduled for May 30, 2024 in connection with TBS Canada’s proposed extension of the Stay Period for a 45-day period to and including July 12, 2024. In connection with this hearing, the Proposal Trustee served its Fourth Report (dated May 27, 2024) which is accessible [here](#).

Readers are directed to the Fourth Report for an update on TBS Canada’s NOI Proceeding, as well as recent developments related to the UK Administration Proceeding, including recent communications received from the Joint Administrators, which is attached Appendix A to the Fourth Report.

## April 15, 2024

On April 15, 2024, the Court granted an order, among other things, extending the time for TBS Canada to file a proposal under the BIA to May 31, 2024.

## March 1, 2024

On March 1, 2024, The Body Shop Canada Limited (the “Company”) filed a Notice of Intention to Make a Proposal (“NOI”) pursuant to Section 50.4(1) of the Bankruptcy and Insolvency Act (Canada), R.S.C. 1985, c. B-3 (the “BIA”) and Alvarez & Marsal Canada Inc. (“A&M”) was appointed as Proposal Trustee of the Company (the “Proposal Trustee”).

Following the commencement of administration proceedings in the United Kingdom by its parent company, The Body Shop Canada filed an NOI to obtain a stay of proceedings to provide additional breathing room while it evaluates its strategic alternatives and implements certain restructuring initiatives. As part of the NOI process, The Body Shop Canada announced that it was immediately commencing liquidation sales at 33 store locations.



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Industries  
& Insights

Our People

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Note: Alvarez & Marsal employs CPAs, but is not a licensed CPA firm.

This is Exhibit "D" referred to in the Affidavit of Jordan Searle sworn by Jordan Searle at the City of Toronto, in the Province of Ontario, before me on December 7, 2024 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



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*Commissioner for Taking Affidavits (or as may be)*

**ALEXANDER BARNES (LSO# 89981N)**

## ASSET PURCHASE AGREEMENT

**THIS AGREEMENT** made as of December 6, 2024,

**BETWEEN:**

**THE BODY SHOP CANADA LIMITED,**  
a corporation existing under the laws of Canada,  
  
("Seller"),

- and -

**1001072685 ONTARIO INC.,**  
a corporation formed under the laws of the Province  
of Ontario,  
  
("Purchaser").

**WHEREAS** Seller operates a business specializing in the sale of skincare, haircare, bath and body products in Canada (the "**Business**");

**AND WHEREAS** on March 1, 2024, Seller filed a notice of intention to make a proposal under the *Bankruptcy and Insolvency Act* and Alvarez & Marsal Canada Inc. ("**A&M**") was appointed to act as the proposal trustee (the proceedings commenced by such filing, the "**NOI Proceeding**");

**AND WHEREAS** on July 5, 2024, Seller's NOI Proceeding was continued under the *Companies' Creditors Arrangement Act* (Canada) (the "**CCAA**") and A&M was appointed as the court-appointed monitor of Seller (in such capacity, the "**Monitor**") pursuant to the Initial Order (defined below) of the Ontario Superior Court of Justice (Commercial List) (the "**Court**") issued on such date;

**AND WHEREAS**, simultaneously with the issuance and entrance of the Initial Order, the NOI Proceeding was discharged and terminated by order of the Court;

**AND WHEREAS**, on July 5, 2024, the Court made an order, which, among other things, approved the sale process proposed by Seller (the "**Sale Process**") to identify one or more purchasers of Seller, the Business and/or the assets of the Business;

**AND WHEREAS** subject to approval of the Court, and in accordance with the Sale Process, Seller has agreed to sell, transfer and assign to Purchaser, and Purchaser has agreed to purchase, Seller's assets used in connection with, and assume certain liabilities and obligations of, the Business, upon the terms and subject to the conditions set forth in this asset purchase agreement (the "**Agreement**");

**NOW THEREFORE THIS AGREEMENT WITNESSES THAT** in consideration of the respective covenants and agreements of the Parties set out in this Agreement and for other good and valuable consideration (the receipt and sufficiency of which are acknowledged by each Party), the Parties agree as follows:

## ARTICLE 1 INTERPRETATION

### 1.1 Definitions

For the purposes of this Agreement, unless the context otherwise requires, the following terms have the respective meanings set out below, and grammatical variations of such terms have corresponding meanings:

**“A&M”** has the meaning given to that term in the recitals;

**“Accounts Receivable”** means (i) any and all accounts receivable, holdback receivables, accrued revenue, credit card receivables, bills receivable, trade accounts and book debts of Seller relating to the Business or the Purchased Assets (including overdue accounts receivable), (ii) any other amounts payable, owing, due or deemed to be due to Seller relating to the Business or the Purchased Assets, including refunds and rebates payable to or for the benefit of Seller; (iii) the full benefit of all security and guarantees for such accounts or rights to payment; and (iv) any and all claims, remedies or other rights relating to any of the foregoing, together with any interest or unpaid financing charges accrued thereon;

**“Adjustment Amount”** has the meaning given to that term in Section 3.4;

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

**“Agreed Form of Release”** has the meaning set out in Section 5.1(c);

**“Agreement”** has the meaning given to that term in the recitals;

**“Arthur Wishart Act”** has the meaning set out in Section 8.5;

**“Assignment Order”** means an order of the Court made pursuant to section 11.3 of the CCAA, in form and substance satisfactory to Purchaser and Seller, and obtained on application made on notice to such Persons as Purchaser and Seller determine, acting reasonably, or as otherwise statutorily required under the CCAA, to be sought by Seller assigning the rights and obligations of Seller to Purchaser under an Assumed Contract;

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

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

**“Authorization”** means, with respect to any Person, asset, property, transaction or event, any permit, approval, consent, waiver, licence, certificate, qualification, declaration, registration or similar authorization issued, granted, given or otherwise made available under the authority of any Governmental Authority having jurisdiction over such Person, asset, property, transaction or event;



**"BC PST"** means the Tax levied under the *Provincial Sales Tax Act* (British Columbia).

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

**"Business"** has the meaning given to that term in the recitals;

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

**"CASL"** means an *Act to promote the efficiency and adaptability of the Canadian economy by regulating certain activities that discourage reliance on electronic means of carrying out commercial activities*, and to amend the *Canadian Radio-television and Telecommunications Commission Act*, the *Competition Act*, the *Personal Information Protection and Electronic Documents Act* and the *Telecommunications Act* (Canada);

**"CCAA"** has the meaning set out in the recitals to this Agreement;

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

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

**"Closing Date"** means December 16, 2024;

**"Closing Payment"** means an amount equal to the aggregate amount of the Petty Cash Closing Payment and Prepaid Rent Closing Payment;

**"Closing Time"** means 12:01 a.m. (Toronto time) on the Closing Date, or such other time on the Closing Date as Seller and Purchaser may agree;

**"Confidential Information"** means all information or materials relating to or concerning Seller, the Purchased Assets or the Business that are not generally available to the public (including information or materials relating to or concerning products or services, pricing structures, accounting and business methods, business and strategic plans, financial data, budgets and projections, marketing plans, employee information, training techniques and materials, customer lists and other marketing lists, contracts, arrangements with third parties, inventions, devices, Hardware, Software, new developments, methods and processes, customers and clients and customer or client lists, copyrightable works and all Technology, trade secrets and other Intellectual Property and proprietary information whether owned or licensed), provided that all Personal Information shall be Confidential Information whether or not it is generally available to the public;

**"Confidentiality Agreement"** means the confidentiality agreement dated June 14, 2024 between Seller and Serruya Private Equity Inc.;

**"Contract"** means any contract, agreement, lease, licence, indenture, instrument or other commitment or agreement, whether written or oral;

**"Court"** has the meaning set out in the recitals to this Agreement;

**“Cure Costs”** means, in respect of any Assumed Contract, amounts, if any, that must be paid pursuant to section 11.3(4) of the CCAA or which are required to be paid to remedy any monetary defaults thereunder by the third party counterparty thereof prior to obtaining such counterparty’s Third Party Consent (other than those arising by reason only of Seller’s insolvency, the commencement of the CCAA Proceeding or Seller’s failure to perform a non-monetary obligation);

**“Deposit”** has the meaning set out in Section 3.3(a);

**“Declaration Order”** has the meaning set out in Section 6.2(f);

**“Employees”** means any and all employees of Seller who are currently employed in the Business;

**“Encumbrances”** means any liens (statutory or otherwise), charges, security interests, hypothecs, pledges, leases, offers to lease, rights of occupation, title retention agreements or arrangements, reservations of ownership, rights-of-way, easements, servitudes, mortgages, restrictions on transfer or dealings, restrictions on use, development or similar agreements, title defects, work orders, options, adverse claims, encroachments, prior claims, assignments, liabilities (direct, indirect, absolute or contingent), obligations, trusts or deemed trusts (whether contractual, statutory or otherwise arising), judgments, writs of seizure or execution, legal notations, notices of sale, contractual rights, rights of first refusal, or any other right or interest of any nature or any other financial or monetary claims or any other arrangement or condition whether or not registered, published or filed, statutory or otherwise, secured or unsecured, or other encumbrances of any kind or character whatsoever, including, without limiting the generality of the foregoing: (i) any and all Court ordered charges granted in the CCAA Proceeding or the NOI Proceeding; (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal property registry system; and (iii) those specific Encumbrances to be listed in the Vesting Order;

**“Equipment, Fixtures and Furniture”** has the meaning set out in Section 2.1(c);

**“ETA”** means Part IX of the *Excise Tax Act* (Canada);

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

**“Excluded Contracts”** has the meaning set out in Section 2.7;

**“Excluded Locations”** means Sellers’ retail store locations and storage facilities, other than the Purchased Locations;

**“Form of Franchise Agreement”** has the meaning set out in Section 5.1(a);

**“Franchise Agreement”** has the meaning set out in Section 6.4(e);

**“GAAP”** means Canadian generally accepted accounting principles applicable for the relevant financial period as set out in the *CPA Canada Handbook – Accounting for a Person* that prepares its financial statements in accordance with Accounting Standards for Private Enterprises;

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

**“Hardware”** means computer and communications equipment, including servers, network equipment, storage devices, personal computers, laptops, tablets, mobile phones, other electronic devices and related accessories;

**“Head Office Lease”** means the Lease relating to the Seller’s head office located at 1 Yorkdale Road, Suite 510, Toronto Ontario M6A 3A1;

**“Head Office Lease Extension”** has the meaning set out in Section 8.3(b);

**“Independent Contractors”** means any and all independent contractors currently engaged by Seller in the Business;

**“Initial Order”** means an order of the Court made July 5, 2024, as may be amended and restated, among other things, granting Seller protection under the CCAA and appointing the Monitor;

**“Intellectual Property”** means (a) all intellectual and/or industrial property in any jurisdiction, including patents, copyrights, trademarks, service marks, industrial designs, trade names, brand names, business names, domain names, social media accounts and handles (including registrations of and applications for all of the foregoing in any jurisdiction and renewals, continuations, continuation-in-parts, divisions, extensions and reissues, where applicable, relating thereto) and any and all common law rights and goodwill associated with any of the foregoing, where applicable, (b) all proprietary information, trade secrets, know how, product documentation (including instruction manuals), data (including research data), drawings, photographs, website content, designs, formulae, formulations, methods, processes, technology, works of authorship, inventions, software in any expressed form, screen layouts, graphical user interfaces, “look and feel” design elements, icons, logos systems, applications, source code, object code, algorithms, libraries, databases, specifications, and (c) all other intellectual property in any jurisdiction and in whatever form or format;

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

**“Leases”** means all leases, offers to lease and agreements to lease in respect of the Purchased Locations and the Excluded Locations;

**“Liability”** means any liability or obligation of any nature, whether known or unknown, accrued, absolute, contingent or otherwise, and whether due or to become due;

**“Mandatory Reporting Rules”** has the meaning given to that term in Section 11.4;

**“Material Adverse Effect”** means any change, event, occurrence, effect, state of facts or circumstance, individually or in the aggregate, that is or could reasonably become: (i) a material adverse effect on the operations, assets, liabilities, results of operations or condition (financial or otherwise) of the Business, or (ii) a material and adverse impediment to the consummation of the Transactions, but excluding, in the case of each of clauses (i) and (ii) any such change, event, occurrence, effect, state of facts or circumstance that results from or arises out of (A) changes in general economic conditions (B) changes generally affecting the industries and markets in which the Business operates, (C) changes in macroeconomic factors, interest rates, currency exchange rates or general financial or credit market conditions, (D) any state of emergency, acts of God, war, terrorism, civil unrest or hostilities, (E) any pandemic, including (whether or not the same is or continues to be declared a pandemic), any viral outbreak or any other local, provincial, national or global health or safety event, or any issues, delays, directly or indirectly related thereto (including through the temporary closure of one or more of the retail stores of the Business, the disruption or delay in the receipt or shipment of goods from suppliers or to customers, the disruption or delay in the availability of services to or by Seller, the need to undertake additional temporary layoff of Employees, the increase in sick leaves by Employees or a decrease in sales), (F) any change in applicable Laws or its interpretation, administration or application or non-application by any Governmental Authority or in GAAP, (G) any failure to meet any projections, forecasts, estimates or budgets of, or guidance relating to, revenue, cash flow, earnings or other financial metrics for any period, (H) any action taken (or omitted to be taken) by Seller that is permitted under this Agreement or consented to by Purchaser, (I) any announcement or pendency of the Transactions, including the impact of any of the foregoing on relationships with customers, suppliers, lenders, officers, Employees or any Governmental Authority, (J) any change or development in respect of any Excluded Asset, excluded Liability or any matter disclosed pursuant to the terms of this Agreement, or (K) the announcement of or pendency of the CCAA Proceedings and any action approved by, or motion made before, the Courts, including the impact of any of the foregoing on relationships with customers, suppliers, lenders, officers, Employees or any Governmental Authority; except for any such change, event, occurrence, effect, state of facts or circumstance referred to in the foregoing clauses (A) through (F) that materially and disproportionately affects the Business as compared to other participants in the industry in which Seller conducts the Business.

**“Monitor”** has the meaning set out in the recitals to this Agreement;

**“Monitor’s Certificate”** means the certificate to be filed with the Court by the Monitor certifying that the Monitor has received written confirmation from the Parties that all conditions of Closing have been satisfied or waived by the applicable Parties and the Purchase Price due on Closing has been satisfied in accordance with Section 3.2(a);

**“NOI Proceeding”** has the meaning set out in the recitals to this Agreement;

**“Outside Date”** has the meaning set out in Section 9.1(a)(i);

**“Parties”** means Seller and Purchaser and **“Party”** means any one of them;

**“Payment Terminals”** means the payment terminals located at the Excluded Locations;

**“Permitted Encumbrances”** means the Encumbrances listed in Schedule 1.1(b);

**“Person”** means any individual, sole proprietorship, partnership, firm, entity, unincorporated association, unincorporated syndicate, unincorporated organization, trust, body corporate, Governmental Authority, and where the context requires any of the foregoing when they are acting as trustee, executor, administrator or other legal representative;

**“Personal Information”** means any information about an identified or identifiable individual or that is otherwise personal information under Laws that was collected, used or disclosed by, or is being stored by or is otherwise under the custody or control of, Seller;

**“Petty Cash”** means the cash on hand in each of the Seller’s retail stores;

**“Petty Cash Closing Payment”** means an amount equal to \$ [REDACTED];

**“Post-Closing Period”** has the meaning set out in Section 8.1(g);

**“Prepaid Rent”** means the amount of prepaid rent for all of Seller’s stores and storage locations as at the Closing Date;

**“Prepaid Rent Closing Payment”** means an amount equal to \$ [REDACTED], representing the prepaid rent for all of Seller’s stores and storage locations;

**“Priority Payables”** means all unpaid and accrued wages and payroll source deductions (excluding termination pay or severance pay) and vacation pay due to the Employees by Seller, excluding any key employee retention plan payments payable on the Closing;

**“Privacy Laws”** means all applicable Laws governing the collection, use, disclosure and retention of Personal Information, including the *Personal Information Protection and Electronic Documents Act* (Canada) and similar provincial laws;

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

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

**“Purchased Locations”** means Seller’s retail store locations and storage facilities identified on Schedule 1.1(c);

**“Purchaser”** has the meaning set out in the recitals to this Agreement;

**“Purchaser’s Services”** has the meaning set out in Section 8.3(a);

**“Seller”** has the meaning set out in the recitals to this Agreement;

**“Seller’s Services”** has the meaning set out in Section 8.3(b);

**“Services”** has the meaning set out in Section 8.3(b);

**“Software”** means computer programs and related materials, including (i) firmware and other programs embedded in Hardware, (ii) algorithms, subroutines, program and data

files, (iii) source, executable and object code, (iv) interfaces, including application programming interfaces, and (v) related manuals and other documentation;

**“Tax”** and **“Taxes”** means any taxes, duties, fees, premiums, assessments, imposts, levies and other charges of any kind whatsoever imposed by any Governmental Authority, including all interest, penalties, fines, additions to tax or other additional amounts imposed by any Governmental Authority in respect thereof, and including those levied on, or measured by, income, gross receipts, profits, capital, transfer, value-added, land transfer, sales, goods and services, harmonized sales, use, excise, withholding, business, franchising, property, development, occupancy, payroll, health, social services, education, employment and all social security taxes, all surtaxes, all customs, duties and import and export taxes, countervail and anti-dumping, all licence, franchise and registration fees and all employment insurance, health insurance and Canada and other government pension plan premiums or contributions;

**“Tax Act”** means the *Income Tax Act* (Canada);

**“TBS International”** means The Body Shop International Limited, the purchaser of the assets of the UK Parent;

**“Technology”** means all computer systems and communications systems of the Seller or Business, including Software, Hardware and associated data and databases, whether owned, licenced, leased or otherwise used, held or accessed, including by means of cloud computing or other means;

**“Term Sheet”** means the Term Sheet dated November 20, 2024 between Seller and Michael Serruya;

**“Third Party Consents”** means the consents, approvals and/or authorizations required for the assignment and transfer by Seller of the Assumed Contracts;

**“Trade Payables”** means all trade payables, accruals and other outstanding obligations (other than the amounts owing to TBS International) of Seller incurred with the consent of the Monitor between March 1, 2024 and the Closing Date;

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

**“Transfer Taxes”** has the meaning set out in Section 3.7;

**“Transferred Employee Plans”** has the meaning set out in Section 8.1(i);

**“Transferred Employees”** has the meaning set out in Section 4.1(b);

**“Transferred Information”** means the Personal Information disclosed or conveyed to Purchaser as a result of or in connection with the Transaction, and includes all such Personal Information disclosed to Purchaser during the period leading up to and including the completion of the Transaction;

**“UK Administration”** means the administration proceeding filed by the UK Parent in the United Kingdom on February 13, 2024;

**“UK Parent”** means TBSI Realisation Limited;

**“Value Added Tax”** means the Tax exigible pursuant to the ETA; and

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

## 1.2 Rules of Construction

Except as may be otherwise specifically provided in this Agreement and unless the context otherwise requires, in this Agreement:

- (a) the terms “Agreement”, “this Agreement”, “the Agreement”, “hereto”, “hereof”, “herein”, “hereby”, “hereunder” and similar expressions refer to this Agreement in its entirety and not to any particular provision hereof;
- (b) references to an “Article”, “Section”, “Appendix” or “Schedule” followed by a number or letter refer to the specified Article or Section of or Exhibit or Schedule to this Agreement;
- (c) the division of this Agreement into articles and sections and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation of this Agreement;
- (d) words importing the singular number only shall include the plural and vice versa and words importing the use of any gender shall include all genders;
- (e) the word “including” is deemed to mean “including without limitation”;
- (f) any reference to any Contract (including this Agreement) means such Contract as amended, modified, replaced or supplemented from time to time;
- (g) all dollar amounts refer to Canadian dollars;
- (h) all accounting terms not expressly defined in this Agreement have the meanings given to them under GAAP;
- (i) any reference to any statute includes all regulations made under or in connection with that statute, as amended, modified, replaced or supplemented from time to time, and any reference to a specific provision of any statute or regulation also refers to any successor provision thereto of like or similar effect;
- (j) any time period within which a payment is to be made or any other action is to be taken hereunder shall be calculated excluding the day on which the period commences and including the day on which the period ends; and



- (k) whenever any payment is required to be made, action is required to be taken or period of time is to expire on a day other than a Business Day, such payment shall be made, action shall be taken or period shall expire on the next following Business Day.

### **1.3 Entire Agreement**

This Agreement, together with the Confidentiality Agreement, constitute the entire agreement between the Parties with respect to the subject matter of this Agreement and supersede all prior agreements, understandings, negotiations and discussions, whether written or oral. There are no conditions, covenants, agreements, representations, warranties or other provisions, express or implied, collateral, statutory or otherwise, relating to the subject matter of this Agreement, except as provided in this Agreement or the Confidentiality Agreement. In the event of any conflict or inconsistency between this Agreement or the Confidentiality Agreement, the provisions contained in this Agreement shall prevail to the extent of such conflict or inconsistency.

### **1.4 Time of Essence**

Time shall be of the essence of this Agreement.

### **1.5 Governing Law and Submission to Jurisdiction**

(a) This Agreement shall be interpreted and enforced in accordance with, and the respective rights and obligations of the Parties shall be governed by, the Laws of the Province of Ontario and the federal Laws of Canada applicable in that province.

(b) Each of the Parties irrevocably and unconditionally (i) submits to the exclusive jurisdiction of the courts of the Province of Ontario over any action or proceeding arising out of or relating to this Agreement, (ii) agrees to commence such an action or proceeding in Toronto, Ontario, and to cooperate and use its commercially reasonable efforts to bring the action or proceeding before the Court, (iii) waives any objection that it might otherwise be entitled to assert to the jurisdiction of such courts and (iv) agrees not to assert that such courts are not a convenient forum for the determination of any such action or proceeding.

### **1.6 Severability**

If any provision of this Agreement is determined by a court of competent jurisdiction to be invalid, illegal or unenforceable in any respect, all other provisions of this Agreement shall nevertheless remain in full force and effect so long as the economic or legal substance of the transactions contemplated by this Agreement are not affected in a manner materially adverse to any Party. Upon any such determination that any term or other provision is invalid, illegal or incapable of being enforced, the Parties shall negotiate in good faith to modify this Agreement so as to effect the original intent of the Parties as closely as possible in an acceptable manner to the end that such transactions are fulfilled to the extent possible.

### **1.7 Schedules**

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



<u>Schedule</u>	<u>Description</u>
Schedule 1.1(b)	- Permitted Encumbrances
Schedule 1.1(c)	- Purchased Locations
Schedule 1.1(e)	- Vesting Order
Schedule 2.1(e)	- Assumed Contracts
Schedule 2.2(m)	- Excluded Contracts
Schedule 2.2(o)	- Excluded Assets
Schedule 6.2(e)	- Assignment Order
Schedule 6.2(f)	- Declaration Order

## ARTICLE 2 PURCHASE AND SALE

### 2.1 Purchase and Sale of Purchased Assets

Subject to the other terms and conditions of this Agreement, at the Closing Time, Seller shall transfer, sell, convey, assign and deliver unto Purchaser, and Purchaser shall purchase, acquire and accept from Seller, all right, title and interest of Seller in and to all of the property and assets of Seller used in or relating to the Business (other than the Excluded Assets) free and clear of all Encumbrances other than the Permitted Encumbrances (collectively, the “**Purchased Assets**”), including the following:

- (a) Rights to Leased Real Property. All rights of Seller as lessee of real property for the Purchased Locations, together with all leasehold improvements, Leases and other agreements relating thereto, including all purchase options, options to lease, registered short form leases or caveats, security deposits, rights to appurtenances and improvements, easements, licenses and permits and governmental authorizations relating thereto;
- (b) Inventory. All inventories of Seller, including (i) inventory saleable in the ordinary course of the Business, (ii) any item of merchandise that is not first quality, not saleable in the ordinary course or affected by defects rendering it not first quality, (iii) inventory in transit, and (iv) inventory works-in-progress, in each case, wherever situate, including inventory of Seller located on an Excluded Location;
- (c) Equipment, Fixtures and Furniture. (i) All equipment, trade fixtures, furniture, accessories and all similar equipment used in or related to the operation of the Business and the interest of Seller in any machinery and equipment held under lease or title retention agreement (collectively, the “**Equipment, Fixtures and Furniture**”) that is located in the Purchased Locations, and (ii) any Equipment, Fixtures and Furniture that is located in the Excluded Locations to the extent identified as a Purchased Asset by Purchaser in writing to Seller during the Post-Closing Period;

- (d) Technology. All Hardware, Software, telecommunications, network connections, peripherals and related communication technology, and all other Technology infrastructure (excluding communication infrastructure that is generally accessible by the public) owned or licensed by Seller or used in connection with the Business, including all rights of Seller under licences and other agreements or instruments relating thereto, including all telecom addresses (including IP addresses), and all telephone and fax numbers used in connection with the Business;
- (e) Assumed Contracts. Subject to Section 2.2, all rights of Seller under the Contracts (including leases for motor vehicles and the Independent Contractors' agreements) related to the Business to which Seller is a party, as listed in Schedule 2.1(e), including the Leases for the Purchased Locations (collectively, the "**Assumed Contracts**") other than the Excluded Contracts;
- (f) Prepaid Expenses. Any deposits and prepaid expenses of Seller related to the Purchased Assets;
- (g) Authorizations. All Authorizations related to the Business, to the extent transferrable.
- (h) Intellectual Property. All rights of Seller to the Intellectual Property used or held for use by Seller in the Business;
- (i) Books and Records. All books and records (other than those required by Law to be retained by Seller, copies of which will be made available to Purchaser), including customer lists, sales records, price lists and catalogues, sales literature, advertising material, employee manuals, personnel records, supply records, inventory records and correspondence files (together with, in the case of any such information which is stored electronically, the media on which the same is stored), excluding corporate and Tax records in respect of Seller (collectively, the "**Books and Records**"); and
- (j) Rights under Insurance. All claims, actions or other rights Seller may have for insurance coverage under any past or present policies and insurance contracts or agreements solely as it relates to the Purchased Assets or the Purchased Locations;
- (k) Warranties. All of Seller's rights under warranties, indemnities and all similar rights against third parties to the extent related to any Purchased Asset;
- (l) Confidential Information. All Confidential Information.
- (m) Express Consents under Privacy and Anti-Spam Law. All express consents obtained by or on behalf of Seller under CASL, any Privacy Laws and any applicable anti-spam Laws from any Person to (i) send or cause to be sent an electronic message to such Person, (ii) alter or cause to be altered the transmission data in an electronic message so that the message is delivered to a destination other than or in addition to that specified by such Person, (iii) install or cause to be installed a computer program on such Person's computer system or, having so installed or cause to be installed a computer program, to cause an

electronic message to be sent from that computer system, or (iv) disclose any Personal Information of such Person; and

- (n) Goodwill. All goodwill related to the Purchased Assets and the Business, together with the exclusive right for Purchaser to represent itself as carrying on the Business in succession to Seller and the right to use any words indicating that the Business is so carried on, including the exclusive right to use the names and styles currently used by Seller, or any variation thereof, as part of the name or style under which the Business or any part thereof is carried on by Purchaser.

## 2.2 Excluded Assets

Notwithstanding any provision of this Agreement, the Purchased Assets shall not include (collectively, the “**Excluded Assets**”):

- (a) all securities of Seller, whether held by Seller or in the equity of Seller;
- (b) all cash and cash equivalents of Seller;
- (c) all rights of Seller as lessee of real property for the Excluded Locations and all Leases and leasehold improvements related thereto;
- (d) all rights of Seller as lessee for the Payment Terminals, unless Purchaser designates any of such rights as a Purchased Asset pursuant to Section 2.1(c);
- (e) all Accounts Receivable, other than the Accounts Receivable addressed in Section 2.2(f), accruing up to the Closing Date;
- (f) any intercompany Accounts Receivable owing to Seller by any of its current or previous Affiliates at any time;
- (g) the rights of Seller under this Agreement and each other document and agreement contemplated hereby and thereby;
- (h) the rights of Seller as against the UK Parent or its current or former Affiliates, directors or officers, including those rights pursuant to the proof of debt submitted by Seller in the UK Administration on May 17, 2024 or any claim against the UK Parent in the UK Administration;
- (i) the rights of Seller as against Aurelius Investment Lux One SARL, Aurelius IV UK Acquico Seven Limited, Aurelius IV UK Acquico Eight Ltd., or any of their Affiliates;
- (j) any bank accounts of Seller;
- (k) all Books and Records required by Law to be retained by Seller (copies of which will be provided to Purchaser);
- (l) subject to Section 2.1(c), the Equipment, Fixtures and Furniture located at the Excluded Locations;
- (m) the Excluded Contracts listed on Schedule 2.2(m);

- (n) income Tax instalments paid by Seller and the right to any refund of income Taxes; and
- (o) the property and assets of Seller described in Schedule 2.2(o).

### **2.3 Assumed Liabilities**

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

- (a) subject to Section 2.3(b), all Liabilities under the Assumed Contracts relating to the conduct of the Business from and after the Closing Time, but only to the extent that such Liabilities thereunder are required to be performed after the Closing Time, were incurred in the ordinary course of business and do not relate to any failure to perform, improper performance, warranty or other breach, default or violation by Seller on or before the Closing Time;
- (b) all Cure Costs in respect of the Assumed Contracts other than Cure Costs in respect of the Leases for the Purchased Locations;
- (c) the Liabilities for the Priority Payables in respect of the Transferred Employees only;
- (d) the Liabilities in respect of the Transferred Employees to the extent such Liabilities are based on facts, circumstances or events that arise on or after the Closing Time; and
- (e) all other Liabilities of Seller with respect to the Purchased Assets and Transferred Employees arising and relating to the conduct of the Business accruing from and after the Closing Time;

(collectively, the “**Assumed Liabilities**”).

### **2.4 Excluded Liabilities**

Other than the Assumed Liabilities and the Liabilities assumed by Purchaser pursuant to Section 8.3, Purchaser shall not assume and shall not be liable or responsible for any Liabilities of Seller, which, for certainty, shall include:

- (a) all Liabilities related to any Excluded Assets, including any Excluded Contracts, and any intercompany payables owing by Seller to any current or previous Affiliate of Seller;
- (b) all Liabilities related to any Excluded Location or any retail store location or storage facility of Seller designated as an Excluded Location in accordance with Section 2.6 and any related Lease;
- (c) all Liabilities of Seller in respect of any actions, causes of action, litigation proceedings, writs of enforcement, lawsuits, court proceedings, regulatory proceedings, arbitrations or proceedings before any Governmental Authority

against Seller or arising from Seller's ownership or use of the Purchased Assets or conduct of the Business prior to the Closing Time;

- (d) all Liabilities of Seller in respect of claims or liens against the Purchased Assets, including claims under the *Construction Act* (Ontario) or other similar legislation, other than the liens associated with any vehicle leases not designated as an Excluded Contract pursuant to Section 2.7;
- (e) all Liabilities of Seller for or in respect of any indebtedness to any third party, including any accrued or unpaid principal, interest, fees, pre-payment or breakage fees or similar costs, interest or currency rate swaps, or any other amounts or obligations;
- (f) all Liabilities of Seller in respect of any Court-ordered Encumbrances;
- (g) all Liabilities of Seller for Priority Payables, except for any Priority Payables that relate to Transferred Employees;
- (h) all Liabilities of Seller in respect of any warranties, rebate programs, guarantees, gift cards, and any similar obligations of Seller relating to the Business or the Purchased Assets prior to the Closing Time;
- (i) any Taxes payable or remittable by Seller, other than Transfer Taxes payable by Purchaser pursuant to Section 3.7;
- (j) Encumbrances, other than Permitted Encumbrances;
- (k) any product Liability or similar claim for injury to a Person or property which arises out of or is based upon any express or implied representation, warranty, agreement or guarantee made by Seller prior to the Closing Time, or by reason of the improper performance or malfunctioning of a product, improper design or manufacture, failure to adequately package, label or warn of hazards or other related product defects of any products at any time sold by Seller prior to the Closing Time;
- (l) any recall, design defect or similar claims of any products sold by Seller prior to the Closing Time;
- (m) all Trade Payables;
- (n) Cure Costs solely in respect of the Leases for the Purchased Locations;
- (o) any Liabilities of the Business relating or arising from unfulfilled commitments, quotations, purchase orders, customer orders or work orders that do not constitute part of the Purchased Assets other than inventory purchase orders made by Seller at the request of Purchaser; and
- (p) all Liabilities related to Employees that are not Transferred Employees, including, for certainty,

- (i) any costs in respect of the termination by Seller of the employment of any Employee who does not accept Purchaser's offer of employment referred to in Section 4.1; and
- (ii) all Liabilities of Seller in respect of the Employees, or Independent Contractors of Seller that arose prior to the Closing Date, including in respect of any notice of termination, bonus payable by Seller in connection with the Closing, key employee retention plan, pay in lieu of notice, severance pay, damages, costs and penalties for any employment related claims, accrued vacation pay, public holiday pay, commissions, bonuses, banked overtime or other entitlements or pursuant to any agreements which provide for payments to Employees, including as a result of the sale and acquisition of the Business or otherwise.

## 2.5 Third Party Consents

Notwithstanding anything contained in this Agreement or elsewhere, Purchaser will not assume and will have no obligation to discharge any debt, liability or obligation under any Assumed Contract which is not assignable or assumable in whole or in part without a Third Party Consent, unless such Third Party Consent or, as applicable, an Assignment Order, has been obtained. The Parties shall cooperate and use commercially reasonable efforts to obtain all Third Party Consents prior to [REDACTED]. To the extent any Third Party Consents are not obtained by such date, the Parties shall cooperate and use commercially reasonable efforts to apply for and obtain the Assignment Order prior to the Closing Time, in respect of such Assumed Contracts for which a Third Party Consent was not obtained.

## 2.6 Purchased Locations

(a) Purchaser shall deliver an updated Schedule 1.1(c) to Seller by no later than [REDACTED] listing the Purchased Locations, as determined in its sole discretion.

(b) Purchaser may amend Schedule 1.1(c) to change the designation of up to [REDACTED] Purchased Locations and their related Leases to Excluded Locations at any time prior to [REDACTED], as determined in its sole discretion, *provided that*, Purchaser acknowledges and agrees that it shall assume:

- (i) both retail store locations identified in section 4 of the Term Sheet; and
- (ii) at least [REDACTED] Purchased Locations that are retail stores.

## 2.7 Excluded Contracts

Purchaser shall deliver an updated Schedule 2.2(m) to Seller by no later than [REDACTED] listing all Contracts that are to be designated as Excluded Assets (the "**Excluded Contracts**"), as determined in its sole discretion, together with an updated Schedule 1.1(b), as applicable.

### ARTICLE 3 PURCHASE PRICE AND ALLOCATION

#### 3.1 Purchase Price

The aggregate purchase price (the “**Purchase Price**”), exclusive of all applicable Transfer Taxes, payable by Purchaser to Seller in consideration for the Purchased Assets shall be:

- (a) an amount equal to the Closing Payment as adjusted in accordance with Section 3.4;
- (b) plus the amount of the Assumed Liabilities.

#### 3.2 Satisfaction of Purchase Price

The Purchase Price shall be paid and satisfied as follows:

- (a) on the Closing Date:
  - (i) Purchaser shall direct the Monitor to (A) release a portion of the Deposit equal to the amount set forth in Section 3.1(a) from its trust account and transfer such amount to Seller, and (B) transfer the remaining amount of the Deposit to Purchaser; and
  - (ii) Purchaser shall assume the Assumed Liabilities.

#### 3.3 Deposit

(a) The Parties acknowledge and agree that Purchaser has delivered a deposit in the sum of \$ [REDACTED] (the “**Deposit**”) by wire transfer to the Monitor, in trust, to be released according to the terms of this Agreement. The Deposit shall be held in a non-interest bearing account.

(b) If the Transaction is completed, a portion of the Deposit shall be credited against the Purchase Price on Closing in accordance with Section 3.2(a)(i).

(c) If the Transaction is not completed or this Agreement is terminated for any reason, other than as a result of a termination of this Agreement by Purchaser pursuant to Section 6.7(a) or 9.1, the Deposit shall be forfeited and paid to Seller as liquidated damages. If this Agreement is terminated by Purchaser pursuant to Section 6.7(a) or 9.1, the Deposit shall be fully refunded to Purchaser.

(d) The provisions of this Section 3.3 shall survive the termination of this Agreement.

#### 3.4 Adjustments

(a) The amount by which the aggregate amount of Prepaid Rent and Petty Cash on the Closing Date as reflected in the books and records of Seller, is greater or less than the Closing Payment is referred to as the “**Adjustment Amount**”.

(b) If the aggregate amount of Prepaid Rent and Petty Cash at the Closing Time is greater than the Closing Payment, Purchaser shall pay the Adjustment Amount to Seller in accordance with Section 8.4(a)(iii).

(c) If the aggregate amount of Prepaid Rent and Petty Cash at the Closing Time is less than the Closing Payment, Seller shall pay the Adjustment Amount to Purchaser in accordance with Section 8.4(b).

### **3.5 Payments**

All payments required under this Agreement shall be made by wire transfer of immediately available funds to, or as directed by, the applicable payee.

### **3.6 Purchase Price Allocation**

(a) Purchaser and Seller agree to allocate the Purchase Price among the Purchased Assets no later than five Business Days after the Closing Date and to reflect in any such allocation any Adjustment Amount.

(b) Purchaser and Seller agree:

- (i) to treat and report (and, if necessary, to cause each of their respective controlled Affiliates to treat and report) the transactions contemplated by this Agreement in a manner consistent with one another for all federal, provincial and local Tax purposes in a manner consistent with such allocation, including executing and filing all of their own Tax Returns and preparing all of their own financial statements and other instruments on the basis of this allocation; and
- (ii) not to take any action inconsistent with such allocation or such obligation.

### **3.7 Transfer Taxes**

(a) All amounts payable by Purchaser to Seller pursuant to this Agreement do not include any value-added, goods and services, harmonized sales, sales, retail, transfer, use, consumption, multi-staged, personal property, customs, excise, stamp, land transfer, or similar taxes, duties, or charges (including Value Added Tax) (collectively "**Transfer Taxes**") and all Transfer Taxes payable on the transfer, sale, conveyance, assignments, delivery of the Purchased Assets pursuant to Section 2.1 and in respect of the amounts that are payable by Purchaser to Seller pursuant to Section 8.3(c) are the responsibility of and for the account of Purchaser.

(b) Purchaser shall pay all applicable Value Added Tax to Seller on or before January 15, 2025, provided that Seller shall not collect from Purchaser Value Added Tax payable on the transfer, sale, conveyance, assignments, delivery of the Purchased Assets pursuant to Section 2.1 if Purchaser and Seller have made the Value Added Tax Election in respect of such Value Added Tax as set out in Section 3.8. Purchaser shall pay all applicable BC PST to Seller on or before January 15, 2025, except to the extent Purchaser has delivered to Seller prior to such date, such documentation as required by Law or the administration thereof to substantiate and effect an exemption or other relief therefrom. Purchaser shall remit all applicable Transfer Taxes other than BC PST and Value Added Tax directly to the applicable Governmental Authority consistent



with the allocation of Purchase Price made pursuant to Section 3.6 and in accordance with all applicable Law and shall provide notice, and upon written request by Seller, evidence of remittance of such payments. Purchaser shall indemnify and save Seller and its directors, employees and shareholders harmless against and in respect of any and all amounts assessed by the Canada Revenue Agency or any other applicable Governmental Authority in respect of any failure on the part of Purchaser to pay any BC PST, Value Added Tax or any other Transfer Taxes payable by Purchaser in connection with an election, exemption, or other relief being denied, or otherwise in connection with the Transaction, including all Taxes, penalties or interest thereon. This indemnity shall survive the Closing. For greater certainty, this indemnity shall not cover any amounts assessed or otherwise payable by Seller in respect of its failure to collect any provincial sales Taxes exigible in Saskatchewan or Manitoba except to the extent that such amounts arise from a failure of Purchaser to satisfy its remittance and reporting obligations in respect of same in accordance with this Section 3.7(b).

(c) With respect to any Transfer Taxes payable in respect of the supplies made pursuant to Section 8.3(d), Seller shall provide Purchaser with any reasonably requested invoices, other documents or information for the purposes of claiming any related Transfer Tax credits, rebates or refunds concurrently with, or before, the request of payment of such Transfer Taxes.

### **3.8 Value Added Tax Elections**

Purchaser and Seller shall, on the Closing Date, elect jointly under subsection 167(1) of the ETA and under any similar provision of any applicable provincial legislation, in the form prescribed for the purposes of each such provision, in respect of the sale and transfer of the Purchased Assets hereunder, and Purchaser shall file such elections with the Canada Revenue Agency and any other applicable Governmental Authorities within the time and in the manner required by applicable Laws.

## **ARTICLE 4 EMPLOYEE MATTERS**

### **4.1 Offers to Employees**

(a) Purchaser shall, by [REDACTED] or such earlier date as the Parties may agree, offer employment to the Employees of Seller on such terms as Purchaser determines appropriate, subject to the last sentence of this Section 4.1(a). Each such offer of employment shall be conditional upon the Closing occurring and be with effect as of the Closing Date (or in respect of Employees who are on leave, such later date on which such Employees return to active service, such date not to exceed six months from the Closing Date). Such offers will provide that Purchaser will recognize Seller's Employees' past service with Seller for purposes of any minimum standards imposed by applicable employment standards legislation and be on terms substantially similar to the applicable Employee's current employment terms.

(b) The Employees who accept Purchaser's offer of employment and commence employment with Purchaser as of the Closing Date are collectively referred to as the "**Transferred Employees.**"

### **4.2 Employee Liabilities**

At the time of Closing, Purchaser shall assume and be responsible for, with respect to the Transferred Employees, all: (i) Priority Payables; and (ii) Liabilities of Seller in respect of

such Transferred Employees arising on or after the Closing Time, including in respect of any wages, notice of termination, pay in lieu of notice, severance pay, vacation pay, commissions, bonuses, banked overtime or other employment standards entitlements as required by applicable employment standards legislation.

## **ARTICLE 5 CONDITIONS TO VESTING ORDER**

### **5.1 Vesting Order**

Seller and Purchaser agree that Seller shall not seek the Vesting Order unless the following conditions have been satisfied on or prior to [REDACTED]:

- (a) Purchaser has delivered written confirmation to Seller that Purchaser, or an Affiliate thereof, has agreed with TBS International on the terms of a master franchise arrangement to be entered into on the Closing Date (the **"Form of Franchise Agreement"**);
- (b) Purchaser has delivered written confirmation to Seller that Purchaser, or an Affiliate thereof, has agreed with TBS International on the terms of a transition services agreement to be entered into on the Closing Date for the provision of certain information technology services to Purchaser; and
- (c) Purchaser has delivered a form of release in favour of the UK Purchaser, the Seller and the Monitor, in respect of any claims that the Purchaser may have arising out of the UK Purchaser's or any other party's failure to deliver a franchise disclosure document to the Purchaser or any other party in connection with the execution of the Franchise Agreement, and any ancillary or related agreements, which release shall be in form and substance acceptable to the UK Purchaser, the Seller and the Monitor (the **"Agreed Form of Release"**).

## **ARTICLE 6 CLOSING AND CLOSING CONDITIONS**

### **6.1 Closing**

Subject to compliance with the terms and conditions of this Agreement, the Closing and the transfer of the Purchased Assets shall be completed at the Closing Time. Unless otherwise agreed, all closing transactions shall be deemed to have occurred simultaneously. The Closing shall take place by way of the electronic or digital exchange of documents or in such other manner as Seller and Purchaser may agree.

### **6.2 Seller's Deliveries**

At the Closing, Seller shall deliver or cause to be delivered the following, each in form and substance satisfactory to Purchaser, acting reasonably:

- (a) the Purchased Assets, which shall be delivered *in situ* wherever located as of the Closing Time;

- (b) customary deeds, assignments, bills of sale and other conveyancing documents, to be settled between Seller and Purchaser, sufficient to transfer the various categories of Purchased Assets free and clear of all Encumbrances other than the Permitted Encumbrances, on an “as is, where is” basis, consistent with the terms of this Agreement and the Vesting Order;
- (c) a copy of the issued and entered Vesting Order;
- (d) an acknowledgement addressed to the Monitor dated the Closing Date that each of the conditions precedent in Section 6.5 have been fulfilled, performed or waived as of the Closing Time;
- (e) a copy of the issued and entered Assignment Order attached at Schedule 6.2(e) in respect of any Assumed Contracts for which a Third Party Consent was not obtained prior to [REDACTED];
- (f) a copy of the issued and entered declaration order in the form attached as Schedule 6.2(f) (the “**Declaration Order**”);
- (g) all Authorizations that are necessary for Purchaser to conduct the Business as conducted by Seller as of the Closing Date that are transferrable;
- (h) the election referred to in Section 3.7(b); and
- (i) any other documents required to give effect to this Agreement in form and substance satisfactory to the Parties, each acting reasonably.

### **6.3 Purchaser’s Deliveries**

At the Closing, Purchaser shall deliver or cause to be delivered to Seller, the Purchase Price in accordance with Section 3.2(a) and the following, each in form and substance satisfactory to Seller, acting reasonably:

- (a) a counterpart of any conveyancing document requiring execution by Purchaser, to be settled between Seller and Purchaser, sufficient to transfer the various categories of Purchased Assets, on an “as is, where is” basis consistent with the terms of this Agreement and the Vesting Order;
- (b) an assignment and assumption agreement evidencing Purchaser’s assumption of the Assumed Liabilities, in form and substance satisfactory to Purchaser;
- (c) an acknowledgement dated the Closing Date that each of the conditions precedent in Section 6.4 have been fulfilled, performed or waived as of the Closing Time;
- (d) payment of all Transfer Taxes, if any, payable pursuant to Section 3.6;
- (e) the elections referred to in Section 3.7(b);
- (f) a release substantially in the form of the Agreed Form of Release;
- (g) a fully-executed copy of the Franchise Agreement;

- (h) a fully-executed copy of the transition services agreement on the terms referred to in Section 5.1(b); and
- (i) any other documents required pursuant to this Agreement in form and substance satisfactory to the Parties, each acting reasonably.

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

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

- (a) Covenants. All of the terms, covenants and conditions of this Agreement to be complied with or performed by Seller at or before the Closing Time shall have been complied with or performed in all material respects;
- (b) No Bankruptcy. Seller shall not have made, or be deemed to have made, an assignment in bankruptcy under the *Bankruptcy and Insolvency Act* or shall not have obtained an order of the Court subjecting this Transaction to a trustee in bankruptcy;
- (c) Orders. Each of the Initial Order, Vesting Order, the Assignment Order (if required) and the Declaration Order shall have been issued, and the operation and effect of such order shall not have been stayed, amended, modified, reversed, waived, dismissed or appealed (or any such appeal shall have been dismissed with no further appeal therefrom) and no notices of the foregoing shall have been filed at the Closing Time;
- (d) Initial Order. All stays of proceedings contained in the Initial Order shall have remained in effect as at the Closing Time except where any such stay is terminated or lifted or amended in a manner which, in Purchaser's opinion, acting reasonably, is not materially prejudicial to Purchaser or which does not materially adversely affect Purchaser's rights under this Agreement or in respect of the Purchased Assets;
- (e) Franchise Arrangement. Purchaser, or an Affiliate thereof, has entered into a master franchise arrangement with TBS International in the form and on the terms of the Form of Franchise Agreement and such franchise arrangement, shall not have been terminated (the "**Franchise Agreement**");
- (f) Transition Services Agreement. Purchaser, or an Affiliate thereof, has entered into a transition services agreement with TBS International on the terms referred to in Section 5.1(b);
- (g) No Material Adverse Effect. From the date of this Agreement until the Closing Date, there shall not have occurred any Material Adverse Effect.
- (h) No Action or Proceeding. No legal or regulatory action or proceeding shall be pending or threatened by any Governmental Authority to enjoin, materially restrict or prohibit the purchase and sale of the Purchased Assets contemplated hereby;

- (i) Injunctions. There shall be no injunction against closing the Transaction entered by a court of competent jurisdiction; and
- (j) Documents. Seller shall have delivered the documents referred to in Section 6.2.

Any of the foregoing conditions may be waived in whole or in part by Purchaser without prejudice to any claims it may have for breach of covenant, representation or warranty under this Agreement.

## **6.5 Conditions of Closing in Favour of Seller**

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

- (a) Representations and Warranties. The representations and warranties of Purchaser contained in this Agreement shall be true and correct in all material respects at the Closing Time (unless they are expressed to be made only as of an earlier fixed date, in which case they need be true and correct in all material respects only as of such earlier date);
- (b) Covenants. All of the terms, covenants and conditions of this Agreement to be complied with or performed by Purchaser at or before the Closing Time shall have been complied with or performed in all material respects;
- (c) Orders. Each of the Initial Order, Vesting Order and the Assignment Order (if required) shall have been issued, and the operation and effect of such order shall not have been stayed, amended, modified, reversed, waived, dismissed or appealed (or any such appeal shall have been dismissed with no further appeal therefrom) and no notices of the foregoing shall have been filed at the Closing Time;
- (d) No Action or Proceeding. No legal or regulatory action or proceeding shall be pending or threatened by any Governmental Authority to enjoin, materially restrict or prohibit the purchase and sale of the Purchased Assets contemplated hereby;
- (e) Injunctions. There shall be no injunction against closing the Transaction entered by a court of competent jurisdiction; and
- (f) Purchase Price and Documents. Purchaser shall have made the payments and delivered the documents referred to in Section 6.3.

Any of the foregoing conditions may be waived in whole or in part by Seller without prejudice to any claims it may have for breach of covenant, representation or warranty under this Agreement.

## **6.6 Monitor's Certificate**

When the conditions set out in Sections 6.4 and 6.5 have been satisfied or waived, Purchaser and Seller will each deliver to the Monitor written confirmation of same. The Closing shall be deemed to have occurred upon delivery by the Monitor of an executed copy of the Monitor's Certificate to Purchaser.

## **6.7 Possession of Assets and Risk of Loss**

(a) The Purchased Assets shall be at the risk of Seller until the Closing Time. If before the Closing Time, all or substantially all of the Purchased Assets are lost, damaged, destroyed or have become unusable then Purchaser may terminate this Agreement.

(b) At the Closing Time, Purchaser shall take possession of the Purchased Assets wherever situate. Purchaser shall promptly notify Seller of any Excluded Assets which may come into the possession or control of Purchaser, whether before or after Closing, and thereupon shall promptly release such Excluded Assets to Seller, or to such other Person as Seller may direct in writing and title shall not be deemed to vest to Purchaser in respect of any Excluded Assets.

(c) If, prior to the Closing Time, all or any part of the Purchased Assets are destroyed or damaged by fire or any other casualty or are appropriated, expropriated or seized by a governmental or other lawful authority and Purchaser has not exercised its right to terminate this Agreement pursuant to Section 6.7(a):

- (i) the Parties shall complete the Transaction;
- (ii) all proceeds of insurance or compensation for expropriation or seizure received by Seller in respect of the Purchased Assets prior to Closing shall be paid to Purchaser at the Closing Time and all right and claim of Seller to any such amounts not received by Seller prior to Closing shall be assigned at the Closing Time to Purchaser; and
- (iii) any claim Seller may have against any Person in connection with such destruction or damage of the Purchased Assets shall be assigned to Purchaser at the Closing Time.

## **ARTICLE 7 REPRESENTATIONS AND WARRANTIES**

### **7.1 Representations and Warranties of Seller**

Seller represents and warrants to Purchaser as follows and acknowledges that Purchaser is relying on these representations and warranties in connection with its purchase of the Purchased Assets:

- (a) Seller is registered for the purposes of subdivision d of Division V of the ETA and its registration number is 86037 6946 RT0001 and Seller is registered for purposes of BC PST and its registration number is 1007-9266.
- (b) Seller is not a non-resident of Canada within the meaning of the Tax Act.

### **7.2 Representations and Warranties of Purchaser**

Purchaser represents and warrants to Seller as follows and acknowledges and confirms that Seller is relying on such representations and warranties in connection with its sale of the Purchased Assets:

- (a) Purchaser is a corporation formed and existing under the laws of the Province of Ontario and has the power and authority to enter into, and to perform its obligations under, this Agreement.
- (b) The execution, delivery and performance by Purchaser of this Agreement:
  - (i) has been duly authorized by all necessary action;
  - (ii) does not (or would not with the giving of notice, the lapse of time or the happening of any other event or condition) require any consent or approval under, result in a breach or a violation of, or conflict with, any of the terms or provisions of its constating documents or any contracts or instruments to which it is a party or pursuant to which any of its assets or property may be affected; and
  - (iii) will not result in the violation of any applicable Law.
- (c) This Agreement has been duly executed and delivered by Purchaser.
- (d) At the Closing Time, Purchaser will have the necessary funds to complete the purchase of the Purchased Assets in accordance with this Agreement.
- (e) Other than the Vesting Order and the Assignment Order, there is no requirement for Purchaser to make any filing with, give any notice to or obtain any certificate, registration or Authorization as a condition to the lawful consummation of the transactions contemplated by this Agreement.
- (f) Purchaser is duly registered for purposes of subdivision d of Division V of the ETA and its registration number is 797235165 RT0001.

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

### **8.1 Covenants of Seller**

Seller covenants and agrees with Purchaser as follows:

- (a) Seller shall use commercially reasonable efforts to change its name to a name which does not include the words "The Body Shop" or any part thereof or any similar words; provided that Purchaser acknowledges that any name change cannot take effect until after the Closing Time. Seller agrees that from and after the Closing Time (i) Seller will not use the words "The Body Shop" or any part thereof or any similar words, including in all documents and websites, and (ii) Seller will seek an order in the CCAA Proceeding to change the style of cause in the CCAA Proceeding to reflect the change of the name of Seller;
- (b) until the Closing Time, Seller shall furnish Purchaser and its representatives reasonable access to the Business and the Purchased Assets at all times during normal business hours, as well as such information within the possession or control of Seller regarding the Business as Purchaser and its representatives may reasonably request;



- (c) until the Closing Time, Seller shall provide Purchaser and its legal counsel with a copy of any draft order or other draft court materials which Seller intends to file with the Court in connection with this Agreement or the Transactions contemplated thereby at least one day before service thereof;
- (d) Seller shall take all action as may be commercially reasonable and appropriate to defend against any appeal of, or motion to vary or similar motion regarding, the Vesting Order and the Assignment Order, if applicable;
- (e) until the Closing Time, except as contemplated or permitted by this Agreement, the Initial Order or the Vesting Order: (a) Seller shall continue to maintain the Business and its operations in the ordinary course in a manner consistent with past practice, including with respect to ongoing sales and promotions; (b) maintain its properties and other assets, including the Purchased Assets, in good condition (normal wear and tear excepted); (c) except as otherwise contemplated herein, use its best efforts to maintain the Business and the Employees, customers, assets and operations as a going concern in accordance with past practice; (d) not enter into any transaction other than in the ordinary course of business and consistent with past practice on terms that are arm's length; and (e) give Purchaser prompt written notice of any Material Adverse Effect occurring from and after the date hereof prior to the Closing Date or any event, condition, or development that has resulted in the inaccuracy in a material respect or material breach of any representation or warranty, covenant or agreement contained in this Agreement;
- (f) until the Closing Time, Seller shall use commercially reasonable efforts to (i) execute the written consent of the landlords to any amendment requested by Purchaser, as applicable, effective as of the Closing Date, and (ii) obtain the written consent of the counterparties or any other Persons to the assignment of the Assumed Contracts or an Assignment Order, to the extent a consent to assignment is required by the terms of those Assumed Contracts; subject to the terms of this Agreement as well as the terms of the Vesting Order and any Assignment Order, all on terms and conditions acceptable to Purchaser;
- (g) Seller shall disclaim any Leases in respect of an Excluded Location on the Closing Date (the period from the Closing Date until the expiry of the disclaimer period under each such Lease shall be referred to as the "**Post-Closing Period**");
- (h) at the request of Purchaser, Seller shall use commercially reasonable efforts to transfer insurance policies relating to the Business to Purchaser following the expiry of the Post-Closing Period or the Head Office Lease Extension, as applicable;
- (i) Seller shall use commercially reasonable efforts to assign its employee health and dental plans and group retirement savings plan (the "**Transferred Employee Plans**") to Purchaser as soon as reasonably practicable after Seller ceases to have any Employees; and
- (j) Seller shall use commercially reasonable efforts to fulfill the conditions set out in Section 6.4 and shall cooperate with Purchaser in its efforts to cause the satisfaction of the conditions set out in Section 6.5.



## 8.2 Covenants of Purchaser

Purchaser covenants and agrees with Seller as follows:

- (a) for a period of six years following the Closing Date, Purchaser covenants to use reasonable care to preserve the Books and Records of Seller and to permit Seller, the Monitor and their respective representatives and successors and assigns and any trustee in bankruptcy access to any such Books and Records that contain information relating to the period prior to the Closing Time, as Seller, the Monitor and their respective representatives and successors and assigns and any trustee in bankruptcy may reasonably request; and
- (b) Purchaser shall use commercially reasonable efforts to fulfill the conditions set out in Section 6.5 and shall cooperate with Seller in its efforts to cause the satisfaction of the conditions set out in Section 6.4.

## 8.3 Transition Services

- (a) Purchaser shall provide, or cause its Affiliates to provide, to Seller following the Closing Date all services and other assistance as may be reasonably required by Seller in order for Seller to complete the administration of the CCAA Proceedings, including in connection with (i) the preparation by Seller of Seller's financial statements, Taxes and Tax returns, (ii) the completion by Seller of any claims process, (iii) the preparation by Seller of T4 slips and records of employment for Employees, and (iv) facilitating payment of Priority Payables (the "**Purchaser Services**").
- (b) Following the Closing Date, Seller shall retain the Head Office Lease for such period as Purchaser may require, but in no event longer than six months following the Closing Date (the "**Head Office Lease Extension**").
- (c) For a period from the Closing Date until March 1, 2025, Seller shall provide to Purchaser all services and other assistance as may be reasonably required by Purchaser in order to operate the Business, including:
  - (i) communicating with internal and external stakeholders, if requested;
  - (ii) occupying Excluded Locations during the Post-Closing Period;
  - (iii) provided Purchaser has provided Seller with all Value Added Tax and provincial sales Tax registration numbers of Purchaser and such other information as may be required by Seller to do so, selling inventory of the Business located at Excluded Locations during the Post-Closing Period at the direction and for the benefit of Purchaser and acting as Purchaser's agent in connection with same as follows:
    - (A) bill customers for and on behalf of Purchaser,
    - (B) charge and collect (without guarantee on such collectability) and invoice, on behalf of Purchaser, applicable Value Added Tax and provincial sales Tax,

- (C) indicate in the relevant invoices Purchaser's Value Added Tax and provincial sales Tax numbers, and
  - (D) remit to Purchaser:
    - (I) all amounts, including Value Added Tax and provincial sales Tax, received by Seller from the customers for and on behalf of Purchaser, which Value Added Tax and provincial sales Tax Purchaser shall be solely responsible to remit to applicable Tax authorities; and
    - (II) all of the necessary information with respect to the sales made by Seller as agent so that Purchaser can properly report all Value Added Tax and provincial sales Taxes in respect of such sales;
  - (iv) continuing the employment of Employees that are not Transferred Employees at the Excluded Locations for the Post-Closing Period; and
  - (v) maintaining the Transferred Employee Plans and coverage of the Transferred Employees thereunder until the Transferred Employee Plans are assigned to Purchaser pursuant to Section 8.1(i),
- (collectively, together with the Head Office Lease Extension, the "**Seller Services**", and together with the Purchaser Services, the "**Services**").
- (d) The Services shall be provided by each Party to the other Party at no cost, except Purchaser shall assume and prepay Seller in advance, exclusive of all applicable Transfer Taxes, for the following Liabilities:
    - (i) all amounts payable during the Post-Closing Period under any Leases in respect of the Excluded Locations or other Contracts that are Excluded Assets to the extent required by Purchaser in order to operate the Business during the Post-Closing Period, including maintaining applicable insurance;
    - (ii) all costs, benefits and Taxes that accrue during the Post-Closing Period relating to Employees that are not Transferred Employees; provided, however, that Purchaser shall not be required to reimburse Seller for any costs, benefits and Taxes relating to Employees that are not Transferred Employees (including vacation pay, termination pay and severance) that relate to an Employee's service with Seller prior to the Closing Date;
    - (iii) all amounts payable under the Head Office Lease accruing from and after the Closing Date, including maintaining applicable insurance; and
    - (iv) all amounts payable under the Transferred Employee Plans that relate to the Transferred Employees accruing from and after the Closing Date.
  - (e) Each Party shall provide all Services directly to the other at a reasonable level of quality, and with a reasonable degree of care, diligence and responsiveness, and in accordance with applicable industry standards. Each Party shall cooperate with

each other in all matters relating to the provision and receipt of the Services, including exchanging information.

- (f) Purchaser shall agree to defend, indemnify and hold harmless the Seller and the Monitor, and each of their respective Affiliates (other than the UK Parent), officers, directors, employees, representatives and equityholders, from and against any and all losses, claims, damages, costs, judgments, expenses, Taxes and liabilities, together with all reasonable costs and expenses ("**Losses**"), to which any such indemnified party may become subject or that may be incurred, awarded or asserted against any such indemnified party, caused by, arising out of, or in connection with the performance of any of the Seller's Services (including in connection with any investigation, litigation or other proceeding or preparation of a defense in connection therewith); except to the extent that any such Losses of such indemnified party have resulted from the gross negligence, wilful misconduct or fraud of such party in performing the Seller's Services.
- (g) In all matters relating to the Services, representatives and employees of one Party shall not be considered representatives or employees of any other Party. Except to the extent the Parties otherwise agree in writing, no Party will have any right, power or authority to create any obligation, express or implied, on behalf of any other Party nor shall any Party act or represent or hold itself out as having authority to act as an agent or partner of the other Party, or in any way bind or commit the other Party to any obligations. Subject to the foregoing, nothing in this Section 8.3 is intended to create or constitute a joint venture, partnership, trust or other association of any kind between the Parties or Persons referred to herein.

#### **8.4 Payments Received Post Closing**

- (a) If, at any time after the Closing Time, subject to Section 8.4(b):
  - (i) Seller receives any payment that is for the account of Purchaser according to the terms of this Agreement, including any proceeds from the sale of inventory of the Business sold after the Closing Date in accordance with Section 8.3(c)(iii), Seller shall promptly deliver such amounts to Purchaser on a weekly basis;
  - (ii) Seller is required to pay the Adjustment Amount to Purchaser pursuant to Section 3.4(c), Seller shall promptly deliver such amount to Purchaser; and
  - (iii) Purchaser receives any payment that is for the account of Seller according to the terms of this Agreement or is required to pay the Adjustment Amount to Seller pursuant to Section 3.4(b), Purchaser shall promptly deliver such amount(s) to Seller;
- (b) On prior written notice, either Party may set-off any amounts payable to the other Party pursuant to 8.4(a) against (i) any Adjustment Amount payable by the other party pursuant to Section 3.4, and (ii), in the case of Seller, any amounts payable by Purchaser pursuant to Section 8.3; and
- (c) All amounts due and payable under this Section 8.3 shall be due and payable by the applicable Party in immediately available funds, by wire transfer to the account

designated in writing by the relevant Party, or by way of set-off, on prior written notice. Notwithstanding the foregoing, each Party hereby undertakes to use its commercially reasonable efforts to direct or forward all bills, invoices or like instruments to the appropriate Party.

## 8.5 Franchise Matters

Purchaser agrees that neither Seller nor the Monitor is a “franchisor’s associate” or a “franchisor’s broker” within the meaning of the *Arthur Wishart Act (Franchise Disclosure)*, 2000, S.O. 2000, c. 3 (the “**Arthur Wishart Act**”), or any comparable term under similar laws of any jurisdiction in Canada.

## ARTICLE 9 TERMINATION

### 9.1 Termination Rights

(a) Subject to Section 9.2, this Agreement may be terminated by written notice given at or prior to the Closing Time:

- (i) by either Purchaser or Seller if the Closing has not occurred on or before December 17, 2024 (or such later date as the Parties may agree) (the “**Outside Date**”), except that the right to terminate this Agreement under this Section 9.1(a)(i) is not available to Purchaser or Seller if the failure of the Closing to occur was due to a breach by it of any of its obligations or any of its representations and warranties in this Agreement;
- (ii) by either Purchaser or Seller if any of the conditions in Section 5.1 has not been or is incapable of being satisfied, except that the right to terminate this Agreement under this Section 9.1(a)(ii) is not available to Purchaser or Seller if the failure to satisfy any such condition was due to a breach by it of any of its obligations or any of its representations and warranties in this Agreement;
- (iii) by Purchaser if any of the conditions in Section 6.4 has not been or is incapable of being satisfied by the Outside Date, except that the right to terminate this Agreement under this Section 9.1(a)(iii) is not available if the failure of such condition to be satisfied was due to a breach by Purchaser of any of its obligations or any of its representations and warranties in this Agreement; or
- (iv) by Seller if any of the conditions in Section 6.5 has not been satisfied or is incapable of being satisfied by the Outside Date, except that the right to terminate this Agreement under this Section 9.1(a)(iv) is not available if the failure of such condition to be satisfied was due to a breach by Seller of any of its obligations or any of its representations and warranties in this Agreement.

(b) This Agreement may be terminated by mutual written agreement of Purchaser and Seller, with the prior written consent of the Monitor.

## **9.2 Effect of Termination**

(a) If this Agreement is terminated pursuant to Section 9.1 or Section 6.7(a) all further obligations of the Parties under or pursuant to this Agreement shall terminate without further liability of any Party to the other except for and subject to the provisions of Section 11.3 and Section 3.3(b).

(b) Under no circumstance shall any of the Parties or their respective directors, officers, employees, managers, Affiliates or agents or their respective directors, officers and employees be liable for any special, punitive, exemplary, consequential or indirect damages (including loss of profits) that may be alleged to result, in connection with, arising out of, or relating to this Agreement or the Transaction.

## **ARTICLE 10 AS IS WHERE IS**

### **10.1 Acquisition of Assets on “As Is, Where Is” Basis**

Purchaser acknowledges and agrees that except as otherwise expressly set forth herein, the Purchased Assets and the Business are purchased and the Assumed Liabilities are assumed by Purchaser on an “as is, where is” basis as they shall exist at the Closing Date with all faults, without any representations or warranties, express or implied, in fact or by Law with respect to the Purchased Assets, the Business and the Assumed Liabilities, and without any recourse to Seller, the Monitor or any of their directors, officers, shareholders, representatives or advisors, other than for gross negligence, wilful misconduct, or knowing and intentional fraud. Purchaser agrees to accept the Purchased Assets, the Business and the Assumed Liabilities in the condition, state and location they are in on the Closing Date based on Purchaser’s own inspection, examination and determination with respect to all matters and without reliance upon any express or implied representations or warranties of any nature made by or on behalf of or imputed to Seller or the Monitor. Except as otherwise expressly set forth in this Agreement, Purchaser acknowledges and agrees that no representation, warranty, term or condition, understanding or collateral agreement, whether statutory, express or implied, oral or written, legal, equitable, conventional, collateral or otherwise, is being given by Seller or the Monitor in this Agreement or in any instrument furnished in connection with this Agreement, as to description, fitness for purpose, sufficiency to carry on any business, merchantability, quantity, condition, ownership, quality, value, suitability, durability, environmental condition, assignability or marketability thereof. This Section 10.1 shall not merge on the Closing Date and is deemed incorporated by reference in all documents, agreements or instruments delivered pursuant to the terms of this Agreement. Notwithstanding the foregoing, nothing in this Section 10.1 shall limit or otherwise impair a Party’s right to enforce the terms and conditions of this Agreement.

## **ARTICLE 11 GENERAL**

### **11.1 Disputes**

Any dispute arising out of or in connection with this Agreement shall be submitted to and finally resolved by a motion brought before the Court in the CCAA Proceeding.

## 11.2 Notices

Any notice, approval, request, demand, consent, instruction, offer or other communication required or permitted under this Agreement shall be in writing and shall be made or given by delivery (courier or otherwise) or by email communication, addressed as follows

- (a) in the case of a notice to Seller at:

The Body Shop Canada Limited  
1 Yorkdale Road, Suite 510  
Toronto, ON M6A 3A1

Attention: Jordan Searle  
Email: [jordan.searle@thebodyshop.com](mailto:jordan.searle@thebodyshop.com)

with a copy (which shall not constitute notice) to:

Davies Ward Phillips & Vineberg LLP  
155 Wellington Street West  
Toronto, ON M5V 3J7

Attention: Natalie Renner  
Email: [nrenner@dwpv.com](mailto:nrenner@dwpv.com)

- (b) in the case of a notice to Purchaser at:

c/o Serruya Private Equity  
210 Shields Court  
Markham, Ontario L3R 8V2

Attention: Michael Serruya  
Email: [michael@serruyaequity.com](mailto:michael@serruyaequity.com)

with a copy (which shall not constitute notice) to:

Fasken Martineau DuMoulin LLP  
333 Bay Street, Suite 2400  
Toronto, ON M5H 2T6

Attention: Dylan Chochla  
Email: [dchochla@fasken.com](mailto:dchochla@fasken.com)

- (c) in the case of a notice to the Monitor, as follows:

Alvarez & Marsal Canada Inc.  
Royal Bank Plaza, South Tower  
200 Bay Street, Suite 3501, P.O. Box 22  
Toronto, ON M5J 2J1

Attention: Joshua Nevsky  
Email: [jnevsky@alvarezandmarsal.com](mailto:jnevsky@alvarezandmarsal.com)

with a copy (which shall not constitute notice) to:

Cassels Brock & Blackwell LLP  
Suite 3200, Bay Adelaide Centre – North Tower  
40 Temperance St.  
Toronto, ON M5H 0B4

Attention: Natalie Levine  
Email: [nlevine@cassels.com](mailto:nlevine@cassels.com)

Any notice delivered or transmitted to a Party as provided above shall be deemed to have been given and received on the day it is delivered or transmitted, provided that it is delivered or transmitted on a Business Day prior to 5:00 p.m. local time in the place of delivery or receipt. However, if the notice is delivered or transmitted after 5:00 p.m. local time or if such day is not a Business Day then the notice shall be deemed to have been given and received on the next Business Day.

Any Party may, from time to time, change its address by giving notice to the other Parties in accordance with the provisions of this Section 11.2.

### **11.3 Confidentiality**

(a) Each of Purchaser and Seller covenants and agrees that neither they nor their respective controlled Affiliates or representatives, will disclose the existence or terms of this Agreement or the fact of its execution and delivery to any third party without the prior written consent of the other Party, which consent shall not be unreasonably withheld or delayed, except (i) as and to the extent required by Law, (ii) to Purchaser or Seller's controlled Affiliates or their and their controlled Affiliates' directors, officers, employees, agents, managers, advisors and representatives who have a need to know such information for the purposes of this Transaction, (iii) in the case of Seller, as may be required under the CCAA in connection with filing and obtaining the Vesting Order or the Assignment Order, provided, however, that the Seller shall redact any such provisions in this Agreement that Purchaser determines is commercially sensitive from the Court materials it serves publicly, and shall seek an order from the Court sealing an unredacted copy of this Agreement, or (iv) as otherwise may be required by the Court.

(b) Unless and until this Agreement is terminated prior to Closing, Seller shall maintain as confidential any Confidential Information of Seller including such information relating to any of the Purchased Assets, the Business and the Assumed Liabilities. Seller acknowledges the confidential and proprietary nature of the Confidential Information and (i) shall, before and after Closing, and (ii) shall, until Closing:

- (i) not use the Confidential Information for any purpose other than, until Closing, the conduct of the Business in the ordinary course; and
- (ii) keep the Confidential Information confidential and, except as required by applicable Laws, not disclose the Confidential Information to any Person without the prior written consent of Purchaser.

(c) The Parties will cooperate and consult with one another, to the extent reasonably practical, with respect to the issuance of any press release or other public statement regarding this Agreement and the Transaction.



#### **11.4 Mandatory Disclosure Rules**

Each Party agrees to notify the other Party if it determines that any transaction contemplated by this Agreement is required to be reported pursuant to section 237.3 and 237.4 of the *Income Tax Act* (Canada) or any other rules of similar effect (the “**Mandatory Reporting Rules**”) or if the Party otherwise intends to file any information returns in connection with this Agreement pursuant to the Mandatory Reporting Rules. Each Party agrees, to the extent possible, to share a draft of any such filing (subject to redactions of solicitor-client privileged information) with the other Party no later than 15 Business Days prior to the due date for such filing and to consider in good faith any changes requested by the other Party prior to the due date to any such filing. Notwithstanding the foregoing, no Party shall be under any obligation not to report a transaction that it determines, acting reasonably, to be subject to a reporting requirement pursuant to the Mandatory Reporting Rules. This Section 11.4 shall survive Closing.

#### **11.5 Successors and Assigns**

(a) No Party shall assign this Agreement or any rights or obligations arising under this Agreement without the prior written consent of the other Party.

(b) This Agreement shall enure to the benefit of and shall be binding on and enforceable by and against the Parties and their respective successors and assignees to the extent permitted under this Section 11.5.

#### **11.6 Amendment**

No amendment or waiver of any provision of this Agreement shall be binding on a Party unless consented to in writing by such Party. No waiver of any provision of this Agreement shall constitute a waiver of any other provision, nor shall any waiver of any provision of this Agreement constitute a continuing waiver unless otherwise expressly provided.

#### **11.7 Further Assurances**

The Parties shall, with reasonable diligence, do all such things and provide all such reasonable assurances as may be required to consummate the transactions contemplated by this Agreement, and each Party shall provide such further documents or instruments required by any other Party as may be reasonably necessary or desirable to effect the purpose of this Agreement and carry out its provisions, whether before or after the Closing Date provided that the reasonable costs and expenses of any actions taken after the Closing Date at the request of a Party shall be the responsibility of the requesting Party.

#### **11.8 Survival**

The representations and warranties of Seller and Purchaser contained in this Agreement shall merge on Closing. The covenants of the Parties contained herein to be performed after the Closing shall survive Closing and remain in full force and effect.

#### **11.9 Personal Information**

(a) Purchaser covenants and agrees to use and disclose Transferred Information only for those purposes for which the Transferred Information was initially collected, unless:



- (i) where required by applicable Law, it has obtained the consent of that individual to that additional purpose; or
- (ii) that use or disclosure is permitted or authorized by applicable Law.

(b) The Parties acknowledge and confirm that the disclosure of Transferred Information is necessary for the purposes of determining whether to proceed with the Transaction and is necessary to carry on the Business and for the completion of the Transaction.

(c) Purchaser covenants and agrees to: (i) where required by applicable Law, within a reasonable time after Closing notify the individuals to whom the Transferred Information relates that Closing has taken place and that the Transferred Information has been disclosed to it; (ii) return or destroy the Transferred Information, at the option of Seller, should Closing not occur; and (iii) protect the confidentiality of all Transferred Information in a manner consistent with security safeguards appropriate to the sensitivity of the information.

(d) After Closing Seller shall: (i) not use or disclose any Transferred Information except for those purposes for which the Transferred Information was initially collected or as permitted by applicable Law; and (ii) protect the confidentiality of all Transferred Information in a manner consistent with security safeguards appropriate to the sensitivity of the information.

#### **11.10 Benefit of Agreement**

This Agreement shall enure to the benefit of and be binding upon the Parties and their respective successors and permitted assigns. Except as otherwise provided in this Agreement, each Party intends that this Agreement shall not benefit or create any right or cause of action in or on behalf of any Person other than the Parties and their successors and permitted assigns, and no Person other than the Parties and their successors and their permitted assigns shall be entitled to rely on the provisions hereof in any action, suit, proceeding, hearing or other forum.

#### **11.11 Monitor's Liability**

In addition to all of the protections granted to the Monitor under the CCAA, the Initial Order and any other order of the Court in this CCAA Proceeding, Seller and Purchaser acknowledge and agree that the Monitor, acting in its capacity as Monitor of Seller and not in its personal capacity, will have no Liability, in its personal capacity or otherwise, in connection with this Agreement or the Transaction whatsoever. This Section 11.11 shall survive Closing.

#### **11.12 Counterparts**

This Agreement and all documents contemplated by or delivered under or in connection with this Agreement may be executed and delivered in any number of counterparts, with the same effect as if all Parties had signed and delivered the same document, and all counterparts shall be construed together to be an original and will constitute one and the same agreement.

**[Remainder of page intentionally left blank]**

IN WITNESS OF WHICH the Parties have executed this Agreement as of the date first written above.

**THE BODY SHOP CANADA LIMITED**

by 

Name: Jordan Searle

Title: General Manager

**1001072685 ONTARIO INC.**

by \_\_\_\_\_

Name: Michael Serruya

Title: Authorized Signatory

IN WITNESS OF WHICH the Parties have executed this Agreement as of the date first written above.

**THE BODY SHOP CANADA LIMITED**

by \_\_\_\_\_

Name: Jordan Searle

Title: General Manager

**1001072685 ONTARIO INC.**

by \_\_\_\_\_

Name: Michael Serruya

Title: Authorized Signatory

**Schedule 1.1(b)**  
**Permitted Encumbrances**

<b>Secured Party</b>	<b>Jurisdiction</b>	<b>Registration Number</b>
<b>Enterprise Fleet Management Canada, Inc.</b>	British Columbia	625741P
<b>Enterprise Fleet Management Canada, Inc.</b>	Alberta	20051800301
<b>Enterprise Fleet Management Canada, Inc.</b>	Nova Scotia	37880374
<b>Enterprise Fleet Management Canada, Inc.</b>	Ontario	20231218 1404 1462 0081 20200225 1410 1462 3626 20230529 1406 1462 1279 20230529 1406 1462 1280

**Schedule 1.1(c)**  
**Seller Locations<sup>1</sup>**

1.	Lease agreement between Primaris, as landlord, and The Body Shop Canada Limited, as tenant, for certain premises located at the property municipally known as 375 St. Albert Trl, St. Albert, Alberta, T8N 3K8, as may have been amended, supplemented or restated from time to time (the "St. Albert Centre Store").
2.	Lease agreement between Ivanhoe Cambridge, as landlord, and The Body Shop Canada Limited, as tenant, for certain premises located at the property municipally known as 1 Outlet Collection Way, Unit 10, Edmonton, Alberta, T9E 1J5, as may have been amended, supplemented or restated from time to time (the "Outlet Collection at Edmonton Store").
3.	Lease agreement between Oxford Properties, as landlord, and The Body Shop Canada Limited, as tenant, for certain premises located at the property municipally known as 109 Street NW & Princess Elizabeth Avenue, Edmonton, Alberta, T5G 3A6, as may have been amended, supplemented or restated from time to time (the "Kingsway Mall Store").
4.	Lease agreement between Cadillac Fairview, as landlord, and The Body Shop Canada Limited, as tenant, for certain premises located at the property municipally known as 3625 Shaganappi Trail NW, Edmonton, Alberta, T3A 0E2, as may have been amended, supplemented or restated from time to time (the "Market Mall Store").
5.	Lease agreement between Oxford Properties, as landlord, and The Body Shop Canada Limited, as tenant, for certain premises located at the property municipally known as 100 Anderson Road SE #54, Calgary, Alberta, T2J 3V1, as may have been amended, supplemented or restated from time to time (the "Southcentre Store").
6.	Lease agreement between Ivanhoe Cambridge, as landlord, and The Body Shop Canada Limited, as tenant, for certain premises located at the property municipally known as 5015-111 Street NW, Edmonton, Alberta, T6H 4M6, as may have been amended, supplemented or restated from time to time (the "Southgate Centre Store").
7.	Lease agreement between Quadreal, as landlord, and The Body Shop Canada Limited, as tenant, for certain premises located at the property municipally known as 1000-4900 Molly Banister Drive, Red Deer, Alberta, T4R 1N9, as may have been amended, supplemented or restated from time to time (the "Bower Place Store").
8.	Lease agreement between Morguard, as landlord, and The Body Shop Canada Limited, as tenant, for certain premises located at the property municipally known as 11801-100 St. Grand Prairie, Alberta, T8V 3Y2, as may have been amended, supplemented or restated from time to time (the "Prairie Mall Store").
9.	Lease agreement between Primaris, as landlord, and The Body Shop Canada Limited, as tenant, for certain premises located at the property municipally known as 2020 Sherwood Drive, Sherwood Park, Alberta, T8A 3H9, as may have been amended, supplemented or restated from time to time (the "Sherwood Park Mall Store").

<sup>1</sup> Expired leases are still occupied and are currently month-to-month.

10.	Lease agreement between Ivanhoe Cambridge, as landlord, and The Body Shop Canada Limited, as tenant, for certain premises located at the property municipally known as 261055 Unit #267 Crossiron Blvd, Rocky View, Alberta, T4A 0G3, as may have been amended, supplemented or restated from time to time (the "Crossiron Mills Store").
11.	Lease agreement between West Edmonton Mall, as landlord, and The Body Shop Canada Limited, as tenant, for certain premises located at the property municipally known as 8882-170 Street NW, Edmonton, Alberta, T5T 24J2, as may have been amended, supplemented or restated from time to time (the "West Edmonton Mall Store").
12.	Lease agreement between Central Walk, as landlord, and The Body Shop Canada Limited, as tenant, for certain premises located at the property municipally known as 3147 Douglas Street Unit 644, Victoria, British Columbia, V8Z 6E3, as may have been amended, supplemented or restated from time to time (the "Mayfair Shopping Centre Store").
13.	Lease agreement between Cushman & Wakefield, as landlord, and The Body Shop Canada Limited, as tenant, for certain premises located at the property municipally known as 209/1320 Trans Canada Hwy, Kamloops, British Columbia, V1S 1J2, as may have been amended, supplemented or restated from time to time (the "Aberdeen Mall Store").
14.	Lease agreement between Morguard, as landlord, and The Body Shop Canada Limited, as tenant, for certain premises located at the property municipally known as 2929 Barnett Highway Unit 2415, Coquitlam, British Columbia, V3B 5R5, as may have been amended, supplemented or restated from time to time (the "Coquitlam Centre Store").
15.	Lease agreement between Shape, as landlord, and The Body Shop Canada Limited, as tenant, for certain premises located at the property municipally known as 9855 Austin Road, Burnaby, British Columbia, V3J 1N4, as may have been amended, supplemented, or restated from time to time (the "Lougheed Town Centre Store").
16.	Lease agreement between Ivanhoe Cambridge, as landlord, and The Body Shop Canada Limited, as tenant, for certain premises located at the property municipally known as 4700 Kingsway, Burnaby, British Columbia, V5H 4M1, as may have been amended, supplemented or restated from time to time (the "Metropolis At Metrotowne Store").
17.	Lease agreement between Primaris, as landlord, and The Body Shop Canada Limited, as tenant, for certain premises located at the property municipally known as 2271 Harvey Avenue North, Kelowna, British Columbia, V1Y 6H2, as may have been amended, supplemented or restated from time to time (the "Orchard Park Store").
18.	Lease agreement between Cadillac Fairview, as landlord, and The Body Shop Canada Limited, as tenant, for certain premises located at the property municipally known as 700 Georgia St at Howe St. #D060, Vancouver, British Columbia, V7Y 1K8, as may have been amended, supplemented or restated from time to time (the "Pacific Centre Store").
19.	Lease agreement between Larco, as landlord, and The Body Shop Canada Limited, as tenant, for certain premises located at the property municipally known as 2002 Park Royal South, West Vancouver, British Columbia, V7T 2W4, as may have been amended, supplemented or restated from time to time (the "Park Royal Shopping Centre Store").

20.	Lease agreement between Morguard, as landlord, and The Body Shop Canada Limited, as tenant, for certain premises located at the property municipally known as 3055 Massey Drive, Prince George, V2N 2S9, as may have been amended, supplemented or restated from time to time (the "Pine Centre Store").
21.	Lease agreement between Morguard, as landlord, and The Body Shop Canada Limited, as tenant, for certain premises located at the property municipally known as 32900 South Fraser Way, Abbotsford, British Columbia, V2S 5A1, as may have been amended, supplemented or restated from time to time (the "Sevenoaks Shopping Centre Store").
22.	Lease agreement between Quadreal, as landlord, and The Body Shop Canada Limited, as tenant, for certain premises located at the property municipally known as 19705 Fraser Highway, Langley, British Columbia, V3A 7E9, as may have been amended, supplemented or restated from time to time (the "Willowbrook Shopping Centre Store").
23.	Lease Agreement between Central Walk, as landlord, and The Body Shop Canada Limited, as tenant, for certain premises located at the property municipally known as 25-6631 Island Highway North, Nanaimo, British Columbia, V9T 4T7, as may have been amended, supplemented or restated from time to time (the "Woodgrove Centre Store").
24.	Lease Agreement between McArthur Glen, as landlord, and The Body Shop Canada Limited, as tenant, for certain premises located at the property municipally known as 7899 Templeton Station Rd, Unit 36, Richmond, British Columbia, V7B 0B7, as may have been amended, supplemented or restated from time to time (the "McArthurGlen Designer Outlet Store").
25.	Lease Agreement between Cadillac Fairview, as landlord, and The Body Shop Canada Limited, as tenant, for certain premises located at the property municipally known as 6551 No. 3 Road, Richmond, British Columbia, as may have been amended, supplemented or restated from time to time (the "Richmond Centre Store").
26.	Lease Agreement between Ivanhoe Cambridge, as landlord, and The Body Shop Canada Limited, as tenant, for certain premises located at the property municipally known as 10355 152 Street, Suite 1122, Surrey, British Columbia, V3R 7C1, as may have been amended, supplemented or restated from time to time (the "Guildford Town Centre Store").
27.	Lease Agreement between Ivanhoe Cambridge, as landlord, and The Body Shop Canada Limited, as tenant, for certain premises located at the property municipally known as 555 Sterling Lyon Pkwy Park, Winnipeg, Manitoba, R3P 1J9, as may have been amended, supplemented or restated from time to time (the "Outlet Collection at Winnipeg Store").
28.	Lease Agreement between Primaris, as landlord, and The Body Shop Canada Limited, as tenant, for certain premises located at the property municipally known as 1555 Regent Avenue West, Winnipeg, Manitoba, R2C 4J2, as may have been amended, supplemented or restated from time to time (the "Kildonan Place Store").
29.	Lease Agreement between Bentall Kennedy, as landlord, and The Body Shop Canada Limited, as tenant, for certain premises located at the property municipally known as 1225

	St. Mary's Road Unit 100, Winnipeg, Manitoba, R2M 5E5, as may have been amended, supplemented or restated from time to time (the "St. Vital Centre Store").
30.	Lease Agreement between Primaris, as landlord, and The Body Shop Canada Limited, as tenant, for certain premises located at the property municipally known as 1381 Regent Street, Fredericton, New Brunswick, E3C 1A2, as may have been amended, supplemented or restated from time to time (the "Regent Mall Store").
31.	Lease Agreement between Crombie, as landlord, and The Body Shop Canada Limited, as tenant, for certain premises located at the property municipally known as 48 Kenmount Road, St. John's, Newfoundland and Labrador, A1B 1W3, as may have been amended, supplemented or restated from time to time (the "Avalon Mall Store").
32.	Lease Agreement between Cushman & Wakefield, as landlord, and The Body Shop Canada Limited, as tenant, for certain premises located at the property municipally known as 7001 Mumford Road, Halifax, Nova Scotia, B3L 2H8, as may have been amended, supplemented or restated from time to time (the "Halifax Shopping Centre Store").
33.	Lease Agreement between Ivanhoe Cambridge, as landlord, and The Body Shop Canada Limited, as tenant, for certain premises located at the property municipally known as 21 Micmac Blvd, Dartmouth, Nova Scotia, B3A 4N3, as may have been amended, supplemented or restated from time to time (the "Mic Mac Mall Store").
34.	Lease Agreement between 2023011 Ontario Ltd. – Fishman Group, as landlord, and The Body Shop Canada Limited, as tenant, for certain premises located at the property municipally known as 21 Micmac Boulevard, Dartmouth, Nova Scotia, B3A 4N3, as may have been amended, supplemented or restated from time to time (the "Sunnyside Mall Store").
35.	Lease Agreement between RioCan, as landlord, and The Body Shop Canada Limited, as tenant, for certain premises located at the property municipally known as 509 Bayfield St, Barrie, Ontario, L4M 4Z8, as may have been amended, supplemented or restated from time to time (the "Georgian Mall Store").
36.	Lease Agreement between Cushman & Wakefield, as landlord, and The Body Shop Canada Limited, as tenant, for certain premises located at the property municipally known as 100 Bayshore Drive, Ottawa, Ontario, K2B 8C1, as may have been amended, supplemented or restated from time to time (the "Bayshore Shopping Centre Store").
37.	Lease Agreement between Z.L.C. Investments Limited, as landlord, and The Body Shop Canada Limited, as tenant, for certain premises located at the property municipally known as 2366 Bloor Street West, Toronto, Ontario, M6S 1P3, as may have been amended, supplemented or restated from time to time (the "Bloor West Village Store").
38.	Lease Agreement between Morguard, as landlord, and The Body Shop Canada Limited, as tenant, for certain premises located at the property municipally known as 25 Peel Centre Drive Unit 246, Brampton, L6T 3R5, as may have been amended, supplemented or restated from time to time (the "Bramalea City Centre Store").
39.	Lease Agreement between Primaris, as landlord, and The Body Shop Canada Limited, as tenant, for certain premises located at the property municipally known as 3100 Howard



	Avenue, Windsor, Ontario, N8X 3Y8, as may have been amended, supplemented or restated from time to time (the "Devonshire Mall Store").
40.	Lease Agreement between Cushman & Wakefield, as landlord, and The Body Shop Canada Limited, as tenant, for certain premises located at the property municipally known as 5100 Erin Mills Parkway, Mississauga, Ontario, L5M 4Z5, as may have been amended, supplemented or restated from time to time (the "Erin Mills Town Centre Store").
41.	Lease Agreement between Cadillac Fairview, as landlord, and The Body Shop Canada Limited, as tenant, for certain premises located at the property municipally known as 1800 Sheppard Ave E. #2035, Toronto, Ontario, M2J 5A7, as may have been amended, supplemented or restated from time to time (the "Fairview Mall Store").
42.	Lease Agreement between Oxford Properties, as landlord, and The Body Shop Canada Limited, as tenant, for certain premises located at the property municipally known as 9350 Yonge Street, Richmond H, Ontario, L4C 5G2, as may have been amended, supplemented or restated from time to time (the "Hillcrest Mall Store").
43.	Lease Agreement between Primaris, as landlord, and The Body Shop Canada Limited, as tenant, for certain premises located at the property municipally known as 1000 Fort William Road, Thunder Bay, Ontario, P7B 6B9, as may have been amended, supplemented or restated from time to time (the "Intercity Shopping Centre Store").
44.	Lease Agreement between Cadillac Fairview, as landlord, and The Body Shop Canada Limited, as tenant, for certain premises located at the property municipally known as 999 Upper Wentworth Street, Hamilton, Ontario, L9A 4X5, as may have been amended, supplemented or restated from time to time (the "Lime Ridge Mall Store").
45.	Lease Agreement between Ivanhoe Cambridge, as landlord, and The Body Shop Canada Limited, as tenant, for certain premises located at the property municipally known as 900 Maple Avenue, Burlington, Ontario, L7S 2J8, as may have been amended, supplemented or restated from time to time (the "Mapleview Centre Store").
46.	Lease Agreement between Cadillac Fairview, as landlord, and The Body Shop Canada Limited, as tenant, for certain premises located at the property municipally known as 5000 Highway 7 East, Markham, Ontario, L3R 4M9, as may have been amended, supplemented or restated from time to time (the "Markville Shopping Centre Store").
47.	Lease Agreement between Cadillac Fairview, as landlord, and The Body Shop Canada Limited, as tenant, for certain premises located at the property municipally known as 1680 Richmond Street North, London, Ontario, N6G 3Y9, as may have been amended, supplemented or restated from time to time (the "Masonville Place Store").
48.	Lease Agreement between Primaris, as landlord, and The Body Shop Canada Limited, as tenant, for certain premises located at the property municipally known as 1349 LaSalle Boulevard, Sudbury, Ontario, P3A 1Z2, as may have been amended, supplemented or restated from time to time (the "New Sudbury Centre Store").
49.	Lease Agreement between RioCan, as landlord, and The Body Shop Canada Limited, as tenant, for certain premises located at the property municipally known as 240 Leighland

	Avenue, Oakville, Ontario, L6HY 3H6, as may have been amended, supplemented or restated from time to time (the "Oakville Place Store").
50.	Lease Agreement between Ivanhoe Cambridge, as landlord, and The Body Shop Canada Limited, as tenant, for certain premises located at the property municipally known as 419 King Street West Unit 2105, Oshawa, Ontario, L1J 2K5, as may have been amended, supplemented or restated from time to time (the "Oshawa Centre Store").
51.	Lease Agreement between Cushman & Wakefield, as landlord, and The Body Shop Canada Limited, as tenant, for certain premises located at the property municipally known as 221 Glendale Avenue, St. Catharines, Ontario, L2T 2K9, as may have been amended, supplemented or restated from time to time (the "Pen Centre Store").
52.	Lease Agreement between Cushman & Wakefield, as landlord, and The Body Shop Canada Limited, as tenant, for certain premises located at the property municipally known as 1355 Kingston Road Unit 68, Pickering, Ontario, L1V 1B8, as may have been amended, supplemented or restated from time to time (the "Pickering Town Centre Store").
53.	Lease Agreement between Oxford Properties, as landlord, and The Body Shop Canada Limited, as tenant, for certain premises located at the property municipally known as 300 Borough Drive, Scarborough, Ontario, M1P 4P5, as may have been amended, supplemented or restated from time to time (the "Scarborough Town Centre Store").
54.	Lease Agreement between Oxford Properties, as landlord, and The Body Shop Canada Limited, as tenant, for certain premises located at the property municipally known as 100 City Centre Drive, Mississauga, Ontario, L5B 2C9, as may have been amended, supplemented or restated from time to time (the "Square One Shopping Centre Store").
55.	Lease Agreement between Morguard, as landlord, and The Body Shop Canada Limited, as tenant, for certain premises located at the property municipally known as 1200 St. Laurent Blvd, Ottawa, Ontario, K1K 3B8, as may have been amended, supplemented or restated from time to time (the "St. Laurent Centre Store").
56.	Lease Agreement between Cadillac Fairview, as landlord, and The Body Shop Canada Limited, as tenant, for certain premises located at the property municipally known as 220 Yonge Street, Toronto, Ontario, M5B 2H1, as may have been amended, supplemented or restated from time to time (the "Toronto Eaton Centre Store").
57.	Lease Agreement between Oxford Properties, as landlord, and The Body Shop Canada Limited, as tenant, for certain premises located at the property municipally known as 17600 Yonge Street, Newmarket, Ontario, L3Y 4Z1, as may have been amended, supplemented or restated from time to time (the "Upper Canada Mall Store").
58.	Lease Agreement between Bentall Kennedy, as landlord, and The Body Shop Canada Limited, as tenant, for certain premises located at the property municipally known as 1105 Wellington Road, London, Ontario, N6E 1V4, as may have been amended, supplemented or restated from time to time (the "White Oaks Mall Store").
59.	Lease Agreement between Ivanhoe Cambridge, as landlord, and The Body Shop Canada Limited, as tenant, for certain premises located at the property municipally known as 300

	Taylor Road Space 445, Niagara-on-the-Lake, Ontario, L0S 1P0, as may have been amended, supplemented or restated from time to time (the "The Outlet Collection at Niagara Store").
60.	Lease Agreement between RioCan, as landlord, and The Body Shop Canada Limited, as tenant, for certain premises located at the property municipally known as 300 Taylor Road, Niagara On The Lake, Ontario, L0S 1J0, as may have been amended, supplemented or restated from time to time (the "Ottawa Outlets Store").
61.	Lease Agreement between Tanger, as landlord, and The Body Shop Canada Limited, as tenant, for certain premises located at the property municipally known as 3311 Simcoe Rd 89 Unit H20, Cookstown, Ontario, L0L 1L0, as may have been amended, supplemented or restated from time to time (the "Cookstown Outlets Store").
62.	Lease Agreement between Cadillac Fairview, as landlord, and The Body Shop Canada Limited, as tenant, for certain premises located at the property municipally known as 25 The West Mall, Etobicoke, Ontario, M9C 1B8, as may have been amended, supplemented or restated from time to time (the "Sherway Gardens Store").
63.	Lease Agreement between Ivanhoe Cambridge, as landlord, and The Body Shop Canada Limited, as tenant, for certain premises located at the property municipally known as 1 Bass Pro Mills Drive Unit 241, Vaughan, Ontario, L4K 5W4, as may have been amended, supplemented or restated from time to time (the "Vaughan Mills Store").
64.	Lease Agreement between Primaris, as landlord, and The Body Shop Canada Limited, as tenant, for certain premises located at the property municipally known as 390 North Front Street Unit D3C, Belleville, Ontario, K8P 3E1, as may have been amended, supplemented or restated from time to time (the "Quinte Mall Store").
65.	Lease Agreement between Morguard, as landlord, and The Body Shop Canada Limited, as tenant, for certain premises located at the property municipally known as Unit #226-355 Hespeler Road, Cambridge, Ontario, N1R 6B3, as may have been amended, supplemented or restated from time to time (the "Cambridge Centre Store").
66.	Lease Agreement between Ivanhoe Cambridge, as landlord, and The Body Shop Canada Limited, as tenant, for certain premises located at the property municipally known as 550 King Street North, Suite B10A, Waterloo, Ontario, N2L 5W6, as may have been amended, supplemented or restated from time to time (the "Conestoga Mall Store").
67.	Lease Agreement between Oxford Properties, as landlord, and The Body Shop Canada Limited, as tenant, for certain premises located at the property municipally known as 3401 Dufferin Street, Toronto, Ontario, M6A 2T9, as may have been amended, supplemented or restated from time to time (the "Yorkdale Shopping Centre Store").
68.	Lease Agreement between Simon, as landlord, and The Body Shop Canada Limited, as tenant, for certain premises located at the property municipally known as 13850 Steeles Avenue, Halton Hills, Ontario, L76 0J1, as may have been amended, supplemented or restated from time to time (the "Toronto Premium Outlets Store").
69.	Lease Agreement between Killam Investments (PEI) Inc., as landlord, and The Body Shop Canada Limited, as tenant, for certain premises located at the property municipally known

	as 670 University Avenue, Charlottetown, Prince Edward Island, C1E 1H6, as may have been amended, supplemented or restated from time to time (the "Royalty Crossing Store").
70.	Lease Agreement between Strathallen, as landlord, and The Body Shop Canada Limited, as tenant, for certain premises located at the property municipally known as 2807 Gordon Road, Regina, Saskatchewan, S4S 6H7, as may have been amended, supplemented or restated from time to time (the "Southland Mall Store").
71.	Lease Agreement between Cadillac Fairview, as landlord, and The Body Shop Canada Limited, as tenant, for certain premises located at the property municipally known as 1485 Portage Ave Unit 124, Winnipeg, Manitoba, R3G 0W, as may have been amended, supplemented or restated from time to time (the "Polo Park Shopping Centre Store").
72.	All storage leases associated with the above locations.

**Schedule 1.1(e)  
Vesting Order**

See attached.

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

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

THE HONOURABLE  
JUSTICE OSBORNE

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FRIDAY, THE 13th  
DAY OF DECEMBER, 2024

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

IN THE MATTER OF A PLAN OF COMPROMISE OR  
ARRANGEMENT OF THE BODY SHOP CANADA LIMITED, IN  
THE CITY OF TORONTO, IN THE PROVINCE OF ONTARIO (the  
"**Applicant**")

**APPROVAL AND VESTING ORDER**

**THIS MOTION**, made by the Applicant pursuant to the *Companies' Creditors Arrangement Act* (Canada) ("**CCAA**"), for an order approving the sale transaction (the "**Transaction**") contemplated by an asset purchase agreement dated as of December 6, 2024 (the "**APA**") between the Applicant as seller (the "**Seller**") and 1001072685 Ontario Inc. (or any permitted assignee under the APA) as purchaser (the "**Purchaser**") and attached as a confidential appendix to the Second Report (the "**Second Report**") of Alvarez & Marsal Canada Inc., in its capacity as court-appointed monitor of the Applicant (in such capacity, the "**Monitor**") and vesting in the Purchaser all of the Seller's right, title and interest in and to the Purchased Assets described in the APA, was heard this day by videoconference.

**ON READING** the Notice of Motion and Motion Record of the Applicant, the Affidavit of Jordan Searle sworn December 6, 2024, and the Second Report, and on hearing the submissions of counsel for the Applicant, the Monitor, the Purchaser, and counsel for the other persons listed on the counsel slip, no one appearing for any other person on the service list, although properly served as appears from the affidavit of service, filed:

## SERVICE AND DEFINITIONS

1. **THIS COURT ORDERS** that the time for service and filing of the Notice of Motion and Motion Record is hereby abridged and validated so that this motion is properly returnable today and hereby dispenses with further service thereof.
2. **THIS COURT ORDERS** that capitalized terms used herein but not otherwise defined have the definitions given to them in the APA.

## APPROVAL OF THE TRANSACTION

3. **THIS COURT ORDERS AND DECLARES** that the Transaction is hereby approved, and the execution of the APA by the Seller is hereby authorized and approved, with such minor amendments as the Seller and the Purchaser, with the approval of the Monitor, may agree upon. The Seller and the Monitor are hereby authorized and directed to perform their respective obligations under the APA and any ancillary documents and to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Transaction and for the conveyance of the Purchased Assets to the Purchaser.
4. **THIS COURT ORDERS AND DECLARES** that this Order shall constitute the only authorization required by the Monitor and Seller to proceed with the Transaction and that no shareholder, partner, or other approvals shall be required in connection therewith.

## VESTING OF THE PURCHASED ASSETS

5. **THIS COURT ORDERS AND DECLARES** that upon the delivery of a Monitor's certificate to the Seller and the Purchaser or their respective counsel substantially in the form attached as **Schedule "A"** (the "**Monitor's Certificate**"), all of the Seller's right, title and interest in and to the Purchased Assets (including any real property leases that may be assigned to the Purchaser ("**Leases**")) shall vest absolutely in the Purchaser free and clear of and from any and

all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, rights of distraint, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the “**Claims**”) including, without limiting the generality of the foregoing: (a) any encumbrances or charges created by an order of this Court made in the CCAA Proceedings, including, without limitation, the initial order of the Honourable Justice Osborne dated July 5, 2024 (the “**Initial Order**”), which granted the Administration Charge, the D&O Charge and the KERP Charge (as defined in the Initial Order), and the order of the Honourable Justice Osborne dated October 4, 2024 (the “**Critical Supplier Charge Order**”), which granted the Critical Supplier Charge (as defined in the Critical Supplier Charge Order); (b) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal property registry system; (c) all amounts assessed or otherwise sought by any provincial taxing authority relating to tax liabilities of the Applicant for tax periods, or parts thereof, ending on or before the Closing Date; and (d) those Claims listed on **Schedule “B”** (all of which are collectively referred to as the “**Encumbrances**”, which term shall not include the Permitted Encumbrances, easements and restrictive covenants listed on **Schedule “C”**) and, for greater certainty, this Court orders that all of the Claims and Encumbrances affecting or relating to the Purchased Assets are hereby expunged and discharged as against the Purchased Assets. Notwithstanding the foregoing, but subject to the terms of any agreement between the Purchaser and the applicable landlord with respect to any Lease that may in the future be assigned to the Purchaser, nothing in this Order shall affect the rights and remedies of a landlord as against the Purchaser that may arise or exist under or in respect of any Lease that may be assigned to the Purchaser.



6. **THIS COURT ORDERS THAT** (a) nothing in this Order shall amend or vary, or be deemed to amend or vary, the terms of a Lease that may in the future be assumed by the Purchaser and (b) where a Lease is not, in accordance with its terms, transferrable or assignable to the Purchaser without first obtaining the consent of the applicable landlord, such Lease shall not be transferred, conveyed, assigned or vested in the Purchaser by operation of this Order, but such assignment shall be effected upon obtaining the requisite consent from the applicable landlord or upon further Order of the Court (in which case the Purchaser shall be entitled to rely upon, and have the benefit of, all of the provisions of this Order which include, for greater certainty, the transfer and vesting of Purchased Assets to the Purchaser).

7. **THIS COURT ORDERS** that for the purposes of determining the nature and priority of Claims, the net proceeds from the sale of the Purchased Assets shall stand in the place and stead of the Purchased Assets, and that from and after the delivery of the Monitor's Certificate, all Claims and Encumbrances, other than the Critical Supplier Charge, shall attach to the net proceeds from the sale of the Purchased Assets with the same priority as they had with respect to the Purchased Assets immediately prior to the sale, as if the Purchased Assets had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale.

8. **THIS COURT ORDERS AND DECLARES** that upon the delivery of the Monitor's Certificate to the Seller and the Purchaser or their respective counsel, the Critical Supplier Charge shall be expunged, discharged and released and no party shall have a claim against the net proceeds from the sale of the Purchased Assets in respect of the Critical Supplier Charge.

9. **THIS COURT ORDERS AND DIRECTS** the Monitor to file with the Court a copy of the Monitor's Certificate and deliver a copy of the Monitor's Certificate to the service list, in each case forthwith after delivery thereof to the Seller and Purchaser or their respective counsel.

10. **THIS COURT ORDERS** that the Monitor may rely on written notice from the Seller and the Purchaser or their respective counsel regarding the fulfillment or waiver of conditions to Closing under the APA and shall have no liability with respect to delivery of the Monitor's Certificate.

11. **THIS COURT ORDERS** that, notwithstanding:

- (a) the pendency of these proceedings;
- (b) any applications for a bankruptcy or receivership order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) (the "**BIA**") or other applicable legislation in respect of the Applicant and any bankruptcy or receivership order issued pursuant to any such applications;
- (c) any assignment in bankruptcy made in respect of the Seller; and
- (d) any provisions of any federal or provincial legislation

the vesting of the Purchased Assets in the Purchaser pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of the Applicant and shall not be void or voidable by creditors of the Applicant, nor shall it constitute nor be deemed to be a fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue, or other reviewable transaction under the BIA or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

#### SELLER NAME CHANGE

12. **THIS COURT ORDERS** that, notwithstanding subsection 173(1) of the *Canada Business Corporations Act* ("**CBCA**") or any provision of any other applicable federal or provincial

legislation, the Applicant shall be and is hereby authorized and directed, upon filing of the Monitor's Certificate, to take any appropriate action to change the Seller's name to a name which does not include the words "The Body Shop" or any part thereof or any similar words, including, but not limited to, filing articles of amendment in accordance with the CBCA and registering an amendment, renewal, or cancellation of a registration in accordance with the *Business Names Act* (Ontario) ("**BNA**") or any other applicable federal or provincial legislation, for and on behalf of the Applicant for the sole purpose of complying with this paragraph 11, and this Court hereby directs the Director (as defined in the CBCA) and Registrar (as defined in the BNA) and any analogous governmental authority to endorse, certify, and/or issue such documents and take such further actions as are necessary to give effect to this paragraph 11.

#### **DISCLOSURE OF PERSONAL INFORMATION**

13. **THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the *Personal Information Protection and Electronic Documents Act* (Canada) ("**PIPEDA**"), each of the Applicant and the Monitor, as the case may be, is authorized and permitted to disclose and transfer to the Purchaser all human resources and payroll information in the Seller's records pertaining to the Seller's past and current employees and customers, including, without limitation, the personal information of the Transferred Employees. The Purchaser shall maintain and protect the privacy of such information and shall be entitled to use the personal information provided to it in a manner which is in all material respects identical to the prior use of such information by the Seller.

#### **SEALING ORDER**

14. **THIS COURT ORDERS** that the confidential appendix to the Second Report, being an unredacted copy of the APA, a summary of the bids received in the Sale Process, and Monitor's liquidation analysis, is hereby sealed and shall not form part of the public record until the Monitor's Certificate is filed or further order of the Court.

## KERP CHARGE

15. **THIS COURT ORDERS AND DECLARES** that upon payment of the amounts secured by the KERP Charge to the KERP Participants (as defined in the Initial Order), the KERP Charge shall be expunged, discharged and released and no party shall have a claim against the net proceeds from the sale of the Purchased Assets in respect of the KERP Charge.

## AID & RECOGNITION

16. **THIS COURT ORDERS** that the Applicant, the Monitor or the Purchaser may apply to the Court as necessary to seek further orders and directions to give effect to this Order.

17. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Applicant, the Monitor, and the Purchaser 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, the Monitor, as an officer of this Court, and the Purchaser as may be necessary or desirable to give effect to this Order or to assist the Applicant, the Monitor, and the Purchaser and their respective agents in carrying out the terms of this Order.

18. **THIS COURT ORDERS** that this Order and all of its provisions are effective as of 12:01 a.m. (Toronto time) on the date of this Order without any need for filing or entry.

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## Schedule "A" – Form of Monitor's Certificate

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

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

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

**IN THE MATTER OF A PLAN OF COMPROMISE OR  
ARRANGEMENT OF THE BODY SHOP CANADA LIMITED,  
IN THE CITY OF TORONTO, IN THE PROVINCE OF  
ONTARIO**

(the "**Applicant**")

**MONITOR'S CERTIFICATE**

**RECITALS**

A. Pursuant to an Order of the Honourable Justice Osborne of the Ontario Superior Court of Justice (Commercial List) (the "**Court**") dated July 5, 2024 (as may be amended and restated from time to time), Alvarez & Marsal Canada Inc. was appointed as the monitor (in such capacity, the "**Monitor**") of the Applicant in the proceedings under the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended.

B. Pursuant to an Order of the Court dated December 13, 2024, (the "**Sale Approval and Vesting Order**"), the Court approved the asset purchase agreement made as of December 6, 2024 (the "**APA**") between the Applicant, as seller (the "**Seller**") and 1001072685 Ontario Inc. (or any permitted assignee under the APA) as purchaser (the "**Purchaser**") and provided for the vesting in the Purchaser all of the Seller's right, title and interest in and to the Purchased Assets, which vesting is to be effective with respect to the Purchased Assets upon the delivery by the Monitor to the Seller and the Purchaser or their respective counsel of this Monitor's Certificate.

C. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the APA or the Sale Approval and Vesting Order, as applicable.

**THE MONITOR CERTIFIES** the following:

1. The Monitor has received written confirmation from the Seller and the Purchaser (through their respective counsel), in form and substance satisfactory to the Monitor, that all conditions to Closing as set out in sections 6.4 and 6.5 of the APA have been satisfied or waived by the Seller and the Purchaser, respectively; and
2. The Monitor has received written confirmation from the Seller that it has paid TBSI **\$[1,175,656.10]** in respect of the Inventory; and
4. The Transaction has been completed to the satisfaction of the Monitor.
5. This Monitor's Certificate was delivered by the Monitor at \_\_\_\_\_ [TIME] on \_\_\_\_\_ [DATE].

**Alvarez & Marsal Canada Inc., solely in its capacity as Monitor of The Body Shop Canada Limited, and not in its personal or corporate capacity**

Per: \_\_\_\_\_

Name: Josh Nevsky

Title: Senior Vice-President

## Schedule "B" – Encumbrances to be Expunged and Discharged from the Purchased Assets

**(A) Personal Property Security Interests****1. Alberta**(i) *Personal Property Security Act (Alberta)*

DEBTOR NAME(S)	SECURED PARTY NAME(S)	FILE/ REGISTRATION NO.	COLLATERAL CLASSIFICATION/ DESCRIPTION	EXPIRY DATE
THE BODY SHOP CANADA LIMITED	AURELIUS IV UK ACQUICO SEVEN LIMITED	23122208936	ALL OF THE DEBTOR'S PRESENT AND AFTER ACQUIRED PERSONAL PROPERTY AND ALL PROCEEDS THEREOF	DECEMBER 22, 2028



## 2. British Columbia

### (i) *Personal Property Security Act (British Columbia)*

DEBTOR NAME(S)	SECURED PARTY NAME(S)	FILE/ REGISTRATION NO.	COLLATERAL CLASSIFICATION/ DESCRIPTION	EXPIRY DATE
THE BODY SHOP CANADA LIMITED	AURELIUS IV UK ACQUICO SEVEN LIMITED	985899P	ALL OF THE DEBTOR'S PRESENT AND AFTER ACQUIRED PERSONAL PROPERTY AND ALL PROCEEDS THEREOF	DECEMBER 22, 2028

### 3. Manitoba

(i) *Personal Property Security Act (Manitoba)*

DEBTOR NAME(S)	SECURED PARTY NAME(S)	FILE/ REGISTRATION NO.	COLLATERAL CLASSIFICATION/ DESCRIPTION	EXPIRY DATE
THE BODY SHOP CANADA LIMITED	AURELIUS IV UK ACQUICO SEVEN LIMITED	202321135503	THE SECURITY INTEREST IS TAKEN IN ALL OF THE DEBTOR'S PRESENT AND AFTER- ACQUIRED PERSONAL PROPERTY	DECEMBER 31, 2028

#### 4. New Brunswick

(i) *Personal Property Security Act (New Brunswick)*

DEBTOR NAME(S)	SECURED PARTY NAME(S)	FILE/ REGISTRATION NO.	COLLATERAL CLASSIFICATION/ DESCRIPTION	EXPIRY DATE
THE BODY SHOP CANADA LIMITED	AURELIUS IV UK ACQUICO SEVEN LIMITED	39387741	ALL OF THE DEBTOR'S PRESENT AND AFTER ACQUIRED PERSONAL PROPERTY AND PROCEEDS THEREOF	DECEMBER 22, 2023

## 5. Newfoundland and Labrador

### (i) *Personal Property Security Act (Newfoundland and Labrador)*

DEBTOR NAME(S)	SECURED PARTY NAME(S)	FILE/ REGISTRATION NO.	COLLATERAL CLASSIFICATION/ DESCRIPTION	EXPIRY DATE
THE BODY SHOP CANADA LIMITED	AURELIUS IV UK ACQUICO SEVEN LIMITED	21386677	ALL OF THE DEBTOR'S PRESENT AND AFTER ACQUIRED PERSONAL PROPERTY AND PROCEEDS THEREOF	DECEMBER 22, 2028

## 6. Nova Scotia

(i) *Personal Property Security Act (Nova Scotia)*

DEBTOR NAME(S)	SECURED PARTY NAME(S)	FILE/ REGISTRATION NO.	COLLATERAL CLASSIFICATION/ DESCRIPTION	EXPIRY DATE
THE BODY SHOP CANADA LIMITED	AURELIUS IV UK ACQUICO SEVEN LIMITED	38896395	ALL OF THE DEBTOR'S PRESENT AND AFTER ACQUIRED PERSONAL PROPERTY AND PROCEEDS THEREOF	DECEMBER 22, 2028

## 7. Ontario

### (i) *Personal Property Security Act (Ontario)*

DEBTOR NAME(S)	SECURED PARTY NAME(S)	FILE/ REGISTRATION NO.	COLLATERAL CLASSIFICATION/ DESCRIPTION	EXPIRY DATE
THE BODY SHOP CANADA LIMITED	AURELIUS IV UK ACQUICO SEVEN LIMITED	20231222 1121 1590 4230	INVENTORY, EQUIPMENT, ACCOUNTS, OTHER  ALL OF THE DEBTOR'S PRESENT AND AFTER ACQUIRED PERSONAL PROPERTY AND ALL PROCEEDS THEREOF	DECEMBER 28, 2028
THE BODY SHOP CANADA LTD	ENTERPRISE FLEET MANAGEMENT CANADA, INC	20230515 1405 1462 5479	GOODS  2023 NISSAN ROGUE  V.I.N. JN8BT3BB2PW198219	MAY 15, 2026

## 8. Prince Edward Island

(ii) *Personal Property Security Act (Prince Edward Island)*

DEBTOR NAME(S)	SECURED PARTY NAME(S)	FILE/ REGISTRATION NO.	COLLATERAL CLASSIFICATION/ DESCRIPTION	EXPIRY DATE
THE BODY SHOP CANADA LIMITED	AURELIUS IV UK ACQUICO SEVEN LIMITED	6424407	ALL OF THE DEBTOR'S PRESENT AND AFTER ACQUIRED PERSONAL PROPERTY AND PROCEEDS THEREOF	DECEMBER 22, 2028

## 9. Quebec

(iii) *Civil Code of Quebec (Quebec)*

DEBTOR NAME(S)	SECURED PARTY NAME(S)	FILE/REGISTRATION NO.	COLLATERAL CLASSIFICATION/ DESCRIPTION	EXPIRY DATE
THE BODY SHOP CANADA LIMITED	AURELIUS IV UK ACQUICO SEVEN LIMITED	24-0020790-0001	L'UNIVERSALITÉ D ES BIENS MEUBLES DE THE BODY SHOP CANADA LIMITED, PRÉSENTS ET À VENIR, CORPORELS ET INCORPORELS, DE QUELQUE NATURE QU'ILS SOIENT ET OÙ QU'ILS PUISSENT ÊTRE SITUÉS	JANUARY 10, 2024



## 10. Saskatchewan

### (i) *Personal Property Security Act (Saskatchewan)*

DEBTOR NAME(S)	SECURED PARTY NAME(S)	FILE/ REGISTRATION NO.	COLLATERAL CLASSIFICATION/ DESCRIPTION	EXPIRY DATE
THE BODY SHOP CANADA LIMITED	AURELIUS IV UK ACQUICO SEVEN LIMITED	302500434	ALL OF THE DEBTOR'S PRESENT AND AFTER ACQUIRED PERSONAL PROPERTY AND PROCEEDS THEREOF	DECEMBER 31, 2028
TREK 2000 CORPORATION / THE BODY SHOP	HSBC BANK CANADA	101354005	ALL OF THE PRESENT AND AFTER-ACQUIRED PROPERTY OF THE DEBTORS	NONE
TREK 2000 CORPORATION / THE BODY SHOP	HSBC BANK CANADA	119693706	ALL OF THE DEBTOR'S PRESENT AND AFTER ACQUIRED PERSONAL PROPERTY OF EVERY NATURE AND KIND WHERESOEVER SITUATE, AND ALL PROCEEDS INCLUDING BUT NOT LIMITED TO ACCOUNTS RECEIVABLE, BILLS OF EXCHANGE, INSURANCE PROCEEDS, CHATTEL PAPER, INTANGIBLES, MOTOR VEHICLES AND ALL OTHER AFTER- ACQUIRED PROPERTY CONSTITUTING PROCEEDINGS	

**11. Nunavut***(iv) Personal Property Security Act (Nunavut)*

DEBTOR NAME(S)	SECURED PARTY NAME(S)	FILE/REGISTRATION NO.	COLLATERAL CLASSIFICATION/ DESCRIPTION	EXPIRY DATE
THE BODY SHOP CANADA LIMITED	AURELIUS IV UK ACQUICO SEVEN LIMITED	559005	ALL OF THE DEBTOR'S PRESENT AND AFTER ACQUIRED PERSONAL PROPERTY AND PROCEEDS THEREOF	DECEMBER 22, 2028

## 12. Northwest Territories

(v) *Personal Property Security Act (Northwest Territories)*

DEBTOR NAME(S)	SECURED PARTY NAME(S)	FILE/REGISTRATION NO.	COLLATERAL CLASSIFICATION/ DESCRIPTION	EXPIRY DATE
THE BODY SHOP CANADA LIMITED	AURELIUS IV UK ACQUICO SEVEN LIMITED	1994220	ALL OF THE DEBTOR'S PRESENT AND AFTER ACQUIRED PERSONAL PROPERTY AND PROCEEDS THEREOF	DECEMBER 22, 2028

**13. Yukon***(vi) Personal Property Security Act (Yukon)*

DEBTOR NAME(S)	SECURED PARTY NAME(S)	FILE/REGISTRATION NO.	COLLATERAL CLASSIFICATION/ DESCRIPTION	EXPIRY DATE
THE BODY SHOP CANADA LIMITED	AURELIUS IV UK ACQUICO SEVEN LIMITED	9438637	ALL OF THE DEBTOR'S PRESENT AND AFTER ACQUIRED PERSONAL PROPERTY AND PROCEEDS THEREOF	DECEMBER 22, 2028

## Schedule "C" – Permitted Encumbrances

**(A) Personal Property Security Interests****1. Alberta***(i) Personal Property Security Act (Alberta)*

DEBTOR NAME(S)	SECURED PARTY NAME(S)	FILE/ REGISTRATION NO.	COLLATERAL CLASSIFICATION/ DESCRIPTION	EXPIRY DATE
THE BODY SHOP CANADA LTD.	ENTERPRISE FLEET MANAGEMENT CANADA, INC	20051800301	MV – MOTOR VEHICLE  2020 NISSAN ROGUE  SERIAL NUMBER 5N1AT2MV9LC775456	MAY 18, 2024

**2. British Columbia**

(i) *Personal Property Security Act (British Columbia)*

DEBTOR NAME(S)	SECURED PARTY NAME(S)	FILE/ REGISTRATION NO.	COLLATERAL CLASSIFICATION/ DESCRIPTION	EXPIRY DATE
THE BODY SHOP CANADA LTD.	ENTERPRISE FLEET MANAGEMENT CANADA, INC	625741P	MOTOR VEHICLE 2023 NISSAN / ROGUE  V.I.N. JN8BT3BB9PW198055	JUNE 26, 2026

**3. Nova Scotia***(i) Personal Property Security Act (Nova Scotia)*

DEBTOR NAME(S)	SECURED PARTY NAME(S)	FILE/ REGISTRATION NO.	COLLATERAL CLASSIFICATION/ DESCRIPTION	EXPIRY DATE
THE BODY SHOP CANADA LTD	ENTERPRISE FLEET MANAGEMENT CANADA, INC	37880374	MOTOR VEHICLE  2023 NISSAN ROGUE  SERIAL NUMBER JN8BT3BB8PW199620	May 23, 2026

#### 4. Ontario

(i) *Personal Property Security Act (Ontario)*

DEBTOR NAME(S)	SECURED PARTY NAME(S)	FILE/ REGISTRATION NO.	COLLATERAL CLASSIFICATION/ DESCRIPTION	EXPIRY DATE
THE BODY SHOP CANADA LTD.	ENTERPRISE FLEET MANAGEMENT CANADA, INC	20231218 1404 1462 0081	GOODS  2024 VOLVO XC40  V.I.N. YV4ER3XK5R2253723	DECEMBER 18, 2026
THE BODY SHOP CANADA LTD.	ENTERPRISE FLEET MANAGEMENT CANADA, INC	20200225 1410 1462 3626	GOODS  2020 NISSAN ROGUE S  V.I.N. 5N1AT2MV9LC769009	FEBRUARY 25, 2024
THE BODY SHOP CANADA LTD	ENTERPRISE FLEET MANAGEMENT CANADA, INC	20230529 1406 1462 1279	GOODS  2023 NISSAN ROGUE  V.I.N. JN8BT3BB2PW198365	MAY 29, 2026
THE BODY SHOP CANADA LTD	ENTERPRISE FLEET MANAGEMENT CANADA, INC	20230529 1406 1462 1280	GOODS  2023 NISSAN ROGUE  V.I.N. JN8BT3BB1PW198454	MAY 29, 2026



**Schedule 2.1(e)**  
**Assumed Contracts**

#	Description of Agreement
1.	All leases referred to in Schedule 1.1.(c).
2.	Employer Services Master Services Agreement between ADP Canada and The Body Shop Canada Limited, effective June 24, 2010.
3.	Master Communications Agreement between Bell Canada and The Body Shop Canada Limited, effective December 8, 2009.
4.	Term Pricing Services Agreement between Quality and Compliance Services, Inc. and The Body Shop Canada Limited, effective July 22, 2004.
5.	Independent Contractor Agreement between Jennifer Wale and The Body Shop Canada Limited, effective March 15, 2024.
6.	Independent Contractor Agreement between Susan Mui and The Body Shop Canada Limited, effective March 15, 2024.
7.	Independent Contractor Agreement between Marsha Jeffrey and The Body Shop Canada Limited, effective March 14, 2024.
8.	Independent Contractor Agreement between Steven Siminerio and The Body Shop Canada Limited, effective October 15, 2024.
9.	Independent Contractor Agreement between Claudia Liu and The Body Shop Canada Limited, effective March 15, 2024.
10.	Independent Contractor Agreement between Liam Benson and The Body Shop Canada.
11.	Independent Contractor Agreement between Walter Boggs and The Body Shop Canada.
12.	Master Equity Vehicle Lease Agreement between Enterprise Fleet Management Canada, Inc. and The Body Shop Canada Limited, effective March 28, 2013.
13.	Maintenance/Service Agreement between Retail Directions (POS/RMS System) and The Body Shop Canada Limited.
14.	Agreement between Lumen Technologies // Colt Technology Services and The Body Shop Canada Limited re: server hosting services.
15.	Agreement between Adyen and The Body Shop Canada Limited re: payment processing.

16.	Agreement between ABC Security Access Systems and The Body Shop Canada Limited re: security system installation service.
17.	Lease Agreement between Enterprise Fleet Management Canada, Inc and The Body Shop Canada Ltd. re: vehicle bearing serial no. 5N1AT2MV9LC775456.
18.	Lease Agreement between Enterprise Fleet Management Canada, Inc and The Body Shop Canada Ltd. re: vehicle bearing V.I.N. N8BT3BB9PW198055.
19.	Lease Agreement between Enterprise Fleet Management Canada, Inc and The Body Shop Canada Ltd re: vehicle bearing serial no. JN8BT3BB8PW199620.
20.	Lease Agreement between Enterprise Fleet Management Canada, Inc and The Body Shop Canada Ltd. re: vehicle bearing V.I.N. YV4ER3XK5R2253723.
21.	Lease Agreement between Enterprise Fleet Management Canada, Inc and The Body Shop Canada Ltd. re: vehicle bearing V.I.N. 5N1AT2MV9LC769009.
22.	Lease Agreement between Enterprise Fleet Management Canada, Inc and The Body Shop Canada Ltd. re: vehicle bearing V.I.N JN8BT3BB2PW198365.
23.	Lease Agreement between Enterprise Fleet Management Canada, Inc and The Body Shop Canada Ltd. re: vehicle bearing V.I.N. JN8BT3BB1PW198454.

**Schedule 2.2(m)**  
**Excluded Contracts**

1. All contracts between Seller and any current or previous Affiliate of Seller, including the Selective Master Distribution & Franchise Agreement between Seller and the UK Parent effective as of October 4, 2024, including, but not limited to the following:
  - a. Selective Master Distribution & Franchise Agreement between Seller and the UK Parent effective as of October 4, 2023;
2. Third party logistics arrangement between Seller and National Logistics Services;
3. Commercial Account New Service Form and Letter of Agency effective as of September 21, 2015 between Granite Telecommunications, LLC and The Body Shop Canada Limited;
4. Services Agreement effective as of June 12, 2019 between Retail Services Group USA LLC and The Body Shop Canada Limited;
5. Agreement between TELUS Mobile and The Body Shop Canada Limited re: employee wireless phones;
6. Leases in respect of Excluded Locations;
7. Employment contracts related to Employees that are not Transferred Employees;
8. Lease agreement between Enterprise Fleet Management Inc, and the Body Shop re: vehicle bearing serial no. JN8BT3BB2PW198219.
9. Any Contracts related to Excluded Assets.

**Schedule 2.2(o)  
Excluded Assets**

Nil.

**Schedule 6.2(e)**  
**Assignment Order**

See attached.

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

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

THE HONOURABLE	)	FRIDAY, THE 13th
	)	
JUSTICE OSBORNE	)	DAY OF DECEMBER, 2024

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

IN THE MATTER OF A PLAN OF COMPROMISE OR  
ARRANGEMENT OF THE BODY SHOP CANADA LIMITED, IN THE  
CITY OF TORONTO, IN THE PROVINCE OF ONTARIO (the  
"**Applicant**")

**ASSIGNMENT ORDER**

**THIS MOTION**, made by the Applicant pursuant to the *Companies' Creditors Arrangement Act* (Canada), as amended (the "**CCAA**"), for, among other things, an order assigning to 1001072685 Ontario Inc. (the "**Assignee**") all of the rights, title, interest, and obligations of the Applicant under the Material Agreements (defined below), as contemplated by an asset purchase agreement dated as of December 6, 2024 (as may be amended, restated, or supplemented from time to time, the "**APA**") between the Applicant, as seller, and the Assignee, approved by this Court by an approval and vesting order dated December 13, 2024 (the "**AVO**"), was heard this day by videoconference via Zoom.

**ON READING** the Notice of Motion and Motion Record of the Applicant, including the Affidavit of Jordan Searle sworn December 6, 2024, and the Second Report (the “**Second Report**”) of Alvarez & Marsal Canada Inc., in its capacity as court-appointed monitor (in such capacity, the “**Monitor**”) of the Applicant, and on hearing the submissions of counsel for the Applicant, the Monitor, the Assignee, and counsel for the other persons listed on the Participant Information Form, no one appearing for any other person on the service list, although properly served.

### **SERVICE AND DEFINITIONS**

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion and Motion Record is hereby abridged and validated so that this motion is properly returnable today and hereby dispenses with further service thereof.
2. **THIS COURT ORDERS** that capitalized terms used herein but not otherwise defined have the definitions given to them in the APA or AVO, as applicable.

### **ASSIGNMENT OF MATERIAL AGREEMENTS**

3. **THIS COURT ORDERS** that upon delivery of the Monitor’s Certificate:
  - (a) all of the rights, title, interest, and obligations of the Applicant under the contracts set forth in **Schedule “A”**, and the Leases (as defined below) set forth in **Schedule “B”**, including, in each case, all associated or related agreements, schedules, appendices, addenda, amendments, supplements, restatements, or other modifications made or entered into from time to time (each a “**Material Agreement**” and collectively, the “**Material**

**Agreements**") shall be assigned, conveyed, transferred to and assumed by the Assignee pursuant to section 11.3 of the CCAA;

- (b) with respect to the Material Agreements that are real property leases (each a "**Lease**" and, collectively, the "**Leases**"), the Assignee shall be entitled to all of the rights and benefits and subject to all of the obligations and restrictions as tenant pursuant to the terms of each Lease and registrations thereof for the period commencing from and after the delivery of the Monitor's Certificate to the end of the term of the Lease and may enter into and upon and hold and have quiet enjoyment of such premises contemplated by each Lease (in each case, without prejudice to the Assignee's right to extend or renew such term) and, if applicable, any renewals thereof, for the Assignee's own use and benefit, all in accordance with the terms of the applicable Lease, and subject to the terms of this Order and the applicable Leases, without any interruption from the Applicant, the landlords under the Leases, or any person whomsoever claiming through or under any of the Applicant or the landlords under the Leases;
- (c) with respect to the Material Agreements that are not Leases, the Assignee shall be entitled to all of the rights and benefits and subject to all of the obligations and restrictions pursuant to the terms of each Material Agreement;
- (d) the Material Agreements shall remain in full force and effect and each counterparty to Material Agreement shall be prohibited from exercising any



rights or remedies under such Material Agreement and shall be forever barred, enjoined, and estopped from taking any such action (including, without limitation, any right of set off against the Assignee in respect of defaults having occurred before the Closing Time) solely by reason of:

- (i) any defaults arising from the insolvency of the Applicant;
- (ii) the commencement of these CCAA Proceedings;
- (iii) any defaults and/or recapture rights arising from the assignment of the Material Agreements to the Assignee;
- (iv) the Applicant having breached a non-monetary obligation under a Material Agreement, unless, with respect to any Lease: (A) any such non-monetary default arises or continues after the Lease is assigned to the Assignee; (B) such non-monetary default is capable of being cured by the Assignee; and (C) the Assignee has failed to remedy the default after having received notice of such default pursuant to the terms of the applicable Lease,

and the counterparties under their respective Material Agreements are hereby deemed to waive any and all defaults or events of default relating thereto and any and all notices of default and demands for payment or any step or proceeding taken or commenced in connection therewith under a Material Agreement shall be deemed to have been rescinded and of no further force or effect. For greater certainty and without limiting the

generality of the foregoing, no counterparty to a Material Agreement shall be permitted to rely on a notice of default or notice of termination sent to the Applicant prior to the filing of the Monitor's Certificate as grounds for terminating or seeking relief or damages against the Assignee under any Material Agreement.

4. **THIS COURT ORDERS** that the assignment of the Material Agreements shall be subject to the terms of the AVO directing that the Applicant's right, title, and interest in and to the Material Agreements shall vest absolutely in the Assignee free and clear of all Claims, including any Encumbrances other than the Permitted Encumbrances in accordance with the terms of the AVO.

5. **THIS COURT ORDERS** that the assignment to the Assignee of the rights and obligations of the Applicant under the Material Agreements pursuant to the CCAA and this Order is valid and binding upon all of the counterparties to the Material Agreements notwithstanding any restriction or prohibition contained in any such Material Agreements relating to the assignment thereof, including, without limitation, any provision relating to change of control or requiring the consent of, or notice for any period in advance of the assignment to, any party to the assignment subject to the satisfaction of all monetary defaults.

6. **THIS COURT ORDERS** that unless this Order expressly requires otherwise, and subject to paragraph 3 hereof, nothing herein shall derogate from the obligations of the Assignee to assume the Material Agreements and to perform the Assignee's obligations under the Material Agreements, and save as specifically set out in this Order, nothing in

this Order shall amend or vary, or be deemed to amend or vary, the terms of any of the Material Agreements which are assigned to the Assignee except as expressly set out to the contrary in any agreement among the Applicant, the Assignee and the applicable counterparty under the Material Agreement.

7. **THIS COURT ORDERS** that if a Material Agreement is removed from the Purchased Assets prior to the Closing Date in accordance with the APA, then such contract shall cease to be a Material Agreement for the purposes of this Order on notice to the Applicant and any counterparties to such Material Agreement.

8. **THIS COURT ORDERS** that all monetary defaults (the “**Monetary Defaults**”) in relation to the Material Agreements listed in **Schedules “A” and “B”** to this Order, in either case, other than those arising by reason only of the Applicant’s insolvency, the commencement of these CCAA Proceedings or the Applicant’s failure to perform a non-monetary obligation, shall be in the amounts set forth therein, and, on or prior to the Closing Date: (i) the Assignee shall pay such Monetary Defaults as set forth in **Schedule “A”** in full and final satisfaction of any and all Monetary Defaults owing to the counterparties to the applicable Material Agreements; and (ii) the Applicant shall pay such Monetary Defaults as set forth in **Schedule “B”** in full and final satisfaction of any and all Monetary Defaults owing to the counterparties to the Leases, and in either case, unless the Monetary Defaults are paid as set out herein, no Material Agreement shall be assigned by operation of this Order. Upon payment of the Monetary Defaults, the Applicant shall have no further liability under the Material Agreements.

9. **THIS COURT ORDERS** that notwithstanding:

- (a) the pendency of these CCAA Proceedings and any declaration of insolvency made herein;
- (b) the pendency of any applications for a bankruptcy or receivership now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada), as amended (the “**BIA**”) in respect of the Applicant or its respective property, and any bankruptcy or receivership order issued pursuant to any such applications;
- (c) any assignment in bankruptcy made in respect of the Applicant; and
- (d) the provision of any federal or provincial statute,

the assignment of the Material Agreements to the Assignee in accordance with this Order and the APA shall be binding on any trustee in bankruptcy or receiver that may be appointed in respect of the Applicant or their respective property and shall not be void or voidable by the creditors of the Applicant, nor shall it constitute nor be deemed to be a transfer at undervalue, settlement, fraudulent preference, fraudulent conveyance, or other reviewable transaction under the BIA or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

**AID & RECOGNITION**

10. **THIS COURT ORDERS** that the Applicant, the Monitor, and the Assignee may apply to the Court as necessary to seek further orders and directions to give effect to this Order.

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

**GENERAL**

12. **THIS COURT ORDERS AND DIRECTS** the Applicant to use best efforts to send a copy of this Order to all of the counterparties to the Material Agreements listed in **Schedule “A”** and to the Leases listed in **Schedule “B”** to the last known address or contact.

13. **THIS COURT ORDERS** that this Order and all of its provisions are effective as of 12:01 am (Toronto time) on the date of this Order without any need for filing or entry.

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**Schedule “A” – List of Material Agreements, Counterparties, and Cure Costs**

#	Description of Agreement	Counterparty	Cure Costs (CAD\$)
73.	Employer Services Master Services Agreement between ADP Canada and The Body Shop Canada Limited, effective June 24, 2010.	ADP Canada	Nil
74.	Master Communications Agreement between Bell Canada and The Body Shop Canada Limited, effective December 8, 2009.	Bell Canada	Nil
75.	Term Pricing Services Agreement between Quality and Compliance Services, Inc. and The Body Shop Canada Limited, effective July 22, 2004.	Quality and Compliance Services, Inc.	Nil
76.	Independent Contractor Agreement between Jennifer Wale and The Body Shop Canada Limited, effective March 15, 2024.	Jennifer Wale	Nil
77.	Independent Contractor Agreement between Susan Mui and The Body Shop Canada Limited, effective March 15, 2024.	Susan Mui	Nil
78.	Independent Contractor Agreement between Marsha Jeffrey and The Body Shop Canada Limited, effective March 14, 2024.	Marsha Jeffrey	Nil
79.	Independent Contractor Agreement between Steven Siminerio and The Body Shop Canada Limited, effective October 15, 2024.	Steven Siminerio	Nil
80.	Independent Contractor Agreement between Claudia Liu and The Body Shop Canada Limited, effective March 15, 2024.	Claudia Liu	Nil
81.	Independent Contractor Agreement between Liam Benson and The Body Shop Canada.	Liam Benson	Nil
82.	Independent Contractor Agreement between Walter Boggs and The Body Shop Canada.	Walter Boggs	Nil

83.	Master Equity Vehicle Lease Agreement between Enterprise Fleet Management Canada, Inc. and The Body Shop Canada Limited, effective March 28, 2013.	Enterprise Fleet Management Canada, Inc.	Nil
84.	Maintenance/Service Agreement between Retail Directions (POS/RMS System) and The Body Shop Canada Limited.	Retail Directions (POS/RMS System)	Nil
85.	Agreement between Lumen Technologies // Colt Technology Services and The Body Shop Canada Limited re: server hosting services.	Lumen Technologies // Colt Technology Services	Nil
86.	Agreement between Adyen and The Body Shop Canada Limited re: payment processing.	Adyen	Nil
87.	Agreement between ABC Security Access Systems and The Body Shop Canada Limited re: security system installation service.	ABC Security Access Systems	Nil
88.	Lease Agreement between Enterprise Fleet Management Canada, Inc and The Body Shop Canada Ltd. re: vehicle bearing serial no. 5N1AT2MV9LC775456.	Enterprise Fleet Management Canada, Inc.	●
89.	Lease Agreement between Enterprise Fleet Management Canada, Inc and The Body Shop Canada Ltd. re: vehicle bearing V.I.N. N8BT3BB9PW198055.	Enterprise Fleet Management Canada, Inc.	●
90.	Lease Agreement between Enterprise Fleet Management Canada, Inc and The Body Shop Canada Ltd re: vehicle bearing serial no. JN8BT3BB8PW199620.	Enterprise Fleet Management Canada, Inc.	●
91.	Lease Agreement between Enterprise Fleet Management Canada, Inc and The Body Shop Canada Ltd. re: vehicle bearing V.I.N. YV4ER3XK5R2253723.	Enterprise Fleet Management Canada, Inc.	●
92.	Lease Agreement between Enterprise Fleet Management Canada, Inc and The Body Shop Canada Ltd. re: vehicle bearing V.I.N. 5N1AT2MV9LC769009.	Enterprise Fleet Management Canada, Inc.	●
93.	Lease Agreement between Enterprise Fleet Management Canada, Inc and The Body Shop Canada Ltd. re: vehicle bearing V.I.N JN8BT3BB2PW198365.	Enterprise Fleet Management Canada, Inc.	●



94.	Lease Agreement between Enterprise Fleet Management Canada, Inc and The Body Shop Canada Ltd. re: vehicle bearing V.I.N. JN8BT3BB1PW198454.	Enterprise Fleet Management Canada, Inc.	[●]
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### Schedule “B” – List of Leases, Counterparties, and Cure Costs

#	Description of Agreement	Counterparty	Cure Costs (CAD\$)
<b>Store Leases</b>			
1.	Lease agreement between Primaris, as landlord, and The Body Shop Canada Limited, as tenant, for certain premises located at the property municipally known as 375 St. Albert Trl, St. Albert, Alberta, T8N 3K8, as may have been amended, supplemented or restated from time to time (the “St. Albert Centre Store”).	Primaris	Nil
2.	Lease agreement between Ivanhoe Cambridge, as landlord, and The Body Shop Canada Limited, as tenant, for certain premises located at the property municipally known as 1 Outlet Collection Way, Unit 10, Edmonton, Alberta, T9E 1J5, as may have been amended, supplemented or restated from time to time (the “Outlet Collection at Edmonton Store”).	Ivanhoe Cambridge // Simon Property Group	Nil
3.	Lease agreement between Oxford Properties, as landlord, and The Body Shop Canada Limited, as tenant, for certain premises located at the property municipally known as 109 Street NW & Princess Elizabeth Avenue, Edmonton, Alberta, T5G 3A6, as may have been amended, supplemented or restated from time to time (the “Kingsway Mall Store”).	Oxford Properties	\$1,327
4.	Lease agreement between Cadillac Fairview, as landlord, and The Body Shop Canada Limited, as tenant, for certain premises located at the property municipally known as 3625 Shaganappi Trail NW, Edmonton, Alberta, T3A 0E2, as may have been amended, supplemented or restated from time to time (the “Market Mall Store”).	Cadillac Fairview	Nil

5.	Lease agreement between Oxford Properties, as landlord, and The Body Shop Canada Limited, as tenant, for certain premises located at the property municipally known as 100 Anderson Road SE #54, Calgary, Alberta, T2J 3V1, as may have been amended, supplemented or restated from time to time (the "Southcentre Store").	Oxford Properties	Nil
6.	Lease agreement between Ivanhoe Cambridge, as landlord, and The Body Shop Canada Limited, as tenant, for certain premises located at the property municipally known as 5015-111 Street NW, Edmonton, Alberta, T6H 4M6, as may have been amended, supplemented or restated from time to time (the "Southgate Centre Store").	Ivanhoe Cambridge // JLL / Ivanhoe Cambridge	\$16,265
7.	Lease agreement between Quadreal, as landlord, and The Body Shop Canada Limited, as tenant, for certain premises located at the property municipally known as 1000-4900 Molly Banister Drive, Red Deer, Alberta, T4R 1N9, as may have been amended, supplemented or restated from time to time (the "Bower Place Store").	Quadreal	\$15,937
8.	Lease agreement between Morguard, as landlord, and The Body Shop Canada Limited, as tenant, for certain premises located at the property municipally known as 11801-100 St. Grand Prairie, Alberta, T8V 3Y2, as may have been amended, supplemented or restated from time to time (the "Prairie Mall Store").	Morguard	\$7,881
9.	Lease agreement between Primaris, as landlord, and The Body Shop Canada Limited, as tenant, for certain premises located at the property municipally known as 2020 Sherwood Drive, Sherwood Park, Alberta, T8A 3H9, as may have been amended, supplemented or restated from time to time (the "Sherwood Park Mall Store").	Primaris	\$6,341

10.	Lease agreement between Ivanhoe Cambridge, as landlord, and The Body Shop Canada Limited, as tenant, for certain premises located at the property municipally known as 261055 Unit #267 Crossiron Blvd, Rocky View, Alberta, T4A 0G3, as may have been amended, supplemented or restated from time to time (the "Crossiron Mills Store").	Ivanhoe Cambridge // JLL / Ivanhoe Cambridge	\$18,705
11.	Lease agreement between West Edmonton Mall, as landlord, and The Body Shop Canada Limited, as tenant, for certain premises located at the property municipally known as 8882-170 Street NW, Edmonton, Alberta, T5T 24J2, as may have been amended, supplemented or restated from time to time (the "West Edmonton Mall Store").	West Edmonton Mall // Triple Five Group / West Edmonton Mall	\$55,678
12.	Lease agreement between Central Walk, as landlord, and The Body Shop Canada Limited, as tenant, for certain premises located at the property municipally known as 3147 Douglas Street Unit 644, Victoria, British Columbia, V8Z 6E3, as may have been amended, supplemented or restated from time to time (the "Mayfair Shopping Centre Store").	Central Walk	\$15,391
13.	Lease agreement between Cushman & Wakefield, as landlord, and The Body Shop Canada Limited, as tenant, for certain premises located at the property municipally known as 209/1320 Trans Canada Hwy, Kamloops, British Columbia, V1S 1J2, as may have been amended, supplemented or restated from time to time (the "Aberdeen Mall Store").	Cushman & Wakefield	\$6,204
14.	Lease agreement between Morguard, as landlord, and The Body Shop Canada Limited, as tenant, for certain premises located at the property municipally known as 2929 Barnett Highway Unit 2415, Coquitlam, British Columbia, V3B 5R5, as may have been amended, supplemented or restated from time to time (the "Coquitlam Centre Store").	Morguard	\$14,665

15.	Lease agreement between Shape, as landlord, and The Body Shop Canada Limited, as tenant, for certain premises located at the property municipally known as 9855 Austin Road, Burnaby, British Columbia, V3J 1N4, as may have been amended, supplemented, or restated from time to time (the "Lougheed Town Centre Store").	Shape	\$5,543
16.	Lease agreement between Ivanhoe Cambridge, as landlord, and The Body Shop Canada Limited, as tenant, for certain premises located at the property municipally known as 4700 Kingsway, Burnaby, British Columbia, V5H 4M1, as may have been amended, supplemented or restated from time to time (the "Metropolis At Metrotowne Store").	Ivanhoe Cambridge // JLL / Ivanhoe Cambridge	\$19,292
17.	Lease agreement between Primaris, as landlord, and The Body Shop Canada Limited, as tenant, for certain premises located at the property municipally known as 2271 Harvey Avenue North, Kelowna, British Columbia, V1Y 6H2, as may have been amended, supplemented or restated from time to time (the "Orchard Park Store").	Primaris	Nil
18.	Lease agreement between Cadillac Fairview, as landlord, and The Body Shop Canada Limited, as tenant, for certain premises located at the property municipally known as 700 Georgia St at Howe St. #D060, Vancouver, British Columbia, V7Y 1K8, as may have been amended, supplemented or restated from time to time (the "Pacific Centre Store").	Cadillac Fairview	Nil
19.	Lease agreement between Larco, as landlord, and The Body Shop Canada Limited, as tenant, for certain premises located at the property municipally known as 2002 Park Royal South, West Vancouver, British Columbia, V7T 2W4, as may have been amended, supplemented or restated from time to time (the "Park Royal Shopping Centre Store").	Larco	Nil

20.	Lease agreement between Morguard, as landlord, and The Body Shop Canada Limited, as tenant, for certain premises located at the property municipally known as 3055 Massey Drive, Prince George, V2N 2S9, as may have been amended, supplemented or restated from time to time (the "Pine Centre Store").	Morguard	Nil
21.	Lease agreement between Morguard, as landlord, and The Body Shop Canada Limited, as tenant, for certain premises located at the property municipally known as 32900 South Fraser Way, Abbotsford, British Columbia, V2S 5A1, as may have been amended, supplemented or restated from time to time (the "Sevenoaks Shopping Centre Store").	Morguard	Nil
22.	Lease agreement between Quadreal, as landlord, and The Body Shop Canada Limited, as tenant, for certain premises located at the property municipally known as 19705 Fraser Highway, Langley, British Columbia, V3A 7E9, as may have been amended, supplemented or restated from time to time (the "Willowbrook Shopping Centre Store").	Quadreal	\$16,154
23.	Lease Agreement between Central Walk, as landlord, and The Body Shop Canada Limited, as tenant, for certain premises located at the property municipally known as 25-6631 Island Highway North, Nanaimo, British Columbia, V9T 4T7, as may have been amended, supplemented or restated from time to time (the "Woodgrove Centre Store").	Central Walk	\$18,558
24.	Lease Agreement between McArthur Glen, as landlord, and The Body Shop Canada Limited, as tenant, for certain premises located at the property municipally known as 7899 Templeton Station Rd, Unit 36, Richmond, British Columbia, V7B 0B7, as may have been amended, supplemented or restated from time to time (the "McArthurGlen Designer Outlet Store").	McArthur Glen	\$15,458

25.	Lease Agreement between Cadillac Fairview, as landlord, and The Body Shop Canada Limited, as tenant, for certain premises located at the property municipally known as 6551 No. 3 Road, Richmond, British Columbia, as may have been amended, supplemented or restated from time to time (the "Richmond Centre Store").	Cadillac Fairview	Nil
26.	Lease Agreement between Ivanhoe Cambridge, as landlord, and The Body Shop Canada Limited, as tenant, for certain premises located at the property municipally known as 10355 152 Street, Suite 1122, Surrey, British Columbia, V3R 7C1, as may have been amended, supplemented or restated from time to time (the "Guildford Town Centre Store").	Ivanhoe Cambridge // JLL / Ivanhoe Cambridge	\$14,336
27.	Lease Agreement between Ivanhoe Cambridge, as landlord, and The Body Shop Canada Limited, as tenant, for certain premises located at the property municipally known as 555 Sterling Lyon Pkwy Park, Winnipeg, Manitoba, R3P 1J9, as may have been amended, supplemented or restated from time to time (the "Outlet Collection at Winnipeg Store").	Ivanhoe Cambridge // JLL / Ivanhoe Cambridge	\$8,186
28.	Lease Agreement between Primaris, as landlord, and The Body Shop Canada Limited, as tenant, for certain premises located at the property municipally known as 1555 Regent Avenue West, Winnipeg, Manitoba, R2C 4J2, as may have been amended, supplemented or restated from time to time (the "Kildonan Place Store").	Primaris	\$355
29.	Lease Agreement between Bentall Kennedy, as landlord, and The Body Shop Canada Limited, as tenant, for certain premises located at the property municipally known as 1225 St. Mary's Road Unit 100, Winnipeg, Manitoba, R2M 5E5, as may have been amended, supplemented or restated from time to time (the "St. Vital Centre Store").	Bentall Kennedy // BentallGreenOak	\$15,357

30.	Lease Agreement between Primaris, as landlord, and The Body Shop Canada Limited, as tenant, for certain premises located at the property municipally known as 1381 Regent Street, Fredericton, New Brunswick, E3C 1A2, as may have been amended, supplemented or restated from time to time (the "Regent Mall Store").	Primaris	\$7,597
31.	Lease Agreement between Crombie, as landlord, and The Body Shop Canada Limited, as tenant, for certain premises located at the property municipally known as 48 Kenmount Road, St. John's, Newfoundland and Labrador, A1B 1W3, as may have been amended, supplemented or restated from time to time (the "Avalon Mall Store").	Crombie	\$11,435
32.	Lease Agreement between Cushman & Wakefield, as landlord, and The Body Shop Canada Limited, as tenant, for certain premises located at the property municipally known as 7001 Mumford Road, Halifax, Nova Scotia, B3L 2H8, as may have been amended, supplemented or restated from time to time (the "Halifax Shopping Centre Store").	Cushman & Wakefield // Primaris	\$17,006
33.	Lease Agreement between Ivanhoe Cambridge, as landlord, and The Body Shop Canada Limited, as tenant, for certain premises located at the property municipally known as 21 Micmac Blvd, Dartmouth, Nova Scotia, B3A 4N3, as may have been amended, supplemented or restated from time to time (the "Mic Mac Mall Store").	Ivanhoe Cambridge // Cushman & Wakefield	\$25
34.	Lease Agreement between 2023011 Ontario Ltd. – Fishman Group, as landlord, and The Body Shop Canada Limited, as tenant, for certain premises located at the property municipally known as 21 Micmac Boulevard, Dartmouth, Nova Scotia, B3A 4N3, as may have been amended, supplemented or restated from time to time (the "Sunnyside Mall Store").	2023011 Ontario Ltd. – Fishman Group	\$4,146



35.	Lease Agreement between RioCan, as landlord, and The Body Shop Canada Limited, as tenant, for certain premises located at the property municipally known as 509 Bayfield St, Barrie, Ontario, L4M 4Z8, as may have been amended, supplemented or restated from time to time (the "Georgian Mall Store").	RioCan	Nil
36.	Lease Agreement between Cushman & Wakefield, as landlord, and The Body Shop Canada Limited, as tenant, for certain premises located at the property municipally known as 100 Bayshore Drive, Ottawa, Ontario, K2B 8C1, as may have been amended, supplemented or restated from time to time (the "Bayshore Shopping Centre Store").	Cushman & Wakefield	\$48,197
37.	Lease Agreement between Z.L.C. Investments Limited, as landlord, and The Body Shop Canada Limited, as tenant, for certain premises located at the property municipally known as 2366 Bloor Street West, Toronto, Ontario, M6S 1P3, as may have been amended, supplemented or restated from time to time (the "Bloor West Village Store").	Z.L.C. Investments Limited	\$13,861
38.	Lease Agreement between Morguard, as landlord, and The Body Shop Canada Limited, as tenant, for certain premises located at the property municipally known as 25 Peel Centre Drive Unit 246, Brampton, L6T 3R5, as may have been amended, supplemented or restated from time to time (the "Bramalea City Centre Store").	Morguard	\$10,592
39.	Lease Agreement between Primaris, as landlord, and The Body Shop Canada Limited, as tenant, for certain premises located at the property municipally known as 3100 Howard Avenue, Windsor, Ontario, N8X 3Y8, as may have been amended, supplemented or restated from time to time (the "Devonshire Mall Store").	Primaris	\$20,692

40.	Lease Agreement between Cushman & Wakefield, as landlord, and The Body Shop Canada Limited, as tenant, for certain premises located at the property municipally known as 5100 Erin Mills Parkway, Mississauga, Ontario, L5M 4Z5, as may have been amended, supplemented or restated from time to time (the "Erin Mills Town Centre Store").	Cushman & Wakefield	\$15,773
41.	Lease Agreement between Cadillac Fairview, as landlord, and The Body Shop Canada Limited, as tenant, for certain premises located at the property municipally known as 1800 Sheppard Ave E. #2035, Toronto, Ontario, M2J 5A7, as may have been amended, supplemented or restated from time to time (the "Fairview Mall Store").	Cadillac Fairview	Nil
42.	Lease Agreement between Oxford Properties, as landlord, and The Body Shop Canada Limited, as tenant, for certain premises located at the property municipally known as 9350 Yonge Street, Richmond H, Ontario, L4C 5G2, as may have been amended, supplemented or restated from time to time (the "Hillcrest Mall Store").	Oxford Properties	Nil
43.	Lease Agreement between Primaris, as landlord, and The Body Shop Canada Limited, as tenant, for certain premises located at the property municipally known as 1000 Fort William Road, Thunder Bay, Ontario, P7B 6B9, as may have been amended, supplemented or restated from time to time (the "Intercity Shopping Centre Store").	Primaris Morguard //	\$18,618
44.	Lease Agreement between Cadillac Fairview, as landlord, and The Body Shop Canada Limited, as tenant, for certain premises located at the property municipally known as 999 Upper Wentworth Street, Hamilton, Ontario, L9A 4X5, as may have been amended, supplemented or restated from time to time (the "Lime Ridge Mall Store").	Cadillac Fairview	Nil

45.	Lease Agreement between Ivanhoe Cambridge, as landlord, and The Body Shop Canada Limited, as tenant, for certain premises located at the property municipally known as 900 Maple Avenue, Burlington, Ontario, L7S 2J8, as may have been amended, supplemented or restated from time to time (the "Mapleview Centre Store").	Ivanhoe Cambridge // JLL / Ivanhoe Cambridge	Nil
46.	Lease Agreement between Cadillac Fairview, as landlord, and The Body Shop Canada Limited, as tenant, for certain premises located at the property municipally known as 5000 Highway 7 East, Markham, Ontario, L3R 4M9, as may have been amended, supplemented or restated from time to time (the "Markville Shopping Centre Store").	Cadillac Fairview	\$1,077
47.	Lease Agreement between Cadillac Fairview, as landlord, and The Body Shop Canada Limited, as tenant, for certain premises located at the property municipally known as 1680 Richmond Street North, London, Ontario, N6G 3Y9, as may have been amended, supplemented or restated from time to time (the "Masonville Place Store").	Cadillac Fairview	Nil
48.	Lease Agreement between Primaris, as landlord, and The Body Shop Canada Limited, as tenant, for certain premises located at the property municipally known as 1349 LaSalle Boulevard, Sudbury, Ontario, P3A 1Z2, as may have been amended, supplemented or restated from time to time (the "New Sudbury Centre Store").	Primaris	Nil
49.	Lease Agreement between RioCan, as landlord, and The Body Shop Canada Limited, as tenant, for certain premises located at the property municipally known as 240 Leighland Avenue, Oakville, Ontario, L6HY 3H6, as may have been amended, supplemented or restated from time to time (the "Oakville Place Store").	RioCan	\$727

50.	Lease Agreement between Ivanhoe Cambridge, as landlord, and The Body Shop Canada Limited, as tenant, for certain premises located at the property municipally known as 419 King Street West Unit 2105, Oshawa, Ontario, L1J 2K5, as may have been amended, supplemented or restated from time to time (the "Oshawa Centre Store").	Ivanhoe Cambridge // JLL / Ivanhoe Cambridge	\$18,118
51.	Lease Agreement between Cushman & Wakefield, as landlord, and The Body Shop Canada Limited, as tenant, for certain premises located at the property municipally known as 221 Glendale Avenue, St. Catharines, Ontario, L2T 2K9, as may have been amended, supplemented or restated from time to time (the "Pen Centre Store").	Cushman & Wakefield // BentallGreenOak	\$8,389
52.	Lease Agreement between Cushman & Wakefield, as landlord, and The Body Shop Canada Limited, as tenant, for certain premises located at the property municipally known as 1355 Kingston Road Unit 68, Pickering, Ontario, L1V 1B8, as may have been amended, supplemented or restated from time to time (the "Pickering Town Centre Store").	Cushman & Wakefield // Salthill	\$15,712
53.	Lease Agreement between Oxford Properties, as landlord, and The Body Shop Canada Limited, as tenant, for certain premises located at the property municipally known as 300 Borough Drive, Scarborough, Ontario, M1P 4P5, as may have been amended, supplemented or restated from time to time (the "Scarborough Town Centre Store").	Oxford Properties	Nil
54.	Lease Agreement between Oxford Properties, as landlord, and The Body Shop Canada Limited, as tenant, for certain premises located at the property municipally known as 100 City Centre Drive, Mississauga, Ontario, L5B 2C9, as may have been amended, supplemented or restated from time to time (the "Square One Shopping Centre Store").	Oxford Properties	Nil

55.	Lease Agreement between Morguard, as landlord, and The Body Shop Canada Limited, as tenant, for certain premises located at the property municipally known as 1200 St. Laurent Blvd, Ottawa, Ontario, K1K 3B8, as may have been amended, supplemented or restated from time to time (the "St. Laurent Centre Store").	Morguard	\$22,061
56.	Lease Agreement between Cadillac Fairview, as landlord, and The Body Shop Canada Limited, as tenant, for certain premises located at the property municipally known as 220 Yonge Street, Toronto, Ontario, M5B 2H1, as may have been amended, supplemented or restated from time to time (the "Toronto Eaton Centre Store").	Cadillac Fairview	Nil
57.	Lease Agreement between Oxford Properties, as landlord, and The Body Shop Canada Limited, as tenant, for certain premises located at the property municipally known as 17600 Yonge Street, Newmarket, Ontario, L3Y 4Z1, as may have been amended, supplemented or restated from time to time (the "Upper Canada Mall Store").	Oxford Properties	\$547
58.	Lease Agreement between Bentall Kennedy, as landlord, and The Body Shop Canada Limited, as tenant, for certain premises located at the property municipally known as 1105 Wellington Road, London, Ontario, N6E 1V4, as may have been amended, supplemented or restated from time to time (the "White Oaks Mall Store").	Bentall Kennedy // Westdell Development Corp.	\$12,884
59.	Lease Agreement between Ivanhoe Cambridge, as landlord, and The Body Shop Canada Limited, as tenant, for certain premises located at the property municipally known as 300 Taylor Road Space 445, Niagara-on-the-Lake, Ontario, L0S 1P0, as may have been amended, supplemented or restated from time to time (the "The Outlet Collection at Niagara Store").	Ivanhoe Cambridge // JLL / Ivanhoe Cambridge	Nil

60.	Lease Agreement between RioCan, as landlord, and The Body Shop Canada Limited, as tenant, for certain premises located at the property municipally known as 300 Taylor Road, Niagara On The Lake, Ontario, L0S 1J0, as may have been amended, supplemented or restated from time to time (the "Ottawa Outlets Store").	RioCan	\$12,761
61.	Lease Agreement between Tanger, as landlord, and The Body Shop Canada Limited, as tenant, for certain premises located at the property municipally known as 3311 Simcoe Rd 89 Unit H20, Cookstown, Ontario, L0L 1L0, as may have been amended, supplemented or restated from time to time (the "Cookstown Outlets Store").	Tanger	Nil
62.	Lease Agreement between Cadillac Fairview, as landlord, and The Body Shop Canada Limited, as tenant, for certain premises located at the property municipally known as 25 The West Mall, Etobicoke, Ontario, M9C 1B8, as may have been amended, supplemented or restated from time to time (the "Sherway Gardens Store").	Cadillac Fairview	Nil
63.	Lease Agreement between Ivanhoe Cambridge, as landlord, and The Body Shop Canada Limited, as tenant, for certain premises located at the property municipally known as 1 Bass Pro Mills Drive Unit 241, Vaughan, Ontario, L4K 5W4, as may have been amended, supplemented or restated from time to time (the "Vaughan Mills Store").	Ivanhoe Cambridge // JLL / Ivanhoe Cambridge	\$22,832
64.	Lease Agreement between Primaris, as landlord, and The Body Shop Canada Limited, as tenant, for certain premises located at the property municipally known as 390 North Front Street Unit D3C, Belleville, Ontario, K8P 3E1, as may have been amended, supplemented or restated from time to time (the "Quinte Mall Store").	Primaris	\$8,887

65.	Lease Agreement between Morguard, as landlord, and The Body Shop Canada Limited, as tenant, for certain premises located at the property municipally known as Unit #226-355 Hespeler Road, Cambridge, Ontario, N1R 6B3, as may have been amended, supplemented or restated from time to time (the "Cambridge Centre Store").	Morguard	Nil
66.	Lease Agreement between Ivanhoe Cambridge, as landlord, and The Body Shop Canada Limited, as tenant, for certain premises located at the property municipally known as 550 King Street North, Suite B10A, Waterloo, Ontario, N2L 5W6, as may have been amended, supplemented or restated from time to time (the "Conestoga Mall Store").	Ivanhoe Cambridge // Primaris	\$8,141
67.	Lease Agreement between Oxford Properties, as landlord, and The Body Shop Canada Limited, as tenant, for certain premises located at the property municipally known as 3401 Dufferin Street, Toronto, Ontario, M6A 2T9, as may have been amended, supplemented or restated from time to time (the "Yorkdale Shopping Centre Store").	Oxford Properties	\$7,559
68.	Lease Agreement between Simon, as landlord, and The Body Shop Canada Limited, as tenant, for certain premises located at the property municipally known as 13850 Steeles Avenue, Halton Hills, Ontario, L7G 0J1, as may have been amended, supplemented or restated from time to time (the "Toronto Premium Outlets Store").	Simon Property Group	\$12,893
69.	Lease Agreement between Killam Investments (PEI) Inc., as landlord, and The Body Shop Canada Limited, as tenant, for certain premises located at the property municipally known as 670 University Avenue, Charlottetown, Prince Edward Island, C1E 1H6, as may have been amended, supplemented or restated from time to time (the "Royalty Crossing Store").	Killam Investments (PEI) Inc.	\$6,455

70.	Lease Agreement between Strathallen, as landlord, and The Body Shop Canada Limited, as tenant, for certain premises located at the property municipally known as 2807 Gordon Road, Regina, Saskatchewan, S4S 6H7, as may have been amended, supplemented or restated from time to time (the "Southland Mall Store").	Strathallen Salthill //	\$5,678
71.	Lease Agreement between Cadillac Fairview, as landlord, and The Body Shop Canada Limited, as tenant, for certain premises located at the property municipally known as 1485 Portage Ave Unit 124, Winnipeg, Manitoba, R3G 0W, as may have been amended, supplemented or restated from time to time (the "Polo Park Shopping Centre Store").	Cadillac Fairview	Nil
<b>Storage Leases</b>			
All storage leases associated with the availed locations.			



**Schedule 6.2(f)**  
**Declaration Order**

See attached.

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

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

THE HONOURABLE  
JUSTICE OSBORNE

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FRIDAY, THE 13<sup>TH</sup>  
DAY OF DECEMBER, 2024

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

IN THE MATTER OF A PLAN OF COMPROMISE OR  
ARRANGEMENT OF THE BODY SHOP CANADA LIMITED, IN  
THE CITY OF TORONTO, IN THE PROVINCE OF ONTARIO (the  
"Applicant")

**DECLARATION ORDER**

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

**ON READING** the Notice of Motion and the Motion Record of the Applicant, the Affidavit of Jordan Searle sworn December 6, 2024, the Affidavit of Michael Serruya sworn December 6, 2024, and the Second Report (the "**Second Report**") of the Monitor, and on hearing the submissions of counsel for the Applicant, Alvarez & Marsal Canada Inc., in its capacity as court appointed monitor of the Applicant (the "**Monitor**"), 1001072685 Ontario Inc. (the "**Purchaser**"), The Body Shop International Limited (the "**UK Purchaser**") and counsel for the other persons listed on the Participant Information Form, no one appearing for any other person on the service list, although properly served:

**SERVICE AND DEFINITIONS**

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

## RELIEF FROM DISCLOSURE OBLIGATIONS

2. **THIS COURT ORDERS** that no party, including the Applicant, the Monitor, the UK Purchaser, nor their respective directors, officers, employees or other representatives, shall have any liability or obligation, including in respect of any claims based on any statutory or common law right to rescission or damages, arising from the failure of the Applicant, the Monitor or the UK Purchaser to provide Serruya Private Equity Inc., the Purchaser or any other party, and their respective directors, officers and shareholders, as applicable, with any disclosure that may be required under section 5 of the *Arthur Wishart Act (Franchise Disclosure)*, 2000, S.O. 2000, c. 3, or any similar provision in any other provincial franchise statutes or any similar laws of any jurisdiction in Canada, solely in connection with the execution of the master franchise agreement (together with all related or ancillary agreements, the “**Franchise Agreement**”) by the Purchaser. *For greater certainty*, the relief contained in this paragraph 2 shall not apply to any disclosure that may be required by the UK Purchaser in respect of any: (i) renewal of the Franchise Agreement by the Purchaser; or (ii) any resale of the Franchise Agreement by the Purchaser.

## GENERAL

3. **THIS COURT ORDERS** that the Applicant or the Monitor may apply to the Court as necessary to seek further orders and directions to give effect to this Order.

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

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

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

6. **THIS COURT ORDERS** that, unless otherwise set out herein, this Order and all of its provisions are effective as of 12:01 a.m. (Toronto time) on the date of this Order.

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This is Exhibit "E" referred to in the Affidavit of Jordan Searle sworn by Jordan Searle at the City of Toronto, in the Province of Ontario, before me on December 7, 2024 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



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*Commissioner for Taking Affidavits (or as may be)*

**ALEXANDER BARNES (LSO# 89981N)**

October 9, 2024

**Andrew J. Hatnay**  
Direct Dial: 416-595-2083  
Direct Fax: 416-204-2872  
ahatnay@kmlaw.ca

**Via E-mail**

Davies Ward Phillips & Vineberg LLP  
155 Wellington Street West  
Toronto, ON M5V 3J7

**Attention: Natasha MacParland, Natalie Renner,  
and Chenyang Li**

Cassels Brock & Blackwell LLP  
Suite 3200, Bay Adelaide Centre - North Tower  
40 Temperance Street  
Toronto, ON M5H 0B4

**Attention: Natalie Levine, Alec Hoy**

Dear Counsel:

**Re: *In the Matter of a Plan of Compromise or Arrangement of The Body Shop Canada Limited*  
Access to WEPP Payments for Terminated Employees  
Court File No. CV-24-00723596-00CL**

As you are aware we represent 40 terminated Canadian employees of The Body Shop Canada Ltd. ("**TBS Canada**") who, along with the other 180 terminated employees, are owed amounts for unpaid severance pay and other amounts by TBS Canada.

These employees were terminated over six months ago in March 2024 when TBS Canada filed a Notice of Intention to Make a Proposal. After a Proposal could not be achieved within the legislated timelines, TBS Canada moved on July 5, 2024 to terminate its NOI proceeding and convert to a proceeding under the *Companies' Creditors Arrangement Act*.

The duration of the Company's CCAA proceeding and what amount, if any, will be distributed to the employees (and other creditors) in respect of their claims are both unknown.

**Receivership to obtain WEPP for the employees**

As we have advised many times, in these circumstances, the Canadian employees need to be able to apply for payments under the Wage Earner Protection Program ("**WEPP**"), which would

immediately pay each of them up to \$8,507.66. That payment would have no prejudicial impact on the estate or other creditors. As WEPP applies automatically in a bankruptcy or receivership, there is "significant prejudice to the terminated employees"<sup>1</sup> if there is no bankruptcy or receivership commenced that would allow them to access WEPP.

To date, TBS Canada has not brought forward a receivership application.

Obtaining WEPP in CCAA proceedings, as well as under a Proposal, has been achieved in a number of such cases by the company bringing a receivership application while it continues its restructuring efforts under those regimes, for example:

- *Sears Canada Inc.*<sup>2</sup>;
- *Cinram International Inc.*<sup>3</sup>;
- *Victorian Order of Nurses for Canada*<sup>4</sup>;
- *SMI Group Inc.*<sup>5</sup>;
- *Groupe Capitales Médias*<sup>6</sup>; and
- Most recently, *Metroland Media Group Ltd.*<sup>7</sup>

In all those cases, the debtor arranged for a receivership application to be brought (in the case of *Sears Canada Inc.* and *Metroland Media Group Ltd.*, with our firm's involvement and support) and which was granted by the court, making WEPP applicable to the proceeding. WEPP payments were paid to all the eligible terminated employees in those cases.

In particular, in *Victorian Order of Nurses*, [2015 ONSC 7371](#), a receiver was appointed to trigger WEPP payments where over 300 employees were expected to be terminated, and approximately 100 employees remained. The applicants in that case did not have sufficient liquidity to pay their former employees' termination, severance, or accrued vacation pay. The Court was highly supportive of the receivership application and the statements in its Endorsement are especially illustrative and applicable to TBS Canada:

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<sup>1</sup> *Victorian Order of Nurses for Canada (Re)*, 2015 ONSC 7371 at [para 54](#) [*Victorian Order for Nurses*]. 200-11-026052-194).

<sup>2</sup> *In the Matter of a Proposal of Metroland Media Group Ltd.* (BK-23-02986886-0031).

<sup>3</sup> *In the Matter of a Plan of Compromise or Arrangement of Cinram International Inc., et al* (CV-12-9767-00CL).

<sup>4</sup> *In the Matter of a Plan of Compromise or Arrangement of Victorian Order of Nurses for Canada et al.* (CV-15-11192-00CL).

<sup>5</sup> *In the Matter of a Plan of Compromise or Arrangement of SMI Group Inc.* et al (Court File No. 500-11-055122-184).

<sup>6</sup> *In the Matter of a Plan of Compromise or Arrangement of 3834310 Canada Inc. (Groupe Capitales Médias)* et al (Court File No. 200-11-026052-194).

<sup>7</sup> *In the Matter of a Proposal of Metroland Media Group Ltd.* (BK-23-02986886-0031).



**Receivership Order**

[48] The *Wage Earner Protection Program Act* was established to make payments to individuals in respect of wages owed to them by employers who are bankrupt or subject to a receivership. The amounts that may be paid under WEPPA to an individual include severance and termination pay as well as vacation pay accrued.

[49] In aggregate, over 300 employees are expected to be terminated at the commencement of these proceedings. These employees will be paid their ordinary course salary and wages up to the date of their terminations. However, the applicants do not have sufficient liquidity to pay these employees' termination or severance pay or accrued vacation pay.

[50] *The terminated employees would not be able to enjoy the benefit of the WEPPA in the current circumstances. This is because the WEPPA does not specifically contemplate the effect of proceedings under the CCAA.*

[51] *A receiver under the WEPPA includes a receiver within the meaning of s. 243(2) of the Bankruptcy and Insolvency Act. A receiver under the BIA includes a receiver appointed under the Courts of Justice Act if appointed to take control over the debtor's property. Under the WEPPA, an employer is subject to receivership if any property of the employer is in the possession or control of the receiver.*

[52] In this case, the applicants seek the appointment of a receiver under s. 101 of the *Courts of Justice Act* to enable the receiver to take possession and control of the applicants' goodwill and intellectual property (i.e., substantially all of the debtor's property *other than* accounts receivable and inventory, which must necessarily remain with the debtors during restructuring).

[53] *In Cinram (Re)* (October 19, 2012), Toronto CV-12-9767-00CL, Morawetz R.S.J. found it was just and convenient to appoint a receiver under s. 101 over certain property of a CCAA debtor within a concurrent CCAA proceeding where the purpose of the receivership was to clarify the position of employees with respect to the WEPPA.

[54] *In this case, the evidence is that no stakeholder will be prejudiced by the proposed receivership order. To the contrary, there could be significant prejudice to the terminated employees if there is no receivership and former employees are not able to avail themselves of benefits under the WEPPA.*



[55] In the circumstances, I find it is just and convenient to appoint a receiver under s. 101 over the goodwill and intellectual property of the applicants. [emphasis added]

Despite the procedure for bringing forward a receivership application in a CCAA and Proposal as was done in the above listed cases, and the statements of the Court in *Victorian Order of Nurses*, you have reported that the TBS Canada lawyers instead sent an e-mail inquiry on May 3, 2024 to the federal government asking about the appointment of "Alvarez & Marsal Canada Inc. as the receiver over certain assets of the Company, which will assist eligible Terminated Employees in accessing WEPPA Payments".

A lawyer with the federal government responded on May 22, 2024 with her view that TBS Canada's proposal "that receiverships created for the purpose of triggering the WEPPA are inconsistent with the legislative intent of both the BIA and the WEPPA."

We understand that after receiving the e-mail from the government, TBS Canada took no further steps with respect to bringing a receivership application.

There are at least three defects with the government lawyer's email response.

First, the motivation for bringing a receivership is irrelevant under the *Wage Earner Protection Program Act*. All that is required is a receivership, as was stated by the Court in *Victorian Order of Nurses* (para. 51).

Second, the response from the government lawyer is contrary to the outcomes in the above-noted cases, and there is no mention or any distinguishing of the above-noted cases where a receivership was achieved and WEPP was made to apply. Again, these cases were approved by the courts and – significantly – without any opposition from the government.

Third, the government lawyer's comments do not constitute a binding ruling and do not have the force of law.

In light of the above, the efforts to date by TBS Canada to bring a receivership application and obtain WEPP payments for the terminated employees are wholly inadequate.

A receivership should be brought forward and any objection by the government can be dealt with in that motion. To drop further pursuit of a receivership application based on the statement of a government lawyer in an email inquiry, in the face of abundant caselaw to the contrary, is inappropriate.

By not bringing a receivership, TBS Canada is causing "significant prejudice" to the terminated Canadian employees, which is precisely what the court in *Victorian Order of Nurses* (para. 54) stated should be avoided.

**The TBS Canada sale process, receivership and bankruptcy**

While under CCAA protection, we understand that TBS Canada's efforts have been focused on a sales process to identify a buyer while negotiating with the new purchaser of The Body Shop International Ltd. (U.K.) for its consent and/or other license arrangement that would allow a purchaser of TBS Canada to sell Body Shop products and use "The Body Shop" name, which TBS Canada does not own. We have not been provided with any information about the bids and what type of transaction is contemplated, however, any transaction should include a receivership application to enable the employees to obtain WEPP payments, as explained above.

Given our experience securing WEPP payments for terminated employees, we are available to assist to help facilitate a receivership application, should you be interested.

Furthermore, as noted in the Endorsement of the Court dated October 4, 2024, in order to properly assess the value of any going concern transaction arising from TBS Canada's sales process, we expect that the Monitor will provide a liquidation analysis that incorporates the liquidation value of all inventories, store fixtures etc., as well as the potential value of the remaining real estate portfolio, consistent with sections 23(1)(h) and 36(3)(c) of the CCAA, especially since a bankruptcy would make WEPP automatically applicable to the proceeding and enable WEPP payments to the employees.

We also remind the Monitor that pursuant to section 25 of the CCAA and the Code of Ethics for Trustees<sup>8</sup>, the Monitor has a duty to act in "good faith" and with "integrity and due care" to all creditors, including in these circumstances to the terminated Canadian employees. Consistent with this duty, the Monitor should bring forward a receivership application if TBS Canada refuses to do so to case the significant prejudice to the terminated employees.

In the Endorsement dated October 4, 2024, the Court states that we and our clients are to be kept "up to date with respect to the progress of this matter." Please let us know the outcome of the bids under the sales process as soon as possible and whether a receivership application will be brought forward to enable the employees to obtain a WEPP payment.

Yours truly,

**KOSKIE MINSKY LLP**



Andrew J. Hatnay  
AJH/vdl

cc. Client Committee  
Josh Nevsky, Alvarez & Marsal Canada Inc.  
James Harnum, Abir Shamim, Koskie Minsky LLP

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<sup>8</sup> Bankruptcy and Insolvency General Rules, C.R.C., c. 368, ss 36 & 39.

This is Exhibit "F" referred to in the Affidavit of Jordan Searle sworn by Jordan Searle at the City of Toronto, in the Province of Ontario, before me on December 7, 2024 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



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*Commissioner for Taking Affidavits (or as may be)*

**ALEXANDER BARNES (LSO# 89981N)**





October 28, 2024

**VIA EMAIL**

nlevine@cassels.com

tel: +1 416 860 6568

**Koskie Minsky LLP**

20 Queen Street West,  
Toronto, ON M5H 3R3  
Attention: James Harnum  
[jharnum@kmlaw.ca](mailto:jharnum@kmlaw.ca)

Dear Mr. Harnum:

**Re:           *In the Matter of a Plan of Compromise or Arrangement of The Body Shop Canada Limited* [Court File No. CV-24-00723596-00CL] (the “CCAA Proceeding”)**

We write further to your letter dated October 9, 2024 (the “**October 9 Letter**”) to Davies Ward Phillips and Vineberg LLP, as counsel to The Body Shop Canada Inc. (the “**Company**”), and Cassels Brock & Blackwell LLP, as counsel to Alvarez & Marsal Canada Inc. in its capacity as the Court-appointed monitor of the Company (in such capacity, the “**Monitor**”), and our follow up call on October 16, 2024.

The Company and the Monitor remain focused on advancing the Sale Process currently being conducted by the Company pursuant to an Order of the Court dated July 5, 2024 (the “**Sale Process**”). As discussed on our call, there are potential going concern options available to the Company which would preserve the ongoing business and the employment of some or all of the Company’s approximately 500 employees. These options remain under negotiation, but the Company, with the Monitor’s support, is working to expedite the process to provide certainty to all parties. The current outside date is November 15, 2024.

The Company has committed to seeking an order that would deem the provisions of *Wage Earner Protection Program Act* (“**WEPPA**”) applicable to any terminated employees and allow your former employee clients to access payments available under that program in connection with a sale approval or a winding down of the business. This process has been employed in recent proceedings under the CCAA such as in the *Mastermind* and *Bed Bath & Beyond*, as soon as it became clear that the debtor company would satisfy the standards under the WEPPA regulations. The Monitor expects that it would fully support this approach and would assist in the administrative process to facilitate distributions to the former employees.

Both the Monitor and the Company have considered whether other avenues of accessing payments under WEPPA may be available at this juncture. As discussed on our call, there are potential hurdles to any alternative including, but not limited to:

- i. the lack of any secured creditors of the Company to bring an application pursuant to section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c B-3 (the “**BIA**”), particularly given the definition of receiver in WEPPA;
- ii. the initial feedback from the Department of Justice lawyers administering the Wage Earner Protection Program (“**WEPP**”) (as discussed at length in the Affidavit of Jordan Searle sworn May 23, 2024, the Third Report of the Proposal Trustee dated May 15, 2024 and the Supplement to the Third Report of the Proposal Trustee dated June 5, 2024); and
- iii. the cost of litigation over the application of the program at this stage in the proceedings.

While we acknowledge that a receivership has been commenced to access WEPP in other CCAA proceedings, all but one of the examples you referred to in the October 9 Letter were prior to the most recent amendments to WEPPA. Further, we understand that the government has taken a different position on “strategic receiverships” since the Bill C-86 Amendments, as reflected in the communication from Ayesha Laldin of the Department of Justice, on behalf of Service Canada, of May 22, 2024.

The Monitor does not support using the Company’s limited resources to fund a challenge to the administration of WEPP. In the Monitor’s view, the most expeditious course to access WEPP is to seek a declaration of the application of WEPPA in connection with approval of a sale transaction or other transaction that complies with the regulations.

The Company and the Monitor continue to focus all their efforts on the Sale Process and continue to believe the Sale Process is in the best interest of all of the stakeholders of the Company, including your clients. As previously communicated to you, the Company will continue to provide you with all relevant non-confidential updates on the Sale Process.

Yours truly,

Cassels Brock & Blackwell LLP



Natalie E. Levine  
Partner

NL/bn

CC: Alec Hoy, *Cassels Brock & Blackwell LLP*, by email  
Joshua Nevsky and Mitchell Binder, *Alvarez & Marsal Canada Inc.*, by email  
Natasha MacParland and Natalie Renner, *Davies Ward Phillips & Vineberg LLP*, by email  
Andrew J. Hatnay and Abir Shamim, *Koskie Minsky, LLP* by email

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

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

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

IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF THE BODY SHOP CANADA LIMITED, IN THE CITY OF TORONTO, IN THE PROVINCE OF ONTARIO (the “**Applicant**”)

**AFFIDAVIT OF MICHAEL SERRUYA**

I, **MICHAEL SERRUYA**, of the City of Vaughan, in the Province of Ontario, MAKE OATH AND SAY:

1. I am a Director of Serruya Private Equity Inc. (“**SPE**”), an affiliate of 1001072685 Ontario Inc. (the “**Purchaser**”). I am also a Director of the Purchaser.

2. I make this Affidavit in support of:

(a) the motion by The Body Shop Canada Limited (“**TBS Canada**” or the “**Company**”) for an order (the “**Declaration Order**”) that no party, including TBS Canada, the Monitor (as defined below), the UK Purchaser (as defined below), and their respective directors, officers, employees and other representatives, shall have any liability or obligation, including in respect of any claims based on any statutory or common law right to rescission or damages, arising from the failure of TBS Canada, the Monitor or the UK

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Purchaser to provide SPE (as defined below), the Purchaser (as defined below) and their respective directors, officers and shareholders, as applicable, with any disclosure that may be required under section 5 of the *Arthur Wishart Act (Franchise Disclosure)*, 2000, S.O. 2000, c. 3, or any other provincial franchise statutes or any similar laws of any jurisdiction in Canada, solely in connection with the execution of the Franchise Agreement (as defined below) by the Purchaser;<sup>1</sup> and

- (b) the motion by TBS Canada for an order (the “**Assignment Order**”) pursuant to section 11.3 of the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (“**CCAA**”), assigning, conveying and transferring to the Purchaser the rights and obligations of TBS Canada under the Material Agreements (as defined below).

3. As described below, SPE invests in businesses through direct investments or special purpose vehicles owned and controlled by SPE, including the Purchaser that was incorporated for the purpose of acquiring the assets of TBS Canada. As such, I have knowledge of the matters to which I hereinafter depose, which knowledge is either personal to me, obtained from a review of the documents to which I refer, or, where indicated, based on information and belief, in which case I verily believe such information to be true.

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<sup>1</sup> For clarity, I understand that the relief requested does not apply to any disclosure that may be required by the UK Purchaser in respect of any: (i) renewal of the Franchise Agreement (as defined below) by the Purchaser; or (ii) resale of the Franchise Agreement by the Purchaser.

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**A. Background to the Transaction**

4. I was initially contacted by Alvarez & Marsal Canada Inc. in June 2024 to determine whether I had any interest in acquiring the Company or some or all of its assets. At that time, I was provided with a teaser regarding the Company's business. On June 14, 2024, I executed a non-disclosure agreement and was given access to a data room in respect of TBS Canada.

5. The data room contained, among other things, financial and operational information in respect of TBS Canada, including information relating to the Purchased Locations (as defined below), TBS Canada's employees and Material Agreements, including copies of all relevant leases and other Material Agreements.

6. I always understood that to operate the "The Body Shop" business in Canada or sell any branded inventory, any purchaser of TBS Canada's assets and business would need to settle the terms of a franchise or other arrangement with The Body Shop International Limited (the "**UK Purchaser**"), who owns the intellectual property and would be the source of inventory for the Canadian operations. As part of my diligence, I was provided with a template master franchise agreement titled "Selective Master Distribution and Franchise Agreement" that had been provided by the UK Purchaser and a business planning model that each current and prospective master franchise agreement of the UK Purchaser maintains for its assigned jurisdiction and local market.

7. On September 17, 2024, I was introduced to the franchise team for the UK Purchaser. Over the course of October and November, I had approximately ten meetings



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with the UK Purchaser and its franchise team on a regular basis to conduct business and financial diligence and discuss various matters with the goal of settling the terms of a master franchise agreement for Canada (the “**Master Franchise Agreement**”) with the UK Purchaser.

8. These discussions encompassed several key areas, including: (a) licensing certain intellectual property; (b) negotiating a pricing structure and related payment terms for the purchase of branded inventory from the UK Purchaser; (c) establishing guidelines for operations, merchandising, and use of certain intellectual property; and (d) discussing the “The Body Shop” global strategy, growth initiatives, new product launches, and other forward-looking business matters. Additionally, I presented the UK Purchaser with a 10-year business plan for TBS Canada, which was based on TBS Canada’s recent financial performance.

9. I also worked with the UK Purchaser to negotiate the terms of a shared services agreement for various shared services and operating platforms to be provided to the Canadian operations, including IT (the “**Services Agreement**”). The terms of the Services Agreement are near final.

10. Over the course of the same period, I also engaged in numerous discussions with TBS Canada and Alvarez & Marsal Canada Inc., in its capacity as Court-appointed monitor of the Company (the “**Monitor**”) to settle the terms of the Transaction (defined below).

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11. On November 20, 2024, an affiliate of the Purchaser entered into a non-binding term sheet in respect of the Transaction. In the days that followed, counsel for the Company and counsel for the Purchaser negotiated the terms of a definitive APA (as defined below) in respect of the Transaction. At the same time, the Purchaser was working towards finalizing franchise terms and the terms of the Services Agreement.

12. On or about November 25, 2024, the Purchaser settled the terms of the Master Franchise Agreement and substantially settled the terms of the Services Agreement with the UK Purchaser. For simplicity, the Master Franchise Agreement, together with all related or ancillary agreements, including the Services Agreement, are collectively hereinafter referred to as the “**Franchise Agreement**”. The Purchaser was prepared to enter into the Franchise Agreement, which would allow the “The Body Shop” business to continue to operate in Canada. As described below however, the parties have been unable to enter into the Franchise Agreement due to the need to satisfy certain requirements under potentially applicable Canadian franchise legislation in select provinces.

## **B. The Transaction**

13. On December 6, 2024, TBS Canada entered into an asset purchase agreement (the “**APA**”) pursuant to which it agreed to sell substantially all of its assets to the Purchaser.

14. The closing of the APA (the “**Transaction**”) is subject to, among others, the following conditions:

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- (a) that this Court make the Declaration Order;
- (b) the Purchaser entering into the Franchise Agreement with the UK Purchaser; and
- (c) that all of TBS Canada's right, title and interest in certain agreements set out in Schedule "A" to the Assignment Order (the "**Material Agreements**") shall be assigned to the Purchaser by consent or by Court order on or before closing.

15. It is the Purchaser's intention to continue to operate the "The Body Shop" business in Canada following the closing of the Transaction. The Purchaser will make offers of employment to approximately 400 employees plus additional seasonal workers, and continue the operation of a majority of TBS Canada's retail locations (the "**Purchased Locations**").

16. The closing date of the Transaction is December 16, 2024 (the "**Closing Date**");

### **C. The Declaration Order**

17. I have been involved in many forms of licensing, distribution and franchise arrangements during the course of my career, including Yogen Früz, Cold Stone Creamery and Pinkberry, among others.

18. As a result of this experience, I understand that under franchise laws in some Canadian provinces, a franchisor (the UK Purchaser) must give a franchisee (the Purchaser) a franchise disclosure document ("**FDD**") at least 14 days before the earlier

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of: (a) the franchise agreement being signed; and (b) the payment of any consideration to the franchisor relating to the franchise. The FDD must include, among other things, all material facts, financial statements, and copies of proposed franchise agreements, all of which is for the purpose of helping a franchisee make an informed decision about whether or not to invest in a franchise.

19. The UK Purchaser has informed me that it is unable to provide an FDD in advance of the Closing Date given the limited time available to us. Based on my experience with franchises in Canada, I understand that pursuant to Canadian franchise law, unless an exemption applies, if the UK Purchaser fails to provide the FDD or provides an FDD that is deficient in some way, the Purchaser may have the right to: (a) terminate the Franchise Agreement and receive a refund of certain amounts; and (b) claim damages. Accordingly, given this regulatory obstacle posed by franchise legislation in certain provinces, and the potential exposure to the UK Purchaser, the Company and the Monitor, the parties have not yet executed the Franchise Agreement, despite it being a condition to the closing of the Transaction.

20. As a franchisor of numerous franchise concepts myself, I fully appreciate and understand the complexity, time, cost and diligence required to prepare a nationally compliant FDD for all of Canada. I agree that, given the time constraints involved, it is highly unlikely that the UK Purchaser will be able to prepare and deliver a legally compliant FDD before the Closing Date. Given the Closing Date of December 16, 2024, as of the date of my Affidavit (*i.e.*, December 6, 2024), it is already impossible for the UK Purchaser to comply with the requirement to deliver the FDD at least 14 days before the

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execution of the Franchise Agreement or the payment of any consideration to the UK Purchaser relating to the franchise.

21. I fully appreciate and understand the UK Purchaser's reluctance to proceed with the Transaction and enter into the Franchise Agreement without the requested Declaration Order given its potential exposure to future litigation. To require the UK Purchaser to prepare an FDD would delay the closing of the Transaction by at least several months, perhaps indefinitely if TBS Canada cannot maintain operation of the Canadian business in the interim.

22. I am comfortable with the level of information I have received in respect of TBS Canada's and the UK Purchaser's business and operations. I have all the important and material facts and documents needed to make an informed investment decision regarding TBS Canada, the UK Purchaser, the proposed APA, and the Franchise Agreement. I have reviewed all Material Agreements and understand the costs of running "The Body Shop" business in Canada. I have also had sufficient time to negotiate and consider the terms of the Franchise Agreement, and to obtain legal counsel in respect of the same. Therefore, I do not require any additional disclosure, in the form of an FDD or otherwise, as it will not improve my understanding of TBS Canada and the UK Purchaser or affect my decision to proceed with the Transaction or sign the Franchise Agreement.

23. The Purchaser intends to enter into the Franchise Agreement with the UK Purchase prior to the closing of the Transaction to satisfy the above closing condition. I do not have any intention of exercising any potential right the Purchaser may have to

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rescind the Franchise Agreement owing to the UK Purchaser's inability to deliver an FDD. In fact, I am agreeable, as a condition precedent of the Transaction closing, to provide the Company, the Monitor and the UK Purchaser with a release, which is in the process of being drafted, releasing them from (i) the requirement to provide an FDD, and (ii) any known and existing claims or liability, including a statutory right to rescission or damages, that may be available to me under Canadian franchise law in connection with the failure of the UK Purchaser to provide SPE, the Purchaser and their respective directors, officers and shareholders, as applicable, with an FDD (the "**Release**"). The Release will become effective concurrently with the execution of the Franchise Agreement and before the closing of the Transaction. I have received independent legal advice in respect of this issue, including in respect of signing the Release and confirm that I fully understand and accept all implications of waiving the Purchaser's entitlement to receive an FDD and releasing all claims related thereto, and intend to be bound by the Release.

24. I understand that given the unusual set of circumstances at issue, the Company, the Monitor and the UK Purchaser have concerns about their potential liability under Canadian franchise law, even though I have agreed to provide the Release on behalf of the Purchaser.

25. In the circumstances, in order to facilitate a closing of the Transaction, the parties have agreed that the Company should seek the Declaration Order prior to the Purchaser and the UK Purchaser entering into the Franchise Agreement. I support the Declaration Order and believe it reflects the realities of the commercial relationship and the

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commercial agreement between the parties in respect of the Transaction, the Franchise Agreement, and the Release.

**D. The Assignment Order**

26. The Material Agreements include leases in respect of the Purchased Locations and other contracts needed to operate the business. The Purchaser and its representatives have engaged with the landlords identified in the applicable leases and requested their consent to assign the leases to the Purchaser. As at the date of my Affidavit, the Purchaser has not received consent to assign any of the leases or other Material Agreements.

27. The Material Agreements are necessary for the Purchaser to operate the business of TBS Canada following the closing. In the circumstances, the Company is seeking the Assignment Order to satisfy the closing condition described above.

28. Pursuant to the APA, TBS Canada has agreed to pay all monetary defaults in relation to the Material Agreements that are leases for Purchased Locations and the Purchaser has agreed to pay the monetary defaults in relation to the balance of the Material Agreements, other than those arising by reason of TBS Canada's insolvency, the commencement of these CCAA proceedings or TBS Canada's failure to perform a non-monetary obligation.

**E. The Ability of the Purchaser to Perform the Obligations under the Material Agreements**

29. SPE is a global private equity firm focused on transforming companies by collaborating with management to develop and implement strategies which leverage

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SPE's operational and financial resources. The operating backgrounds of the SPE principals enable us to be high-value partners to management teams as they reposition and grow their business.

30. SPE has a proven track record of success in the retail industry through founding or acquiring a number of franchise concepts and retailers in the past, including Yogen Früz, Pinkberry, Swensen's Ice Cream, St. Louis Bar and Grill and Second Cup Coffee Co. (now sold), among others.

31. The Purchaser is held indirectly by SPE. After the closing of the Transaction, the Purchaser will satisfy its ongoing working capital needs through funding from SPE, as necessary. As a result, the Purchaser will be able to perform its obligations under the Material Agreements once they are assigned to the Purchaser.

**SWORN** remotely by Michael Serruya,  
stated as being located in the City of  
Markham, in the Province of Ontario, before  
me at the City of Toronto, in the Province of  
Ontario, on the 6<sup>th</sup> day of December, 2024,  
in accordance with O. Reg 431/20,  
Administering Oath or Declaration  
Remotely.

}

Signed by:

*Jennifer Caruso*

3F47B63608CD48B

**JENNIFER L. CARUSO**

**LSO# 79321K**

Commissioner for Taking Affidavits  
(or as may be)

DocuSigned by:

*Michael Serruya*

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**MICHAEL SERRUYA**



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

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

THE HONOURABLE  
JUSTICE OSBORNE

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FRIDAY, THE 13<sup>TH</sup>  
DAY OF DECEMBER, 2024

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

IN THE MATTER OF A PLAN OF COMPROMISE OR  
ARRANGEMENT OF THE BODY SHOP CANADA LIMITED, IN  
THE CITY OF TORONTO, IN THE PROVINCE OF ONTARIO (the  
"Applicant")

**DECLARATION ORDER**

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

**ON READING** the Notice of Motion and the Motion Record of the Applicant, the Affidavit of Jordan Searle sworn December 7, 2024, the Affidavit of Michael Serruya sworn December ■, 2024, and the Second Report (the "**Second Report**") of the Monitor, and on hearing the submissions of counsel for the Applicant, Alvarez & Marsal Canada Inc., in its capacity as court appointed monitor of the Applicant (the "**Monitor**"), 1001072685 Ontario Inc. (the "**Purchaser**"), The Body Shop International Limited (the "**UK Purchaser**") and counsel for the other persons listed on the Participant Information Form, no one appearing for any other person on the service list, although properly served:

**SERVICE AND DEFINITIONS**

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

## RELIEF FROM DISCLOSURE OBLIGATIONS

2. **THIS COURT ORDERS** that no party, including the Applicant, the Monitor, the UK Purchaser, nor their respective directors, officers, employees or other representatives, shall have any liability or obligation, including in respect of any claims based on any statutory or common law right to rescission or damages, arising from the failure of the Applicant, the Monitor or the UK Purchaser to provide Serruya Private Equity Inc., the Purchaser or any other party, and their respective directors, officers and shareholders, as applicable, with any disclosure that may be required under section 5 of the *Arthur Wishart Act (Franchise Disclosure)*, 2000, S.O. 2000, c. 3, or any similar provision in any other provincial franchise statutes or any similar laws of any jurisdiction in Canada, solely in connection with the execution of the master franchise agreement (together with all related or ancillary agreements, the “**Franchise Agreement**”) by the Purchaser. *For greater certainty*, the relief contained in this paragraph 2 shall not apply to any disclosure that may be required by the UK Purchaser in respect of any: (i) renewal of the Franchise Agreement by the Purchaser; or (ii) any resale of the Franchise Agreement by the Purchaser.

## GENERAL

3. **THIS COURT ORDERS** that the Applicant or the Monitor may apply to the Court as necessary to seek further orders and directions to give effect to this Order.

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

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

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

6. **THIS COURT ORDERS** that, unless otherwise set out herein, this Order and all of its provisions are effective as of 12:01 a.m. (Toronto time) on the date of this Order.

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

IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF THE BODY SHOP CANADA LIMITED, IN THE CITY OF TORONTO,  
IN THE PROVINCE OF ONTARIO (the "**Applicant**").

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

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

PROCEEDING COMMENCED AT  
TORONTO

**DECLARATION ORDER**

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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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**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

Proceeding commenced at Toronto

**MOTION RECORD OF THE APPLICANT  
(returnable December 13, 2024)**

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