

Court File No. CV-23-00694493-00CL

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 THE PLAN OF COMPROMISE OR
ARRANGEMENT OF **BBB CANADA LTD.**

Applicant

MOTION RECORD OF THE APPLICANTS
(Motion for Assignment and Approval & Vesting Order)

April 21, 2023

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

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR
ARRANGEMENT OF BBB CANADA LTD.**

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Court File No. CV-23-00694493-00CL

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 THE PLAN OF COMPROMISE OR
 ARRANGEMENT OF **BBB CANADA LTD.**

Applicant

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Court File No. CV-23-00694493-00CL

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 THE PLAN OF COMPROMISE OR
ARRANGEMENT OF BBB CANADA LTD.

NOTICE OF MOTION

The Applicant, BBB Canada Ltd. ("**Applicant**") will make a motion before the Honourable Chief Justice Morawetz of the Ontario Superior Court of Justice (Commercial List) on April 28, 2023 at 10:00 AM, or as soon after that time as the motion can be heard.

PROPOSED METHOD OF HEARING:

- ☐ In writing under subrule 37.12.1 (1) because it is *(insert one of on consent, unopposed or made without notice)*;
- ☐ In writing as an opposed motion under subrule 37.12.1 (4);
- ☐ In person;
- ☐ By telephone conference;
- X By video conference.

at the following location: Videoconference details will be circulated when provided by the Court.

THE MOTION IS FOR:

1. An Order substantially in the form attached as **Tab 3** of the Motion Record:
 - (a) approving the transactions contemplated by the Omnibus Assignment and Assumption of Leases Agreement, dated April 21, 2023 (the "**Canadian Tire**

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Agreement”) among Bed Bath & Beyond Canada L.P. (“**BBB LP**”, and together with the Applicant, “**BBB Canada**”), Bed Bath & Beyond Inc. (“**BBBI**”), and Canadian Tire Corporation, Limited (“**Canadian Tire**”);

- (b) approving the transactions contemplated by the Assignment and Assumption of Lease Agreement, dated April 21, 2023 (the “**Winners Agreement**”) between BBB LP, BBBI and Winners Merchants International L.P. (“**Winners**”);
- (c) vesting BBB LP’s right, title and interest in and to certain Leases and the other purchased assets described in the Canadian Tire Agreement and the Winners Agreement free and clear of all Encumbrances other than permitted encumbrances identified in, or pursuant to, the Canadian Tire Agreement and Winners Agreement;
- (d) assigning the Collingwood Lease (as defined below) to Winners pursuant to section 11.3 of the *Companies’ Creditors Arrangement Act*, R.S.C., 1985 c. C-36 (the “**CCAA**”); and
- (e) extending the Stay Period (as defined below) to June 27, 2023.

2. Such other and further relief as counsel may request and this Honourable Court may allow.

THE GROUNDS FOR THIS MOTION ARE:

The Canadian Tire Agreement

3. The Canadian Tire Agreement relates to twelve (12) Leases;

4. Under the Canadian Tire Agreement, BBB LP agrees to assign and transfer, and Canadian Tire agrees to assume, all of BBB LP’s right, title and interest in and to the Assigned Leases (as

- 3 -

defined below) and the premises governed thereunder on an “as is, where is” basis, including all related rights, benefits and advantages contained in each Assigned Lease;

5. “Assigned Leases” are comprised of all Leases listed in the Canadian Tire Agreement that: (i) require the landlord’s consent to complete the assignment of such Lease and such consent has been received by BBB LP by April 27, 2023; (ii) do not require the landlord’s consent to complete the assignment of such Lease but instead require that BBB LP provide the landlord with notice of such assignment or provide the landlord with a termination right following notice of such assignment, and a waiver of such notice requirements and/or termination rights has been provided by the landlord to BBB LP by April 27, 2023; and (iii) do not require a consent or waiver and the landlord has provided an executed lease amending agreement to BBB LP by April 27, 2023;

6. In the event that any of the 12 Leases do not become “Assigned Leases” because the applicable landlord consent, waiver, or lease amending agreement is not obtained by April 27, 2023, such Leases will be deemed “Unassignable Leases”, will be excluded from the scope of the Canadian Tire Agreement, and all cash consideration allocated to same will not be payable by Canadian Tire on closing;

7. Canadian Tire agreed to pay to the Monitor, in trust, cash consideration in the amount of \$2,080,000 allocated between the 12 Leases that are subject to the Canadian Tire Agreement;

8. BBB LP must either provide confirmation to Canadian Tire that all outstanding amounts claimed by landlords and listed in Schedule “D” to the Canadian Tire Agreement (the “**Known Claimed Defaults**”) are not owing to the applicable landlord, or satisfy the Known Claimed Defaults prior to May 1, 2023, failing which the consideration payable under the Canadian Tire Agreement will be reduced by the sum of the outstanding Known Claimed Defaults;

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9. The Canadian Tire Agreement and the transactions detailed therein are subject to the approval of this Court;
10. Canadian Tire will covenant that it has the financial ability to close the transaction, pay all rent at the times and in the manner provided in each Lease, make all payments covenanted to be paid by the tenant under the Lease, and otherwise assume, observe, perform and be liable for the performance of each term, covenant, provision, condition liability, obligation and agreement contained in the Leases after the closing date that it will assume from BBB LP;
11. The Canadian Tire Agreement is in the best interests of BBB Canada and its stakeholders and the consideration paid in respect of the transactions defined therein is fair and reasonable. The Canadian Tire Agreement represents the highest, non-overlapping, executable offer received within the marketing process for the 12 Leases. The Canadian Tire Agreement increases BBB Canada's realization of the value of its assets for the benefit of its stakeholders;
12. The Monitor supports BBB Canada's request for approval of the Canadian Tire Agreement.

The Winners Agreement

13. The Winners Agreement relates to one Lease respect to a store in Collingwood, ON (the **"Collingwood Lease"**);
14. Under the Winners Agreement, BBB LP agrees to assign and transfer, and Winners agrees to assume, all of BBB LP's right, title and interest in and to the Collingwood Lease, the premises described in the Collingwood Lease, and all personal property, FF&E and Trade Fixtures left in the premises on the closing date (May 1, 2023), in each case on as "as is, where is" basis;

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15. Winners agrees to pay the Monitor, in trust, cash consideration in the amount of \$1,022,142.27;

16. Winners will be responsible for all Known Existing Arrears (defined in Winners Agreement as \$27,857.73 of known monetary amounts owing to the landlord as of the closing date) and for any non-monetary defaults under the Collingwood Lease, save and except for any non-monetary default arising by reason of BBB Canada's CCAA proceedings;

17. Based on discussions to date, the landlord under the Collingwood Lease has advised BBB Canada that it will not oppose an assignment of the Collingwood Lease to Winners under s. 11.3 of the CCAA and prefers that the assignment proceed in this manner;

18. The Winners Agreement and the transactions detailed therein are subject to the approval of this Court and the granting of an order assigning the Collingwood Lease to Winners pursuant to s. 11.3 of the CCAA;

19. Winners has covenanted to assume all of BBB LP's obligations contained in the Collingwood Lease from and after the closing date;

20. No amendments to the permitted use restrictions, go dark rights, or other provisions are being sought by BBB Canada or Winners that would prejudice landlord rights under the Collingwood Lease;

21. An assignment of the Collingwood Lease to Winners pursuant to section 11.3 of the CCAA will maximize the realizable value of BBB Canada's estate for the benefit of its stakeholders;

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22. The consideration paid by Winners for the Collingwood Lease is fair and reasonable in the circumstances and represents the highest, non-overlapping, executable offer received within the marketing process for the Collingwood Lease;

23. The Monitor supports BBB Canada's request for approval of the Winners Agreement;

Extension to Stay Period

24. The Applicant is seeking to extend the Stay Period up to and including June 27, 2023. The Applicants is not seeking any extension of the temporary stay granted in the Initial Order of all proceedings against BBBI arising out of or in connection with the BBBI Indemnities;

25. The extension to the Stay Period is necessary and appropriate in the circumstances to allow BBB Canada and the Consultant to complete the final reconciliation and settlement of all amounts realized in the liquidation sale. The Consultant and BBB Canada have 45 days following termination of the liquidation sale to complete the final reconciliation, and 10 days thereafter to complete the settlement of all amounts payable as between BBB Canada and the Consultant;

26. Once the final reconciliation and settlement of all amounts from the liquidation sale is complete, BBB Canada intends to bring a final motion for termination of the CCAA proceedings, discharge of the Monitor, and the granting of a bankruptcy order;

27. BBB Canada has acted, and continues to act, in good faith and with due diligence in pursuing these final steps in the wind down of its business;

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28. The Third Report of the Monitor will include a cash flow forecast demonstrating that, subject to the underlying assumptions contained therein, BBB Canada will have sufficient funds to continue its operations and fund these CCAA proceedings until June 27, 2023.

Other Grounds

29. The provisions of the *Companies' Creditors Arrangement Act*, R.S.C., 1985 c. C-36, including s. 11.02, s.11.3, and s. 36 and the inherent and equitable jurisdiction of this Honourable Court;

30. Rule 1.04, 1.05, 2.03, 3.02, 16 and 37 of the *Rules of Civil Procedure*, R.R.O. 1990 Reg. 194, as amended, and section 106 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended;

31. Such further and other grounds as the counsel may advise.

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

- (a) the Affidavit of Wade Haddad, sworn April 5, 2023;
- (b) the Affidavit of Wade Haddad sworn April 21, 2023;
- (c) the Third Report of the Monitor, to be filed; and
- (d) such further and other material as counsel may advise and this Honourable Court may allow.

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April 21, 2023

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TO: THE SERVICE LIST

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

Court File No: CV-23-00694493-00CL

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF
BBB CANADA LTD.

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

PROCEEDING COMMENCED AT TORONTO

NOTICE OF MOTION

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**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 THE PLAN OF COMPROMISE OR
ARRANGEMENT OF BBB CANADA LTD.

Applicant

AFFIDAVIT OF WADE HADDAD

I, Wade Haddad, of the City of Union, in the State of New Jersey, MAKE OATH AND
SAY:

1. I am the Senior Vice President, Real Estate and Store Development, at Bed Bath & Beyond Inc. (“**BBBI**”), the ultimate parent corporation of BBB Canada Ltd. (the “**Applicant**”) and Bed Bath & Beyond Canada L.P. (“**BBB LP**”, and together with the Applicant, “**BBB Canada**”). I have served in the capacity of Senior Vice President, Real Estate and Store Development at BBBI since September 2020. I am also an officer of the Applicant. I have more than 25 years of experience in retail and corporate multi-brand portfolio management and have overseen real estate and store development functions for numerous companies and brands throughout my career. I hold a Bachelor of Arts from Princeton University and a Juris Doctor from the University of Detroit Mercy School of Law.

2. As Senior Vice President, Real Estate and Store Development at BBBI, I oversaw both the retention of Retail Ventures CND Inc. (“**RVC**”) as listing agent for and on behalf of BBB LP and the subsequent process undertaken by RVC since February 2023 to monetize BBB LP’s leases and

other property rights for some or all of BBB Canada's retail stores across Canada (the "**Leases**"). Both the retention of RVC as listing agent and the subsequent marketing process undertaken by RVC are described further in my Affidavit sworn April 5, 2023 (the "**April 5 Affidavit**"). This Affidavit should be read in conjunction with my April 5 Affidavit.

3. I have personal knowledge of the matters deposed to in this Affidavit. Where I have relied on other sources for information, I have stated the source of my information and I believe such information to be true. In preparing this Affidavit, I consulted with BBB Canada's legal, financial, and other advisors and with other members of BBB Canada's and BBBI's senior management teams.

4. This Affidavit is made in support of a motion by BBB Canada for an Order substantially in the form attached at **Tab 3** to the Motion Record (the "**Order**");

- (a) approving the transactions contemplated by the Omnibus Assignment and Assumption of Leases Agreement, dated April 21, 2023 (the "**Canadian Tire Agreement**") among BBB LP, BBBI and Canadian Tire Corporation, Limited ("**Canadian Tire**");
- (b) approving the transactions contemplated by the Assignment and Assumption of Lease Agreement, dated April 21, 2023 (the "**Winners Agreement**") between BBB LP, BBBI and Winners Merchants International L.P. ("**Winners**");
- (c) vesting BBB LP's right, title and interest in and to certain Leases and the other purchased assets described in the Canadian Tire Agreement and the Winners

Agreement free and clear of all Encumbrances other than permitted encumbrances identified in, or pursuant to, the Canadian Tire Agreement and Winners Agreement;

(d) assigning the Collingwood Lease (as defined below) to Winners pursuant to section 11.3 of the *Companies' Creditors Arrangement Act*, R.S.C., 1985 c. C-36 (the "CCAA"); and

(e) extending the Stay Period (as defined below) to June 27, 2023.

5. All references to monetary amounts in this Affidavit are in Canadian dollars unless noted otherwise. Capitalized terms used but not otherwise defined herein have the meanings given to such terms in my April 5 Affidavit.

A. Update on CCAA Proceedings

6. A comprehensive update regarding the status of BBB Canada's CCAA proceedings is provided in my April 5 Affidavit.

7. Since the hearing of BBB Canada's motion on April 11, 2023 for, among other things, approval of the transactions contemplated in the DKB Capital Agreement, BBB Canada has:

(a) finalized and executed the Canadian Tire Agreement, the Winners Agreement and the Second DKB Capital Agreement (each as discussed further below);

(b) commenced the process of concluding the liquidation sale in each of its Canadian stores which has been underway since February 2023 and which is scheduled to be completed by no later than April 30, 2023; and

- (c) responded to numerous creditor and stakeholder inquiries regarding these CCAA proceedings.

8. BBB Canada has also continued discussions with various landlords regarding their consent to outstanding Lease assignments under the DKB Capital Agreement, the Canadian Tire Agreement and otherwise. In addition to the Leases for which BBB Canada has sought, or is seeking, relief, BBB Canada intends to assign certain remaining Leases based on its contractual rights in the applicable Lease agreement. For such Leases, BBB Canada is not seeking any approvals given that they fall below the monetary threshold set out in the ARIO.

B. Update on Outstanding Lease Assignment and Assumption Agreements

9. As noted in my April 5 Affidavit, commencing in late February 2023, RVC undertook a marketing process for the sale of BBB Canada's Leases, which process culminated in the DKB Capital Agreement, the Lease Surrender Agreements, and now, the Canadian Tire Agreement, the Winners Agreement and the Second DKB Capital Agreement (as defined below).

10. The Canadian Tire Agreement and the Winners Agreement are two of the four lease assignment and assumption agreements discussed in my April 5 Affidavit which remained under negotiation at the time that Affidavit was sworn. Both of the other two lease assignment and assumption agreements remain under negotiation, however one of the agreements has been narrowed from the original two Leases to be conveyed thereunder to one Lease because of the existence of permitted use issues. The Lease excluded from the scope of the agreement is referred to in this Affidavit as the "**Barrhaven Lease**". Court approval is not required for either agreement under negotiation as the consideration which would be payable thereunder falls below the defined monetary thresholds in the ARIO both on a standalone basis and on an aggregate basis. Such

agreement will be concluded in the normal course and in accordance with the ARIO once the agreement terms are finalized.

11. In addition to the foregoing, following the hearing of BBB Canada's previous motion on April 11, 2023, DKB Capital expressed an interest in acquiring the Barrhaven Lease (following the termination of negotiations with the original bidder) and one further Lease in Edmonton, Alberta (the "**South Edmonton Lease**" and together with the Barrhaven Lease, the "**Additional Leases**").

12. Accordingly, on April 17, 2023, BBB LP, BBBI and DKB Capital executed an Omnibus Assignment and Assumption of Leases, FF&E and Trade Fixtures Agreement (the "**Second DKB Capital Agreement**") for the two Additional Leases, as follows:

Store No.	Address	Landlord
2011	Barrhaven Town Centre, 3777 Strandherd Drive, Barrhaven, ON	Sun Life Assurance Company of Canada, Barrhaven Town Centre Inc. and 8750840 Canada Inc.
2016	South Edmonton Common, 2021-98 Street NW, Edmonton, AB	Canadian Property Holdings (Alberta) Inc. and Cameron Corporation

13. Similar to the DKB Capital Agreement that was previously approved by this Court, BBB LP has agreed to assign and transfer, and DKB has agreed to assume: (a) all of BBB LP's right, title and interest in and to the Additional Leases on as "as is, where is" basis, including all related rights, benefits and advantages contained in each Additional Lease; and (b) all FF&E and Trade Fixtures (as defined in the Second DKB Capital Agreement) existing at the premises demised pursuant to the Additional Leases. DKB Capital paid to the Monitor, in trust, cash consideration in the aggregate amount of \$213,444, allocated between the two Additional Leases (\$180,000) and the FF&E and Trade Fixtures (\$33,444).

14. In the event that either of the two Additional Leases do not become “Assigned Leases” because the consent of the landlord or, in the alternative, an assignment order pursuant to Section 11.3 of the CCAA has not been obtained on or before April 28, 2023, then such Additional Lease will be excluded from the Second DKB Agreement and the applicable portion of the consideration will be refunded to DKB Capital. In such scenario, DKB Capital may also elect to exclude all FF&E and Trade Fixtures at the premises governed by the unassigned Additional Lease and obtain a refund of all associated cash consideration.

15. The Second DKB Capital Agreement represents the highest offer for the Barrhaven Lease following the failure of the original offer to result in an executable transaction, and the only offer received by BBB Canada for the South Edmonton Lease. A copy of the Second DKB Capital Agreement has been provided to the Monitor and I understand that the Monitor supports BBB LP’s execution and closing of same.

16. BBB Canada is not seeking any specific relief with respect to the Second DKB Capital Agreement as the consideration payable both on a standalone basis and on an aggregate basis fall under the defined monetary thresholds in the ARIO. Accordingly, the Second DKB Capital Agreement is not conditional on the approval of the Court.

C. Canadian Tire Agreement

17. The Canadian Tire Agreement relates to the following twelve (12) Leases:

Store No.	Address	Landlord
2009	Park Place, 80 Concert Way, Unit 1, Barrie, ON	North American (Park Place) Corporation and 9613714 Canada Inc.
2019	845 Marine Drive, North Vancouver, BC	TPP Investments II Inc. and PSS Investments II Inc.
2020	Southpointe Common, 5001 19th Street, Unit 850, Red Deer, AB	Southpointe Plaza Inc.

2030	Emerald Hills Centre, 5000 Emerald Drive, Sherwood Park, AB	1445006 Alberta Inc.
2035	Westwood Power Centre, 3165 Wonderland Road South, Unit #1, London, ON	Wonderland Power Centre Inc.
2037	Westgate Home Centre, 101-11517 Westgate Drive, Grande Prairie, AB	1651051 Alberta Ltd.
2048	Riocan Centre Kingston, 616 Gardiners Road, Suite 1, Kingston, ON	Riotrin Properties (Kingston) Inc.
2050	Langley City Square, Unit 100 - 19860 Langley Bypass, Langley, BC	Langley City Square Properties Ltd.
2054	Medicine Hat Mall, 107-1820 Strachan Road, Medicine Hat, AB	Skyline Retail Real Estate Holdings Inc.
2056	Sudbury New Millennium Centre, 1499 Marcus Drive, Sudbury, ON	RioKim Holdings (Ontario) Inc.
3705	Ottawa Trainyards, 595 Industrial Ave, Unit 2, Ottawa, ON	1663321 Ontario Inc.
3711	Oakville Place, 240 Leighland Avenue, Unit M6a, Oakville, ON	RioCan Holdings (Oakville Place) Inc.

18. Key terms of the Canadian Tire Agreement include the following:

- (a) BBB LP agrees to assign and transfer, and Canadian Tire agrees to assume, all of BBB LP's right, title and interest in and to the Assigned Leases (as defined below) and the premises governed thereunder (the "**Assigned Premises**") on as "as is, where is" basis, including all related rights, benefits and advantages contained in each Assigned Lease;
- (b) "Assigned Leases" are comprised of all Leases listed in the Canadian Tire Agreement that:
 - (i) require the landlord's consent to complete the assignment of such Lease and such consent has been received by BBB LP substantially in the form agreed

to between BBB LP and Canadian Tire or otherwise acceptable to BBB LP and Canadian Tire, each acting reasonably, by April 27, 2023;

- (ii) do not require the landlord's consent to complete the assignment of such Lease but instead require that BBB LP provide the landlord with notice of such assignment or provide the landlord with a termination right following notice of such assignment, and a waiver of such notice requirements and/or termination rights has been provided by the landlord to BBB LP substantially in the form agreed to between BBB LP and Canadian Tire or otherwise acceptable to BBB LP and Canadian Tire, each acting reasonably, by April 27, 2023; and
- (iii) do not require a consent or waiver and the landlord has provided an executed lease amending agreement to BBB LP substantially in the form agreed to between BBB LP and Canadian Tire or otherwise acceptable to BBB LP and Canadian Tire, each acting reasonably, by April 27, 2023;
- (c) the Assigned Leases and Assigned Premises do not include any FF&E, Trade Fixtures, or personal property, all of which BBB LP is required to remove from all Assigned Premises prior to May 1, 2023 (the closing date). BBB LP is under no obligation to remove any signage;
- (d) Canadian Tire agrees to pay to the Monitor, in trust, cash consideration in the amount of \$2,080,000 allocated between the 12 Leases that are subject to the Canadian Tire Agreement. Canadian Tire also agrees to pay a deposit of \$150,000

within two business days of execution of the Canadian Tire Agreement, with the remainder of the consideration payable on closing;

- (e) in the event that any of the 12 Leases do not become “Assigned Leases” because the applicable landlord consent, waiver, or lease amending agreement is not obtained by April 27, 2023, such Leases will be deemed “Unassignable Leases”, will be excluded from the scope of the Canadian Tire Agreement, and all cash consideration allocated to same will not be payable by Canadian Tire on closing; and
- (f) BBB LP must either provide confirmation to Canadian Tire that all outstanding amounts claimed by landlords and listed in Schedule “D” to the Canadian Tire Agreement (the “**Known Claimed Defaults**”) are not owing to the applicable landlord, or satisfy the Known Claimed Defaults prior to May 1, 2023, failing which the consideration payable under the Canadian Tire Agreement will be reduced by the sum of the outstanding Known Claimed Defaults;
- (g) Canadian Tire is not liable for any monetary or non-monetary defaults in respect of the Assigned Leases prior to May 1, 2023, and the applicable landlord consent, waiver and/or amending agreement must satisfy Canadian Tire that it will not be subject to unexpected costs to cure monetary or non-monetary defaults. In the event that BBB LP or Canadian Tire learn of any defaults that are not Known Claimed Defaults prior to the closing date, BBB LP has the option, to be exercised in a commercially reasonable manner, with the consent of the Monitor, to either cure such defaults prior to the closing date, reduce the consideration by an amount

necessary and acceptable to Canadian Tire to cure such default, or, if the aggregate amount of the default(s) for such Lease exceeds the consideration allocated to such Lease in the Canadian Tire Agreement, terminate the Canadian Tire Agreement with respect to such Lease.

19. A copy of the Canadian Tire Agreement is attached hereto as **Exhibit “A”**.
20. The Canadian Tire Agreement and the transactions detailed therein are subject to the approval of this Court.
21. BBB Canada believes that the Canadian Tire Agreement is in the best interests of BBB Canada and its stakeholders and the consideration paid in respect of transactions defined therein is fair and reasonable. The Canadian Tire Agreement (like the DKB Capital Agreement, the Lease Surrender Agreement, the Winners Agreement and the Second DKB Capital Agreement) is the result of the comprehensive marketing process undertaken by RVC and significant negotiation by BBB Canada of the 19 EOIs received in order to eliminate overlap while maximizing the value of the Leases. The Canadian Tire Agreement increases BBB Canada’s realization of the value of its assets for the benefit of its stakeholders.
22. Canadian Tire has agreed to covenant in each landlord consent, waiver, or lease amending agreement that it has the financial ability to close the transaction, pay all rent at the times and in the manner provided in each Lease, make all payments covenanted to be paid by the tenant under the Lease, and otherwise assume, observe, perform and be liable for the performance of each term, covenant, provision, condition liability, obligation and agreement contained in the Leases after the closing date that it will assume from BBB LP.

23. RVC and BBB Canada believe that the consideration offered by Canadian Tire for the above noted Leases is fair and reasonable in the circumstances. It represents the highest, non-overlapping, executable offer received within the marketing process for the 12 Leases. I am advised by the Monitor and believe that the Monitor agrees with this assessment. I am further advised by the Monitor and believe that the Monitor supports BBB Canada's request for approval of the Canadian Tire Agreement.

D. Winners Agreement

24. On April 21, 2023, BBB LP, BBBI and Winners entered into the Winners Agreement with respect to store no. 2042 located at Collingwood Centre, 55 Mountain Road, Collingwood, ON (the "**Collingwood Lease**").

25. Key terms of the Winners Agreement include the following:

- (a) BBB LP agrees to assign and transfer, and Winners agrees to assume, all of BBB LP's right, title and interest in and to the Collingwood Lease, the premises described in the Collingwood Lease, and all personal property, FF&E and Trade Fixtures left in the premises on the closing date (May 1, 2023), in each case on as "as is, where is" basis;
- (b) Winners agrees to pay the Monitor, in trust, cash consideration in the amount of \$1,022,142.27;
- (c) Winners will be responsible for all Known Existing Arrears (defined in the Winners Agreement as \$27,857.73 of known monetary amounts owing to the landlord as of the closing date). Winners will also be responsible for any non-monetary defaults

under the Collingwood Lease, save and except for any non-monetary default arising by reason of BBB Canada's CCAA proceedings. If there are monetary defaults that are not Known Existing Arrears which exceed \$500,000, then BBB LP, acting in a commercially reasonable manner and with the approval of the Monitor, will have the option to terminate the Winners Agreement on or before April 28, 2023 and the consideration paid by Winners will be returned by the Monitor to Winners.

26. A copy of the Winners Agreement is attached hereto as **Exhibit "B"**.

27. Based on discussions to date, the landlord under the Collingwood Lease has advised BBB Canada that it will not oppose an assignment of the Collingwood Lease to Winners under section 11.3 of the CCAA and prefers that the assignment proceed in this manner.

28. The Winners Agreement and the transactions detailed therein are subject to the approval of this Court and the granting of an order assigning the Collingwood Lease to Winners pursuant to section 11.3 of the CCAA.

29. Winners has covenanted to assume all of BBB LP's obligations contained in the Collingwood Lease from and after the closing date. No amendments to the permitted use restrictions, go dark rights, or other provisions are being sought by BBB Canada or Winners that would prejudice landlord rights under the Collingwood Lease.

30. An assignment of the Collingwood Lease to Winners pursuant to section 11.3 of the CCAA will maximize the realizable value of BBB Canada's estate for the benefit of its stakeholders. If the assignment is not completed, a portion of this realizable value will be lost. The Collingwood Lease is an asset of BBB Canada and the transactions proposed under the Winners Agreement will

allow BBB Canada to obtain monetary value for the Collingwood Lease for the benefit of its stakeholders.

31. RVC and BBB Canada believe that the consideration paid by Winners for the Collingwood Lease is fair and reasonable in the circumstances. It represents the highest, non-overlapping, executable offer received within the marketing process for the Collingwood Lease. I am advised by the Monitor and believe that the Monitor agrees with this assessment. I am further advised by the Monitor and believe that the Monitor supports BBB Canada's request for approval of the Winners Agreement.

E. Results of Lease Monetization Process

32. BBB Canada expects to realize aggregate proceeds of approximately \$5.8 million, less fees payable, from the sale, assignment and/or surrender of the Leases and FF&E.

F. Extension to the Stay Period

33. The Applicant is seeking to extend the Stay Period up to and including June 27, 2023. The Applicants is not seeking any extension of the temporary stay granted in the Initial Order of all proceedings against BBBI arising out of or in connection with the BBBI Indemnities.

34. The extension to the Stay Period is necessary and appropriate in the circumstances to allow BBB Canada and the Consultant to complete the final reconciliation and settlement of all amounts realized in the liquidation sale. Pursuant to the Consulting Agreement, BBB Canada and the Consultant, in consultation with the Monitor, must complete the final reconciliation and assessment of all revenues, costs and expenses with respect to the liquidation sale by no later than 45 days following the date of termination of the liquidation sale. All amounts payable as between

BBB Canada and the Consultant must be settled within 10 days of completion of the final reconciliation.

35. Once the final reconciliation and settlement of all amounts from the liquidation sale is complete, BBB Canada intends to bring a final motion for termination of the CCAA proceedings, discharge of the Monitor, and the granting of a bankruptcy order.

36. I believe that BBB Canada has acted, and continues to act, in good faith and with due diligence in pursuing these final steps in the wind down of its business. I understand that the Third Report of the Monitor will include, among other things, a cash flow forecast demonstrating that, subject to the underlying assumptions contained therein, BBB Canada will have sufficient funds to continue its operations and fund these CCAA proceedings until June 27, 2023. I further understand the Third Report of the Monitor will recommend that the Stay Period be extended.

SWORN BEFORE ME over video
teleconference this 21st day of April, 2023
pursuant to O. Reg 431/20, Administering
Oath or Declaration Remotely. The affiant was
located in the City of Union, in the State of
New Jersey while the Commissioner was
located in the City of Toronto, in the Province
of Ontario.



Commissioner for Taking Affidavits
Emilie Dillon (LSO No. 85199L)



Wade Haddad

THIS IS **EXHIBIT “A”** REFERRED TO IN THE AFFIDAVIT OF WADE HADDAD SWORN BEFORE ME over video teleconference this 21st day of April, 2023 pursuant to O. Reg 431/20, Administering Oath or Declaration Remotely. The affiant was located in the City of Union, in the State of New Jersey while the Commissioner was located in the City of Toronto, in the Province of Ontario.



Commissioner for Taking Affidavits
Emilie Dillon (LSO No. 85199L)

OMNIBUS ASSIGNMENT AND ASSUMPTION OF LEASES

THIS AGREEMENT (“**Agreement**”) is made as of the 21st day of April, 2023 (the “**Effective Date**”)

B E T W E E N:

BED BATH & BEYOND CANADA L.P.

(the “**Assignor**”)

- and -

CANADIAN TIRE CORPORATION, LIMITED

(the “**Assignee**”)

- and -

BED BATH & BEYOND INC.

(the “**Indemnifier**”)

RECITALS:

- A. The Assignor entered into certain leases as same have been assigned, amended and restated, renewed or supplemented from time to time, all of which are more particularly described in Schedule “A” attached hereto (collectively, the “**Leases**” and each, a “**Lease**”) with, *inter alios*, the landlords set across from each Lease in Schedule “A” attached hereto (collectively, the “**Landlords**” and each, a “**Landlord**”), for certain premises located in Canada as set across from each Lease in Schedule “A” attached hereto (for each such Lease, the “**Premises**”).
- B. The Indemnifier entered into indemnity agreements in favour of certain of the Landlords, as such indemnity agreements may have been assigned, amended, restated, renewed or supplemented from time to time.
- C. BBB Canada Ltd. and the Assignor (collectively, the “**BBB Canada Entities**”) were granted protection by the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) under the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the “**CCAA**”), and Alvarez & Marsal Canada Inc. (“**A&M**”) was appointed as the monitor of the BBB Canada Entities (in such capacity, the “**Monitor**”), pursuant to an Order of the Court dated February 10, 2023, as amended and restated on February 21, 2023, and as may be further amended, restated and/or amended and restated from time to time (collectively, the “**Initial Order**”). Pursuant to the terms of the Initial Order, the BBB Canada Entities and the Indemnifier have the benefit of a stay of proceedings and certain other protections and benefits provided by the Initial Order and the CCAA.
- D. The Assignor, the Assignee and the Indemnifier are entering into this Agreement to provide for the assignment and assumption of the Assigned Interest (as hereinafter defined) by the

Assignor to the Assignee in accordance with and subject to the terms and conditions contained herein.

THEREFORE, in consideration of the covenants and agreements hereinafter set forth and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

ARTICLE 1 ASSIGNMENT

1.1 Assignment by Assignor

- (a) Subject to the release of the Consideration (as hereinafter defined) from escrow pursuant to Section 3.1(c), the Assignor assigns and transfers to the Assignee, as of May 1, 2023 (the “**Closing Date**”), all of the Assignor’s obligations, rights, title and interest, both at law and at equity, in and to each Assigned Lease (as hereinafter defined) and the Assigned Premises as hereinafter defined), and all related rights, benefits and advantages, including the residue of the term of each Assigned Lease, any rights of renewal and/or extension, any rights of first refusal, rights of first offer and similar pre-emptive rights, and rights to purchase, if any, contained in each Assigned Lease (collectively, the “**Assigned Interest**”, and the assignment of the Assigned Interest by the Assignor to the Assignee is the “**Assignment**”). Notwithstanding anything to the contrary herein, the Assigned Interest will not include any FF&E (as hereinafter defined), Trade Fixtures (as hereinafter defined), or personal property, all of which the Assignor shall remove from each Assigned Premises prior to the Closing Date, with the Assignor being responsible for repairing all damages caused by such removal. For the avoidance of doubt, Assignor shall be under no obligation to remove any signage from the Premises or real property on which the Premises are situate.
- (b) For clarity, nothing in this Agreement shall be construed as an assignment of, or an attempt to assign to the Assignee, any Lease which is not an Assigned Lease.
- (c) “**Assigned Leases**” means, collectively:
 - (i) each Lease for which Landlord Consent is required in respect of which Landlord Consent has been obtained by the Outside Date;
 - (ii) each Lease for which a Landlord Waiver is required in respect of which a Landlord Waiver has been obtained by the Outside Date; and
 - (iii) each Lease which does not require a Landlord Consent or Landlord Waiver in respect of which the parties obtain a Lease Amending Agreement by the Outside Date;and an “**Assigned Lease**” means any one of the Assigned Leases, full copies of which have been provided by the Assignor to the Assignee.
- (d) “**Assigned Premises**” means, collectively, the Premises which have been demised pursuant to the Assigned Leases.

- (e) “**FF&E**” includes all tools, furniture, machinery, equipment, personal or moveable property, chattels, furnishings and fixtures including shelves, video cameras and equipment, security systems, point-of-sales systems and related appurtenances, telecommunications systems and related appurtenances, electric light fixtures, elevating devices and equipment, in each case to the extent owned by the Assignor or any related party and which are now used or intended to be used, or which were previously used, in connection with the Assignor’s occupation and operation of the Assigned Premises, other than Trade Fixtures and leasehold improvements.
- (f) “**Landlord Consent**” has the meaning ascribed thereto in Section 1.4(a).
- (g) “**Landlord Waiver**” has the meaning ascribed thereto in Section 1.4(b).
- (h) “**Lease Amending Agreement**” has the meaning ascribed thereto in Section 1.4(c).
- (i) “**Outside Date**” means April 27, 2023.
- (j) “**Trade Fixtures**” means the fixtures, shelves, counters, equipment, and other improvements in each case which were installed by or on behalf of the Assignor or any related party, in each case to the extent owned by the Assignor or any related party and which are now used or intended to be used, or which were previously used, in connection with the Assignor’s occupation and operation of the Assigned Premises, and regardless of whether the same were constructed, installed or attached in any manner whatsoever to the floors, walls or ceilings of the Assigned Premises, but excluding all leasehold improvements.

1.2 Assumption by Assignee

The Assignee hereby accepts the assignment of the Assigned Interest provided for in this Agreement and assumes all of the Assignor’s obligations with respect to the Assigned Interest arising in and relating solely to the period of time from and after the Closing Date. The Assignor warrants that as of the date hereof it is not in default under any of the Leases, except that landlords listed in Schedule “D” hereto have claimed the amounts set out in Schedule “D” hereto are owing by the Assignor (the “**Known Claimed Defaults**”). The Assignor will either: (i) provide confirmation to the Assignee, satisfactory to the Assignee in its sole discretion that the Known Claimed Defaults are not owing to the applicable landlord; or (ii) satisfy the Known Claimed Defaults prior to the Closing Date, failing which the Consideration payable on the Closing Date for such Leases to which the unpaid and owing Known Claimed Defaults relate shall be reduced by the amount of the applicable unpaid Known Claimed Default. The Assignee will not assume and is not liable for any monetary and non-monetary defaults in respect of the Assigned Interest prior to the Closing Date, except for any additional rent reconciliations received after the Closing Date for the period prior to the Closing Date. If any additional rent reconciliations for any Lease received after the Closing Date provide a credit to the Assignee, the Assignee shall be permitted to retain same and the Assignor assigns any interest in same to the Assignee. The Landlord Consent, Landlord Waiver or Lease Amending Agreement, as applicable, shall provide that the Assignee is released from any and all liability and obligations for monetary and non-monetary defaults in respect of the Assigned Interest prior to the Closing Date, failing which such Landlord Consent, Landlord Waiver or Lease Amending Agreement, as applicable, shall be deemed to have not been obtained. If the request for any Landlord Consent, Landlord Waiver or Lease Amending Agreement reveals that there is any default under the applicable Lease, the Assignee shall not be

responsible for curing such defaults, and except with respect to the Known Claimed Defaults, the Assignor shall have the option, to be exercised in a commercially reasonable manner, with the consent of the Monitor, to either cure such defaults prior to the Closing Date, reduce the Consideration by an amount necessary and acceptable to the Assignee to cure such default, or terminate this Agreement with respect to such Lease and such Lease shall become an Unassignable Lease (as hereinafter defined), such option to be exercised by written notice to the Assignee. Notwithstanding the foregoing, the Assignor shall have no right to terminate, but instead shall either cure such default(s) prior to the Closing Date or reduce the Consideration by an amount necessary and acceptable to the Assignee to cure such default(s), if the aggregate amount of the claimed default(s) for such Lease is less than the Consideration allocated to such Lease in Schedule “B” hereto.

If there are defaults under any applicable Lease that are not Known Claimed Defaults and by the Closing Date, the Assignor has not cured such defaults, agreed to reduce the Consideration by an amount necessary and acceptable to the Assignee to cure such default or terminated this Agreement with respect to such Lease, the Assignee may terminate this Agreement with respect to such Lease and such Lease shall become an Unassignable Lease, such option to be exercised by written notice to the Assignor.

1.3 Conditional on Landlord Release

- (a) This Agreement, in respect of each Lease, is conditional upon receipt by the Assignor on or prior to the day that is two (2) Business Days (as hereinafter defined) prior to the Outside Date, from the applicable Landlord, of a written release of the Assignor and the Indemnifier, if any, from their obligations under the Lease and any indemnity agreement in respect of the Lease or any obligations thereunder, in a form acceptable to the Assignor and the Indemnifier (the “**Release**”). This condition is for the sole benefit of the Assignor and may be waived, in whole or in part, by the Assignor.
- (b) In the event that a Release in respect of any Lease (collectively, the “**Unreleased Leases**”) is not obtained on or prior to the day that is two (2) Business Days prior to the Outside Date, the Assignor shall be entitled to terminate this Agreement with respect to any or all of the Unreleased Leases by Notice (as hereinafter defined) to the Assignee provided on or prior to the Outside Date (such notice being a “**Unreleased Lease Termination Notice**”), and the Unreleased Lease or Unreleased Leases identified in such Notice shall not form part of the Assigned Leases, and the Assignee shall be entitled to a Reduction in Consideration for such Unreleased Leases as set forth in Schedule “B” and as contemplated in Section 3.1(b) below, to account for such Lease or Leases being removed from this Agreement.
- (c) If the Assignor does not provide an Unreleased Lease Termination Notice in accordance with Section 1.3(b) on or prior to the day that is two (2) Business Days prior to the Outside Date in respect of any Unreleased Lease, the Assignor will be deemed to have waived the condition in its favour provided in Section 1.3(a) in respect of such Unreleased Leases for which the Landlord did not provide an Unreleased Lease Termination Notice and the assignment of such Unreleased Leases for which the Landlord did not provide an

Unreleased Lease Termination Notice shall be effected in accordance with the terms and conditions of this Agreement.

1.4 Conditional on Landlord Consent, Landlord Waiver or Lease Amending Agreement

- (a) This Agreement, in respect of each Lease to which the Landlord's consent is required to complete the Assignment of such Lease, is conditional upon receipt by the Assignor and Assignee, from the applicable Landlord, of a consent to the Assignment of such Lease by way of the Landlord Consent to Assignment and Amendment of Lease, substantially in the form agreed to between the Assignor and Assignee prior to the execution of this Agreement, as confirmed via email by, respectively, counsel to the Assignor and Assignee, or otherwise acceptable to the Assignor and Assignee, each acting reasonably (the "**Landlord Consent**"), which must be obtained on or prior to the Outside Date. The Assignee shall use commercially reasonable efforts to assist the Assignor in obtaining the Landlord Consent.
- (b) This Agreement, in respect of each Lease to which the Landlord's consent is not required to complete the Assignment of such Lease but does require that Assignor provide Landlord with notice of such Assignment or provide Landlord with a termination right following notice of such Assignment, is conditional upon receipt by the Assignor and Assignee, from the applicable Landlord, of a Landlord Waiver substantially in the form agreed to between the Assignor and Assignee prior to the execution of this Agreement, as confirmed via email by, respectively, counsel to the Assignor and Assignee, or otherwise acceptable to the Assignor and Assignee, each acting reasonably (the "**Landlord Waiver**"), which must be obtained on or prior to the Outside Date. The Assignee shall use commercially reasonable efforts to assist the Assignor in obtaining the Landlord Waivers.
- (c) This Agreement, in respect of each Lease to which the Landlord's consent is not required to complete the Assignment and which Lease does not require that Assignor provide Landlord with notice of such Assignment or provide Landlord with a termination right following notice of such Assignment, is conditional upon receipt by the Assignor and Assignee, from the applicable Landlord, of a Lease Amending Agreement, substantially in the form agreed to between the Assignor and Assignee prior to the execution of this Agreement, as confirmed via email by, respectively, counsel to the Assignor and Assignee, or otherwise acceptable to the Assignor and Assignee, each acting reasonably (a "**Lease Amending Agreement**"), which must be obtained on or prior to the Outside Date. The Assignee shall use commercially reasonable efforts to assist the Assignor in obtaining the Lease Amending Agreements.
- (d) In the event that a Landlord Consent, Landlord Waiver or Lease Amending Agreement has not been received from any Landlord in respect of any Lease on or prior to the Outside Date (collectively, the "**Unassignable Leases**"), this Agreement shall automatically terminate with respect to such Unassignable Leases and the Unassignable Leases shall not form part of the Assigned Leases.
- (e) The Assignor acknowledges that certain agreements, letters or documents listed in Schedule "A" hereto, including SNDAs and agreements with other occupants of premises

in the same or nearby shopping centres as any Premises, may not be lease amending agreements, although they may relate to the applicable Lease and agrees that Landlord Consents, Landlord Waivers and Lease Amending Agreements need not list such agreements, letters or documents if they are not binding on the applicable landlord.

1.5 Conditional on Approval Order

This Agreement is conditional on the receipt by the Assignee of a final, valid and enforceable order issued by the Court (that is not subject to appeal or a stay) approving of the assignment and assumption of the Assigned Leases and Assigned Interests and the transactions as contemplated herein, and conveying to the Assignee all of the Assignor's right, title and interest in and to the Assigned Leases and Assigned Interests, free and clear of all encumbrances other than permitted encumbrances, to which the Assignee does not reasonably object in writing to the Assignor, which Order shall be in form and substance satisfactory to each of the Assignor and the Assignee, each acting reasonably, no later than April 29, 2023 (the "**Approval and Vesting Order**"), failing which this Agreement will be terminated and be of no force and effect.

ARTICLE 2 AS IS, WHERE IS

2.1 As Is, Where Is

- (a) The Assignee covenants and agrees in favour of the Assignor that it has had an opportunity to inspect and will accept the Assigned Interest, including each Assigned Premises, in all respects in an "as is where is" condition as of the Closing Date without any representation or warranty whatsoever, except as otherwise provided in this Agreement, including without limitation in respect of the condition of any Assigned Lease or Assigned Premises, the existence of any encumbrance, permit or work orders affecting any Assigned Premises, Assigned Lease, title to any property upon which any Assigned Premises are situate or Assignor's interest in any of the foregoing. The Assignee has reviewed the Leases and Premises and is familiar with the Leases and Premises. It is a condition of this Agreement that the Assignor shall leave the Assigned Premises in broom-swept condition on the Closing Date without any FF&E, Trade Fixtures or personal property remaining or being left behind and all damage arising from such removal from the Assigned Premises being repaired.

ARTICLE 3 CONSIDERATION AND COVENANTS

3.1 Consideration for Assignment

- (a) The Assignee agrees to pay to the Monitor, in trust and to be held in escrow, within two (2) Business Days (as hereinafter defined) following the execution of this Agreement, the amount of \$150,000 as a refundable deposit (the "**Deposit**") out of a total consideration of Two Million, Eighty Thousand Dollars (\$2,080,000.00) in Canadian dollars (the "**Consideration**"), which shall be allocated to the Leases as set out in Schedule "B" attached hereto.

- (b) The portion of the Consideration allocated to Leases which are not Assigned Leases as of the Outside Date (the “**Reduction in Consideration**”) shall be deducted from the Consideration to be paid in accordance with Section 3.1(c).
- (c) Subject to the satisfaction of the conditions of this Agreement (excluding with respect to Unassignable Leases) and the closing of the transactions contemplated in this Agreement with respect to the Assigned Leases, on the Closing Date, the portion of the Consideration allocated to the Assigned Leases (the “**Purchase Consideration**”) less the Deposit, shall be paid to the Monitor, in trust and to be held in escrow, pending the filing with the Court of the Monitor’s Certificate attached to the Approval and Vesting Order, and shall be released from escrow to the Assignor, following the filing of the Monitor’s Certificate attached to the Approval and Vesting Order with the Court, in accordance with payment instructions to be provided by the Assignor to the Monitor prior to the Closing Date. If the Monitor’s Certificate is not filed by the Monitor with the Court within one (1) Business Day of the payment of the Purchase Consideration less the Deposit by the Assignee to the Monitor in trust and in escrow, then the Monitor shall return the Purchase Consideration (which for clarity, includes the Deposit) to the Assignee and this Agreement shall be terminated and of no force and effect.
- (d) The parties hereto acknowledge and agree that the Monitor shall (i) be under no obligation to invest the Consideration or hold same in an interest bearing account prior to the Closing Date, (ii) be entitled to release the Deposit to the Assignee if the Reduction in Consideration is equal to the Consideration or this Agreement is otherwise terminated in its entirety, without independent investigation, upon receiving written confirmation from both the Assignor and Assignee or both of their respective counsel that the amount of the Consideration is the Reduction in Consideration or that this Agreement has been terminated in its entirety, and (iii) be entitled to release the Purchase Consideration from escrow, to the Assignor or the Assignee, as the case may be, in accordance with Section 3.1(c), without independent investigation or any further instruction, and the Monitor shall have no liability to the parties hereto in connection therewith.
- (e) The Consideration shall be allocated 99% to BBB Canada Ltd. and 1% to BBB Canada LP Inc. (with the amount allocated to BBB Canada LP Inc. being the “**Non-Resident Consideration**”).
- (f) The parties hereto acknowledge and agree that A&M, acting in its capacity as Monitor, shall have no liability in its personal or corporate capacity or otherwise, in connection with this Agreement.

3.2 Clearance Certificate and Withholding

At the Closing Date, the Assignor will deliver to the Assignee a clearance certificate issued by the Canada Revenue Agency (the “**CRA**”) pursuant to section 116 of the *Income Tax Act* (Canada) (the “**Tax Act**”) addressed to the Assignor with a certificate limit equal to the total fair market value of the Consideration (a “**Clearance Certificate**”) or, if the Assignor does not deliver such Clearance Certificate, the Assignee shall be entitled to withhold 25% of the total fair market value of the Non-Resident Consideration (the “**Withheld Funds**”) and to pay the Withheld Funds to the

Assignee's Solicitors on their undertaking to keep the Withheld Funds in their trust account and make no use of them whatsoever except in accordance with the following:

- (a) if the Assignor's Solicitors have not delivered to the Assignee's Solicitors the Clearance Certificate for the Assignor by the 29th day of the month following the Closing Date, the Assignee's Solicitors will remit the Withheld Funds to the CRA by the 30th day of such month unless prior to that date the Assignee has received in writing, addressed to the Assignor's Solicitor, the consent of the CRA to remit the Withheld Funds at a later date without application of any interest or penalties, in which case the Assignee's Solicitors will remit the Withheld Funds in accordance with the directions of the CRA, and
- (b) after the Assignor's Solicitors have delivered to the Assignee's Solicitors the Clearance Certificate, the Assignee's Solicitors may disburse to the Assignor the excess of the Withheld Funds (if any) over the amount required to obtain such Clearance Certificate.

3.3 Access

From the Outside Date until the Closing Date, the Assignee and its agents, advisors, consultants, employees and representatives will have reasonable access to the Assigned Premises during business normal hours for such length of time as Assignee reasonably desires upon prior written Notice (as hereinafter defined) of not less than one (1) Business Days to the Assignor solely for the purposes of visiting and conducting noninvasive inspections of the Assigned Premises. The Assignee and its agents, advisors, consultants, employees and representatives will use commercially reasonable efforts to not interfere with the Assignor's business.

3.4 Interim Period

- (a) During the period from the Effective Date to the Outside Date, the Assignor shall comply with each and every term and condition of the Leases to the extent required by the Assignor's CCAA proceedings, subject only to the provisions of the CCAA, the Initial Order and any other order of the Court.
- (b) During the period from the Outside Date to the Closing Date, the Assignor shall comply with each and every term and condition of the Assigned Leases to the extent required by the Assignor's CCAA proceedings, subject only to the provisions of the CCAA, the Initial Order and any other order of the Court.

3.5 Trademarks

Notwithstanding the foregoing or anything else contained herein or elsewhere, the Assignee acknowledges and agrees that: (a) no signs, trade-marks, trade-names, logos, commercial symbols, business names or other intellectual property rights identifying "Bed Bath & Beyond" or "buybuy Baby" are conveyed or intended to be conveyed to the Assignee as part of the Assigned Interest; and (b) all right, title and interest of the Assignor in and to all of its existing signs, trade-marks, trade-names, logos, commercial symbols, business names or other intellectual property rights identifying "Bed Bath & Beyond" or "buybuy Baby" or containing the words "Bed Bath &

Beyond” or “buybuy Baby” are hereby specifically reserved and excluded from the Assigned Interest.

3.6 Contracts

On or before the Closing Date, the Assignor will, at its sole expense, terminate all contracts that the Assignor is aware of to the best of its knowledge, acting reasonably, in respect of the provision of utilities and services to the Assigned Premises, only to the extent they relate to the Assigned Premises. Assignor shall not be responsible for terminating any subordination and non-disturbance agreements entered into with any lender of any landlord (“SNDAs”) or agreements with any other occupants of premises in the same or nearby shopping centres as any Premises.

3.7 Assignor’s Representations and Warranties

The Assignor represents and warrants to and in favour of the Assignee that as of the Effective Date and as of the Closing Date as to the following and acknowledges and confirms that the Assignee is relying upon such representations and warranties in connection with the entering into of this Agreement:

- a) the execution, delivery and performance by the Assignor of this Agreement has been duly authorized by all necessary corporate action on the part of the Assignor subject to the Approval and Vesting Order and authorization as is required by the Court
- b) that with respect to the Premises, the Assignor has not instituted appeals and/or claims in respect of realty taxes or assessments for periods prior to the Closing Date, which include the tax year in which the Closing Date occurs, but notwithstanding the foregoing, the Assignee may not terminate this Agreement only on the basis of a breach of the representation provided in this section 3.7(b);
- c) the Assignor is a partnership created under the laws of Ontario;
- d) BBB Canada Ltd has a 99% interest in the Assignor and is not a non-resident of Canada with the meaning of the Tax Act;
- e) BBB Canada LP Inc. has a 1% interest in the Assignor; and
- f) the Assignor is a registrant for the purposes of the tax imposed under Part IX of the *Excise Tax Act*.

3.8 Conditions of Closing for the Benefit of the Assignee

The Assignee's obligation to complete the transactions contemplated in this Agreement is subject to the following conditions to be fulfilled or performed, on or before the Closing Date, which conditions are for the exclusive benefit of the Assignee and may be waived, in whole or in part, by the Assignee:

- a) the representations and warranties of the Assignor in Section 3.7 shall be true and correct as of the Closing Date with the same force and effect as if such representations and warranties were made on and as of such date; and
- b) except for any obligations to remove any FF&E, Trade Fixtures or personal property remaining or being left behind and all damage arising from such removal from the Assigned Premises, the Assignor shall have performed and complied with all of the other terms and conditions in this Agreement at or before Closing in all material respects and shall have executed and delivered or caused to have been executed and delivered to the Assignee on Closing all the closing documents contemplated or required to be so executed and delivered in this Agreement.

ARTICLE 4 ADJUSTMENTS

4.1 Rent Adjustments

The Assignor and the Assignee shall adjust as between themselves the rent (including basic or minimum rent, additional rent and realty taxes) which has been paid or pre-paid by or on behalf of the Assignor in respect of any period on or after the Closing Date, to the applicable Landlord(s) or other applicable third-party in respect of any of the Assigned Leases, with the Closing Date itself to be allocated to the Assignee provided that, in the event of claim for adjustment in favour of the Assignor, such adjustment will only be valid if the applicable Landlord or other third-party, as applicable, provide written confirmation that the Assignee will get the credit associated with any such adjustment in favour of the Assignee. All such adjustments shall be adjusted on a statement of adjustments delivered by the Assignor to the Assignee at least five (5) Business Days prior to the Closing Date. In the event that such statement of adjustments indicates that the Assignor has failed to pay or pay in full any rent owing or accrued up to the Closing Date to any Landlord(s) or other party pursuant to the Lease, or if the Assignor is in default of its rent obligations under the Lease to any Landlord(s) or any other party, at the Assignor's option, to be exercised in a commercially reasonable manner, with the consent of the Monitor, the Consideration shall be reduced by an amount necessary to cure such rent default or satisfy any rent accrued up to the Closing Date, as determined and acceptable to the Assignee, acting reasonably, or, unless such default is a Known Claimed Default, the Assignor may terminate the agreement with respect to such Lease and such Lease shall become an Unassignable Lease, such option of the Assignor to be exercised in writing to the Assignee.

If there are defaults under any applicable Lease that are not Known Claimed Defaults and by the Closing Date, the Assignor has not cured such defaults, agreed to reduce the Consideration by an amount necessary and acceptable to the Assignee to cure such default or terminated this Agreement with respect to such Lease, the Assignee may terminate this Agreement with respect to such Lease

and such Lease shall become an Unassignable Lease, such option to be exercised by written notice to the Assignor.

4.2 Utilities

The Assignee shall not assume, and as of the Closing Date, the Assignor shall terminate all contracts or agreements that, to the best of the Assignor's knowledge, acting reasonably, were entered into by or on behalf of the Assignor for the supply of any utilities including, without limitation, electricity, gas, water, fuel, telephone service, internet services, security and surveillance services or otherwise at the Assigned Premises (collectively, "**Utilities**" and each, a "**Utility**"). Any and all charges and other related fees payable for Utilities for the Assigned Premises pursuant to any invoice or statement to the extent relating to a time period prior to the Closing Date, whether such invoice or statement is issued prior to, on, or after the Closing Date, shall be the sole responsibility of the Assignor. On the Closing Date, the Assignee shall set up all required Utility accounts for the Assigned Premises in its own name, and the Assignor shall not be responsible for payment of any utilities following such date.

4.3 Other Adjustments

The Assignor and the Assignee shall adjust as between themselves any amounts which have been paid or pre-paid by or on behalf of the Assignor in respect of any period on or after the Closing Date, to the applicable Landlord(s) or other applicable third-party in respect of any of the Assigned Leases, with the Closing Date itself to be allocated to the Assignee provided that, in the event of claim for adjustment in favour of the Assignor, such adjustment will only be valid if the applicable Landlord or other third-party, as applicable, provide written confirmation that the Assignee will get the credit associated with any such adjustment in favour of the Assignee. All such adjustments, including on account of any non-monetary defaults required to be cured, shall be adjusted on a statement of adjustments delivered by the Assignor to the Assignee at least five (5) Business Days prior to the Closing Date. In the event that such statement of adjustments indicates that the Assignor has failed to pay or pay in full any amount(s) owing or accrued up to the Closing Date to any Landlord(s) or other party pursuant to the Lease, or if the Assignor is in default of its obligations under the Lease to any Landlord(s) or any other party, including on account of any non-monetary defaults required to be cured, at the Assignor's option, to be exercised in a commercially reasonable manner, with the consent of the Monitor, the Consideration shall be reduced by an amount necessary to cure such default or satisfy any amount accrued up to the Closing Date, as determined and acceptable to the Assignee, acting reasonably, or, unless such default is a Known Claimed Default, the Assignor may terminate the agreement with respect to such Lease and such Lease shall become an Unassignable Lease, such option of the Assignor to be exercised in writing to the Assignee.

If there are defaults under any applicable Lease that are not Known Claimed Defaults, and the Assignor has not cured such defaults prior to the Closing Date, agreed to reduce the Consideration by an amount necessary and acceptable to the Assignee to cure such default or terminated this Agreement with respect to such Lease, the Assignee may terminate this Agreement with respect to such Lease and such Lease shall become an Unassignable Lease, such option to be exercised by written notice to the Assignor

ARTICLE 5 TAXES

5.1 Tax Matters

The Assignee will pay, in addition to the Consideration, and the Assignor will collect, any goods and services tax or harmonized sales tax, as the case may be, imposed under the *Excise Tax Act*, R.S.C. 1985, c. E-15, as amended (the “**Excise Tax Act**”) and any similar value added or multi-staged tax or sales tax exigible on the Assignment, except to the extent that the Assignee is permitted under subsection 221(2) of the Excise Tax Act and any equivalent or corresponding provision under any applicable provincial or territorial legislation to self-assess and remit such taxes directly to the appropriate governmental authority. Further, together with the execution of this Agreement, the Assignee shall execute a certificate, undertaking and indemnity which includes its certification of its registration number issued under the Excise Tax Act, and is in the form attached hereto as Schedule “C”, dated as of the Closing Date.

The Assignor covenants to the Assignee, that with respect to the Premises, to the best of the knowledge of the Assignor, the Assignor has not instituted appeals and/or claims in respect of realty taxes or assessments for periods prior to the Closing Date, which includes the tax year in which the Closing Date occurs. If it is later determined that the Assignor has instituted appeals and/or claims in respect of realty taxes for any Assigned Premises, as Assignee’s sole remedy for breach of such covenant, Assignor hereby assigns to the Assignee all of its right, title and interest, if any, in and to such realty tax appeals and in and to any credit, refund and/or rebate which may arise from any of the realty tax appeals, and will deliver an agreement to Assignee providing for same, acceptable to the Assignor and Assignee, each acting reasonably.

5.2 Residency of Assignee

The Assignee warrants, represents and covenants to the Assignor, and acknowledges and confirms that the Assignor is relying on such representation and warranty in connection with the entering into of this Agreement, that the Assignee is not a non-resident of Canada within the meaning of the Tax Act, as amended

The provisions of this Article 5 shall survive and not merge on closing.

ARTICLE 6 GENERAL

6.1 Defined Terms

Unless otherwise expressly provided for herein, all capitalized terms when used in this Agreement have the same meaning given to such terms in the Lease.

6.2 Indemnifier

Indemnifier hereby acknowledges this Agreement and the other parties hereto acknowledge that the Indemnifier is a beneficiary hereof.

6.3 Transfer of this Agreement

Notwithstanding anything to the contrary contained in this Agreement, the Assignee shall have the right, at least ten (10) business days prior to the Closing Date, to assign its interest in this Agreement to (a) Canadian Tire Real Estate Limited, Mark's Work Wearhouse Ltd. or FGL Sports Ltd.; or (b) Canadian Tire REIT Limited Partnership (each a “**Permitted Transferee**”), provided all Landlords of Assigned Leases at such time agree to such assignment. Together with the assignment of this Agreement to a Permitted Transferee, assignee must also assign the Assignee's interest in the Landlord Consents, Landlord Waivers and Lease Amending Agreements as part of the same assignment agreement. Notwithstanding any assignment to a Permitted Transferee, the Assignee shall not be released from its obligations hereunder.

6.4 Time of the Essence

Time shall be of the essence of this Agreement.

6.5 Enurement

This Agreement shall become effective when executed by the parties hereto and after that time shall be binding upon and enure to the benefit of the parties and their respective heirs, executors, personal legal representatives, successors and permitted assigns. Except as otherwise provided in Section 6.3 of this Agreement, neither this Agreement nor any of the rights or obligations under this Agreement shall be assignable or transferable by either party without the consent of the other party.

6.6 Entire Agreement

This Agreement and the schedules hereto constitute the entire agreement between the parties with respect to the assignment and assumption of the Leases and supersedes all prior agreements, understandings, negotiations and discussions, whether oral or written, of the parties with respect to the subject matter of this Agreement. There are no representations, warranties, covenants, conditions or other agreements, legal or conventional, express or implied, collateral, statutory or otherwise, between the parties in connection with the subject matter of this Agreement, except as specifically set forth in this Agreement. The parties have not relied and are not relying on any other information, discussion or understanding in entering into and completing the transactions contemplated by this Agreement.

6.7 Waiver

No waiver of any of the provisions of this Agreement shall be deemed to constitute a waiver of any other provision (whether or not similar), nor shall such waiver be binding unless executed in writing by the party to be bound by the waiver.

No failure on the part of any party to this Agreement to exercise, and no delay in exercising any right under this Agreement shall operate as a waiver of such right; nor shall any single or partial exercise of any such right preclude any other or further exercise of such right or the exercise of any other right.

6.8 Further Assurances

Each of the parties covenants and agrees to do such things, to attend such meetings and to execute such further conveyances, transfers, documents and assurances as may be deemed necessary or advisable from time to time in order to carry out the terms and conditions of this Agreement in accordance with their true intent.

6.9 Severability

If any provision of this Agreement shall be determined to be illegal, invalid or unenforceable, that provision shall be severed from this Agreement and the remaining provisions shall continue in full force and effect.

6.10 Governing Law

This Agreement shall be governed by and interpreted and enforced in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein.

6.11 Forum

Each party to this Agreement submits to the exclusive jurisdiction of the Court in any action, application, reference or other proceeding arising out of or related to this Agreement and agrees that all claims in respect of any such actions, application, reference or other proceeding shall be heard and determined in the CCAA proceedings before the Court until the termination of such proceedings.

6.12 Headings

The division of this Agreement into Sections, the insertion of headings is for convenience of reference only and are not to be considered in, and shall not affect, the construction or interpretation of any provision of this Agreement.

6.13 References

Where in this Agreement reference is made to an article or section, the reference is to an article or section in this Agreement unless the context indicates the reference is to some other agreement. The terms “this Agreement”, “hereof”, “hereunder” and similar expressions refer to this Agreement and not to any particular Article, Section or other portion hereof and include any agreement supplemental hereto. The word “includes” or “including” shall mean “includes without limitation” or “including without limitation”, respectively. The word “or” is not exclusive.

6.14 Number and Gender

Unless the context requires otherwise, words importing the singular include the plural and vice versa and words importing gender include all genders.

6.15 Business Days

For purposes of this Agreement, “**Business Days**” shall mean those days that are Monday – Friday, inclusive, excluding holidays in the Province of Ontario or the Province in which any of the Premises are located. If any payment is required to be made or other action is required to be taken pursuant to this Agreement on a day which is not a Business Day, then such payment or action shall be made or taken on the next Business Day. All actions to be made or taken by a particular Business Day must be made or taken by no later than 4:30 p.m. (Toronto time) on a Business Day and any action made or taken thereafter shall be deemed to have been made and received on the next Business Day.

6.16 Notice

Any notice, consent, confirmation or approval required or permitted to be given in connection with this Agreement or the applicable Lease (a “**Notice**”) shall be in writing and shall be sufficiently given if delivered or transmitted in accordance with the Lease at the address for such party set out below:

(a) To the Assignor:

Bed Bath & Beyond Canada LP
c/o
Bed Bath & Beyond Inc.
650 Liberty Avenue,
Union, New Jersey 07083
Attention: SVP Real Estate and Store Development

Bed Bath & Beyond Canada LP
c/o
Bed Bath & Beyond Inc.
650 Liberty Avenue,
Union, New Jersey 07083
Attention: General Counsel

Bed Bath & Beyond Canada LP
c/o
Bed Bath & Beyond Inc.
650 Liberty Avenue,
Union, New Jersey 07083
Attention: Lease Administration

(b) To the Assignee:

Canadian Tire Corporation, Limited
2180 Yonge Street, 18th Floor
Toronto, Ontario M4P 2V8
Attention: Dominique Boivin, SVP Real Estate
Email: dominique.boivin@cantire.com

With a copy to:
Attention: Mia Cooper
Email: mia.cooper@cantire.com

(c) To the Monitor:

Alvarez & Marsal Canada Inc.
200 Bay St.
Toronto, Ontario M5J 2J1

Attention: Al Hutchens/Ryan Gruneir
Email: ahutchens@alvarezandmarsal.com/rgruneir@alvarezandmarsal.com

(d) To the Indemnifier:

Bed Bath & Beyond Inc.
650 Liberty Avenue,
Union, New Jersey 07083
Attention: SVP Real Estate and Store Development

Solicitors as Agents

Any notice, approval, waiver, agreement, instrument, document or communication permitted, required or contemplated in this Agreement (including, without limitation, any agreement to amend this Agreement) may be given or delivered and accepted or received by the Assignor's solicitors, Osler, Hoskin & Harcourt LLP (copy to drosenblat@osler.com and mritchie@osler.com) on behalf of the Assignor and by Cozen O'Connor LLP (copy to sweisz@cozen.com and shafez@cozen.com) on behalf of the Assignee.

6.17 Counterparts and Delivery

All parties agree that this Agreement may be executed in counterpart and transmitted by electronic means and that the reproduction of signatures in counterpart by way of electronic means will be treated as though such reproduction were executed originals.

[Signature pages follow.]

IN WITNESS WHEREOF the parties hereto have executed this Agreement as of the Effective Date.

**BED BATH & BEYOND CANADA L.P. by
its general partner BBB CANADA LTD.**

By: Wade Haddad
Name: Wade Haddad
Title: Authorized Signing Officer

**CANADIAN TIRE CORPORATION,
LIMITED**

By: _____
Name:
Title:
By: _____
Name:
Title:

BED BATH & BEYOND INC.

By: Wade Haddad
Name: Wade Haddad
Title: Authorized Signing Officer

IN WITNESS WHEREOF the parties hereto have executed this Agreement as of the Effective Date.

**BED BATH & BEYOND CANADA L.P. by
its general partner BBB CANADA LTD.**

By: _____
Name: Wade Haddad
Title: Authorized Signing Officer

**CANADIAN TIRE CORPORATION,
LIMITED**

By: _____
Name: Dominique Boivin
Title: SVP, Canadian Tire Real Estate

By: _____
Name: _____
Title: _____

BED BATH & BEYOND INC.

By: _____
Name: Wade Haddad
Title: Authorized Signing Officer

**SCHEDULE “A”
LEASE PARTICULARS**

Store ID	Premises	Landlord	Lease Documents
2009	Certain premises in the City of Barrie, in the Province of Ontario, as more particularly described in the Lease	North American (Park Place) Corporation and 9613714 Canada Inc.	<ul style="list-style-type: none"> • Lease dated December 24, 2008 between North American (Park Place) Corporation (the “Original Landlord”), and the Assignor, as tenant • Amendment of Lease dated June 29, 2009 between the Original Landlord and the Assignor • Second Amendment of Lease dated July 6, 2010 between the Original Landlord and the Indemnifier • Letter from the Assignor dated August 20, 2010 re: restrictions on use. [NTD: Unsigned by TJX Companies] • A Commencement Date Agreement dated August 12, 2011 between the Original Landlord and the Assignor • Third Amendment of Lease dated October 31, 2011 between the Original Landlord and the Assignor • A letter agreement dated April 18, 2013 between CentreCorp Management Services Limited, as agent for the Original Landlord, and the Assignor and the Indemnifier re: IL Fornello [NTD: unsigned by Landlord] • A letter agreement dated June 17, 2013 between CentreCorp Management Services Limited, as agent for the Original Landlord, and the Assignor and the Indemnifier re: Cabela’s Retail Canada Inc. • Fourth Amendment of Lease dated July 3, 2013 between the Original Landlord and the Assignor • Lease Extension Agreement dated August 19, 2021 between the Landlord, the Indemnifier and the Assignor
2019	Certain premises in the City of North Vancouver, in the Province of British Columbia, as more particularly	TPP Investments II Inc. and PSS Investments II Inc.	<ul style="list-style-type: none"> • Lease dated February 2, 2009, between Sunstone Opportunity (2007) Realty Trust (the “Original Landlord”), as landlord, and the Assignor, as tenant. • Term Commencement/Rent Commencement Date and Expiration Agreement dated September 17, 2010 between the Landlord and the Assignor. • Consent Letter from the Assignor dated May 9, 2014 issued by the Assignor regarding VIP Hair Salon & Spa

Store ID	Premises	Landlord	Lease Documents
	described in the Lease		<ul style="list-style-type: none"> • Tenant Estoppel Certificate dated August 4, 2010 between the Landlord and the Assignor • Subordination, Non-Disturbance and Attornment Agreement dated August 17, 2010 between The Great-West Life Assurance Company and London Life Insurance Company (as mortgagee) and the Assignor [unsigned by Mortgagee] • Subordination, Non-Disturbance and Attornment Agreement dated February 22, 2010 between Laurentian Bank of Canada (as mortgagee) and the Assignor
2020	Certain premises in the City of Red Deer, in the Province of Alberta, as more particularly described in the Lease	Southpointe Plaza Inc.	<ul style="list-style-type: none"> • Lease dated February 18, 2010 between the Landlord and the Assignor • Subordination, Non-Disturbance and Attornment Agreement dated February 18, 2010 between Alberta Treasury Branches and the Assignor • [Form of] Rent Commencement and Expiration Date Agreement dated September 16, 2010 between the Landlord and the Assignor • Letter dated January 16, 2012 by Assignor, waiving ROFR for adjacent space but continuing ROFR for future prospective offers • Letter dated September 3, 2015 by Assignor, at request of the Landlord, consenting to lease to Alberta Registry and an insurance agency • Letter agreement regarding Plato's Closet dated June 13, 2017 agreed and accepted by the Landlord on June 20, 2017 and agreed and accepted by the Tenant on June 19, 2017 • Lease Renewal and Amending Agreement dated December 23, 2020 between the Landlord, the Assignor and the Indemnifier • Letter dated November 4, 2021 from the Assignor to the Landlord, granting consent for work during the months of November and December 2021
2030	Certain premises in the City of Sherwood Park, in the Province of Alberta, as more particularly	1445006 Alberta Ltd.	<ul style="list-style-type: none"> • Lease dated October 25, 2011 between the Landlord and the Assignor • SNDA dated October 25, 2011 between Emerald Hills Equities, Inc., as mortgagee, and the Assignor, acknowledged by the Landlord • Delivery Date Notice dated July 4, 2012 issued by the Landlord • Delivery Date Certificate dated October 2, 2012 issued by the Landlord • Rent Commencement and Expiration Date Agreement dated December 10, 2012

Store ID	Premises	Landlord	Lease Documents
	described in the Lease		<ul style="list-style-type: none"> • First Lease Amending Agreement dated August 26, 2013 between the Landlord and the Assignor • Letter Agreement dated January 23, 2013 between the Landlord and the Assignor • Second Lease Amending Agreement dated May 26, 2014 between the Landlord and the Assignor • Third Lease Amending Agreement dated June 12, 2015 between the Landlord and the Assignor • Fourth Lease Amending Agreement dated February 1, 2023 between the Landlord and the Assignor • Letter dated March 11, 2015 issued by the Landlord to the Assignor, advising of the sale of Site C/CT Parcel to Canadian Tire completed as of March 6, 2015. • Letter Agreement dated January 23, 2013 between the Assignor and the Landlord, regarding Dollarama lease • Letter Agreement dated November 1, 2012 between the Assignor and London Drugs Limited, concerning a Mutual Partial Waiver Agreement dated for reference June 22, 2012 between the Assignor and London Drugs Limited • Letter Agreement dated September 13, 2011 between Winners Merchants International L.P. and the Assignor • Letters from the Landlord regarding Area Certification of the Premises and the Shopping Center dated July 24, 2012, September 4, 2012, October 5, 2012, November 1, 2012, and July 18, 2013 • Letter from the Landlord dated November 1, 2012 regarding satisfaction of the Initial Co-Tenancy Condition and of the On-Going Co-Tenancy Condition 1.
2035	Certain premises in the City of London, in the Province of Ontario, as more particularly	Wonderland Power Centre Inc.	<ul style="list-style-type: none"> • Lease dated March 27, 2012 between Westwood Power Centre (a division of Wonderland Power Centre Inc.) (former name of the Landlord) and the Assignor • Delivery Date Notice dated January 2, 2013 issued by Westwood Power Centre (a division of Wonderland Power Centre Inc.) (former name of the Landlord) • SNDA with The Toronto-Dominion Bank, as Mortgagee, and the Assignor dated as of March, 2013

Store ID	Premises	Landlord	Lease Documents
	described in the Lease		<ul style="list-style-type: none"> • Delivery Date Certification dated April 8, 2013 issued by Westwood Power Centre (a division of Wonderland Power Centre Inc.) (former name of the Landlord) • Rent Commencement and Expiration Date Agreement dated June 7, 2013 between the Landlord (using former name) and the Assignor • Rent Deferral Agreement made June 2, 2020 between the Landlord and the Assignor • Letter Agreement dated December 22, 2011 between the Assignor and Winners Merchants International L.P.
2037	Certain premises in the City of Grande Prairie, in the Province of Alberta, as more particularly described in the Lease	1651051 Alberta Ltd.	<ul style="list-style-type: none"> • Lease dated June 8, 2012 between the Landlord and the Assignor • SNDA dated July 10, 2012 between Canadian Western Bank, as mortgagee, and the Assignor, and acknowledged by the Landlord • Letter Agreement dated July 12, 2012 between the Landlord and the Assignor, regarding Pier 1 lease • Letter agreement dated July 17, 2012 between the Landlord, the Assignor, and the Indemnifier, modifying certain Lease provisions • Letter dated August 14, 2012 from the Landlord to the Assignor, whereby Landlord waives certain Landlord Conditions Precedent • Letter agreement dated April 2, 2013 between the Landlord, the Indemnifier and the Assignor, primarily regarding the BouClair lease • Delivery Date Notice dated April 30, 2013, issued by the Landlord to the Assignor • Letter agreement dated June 3, 2013 between the Landlord and the Assignor, regarding the Sleep Country lease • Delivery Date Certification dated July 29, 2013 issued by the Landlord to the Assignor • Letters dated July 29, 2013 and November 14, 2013 from the Landlord to the Assignor, regarding the Initial Co-Tenancy Condition and the Ongoing Co-Tenancy Condition • Rent Commencement and Expiration Date Agreement dated October 28, 2013 between the Landlord and the Assignor • Letter dated November 6, 2013 issued by the Assignor, regarding the Urban Barn lease 2.

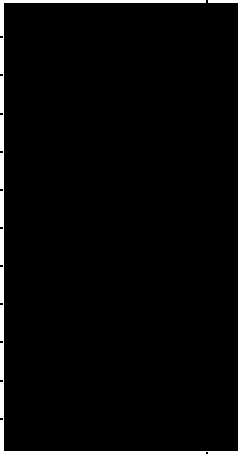
Store ID	Premises	Landlord	Lease Documents
2048	Certain premises in the City of Kingston, in the Province of Ontario, as more particularly described in the Lease	Riotrin Properties (Kingston) Inc.	<ul style="list-style-type: none"> • Lease dated February 9, 2015 between the Landlord and the Assignor • SNDA dated as of March 3, 2015 between Metropolitan Life Insurance Company and the Assignor • Omnibus Rent Deferral Agreement dated May 19, 2020, between RioCan Management Inc. (as agent for, among others, the Landlord), the Assignor and the Indemnifier • Letter Agreement dated December 11, 2014 between the Assignor and Michaels of Canada, ULC • Letter Agreement dated December 11, 2014 between the Assignor and Pier 1 Imports (U.S.), Inc. • Letter Agreement dated January 5, 2014 between the Assignor, the Landlord, and Winners Merchandise International L.P. (o/a HomeSense) • Letter Agreement dated January 13, 2015 by Home Depot of Canada Inc., approving of Assignor's use of the leased premises, as required by an Operating Agreement between Landlord and Home Depot registered on November 7, 1997 as Instrument No. FR674867 • Delivery Date Notice dated March 11, 2016 issued by the Landlord • Delivery Date Certification dated May 30, 2016 issued by the Landlord
2050	Certain premises in the City of Langley, in the Province of British Columbia, as more particularly described in the Lease	Langley City Square Properties Ltd.	<ul style="list-style-type: none"> • Lease dated May 26, 2015 between the Landlord and the Assignor • Amending Agreement dated October 29, 2015 between the Landlord, the Assignor and the Indemnifier • Delivery Date Notice dated March 10, 2016 issued by the Landlord to the Assignor • Delivery Date Certification dated April 26, 2016 from the Landlord to the Assignor • Rent Commencement and Expiration Date Agreement made as of August 30, 2016 between the Landlord and the Assignor • Letter consent of the Assignor dated April 26, 2018 to a lease to Struc-Tube, accepted and agreed by the Landlord • Non-Disturbance Agreement dated May 29, 2015 between Sun Life Assurance Company of Canada, as mortgagee, and the Assignor

Store ID	Premises	Landlord	Lease Documents
			<ul style="list-style-type: none"> • Non-Disturbance Agreement dated June 3, 2015 between HSBC Bank Canada, as mortgagee, and the Assignor
2054	Certain premises in the City of Medicine Hat, in the Province of Alberta, as more particularly described in the Lease	Skyline Retail Real Estate Holdings Inc.	<ul style="list-style-type: none"> • Lease dated October 3, 2017 between Medicine Hat Hwy 1 Properties Inc. (the “Original Landlord”), as landlord, and the Assignor • SNDA dated October 3, 2017, by and between HMT Holdings, Inc. and the Assignor • SNDA dated October 3, 2017, by and between Laurentian Bank of Canada and the Assignor • SNDA dated July 2, 2018, by and between JPMorgan Chase Bank, National Association and the Assignor • Delivery Date Notice dated September 21, 2018 • Certification of Satisfaction of Delivery Date Conditions dated November 21, 2018 • First Amending Agreement dated May 17, 2019 between the Original Landlord and the Assignor • Notice of Substantial Completion dated May 23, 2019 issued by Matt E. Majeed to the Assignor • Direction to Tenants dated March 30, 2022 from the Original Landlord • Rent Commencement and Expiration Agreement dated as of May 29, 2019 between the Original Landlord and the Assignor • Letter agreement dated August 18, 2017 by Save-On-Foods (Overwaitea Food Group Limited Partnership), consenting to certain use by the Assignor • Tenant Estoppel dated March 10, 2022 issued by the Assignor
2056	Certain premises in the City of Sudbury, in the Province of Ontario, as more particularly described in the Lease	RioKim Holdings (Ontario) Inc.	<ul style="list-style-type: none"> • Lease dated September 4, 2018 between the Landlord and the Assignor • Letter Agreement dated May 14, 2018 between the Assignor and Michaels of Canada, ULC • Letter Agreement dated June 7, 2018 between the Assignor and PETM Canada Corporation (Pet Smart) • Letter Agreement dated June 19, 2018 between the Assignor and Staples Canada Inc.

Store ID	Premises	Landlord	Lease Documents
			<ul style="list-style-type: none"> • Letter Agreement dated February 25, 2019 issued by RioCan Management Inc. regarding commencement of Tenant's improvements • Possession Letter dated May 15, 2019 between the Assignor and RioCan Management Inc. • Delivery Date Notice dated May 29, 2019 from the Landlord to the Assignor • Letter dated August 12, 2019 from the Assignor to the Landlord (regarding Urban Barn) • Delivery Date Certification dated August 21, 2019 from the Landlord to the Assignor • Omnibus Rent Deferral Letter agreement dated May 19, 2020 between RioCan Management Inc. (as agent for, among others, the Landlord), the Assignor and the Indemnifier •
3705	Certain premises in the City of Ottawa, in the Province of Ontario, as more particularly described in the Lease	1663321 Ontario Inc.	<ul style="list-style-type: none"> • Lease dated December 17, 2015 between the Landlord and the Assignor • Delivery Date Notice dated May 11, 2016 from the Landlord to the Assignor • Letter Agreement dated May 16, 2016 between the Landlord and the Assignor, making minor modifications regarding slack periods and completion date for Landlord's work • Rent Commencement and Expiration Date Agreement dated November 14, 2016 between the Landlord and the Assignor • SNDA dated August 31, 2017 between Royal Bank of Canada, as mortgagee, and the Assignor, and acknowledged by the Landlord • Letter agreement dated January 3, 2020 between the Landlord and the Assignor, regarding Petites Poupee lease
3711	Certain premises in the City of Oakville, in the Province of Ontario, as more particularly described in the Lease	RioCan Holdings (Oakville Place) Inc.	<ul style="list-style-type: none"> • Lease dated December 21, 2018 between the Landlord and the Assignor • Omnibus Rent Deferral Letter Agreement dated May 19, 2020, between RioCan Management Inc. (as agent for, among others, the Landlord), the Assignor and the Indemnifier • Rent Commencement and Expiration Date Agreement dated as of June 9, 2021 between the Landlord and the Assignor • Subordination, Non-Disturbance and Attornment Agreement dated January 18, 2019 between RioCan Financial Services Limited and the Assignor

Store ID	Premises	Landlord	Lease Documents
			<ul style="list-style-type: none">• Subordination, Non-Disturbance and Attornment Agreement dated January 24, 2019 between RioCan-HBC General Partner Inc. and the Assignor• Non-Disturbance and Attornment Agreement dated January 22, 2019 between Desjardins Trust Inc. and the Assignor• Delivery Date Rejection Notice dated July 26, 2019 between the Assignor and the Landlord• Delivery Date Confirmation Notice dated September 26, 2019 issued by the Landlord 3.

**SCHEDULE “B”
CONSIDERATION ALLOCATION**

Store ID	Shopping Centre/Store Name (if applicable) and Address	
2009	Park Place, 80 Concert Way, Unit 1, Barrie, ON	
2019	845 Marine Drive, North Vancouver, BC	
2020	Southpointe Common, 5001 19th Street, Unit 850, Red Deer, AB	
2030	Emerald Hills Centre, 5000 Emerald Drive, Sherwood Park, AB	
2035	Westwood Power Centre, 3165 Wonderland Road South, Unit #1, London, ON	
2037	Westgate Home Centre, 101-11517 Westgate Drive, Grande Prairie, AB	
2048	Riocan Centre Kingston, 616 Gardiners Road, Suite 1, Kingston, ON	
2050	Langley City Square, Unit 100 - 19860 Langley Bypass, Langley, BC	
2054	Medicine Hat Mall, 107-1820 Strachan Road, Medicine Hat, AB	
2056	Sudbury New Millennium Centre, 1499 Marcus Drive, Sudbury, ON	
3705	Ottawa Trainyards, 595 Industrial Ave, Unit 2, Ottawa, ON	
3711	Oakville Place, 240 Leighland Avenue, Unit M6a, Oakville, ON	
TOTAL	---	

**SCHEDULE “C”
GST/HST CERTIFICATE, UNDERTAKING AND INDEMNITY**

TO: **BED BATH & BEYOND CANADA L.P.** (the “Assignor”)

RE: Omnibus Assignment and Assumption of Leases dated April ____ 2023 made between the Assignor, Canadian Tire Corporation, Limited (the “Assignee”) and Bed Bath & Beyond Inc., as amended from time to time (the “Agreement”).

DATED: May 1, 2023

In consideration of the Agreement, the Assignee hereby certifies and agrees as follows:

- (a) the Assignee is duly registered under Subdivision (d) of Division V of Part IX of the *Excise Tax Act*, R.S.C., 1985, c. E-15, as amended, restated, supplemented or substituted from time to time (the “**Excise Tax Act**”) with respect to the goods and services tax and harmonized sales tax, and that its registration number is: 100773019 RT0001, which registration shall be in full force and effect and shall not have been cancelled or revoked on the Closing Date;
- (b) the Assignee has entered into the Agreement, and the Assigned Interest is being assigned to the Assignee on the Closing Date, as principal for its own account and not as an agent, nominee, trustee or otherwise on behalf of or for another Person (as defined in the Excise Tax Act);
- (c) to the extent permitted under subsection 221(2) of the Excise Tax Act and any equivalent or corresponding provision under any applicable provincial or territorial legislation, the Assignee shall self-assess and remit directly to the appropriate governmental authority any taxes including goods and services tax or harmonized sales tax, as the case may be, imposed under the Excise Tax Act and any similar value added or multi-staged tax or sales tax imposed by any applicable provincial or territorial legislation payable in connection with the Assignment;
- (d) the Assignee shall make and file all required return(s) in accordance with the requirements of subsection 228(4) of the Excise Tax Act and any equivalent or corresponding provision under any applicable provincial or territorial legislation; and
- (e) the Assignee shall indemnify and save the Assignor harmless from and against any and all goods and services tax or harmonized sales tax, as the case may be, imposed under the Excise Tax Act and any similar value added or multi-staged tax or sales tax, penalties, costs and/or interest which may become payable by or assessed against the Assignor as a result of any failure by the Assignor to collect and remit any goods and services tax or harmonized sales tax payable under the Excise Tax Act or any similar value added or multi-staged tax or sales tax and applicable on the Assignment or as a result of any inaccuracy, misstatement or misrepresentation made by the Assignee on the Closing Date in connection with any matter raised in this GST/HST Certificate, Undertaking and Indemnity or any failure by the Assignee to comply with the provisions of this GST/HST Certificate, Undertaking and Indemnity.

Capitalized terms used in this GST/HST Certificate, Undertaking and Indemnity and not defined herein shall have the meanings ascribed to them in the Agreement.

This GST/HST Certificate, Undertaking and Indemnity may be executed in counterpart and transmitted by electronic means and that the reproduction of such signatures will be treated as though such reproduction were executed originals.

DATED as of the date first above written.

**CANADIAN TIRE CORPORATION,
LIMITED**

By: _____

Name:

Title:

By: _____

Name:

Title:

**SCHEDULE “D”
LANDLORD CLAIMED AMOUNTS OWING**

Store #	Store Name	Address	Landlord	Default Amount	Default Type
2009	Park Place	Park Place, 80 Concert Way, Unit 1, Barrie, ON	North American (Park Place) Corporation	\$4,819.97	Monetary
2019	Marine Drive	845 Marine Drive, North Vancouver, BC	PSS Investments II Inc. and TPP Investments II Inc.	\$11,216.12	Builder's Lien
2020	SouthPointe Common	5001 19th Street, Red Deer, AB	Southpointe Plaza Inc.	\$56,036.27	Monetary
2030	Emerald Hills Centre	5000 Emerald Drive, Sherwood Park, AB	1445006 Alberta Inc.	\$7,737.10	Monetary
2056	Sudbury	Sudbury New Millennium Centre, 1499 Marcus Drive, Sudbury, ON	RioKim Holdings (Ontario) Inc.	\$5,000	Repair
3711	Oakville	Oakville Place, 240 Leighland Avenue, Unit M6a, Oakville, ON	Riocan Holdings (Oakville Place) Inc.	\$981.99	Monetary

THIS IS **EXHIBIT “B”** REFERRED TO IN THE AFFIDAVIT OF WADE HADDAD SWORN BEFORE ME over video teleconference this 21st day of April, 2023 pursuant to O. Reg 431/20, Administering Oath or Declaration Remotely. The affiant was located in the City of Union, in the State of New Jersey while the Commissioner was located in the City of Toronto, in the Province of Ontario.



Commissioner for Taking Affidavits
Emilie Dillon (LSO No. 85199L)

ASSIGNMENT AND ASSUMPTION OF LEASE

THIS AGREEMENT (“**Agreement**”) is made as of the 21st day of April, 2023 (the “**Effective Date**”)

B E T W E E N:

BED BATH & BEYOND CANADA L.P.

(the “**Assignor**”)

- and -

WINNERS MERCHANTS INTERNATIONAL L.P.

(the “**Assignee**”)

- and -

BED BATH & BEYOND INC.

(the “**Indemnifier**”)

RECITALS:

- A. Pursuant to a lease dated as of July 22, 2013, as same has been assigned, amended, restated, renewed or supplemented from time to time, including but not limited to those documents listed in Schedule “A” attached hereto (collectively, the “**Lease**”), RioCan Holdings (Collingwood) Inc. (the “**Original Landlord**”) leased to the Assignor certain premises at Collingwood Centre in the City of Collingwood, in the Province of Ontario (the “**Shopping Centre**”) as more particularly described in the Lease (the “**Premises**”).
- B. The Indemnifier entered into an indemnity agreement in favour of the Original Landlord (as defined below) dated July 22, 2013, as same has been assigned, amended, restated, renewed or supplemented from time to time (collectively, the “**Indemnity**”).
- C. The Original Landlord sold the Shopping Centre to Canadian Tire Properties Inc. (the “**Landlord**”) effective February 21, 2018.
- D. BBB Canada Ltd. and the Assignor (collectively, the “**BBB Canada Entities**”) were granted protection by the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) under the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the “**CCAA**”), and Alvarez & Marsal Canada Inc. (“**A&M**”) was appointed as the monitor of the BBB Canada Entities (in such capacity, the “**Monitor**”), pursuant to an Order of the Court dated February 10, 2023, as amended and restated on February 21, 2023, and as may be further amended, restated and/or amended and restated from time to time (collectively, the “**Initial Order**”). Pursuant to the terms of the Initial Order, the BBB Canada Entities and the Indemnifier have the benefit of a stay of proceedings and certain other protections and benefits provided by the Initial Order and the CCAA.

- E. The Assignor, the Assignee and the Indemnifier are entering into this Agreement to provide for the assignment and assumption of the Assigned Interest (as hereinafter defined) by the Assignor to the Assignee in accordance with and subject to the terms and conditions contained herein.

THEREFORE, in consideration of the covenants and agreements hereinafter set forth and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

ARTICLE 1 ASSIGNMENT

1.1 Assignment by Assignor

- (a) Subject to the release of the Consideration (as hereinafter defined) from escrow pursuant to Section 3.1(a) and obtaining an Assignment Order (as hereinafter defined), the Assignor assigns and transfers to the Assignee, as of May 1, 2023 (the “**Closing Date**”), all of the Assignor’s obligations, rights, title and interest, both at law and at equity, in and to the Lease and the Premises and in and, at no additional cost to the Assignee, to the personal property, FF&E and Trade Fixtures (each as hereinafter defined) left in the Premises on the Closing Date, and all related rights, benefits and advantages, including the residue of the term of the Lease, any rights of renewal and/or extension, any rights of first refusal, rights of first offer and similar pre-emptive rights, and rights to purchase, if any, contained in the Lease (collectively, the “**Assigned Interest**”). No Consideration shall be allocated to any personal property, FF&E or Trade Fixtures. Notwithstanding anything to the contrary herein, the Assigned Interest will not include any FF&E, Trade Fixtures, leasehold improvements or personal property in the Premises that are not owned by the Assignor.
- (b) “**FF&E**” includes all tools, signs, furniture, machinery, equipment, personal or moveable property, chattels, furnishings and fixtures including shelves, video cameras and equipment, security systems, point-of-sales systems and related appurtenances, telecommunications systems and related appurtenances, electric light fixtures, elevating devices and equipment, and which are now used or intended to be used, or which were previously used, in connection with the Assignor’s occupation and operation of the Premises, other than the Trade Fixtures, save and except such items which are leased by the Assignor or a related party and such items which constitute intellectual property of the Assignor or any related parties.
- (c) “**Trade Fixtures**” means the fixtures, shelves, counters, equipment, and other improvements in each case which were installed by or on behalf of the Assignor or any related party, in each case to the extent owned by the Assignor or any related party and which are now used or intended to be used, or which were previously used, in connection with the Assignor’s occupation and operation of the Premises, and regardless of whether the same were constructed, installed or attached in any manner whatsoever to the floors, walls or ceilings of the Premises.

1.2 Assumption by Assignee

The Assignee hereby accepts the assignment of the Assigned Interest provided for in this Agreement and assumes all of the Assignor's obligations with respect to the Assigned Interest arising or in respect of the period of time from and after the Closing Date.

1.3 Indemnity

- (a) The Assignee hereby covenants with the Assignor, as of and from the Closing Date, including any renewals or extensions of the term of the Lease, to indemnify and save the Assignor harmless, from any and all Claims (as hereinafter defined) arising from, relating to or in connection with any non-payment of rents or other amounts payable on the part of the tenant to be paid from time to time under the Lease, or any non-observance or non-performance of any of the terms, agreements, covenants, obligations and conditions on the part of the tenant under the Lease to be paid, observed or performed from time to time, in respect of the period from and after the Closing Date, or otherwise arising, incurred or accrued on or after the Closing Date but solely in respect of the period from and after the Closing Date.
- (b) For the purposes of the foregoing paragraph, "**Claims**" means claims, demands, complaints, grievances, actions, applications, suits, causes of action, orders, injunctions, judgments, administrative complaints, decrees, rulings, awards, assessments, directions, instructions, penalties or sanctions issued, filed or imposed by any governmental authority or arbitrator, charges, indictments, prosecutions, informations or other similar processes, assessments or reassessments, equitable interests, options, preferential arrangements of any kind or nature, assignments, restrictions, financing statements, deposit arrangements, rights of others, leases, sub-leases, licences, rights of first refusal or similar restrictions, judgments, debts, liabilities, expenses, costs, damages or losses, contingent or otherwise, including loss of value, reasonable professional fees, including fees and disbursements of legal counsel on a full indemnity basis, and all actual and documented costs incurred in investigating or pursuing any of the foregoing or any proceeding relating to any of the foregoing but specifically excludes any amounts due to Landlord under the Lease up to and including April 30, 2023, including, without limitation, any Fixed Rent, Taxes and/or Common Area Charges and any year end adjustments or reconciliations related thereto.

1.4 Conditional on Assignment Order

This Agreement is conditional on the receipt of an order from the Court assigning the Lease to the Assignee pursuant to Section 11.3 of the CCAA (the "**Assignment Order**"), which Assignment Order shall be in form and substance satisfactory to each of the Assignor and the Assignee, acting reasonably, prior to April 29, 2023, failing which this Agreement will be terminated and the Consideration will be returned by the Monitor to the Assignee. The Assignee shall use commercially reasonable efforts to assist the Assignor in obtaining the Assignment Order, including preparing materials required to be submitted to the Court and served to the Landlord and other parties in respect of the Assignment Order.

1.5 Cure Costs

The Assignor will not be responsible for any costs which may be necessary to cure any defaults under the Lease which exist as of the Closing Date (collectively, the "**Cure Costs**"), except for

those which relate to monetary defaults existing as of the Closing Date which are not Known Existing Arrears (as hereinafter defined) and which relate to the period prior to the Closing Date, which shall be adjusted for upon the Closing Date in accordance with Section 4.1 hereof. Notwithstanding the foregoing, if there are monetary defaults that are not Known Existing Arrears which exceed Five Hundred Thousand Dollars (\$500,000.00), then the Assignor, acting in a commercially reasonable manner, with the approval of the Monitor, shall have the option to terminate this Agreement prior to closing and prior to 2:00 p.m. EST on May 1, 2023 by giving notice prior to closing and prior to 2:00 p.m. EST on May 1, 2023, and the Consideration will be promptly returned by the Monitor to the Assignee. The Assignee will be responsible for and hereby assumes the obligations for Cure Costs related to non-monetary defaults under the Lease, save and except for any non-monetary default arising by reason of the BBB Canada Entities' CCAA proceedings or the insolvency of the Assignor. Additionally, the Assignee shall be responsible for the payment of the amount of Twenty-Seven Thousand Eight Hundred Fifty-Seven Dollars and Seventy-Three Cents (\$27,857.73) (the "**Known Existing Arrears**") to the Landlord on or immediately after the Closing Date on account of known monetary amounts owing to the Landlord as of the Closing Date, which has been reflected in the amount of the Consideration and shall not be the subject of further adjustments.

ARTICLE 2 AS IS, WHERE IS

2.1 As Is, Where Is

The Assignee covenants and agrees in favour of the Assignor that it will accept the Assigned Interest, including the Premises, in all respects in an "as is where is" condition as of the Closing Date without any representation or warranty whatsoever, in this Agreement or in any agreement entered into directly between the Landlord and the Assignee, and the Assignee has reviewed the Lease and is familiar with the Lease in all respects. The Assignor shall leave the Premises in broom-swept condition on the Closing Date. Any personal property, FF&E or Trade Fixtures left in the Premises on the Closing Date shall become the sole property of the Assignee

2.2 Permitted Use

The Assignee accepts the permitted use and all prohibited uses, exclusive use restrictions and other limitations on the permitted use set out in the Lease and will provide any required agreements to the Court and the Landlord regarding same as may be requested by the Court, the Landlord or any other tenant at the Shopping Centre.

ARTICLE 3 CONSIDERATION AND COVENANTS

3.1 Consideration for Assignment

- (a) In consideration for the assignment of the Assigned Interest, the Assignee agrees to pay to the Monitor, in trust and to be held in escrow, or as the Monitor may otherwise direct in writing, within one (1) Business Day (as hereinafter defined) of the execution of this Agreement, the amount of One Million Twenty-Two Thousand One Hundred Forty-Two Dollars and Twenty-

Seven Cents (\$1,022,142.27), (the “**Consideration**”) plus any and all applicable sales, goods and services, harmonized sales and excise taxes. The Consideration shall be released from escrow to the Assignor on the Closing Date in accordance with payment instructions to be provided by the Assignor to the Monitor prior to the Closing Date.

- (b) The Consideration shall be allocated 99% to BBB Canada Ltd. and 1% to BBB Canada LP Inc. (with the amount allocated to BBB Canada LP Inc. being the “**Non-Resident Consideration**”).
- (c) The parties hereto acknowledge and agree that the Monitor shall (i) be under no obligation to invest the Consideration or hold same in an interest bearing account prior to the Closing Date, and (ii) be entitled to release the Consideration from escrow to the Assignor on the Closing Date in accordance with Section 3.1(a), without independent investigation, upon receiving written confirmation from the Assignor and the Assignee or their respective counsel that the conditions to closing in favour of the Assignor and the Assignee (if any), as applicable, have been satisfied or waived, and the Monitor shall have no liability to the parties hereto in connection therewith.
- (d) The parties hereto acknowledge and agree that A&M, acting in its capacity as Monitor, shall have no liability in its personal or corporate capacity or otherwise, in connection with this Agreement.

3.2 Clearance Certificate and Withholding

- (a) At the Closing Date, the Assignor will deliver to the Assignee a clearance certificate issued by the Canada Revenue Agency (the “**CRA**”) pursuant to section 116 of the Income Tax Act (Canada) (the “**Tax Act**”) addressed to the Assignor with a certificate limit equal to the Non-Resident Consideration (a “Clearance Certificate”) or, if the Assignor does not deliver such Clearance Certificate, the Assignee shall be entitled to withhold such amount as it is permitted or required to withhold under the Tax Act from the Non-Resident Consideration (the “**Withheld Funds**”) and to pay the Withheld Funds to the Assignee’s Solicitors on their undertaking to keep the Withheld Funds in their trust account and make no use of them whatsoever except in accordance with the following:
 - (i) if the Assignor’s Solicitors have not delivered to the Assignee’s Solicitors the Clearance Certificate for the Assignor by the 29th day of the month following the Closing Date, the Assignee’s Solicitors will remit the Withheld Funds to the CRA by the 30th day of such month unless prior to that date the Assignee has received in writing, addressed to the Assignor’s Solicitor, the consent of the CRA to remit the Withheld Funds at a later date without application of any interest or penalties, in which case the Assignee’s Solicitors will remit the Withheld Funds in accordance with the directions of the CRA, and
 - (ii) after the Assignor’s Solicitors have delivered to the Assignee’s Solicitors the Clearance Certificate, the Assignee’s Solicitors may disburse to the Assignor the excess of the Withheld Funds (if any) over the amount required to obtain such Clearance Certificate.

3.3 Access

From the date hereof until the Closing Date, the Assignee and its agents, advisors, consultants, employees and representatives will have access to the Premises upon reasonable prior written Notice (as hereinafter defined) of not less than two (2) Business Days to the Assignor solely for the purposes of visiting and conducting noninvasive inspections of the Premises. The Assignee and its agents, advisors, consultants, employees and representatives will use commercially reasonable efforts to not interfere with the Assignor's business.

3.4 Interim Period

During the period from the Effective Date to the Closing Date, the Assignor shall comply with each and every term and condition of the Lease to the extent required by the Assignor's CCAA proceedings, subject only to the provisions of the CCAA, the Initial Order and any other order of the Court.

3.5 Trademarks

Notwithstanding the foregoing or anything else contained herein or elsewhere, the Assignee acknowledges and agrees that: (a) no signs, trade-marks, trade-names, logos, commercial symbols, business names or other intellectual property rights identifying "Bed Bath & Beyond" or "buybuy Baby" are conveyed or intended to be conveyed to the Assignee as part of the Assigned Interest; and (b) all right, title and interest of the Assignor in and to all of its existing signs, trade-marks, trade-names, logos, commercial symbols, business names or other intellectual property rights identifying "Bed Bath & Beyond" or "buybuy Baby" or containing the words "Bed Bath & Beyond" or "buybuy Baby" are hereby specifically reserved and excluded from the Assigned Interest. The Assignor shall be under no obligation to remove any signage from the Premises.

ARTICLE 4 ADJUSTMENTS

4.1 Rent

The Assignor and the Assignee shall adjust as between themselves the rent (including basic or minimum rent and additional rent) and other amounts payable under the Lease which have been paid or pre-paid to the Landlord in respect of the Lease for any period prior to the Closing Date as well as the month in which the Closing Date occurs, with the Closing Date itself to be allocated to the Assignee. Such adjustments shall be agreed on by the parties in advance of Closing with the consent of the Monitor, with the Assignee making any required payment on account of such adjustments to the Monitor prior to Closing and the Assignor agreeing that any adjustments in favour of the Assignee shall be paid on Closing from the Consideration held by the Monitor.

4.2 Utilities

The Assignee shall not assume, and as of the Closing Date, the Assignor shall terminate, any contracts or agreements entered into by or on behalf of the Assignor for the supply of any utilities including, without limitation, electricity, gas, water, fuel, telephone service, internet services, security and surveillance services or otherwise (collectively, "**Utilities**", and each, a "**Utility**") at the Premises. From and after the Closing Date, any and all charges and other related fees payable

for Utilities for the Premises pursuant to any invoice or statement issued on or after the Closing Date and relating solely to a time period commencing on or after the Closing Date, shall be the sole responsibility of the Assignee. On the Closing Date, the Assignee shall set up all required Utility accounts for the Premises in its own name, and the Assignor shall not be responsible for payment of any utilities following such date. The parties agree to adjust on the Closing Date for any Utilities paid by the Assignor in respect of any period following the Closing Date that the Assignee will have the benefit of.

ARTICLE 5 TAXES

5.1 Tax Matters

The Assignee will pay, in addition to the Consideration, and the Assignor will collect, any goods and services tax or harmonized sales tax, as the case may be, imposed under the *Excise Tax Act*, R.S.C. 1985, c. E-15, as amended (the “**Excise Tax Act**”) and any similar value added or multi-staged tax or sales tax exigible on the Consideration, except to the extent that the Assignee is permitted under subsection 221(2) of the *Excise Tax Act* and any equivalent or corresponding provision under any applicable provincial or territorial legislation to self-assess and remit such taxes directly to the appropriate governmental authority. Further, together with the execution of this Agreement, the Assignee shall execute a certificate, undertaking and indemnity which includes its certification of its registration number issued under the *Excise Tax Act*, and is in the form attached hereto as Schedule “B”, dated as of the Closing Date.

5.2 Residency of Assignee

The Assignee warrants, represents and covenants to the Assignor, and acknowledges and confirms that the Assignor is relying on such representation and warranty in connection with the entering into of this Agreement, that the Assignee is not a non-resident of Canada within the meaning of the Tax Act.

The provisions of this Article 5 shall survive and not merge on closing.

5.3 Residency of BBB Canada Ltd. And BBB Canada LP Inc.

The Assignor warrants, represents and covenants to the Assignee, and acknowledges and confirms that the Assignee is relying on such representation and warranty in connection with the entering into of this Agreement, that BBB Canada Ltd. is not a non-resident of Canada within the meaning of the Tax Act, and that BBB Canada Ltd. is the legal and beneficial owner of ninety-nine percent (99%) of the partnership units of the Assignor, and that BBB Canada LP Inc. is the legal and beneficial owner of one percent (1%) of the partnership units of the Assignor.

ARTICLE 6 GENERAL

6.1 Defined Terms

Unless otherwise expressly provided for herein, all capitalized terms when used in this Agreement have the same meaning given to such terms in the Lease.

6.2 Indemnifier

Indemnifier hereby acknowledges this Agreement and the other parties hereto acknowledge that the Indemnifier is a beneficiary hereof.

6.3 Time of the Essence

Time shall be of the essence of this Agreement.

6.4 Enurement

This Agreement shall become effective when executed by the parties hereto and after that time shall be binding upon and enure to the benefit of the parties and their respective heirs, executors, personal legal representatives, successors and permitted assigns. Neither this Agreement nor any of the rights or obligations under this Agreement shall be assignable or transferable by either party without the consent of the other party.

6.5 Entire Agreement

This Agreement and the schedules hereto constitute the entire agreement between the parties with respect to the assignment and assumption of the Lease and supersedes all prior agreements, understandings, negotiations and discussions, whether oral or written, of the parties with respect to the subject matter of this Agreement. There are no representations, warranties, covenants, conditions or other agreements, legal or conventional, express or implied, collateral, statutory or otherwise, between the parties in connection with the subject matter of this Agreement, except as specifically set forth in this Agreement. The parties have not relied and are not relying on any other information, discussion or understanding in entering into and completing the transactions contemplated by this Agreement.

6.6 Waiver

- (a) No waiver of any of the provisions of this Agreement shall be deemed to constitute a waiver of any other provision (whether or not similar), nor shall such waiver be binding unless executed in writing by the party to be bound by the waiver.
- (b) No failure on the part of any party to this Agreement to exercise, and no delay in exercising any right under this Agreement shall operate as a waiver of such right; nor shall any single or partial exercise of any such right preclude any other or further exercise of such right or the exercise of any other right.

6.7 Further Assurances

Each of the parties covenants and agrees to do such things, to attend such meetings and to execute such further conveyances, transfers, documents and assurances as may be deemed necessary or advisable from time to time in order to carry out the terms and conditions of this Agreement in accordance with their true intent.

6.8 Severability

If any provision of this Agreement shall be determined to be illegal, invalid or unenforceable, that provision shall be severed from this Agreement and the remaining provisions shall continue in full force and effect.

6.9 Governing Law

This Agreement shall be governed by and interpreted and enforced in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein.

6.10 Forum

Each party to this Agreement submits to the exclusive jurisdiction of the Court in any action, application, reference or other proceeding arising out of or related to this Agreement and agrees that all claims in respect of any such actions, application, reference or other proceeding shall be heard and determined in the CCAA proceedings before the Court until the termination of such proceedings and, thereafter, pursuant to and in accordance with the Lease.

6.11 Headings

The division of this Agreement into Sections, the insertion of headings is for convenience of reference only and are not to be considered in, and shall not affect, the construction or interpretation of any provision of this Agreement.

6.12 References

Where in this Agreement reference is made to an article or section, the reference is to an article or section in this Agreement unless the context indicates the reference is to some other agreement. The terms “this Agreement”, “hereof”, “hereunder” and similar expressions refer to this Agreement and not to any particular Article, Section or other portion hereof and include any agreement supplemental hereto. The word “includes” or “including” shall mean “includes without limitation” or “including without limitation”, respectively. The word “or” is not exclusive.

6.13 Number and Gender

Unless the context requires otherwise, words importing the singular include the plural and vice versa and words importing gender include all genders.

6.14 Business Days

For purposes of this Agreement, “Business Days” shall mean those days that are Monday – Friday, inclusive, excluding holidays in the Province of Ontario or the Province in which the Premises are

located. If any payment is required to be made or other action is required to be taken pursuant to this Agreement on a day which is not a Business Day, then such payment or action shall be made or taken on the next Business Day. All actions to be made or taken by a particular Business Day must be made or taken by no later than 4:30 p.m. (Toronto time) on a Business Day and any action made or taken thereafter shall be deemed to have been made and received on the next Business Day.

6.15 Notice

Any notice, consent, confirmation or approval required or permitted to be given in connection with this Agreement or the Lease (a “**Notice**”) shall be in writing and shall be sufficiently given if delivered or transmitted in accordance with the Lease at the address for such party set out below:

(a) To the Assignor:

Bed Bath & Beyond Canada LP
c/o
Bed Bath & Beyond Inc.
650 Liberty Avenue,
Union, New Jersey 07083
Attention: SVP Real Estate and Store Development

Bed Bath & Beyond Canada LP
c/o
Bed Bath & Beyond Inc.
650 Liberty Avenue,
Union, New Jersey 07083
Attention: General Counsel

Bed Bath & Beyond Canada LP
c/o
Bed Bath & Beyond Inc.
650 Liberty Avenue,
Union, New Jersey 07083
Attention: Lease Administration

(b) To the Assignee:

c/o Winners Merchants International L.P.
60 Standish Court, 4th Floor, Pacific Tower
Mississauga, Ontario L5R 0G1
Attention: Real Estate Department

With a copy to:
The TJX Companies, Inc.
770 Cochituate Road
Framingham, Massachusetts 01701
Attention: VP Legal – Real Estate

(c) To the Monitor:

Alvarez & Marsal Canada Inc.
200 Bay St.
Toronto, Ontario M5J 2J1
Attention: Al Hutchens/Ryan Gruneir
Email: ahutchens@alvarezandmarsal.com/rgruneir@alvarezandmarsal.com

(d) To the Indemnifier:

Bed Bath & Beyond Inc.
650 Liberty Avenue,
Union, New Jersey 07083
Attention: SVP Real Estate and Store Development

6.16 Counterparts and Delivery

All parties agree that this Agreement may be executed in counterpart and transmitted by electronic means and that the reproduction of signatures in counterpart by way of electronic means will be treated as though such reproduction were executed originals.

[Signature pages follow.]

IN WITNESS WHEREOF the parties hereto have executed this Agreement as of the Effective Date.

**BED BATH & BEYOND CANADA L.P. by
its general partner BBB CANADA LTD.**

By: Wade Haddad
Name: Wade Haddad
Title: Authorized Signing Officer

**WINNERS MERCHANTS
INTERNATIONAL L.P.**
An Ontario limited partnership

By its General Partner:
WMI-1 Holding Company,
A Nova Scotia corporation

By: _____
Name: Alicia C. Kelly
Title: Secretary

By: _____
Name: David L. Averill
Title: Vice-President

BED BATH & BEYOND INC.

By: Wade Haddad
Name: Wade Haddad
Title: Authorized Signing Officer

IN WITNESS WHEREOF the parties hereto have executed this Agreement as of the Effective Date.

**BED BATH & BEYOND CANADA L.P. by
its general partner BBB CANADA LTD.**

By: _____
Name: Wade Haddad
Title: Authorized Signing Officer

**WINNERS MERCHANTS
INTERNATIONAL L.P.**
An Ontario limited partnership

By its General Partner:
WMI-1 Holding Company,
A Nova Scotia corporation

By: _____
DocuSigned by:
Alicia Kelly
Name: Alicia C. Kelly
Title: Secretary

By: _____
DocuSigned by:
David L. Averill
Name: David L. Averill
Title: Vice-President

BED BATH & BEYOND INC.

By: _____
Name: Wade Haddad
Title: Authorized Signing Officer

SCHEDULE "A"
LEASE PARTICULARS

1. Rent Commencement and Expiration Date Agreement dated as of December 12, 2014.
2. Indemnity of Lease dated July 22, 2013 between Landlord and Bed Bath & Beyond Inc.

**SCHEDULE “B”
GST/HST CERTIFICATE, UNDERTAKING AND INDEMNITY**

TO: **BED BATH & BEYOND CANADA L.P.** (the “Assignor”)

RE: Assignment and Assumption of Lease (Collingwood Centre) dated March ___, 2023 made between the Assignor, Winners Merchants International L.P. (the “Assignee”) and Bed Bath & Beyond Inc., as amended from time to time (the “Agreement”).

DATED: May 1, 2023

In consideration of the Agreement and the assignment of the Assigned Interest contemplated therein (the “Assignment”), the Assignee hereby certifies and agrees as follows:

- (a) the Assignee is duly registered under Subdivision (d) of Division V of Part IX of the *Excise Tax Act*, R.S.C., 1985, c. E-15, as amended, restated, supplemented or substituted from time to time (the “Excise Tax Act”) with respect to the goods and services tax and harmonized sales tax, and that its registration number is 860326255 RT0001, which registration shall be in full force and effect and shall not have been cancelled or revoked on the Closing Date;
- (b) the Assignee has entered into the Agreement, and the Assigned Interest is being assigned to the Assignee on the Closing Date, as principal for its own account and not as an agent, nominee, trustee or otherwise on behalf of or for another Person (as defined in the Excise Tax Act);
- (c) to the extent permitted under subsection 221(2) of the Excise Tax Act and any equivalent or corresponding provision under any applicable provincial or territorial legislation, the Assignee shall self-assess and remit directly to the appropriate governmental authority any taxes including goods and services tax or harmonized sales tax, as the case may be, imposed under the Excise Tax Act and any similar value added or multi-staged tax or sales tax imposed by any applicable provincial or territorial legislation payable in connection with the Assignment;
- (d) the Assignee shall make and file all required return(s) in accordance with the requirements of subsection 228(4) of the Excise Tax Act and any equivalent or corresponding provision under any applicable provincial or territorial legislation; and
- (e) the Assignee shall indemnify and save the Assignor harmless from and against any and all goods and services tax or harmonized sales tax, as the case may be, imposed under the Excise Tax Act and any similar value added or multi-staged tax or sales tax, penalties, costs and/or interest which may become payable by or assessed against the Assignor as a result of any failure by the Assignor to collect and remit any goods and services tax or harmonized sales tax payable under the Excise Tax Act or any similar value added or multi-staged tax or sales tax and applicable on the Assignment or as a result of any inaccuracy, misstatement or misrepresentation made by the Assignee on the Closing Date in connection with any matter raised in this GST/HST Certificate, Undertaking and Indemnity or any failure by

the Assignee to comply with the provisions of this GST/HST Certificate, Undertaking and Indemnity.

Capitalized terms used in this GST/HST Certificate, Undertaking and Indemnity and not defined herein shall have the meanings ascribed to them in the Agreement.

This GST/HST Certificate, Undertaking and Indemnity may be executed in counterpart and transmitted by electronic means and that the reproduction of such signatures will be treated as though such reproduction were executed originals.

[Signature page follows.]

DATED as of the date first above written.

**WINNERS MERCHANTS
INTERNATIONAL L.P.**
An Ontario limited partnership

By its General Partner:
WMI-1 Holding Company,
A Nova Scotia corporation

By: _____
Name: Alicia C. Kelly
Title: Secretary

By: _____
Name: David L. Averill
Title: Vice-President

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

Court File No: CV-23-00694493-00CL

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF BBB
CANADA LTD.

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

PROCEEDING COMMENCED AT TORONTO

AFFIDAVIT OF WADE HADDAD

OSLER, HOSKIN & HARCOURT LLP
100 King Street West, 1 First Canadian Place
Suite 6200, P.O. Box 50
Toronto ON M5X 1B8

Marc Wasserman (LSO# 44066M)
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Emily Paplawski (LSA# 17693)

Tel: (416) 362-2111
Fax: (416) 862-6666

Lawyers for the Applicant

Court File No. CV-23-00694493-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE)	FRIDAY, THE 28 TH
)	
CHIEF JUSTICE MORAWETZ)	DAY OF APRIL, 2023

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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT
OF BBB CANADA LTD.
(the "**Applicant**")

ASSIGNMENT, APPROVAL AND VESTING 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, among other things, (i) approving the transactions (collectively, the "**Transactions**" and each, a "**Transaction**") contemplated by the assignment agreements (collectively, the "**Assignment Agreements**" and each, an "**Assignment Agreement**") between, *inter alios*, Bed Bath & Beyond Canada L.P. ("**BBB L.P.**"), and together with the Applicant, the "**BBB Entities**") and each of the purchaser parties to the applicable Assignment Agreement as set out in Schedule "A" attached hereto (collectively, the "**Purchasers**" and for each such Assignment Agreement, a "**Purchaser**"), (ii) assigning to and vesting in the Purchasers, as applicable, all of BBB L.P.'s right, title and interest in and to the leases (as amended, modified, assigned and restated, collectively, the "**Leases**") and other purchased assets described in the Assignment Agreements set out in Schedule "A" hereto (the Leases and such other assets collectively referred to herein as the "**Purchased Assets**") and (iii) extending the Stay Period to June 27, 2023, was heard this day via videoconference.

ON READING the Notice of Motion of the Applicant, the Affidavit of Wade Haddad sworn on April 21, 2023 including the exhibits thereto (the "**Haddad Affidavit**"), the Third Report

of Alvarez & Marsal Canada Inc., in its capacity as Court-appointed monitor (in such capacity, the “**Monitor**”), dated April ●, 2023 (the “**Third Report**”), filed, and the fee affidavits of Michael S. Shakra sworn April ●, 2023 and Alan J. Hutchens sworn April ●, 2023 (collectively, the “**Fee Affidavits**”), and on hearing the submissions of respective counsel for the BBB Entities, the Monitor, and such other counsel as were present and listed on the Counsel Slip, no one else appearing although duly served as appears from the Affidavit of Service of Emily Paplawski, sworn April [21], 2023, filed:

SERVICE AND DEFINITIONS

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion and the Motion Record herein is hereby abridged and validated so that this Motion is properly returnable today and hereby dispenses with further service thereof.
2. **THIS COURT ORDERS** that any capitalized term used and not defined herein shall have the meaning ascribed thereto in the Amended and Restated Initial Order in these proceedings dated February 21, 2023 (the “**Initial Order**”).

STAY EXTENSION

3. **THIS COURT ORDERS** that the Stay Period is hereby extended until and including June 27, 2023.

APPROVAL OF ASSIGNMENT OF PURCHASED ASSETS

4. **THIS COURT ORDERS AND DECLARES** that the Transactions are hereby approved, and the execution and delivery of each of the Assignment Agreements by BBB L.P. is hereby authorized and approved, with such minor amendments as BBB L.P. and the applicable Purchaser may agree to with the consent of the Monitor. BBB L.P. is hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Transactions and for the conveyance of the Leases to the Purchasers pursuant to the Assignment Agreements and the Monitor shall be authorized to take such additional steps in furtherance of its responsibilities under the Assignment Agreements.

5. **THIS COURT ORDERS** that upon delivery of a Monitor's Certificate to BBB L.P. and the applicable Purchaser, substantially in the form attached as Schedule "B" hereto (collectively the "**Monitor's Certificates**" and each, a "**Monitor's Certificate**"):

- (a) all of the rights and obligations of BBB L.P. under the Leases described in the applicable Assignment Agreement and set forth under the header "4(a) Leases" in Schedule "A" (collectively, the "**4(a) Leases**" and each, a "**4(a) Lease**") shall be assigned, conveyed, transferred and assumed by such Purchaser pursuant to section 11.3 of the CCAA and such assignment is valid and binding upon all of the landlords under the respective 4(a) Leases notwithstanding any restriction or prohibition, if any, contained in any such 4(a) Lease relating to the assignment thereof, including but not limited to, provisions, if any, requiring the consent of or notice for any period in advance of the assignment to any party to any such 4(a) Lease;
- (b) all of BBB L.P.'s right, title and interest in and to the Purchased Assets described in the applicable Assignment Agreement shall vest absolutely in such Purchaser free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the "**Claims**") including, without limiting the generality of the foregoing:
 - (i) any encumbrances or charges created by the Initial Order; and
 - (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;

(all of which, as set out in the foregoing paragraphs 4(b)(i) and 4(b)(ii), are collectively referred to as the "**Encumbrances**"), provided that: (A) except as set forth in paragraph 4(a) or (c) or as may be otherwise agreed to by the Purchaser and the applicable landlord with respect to a Lease, nothing herein shall affect the rights

and remedies of such landlord against the Purchaser that may arise under or in respect of a Lease; and (B) the Claims and the Encumbrances referred to herein shall not include permitted encumbrances identified in, or pursuant to, the Assignment Agreements. For greater certainty, this Court orders that (i) all of the Encumbrances affected or relating to the Purchased Assets are hereby expunged and discharged as against the Purchased Assets; (ii) nothing in this Order shall affect the rights and remedies under and pursuant to any landlord consent agreement (a “**Consent Agreement**”) executed with respect to the Assignment Agreements; and (iii) nothing in this Order shall affect the rights and remedies of a landlord against an indemnifier with respect to a Lease (each an “**Indemnifier**”, including but not limited to Bed Bath & Beyond Inc.) arising from any and all indemnity agreements existing between a landlord and an Indemnifier (provided that, for the avoidance of doubt, such indemnity agreements shall be subject to the terms of any applicable Consent Agreement); and

- (c) the landlords under the respective Leases are prohibited from exercising any rights or remedies under the Leases, and shall be forever barred, enjoined and estopped from taking such action, by reason solely of:
- (i) any defaults arising from the insolvency of the BBB Entities or any of their affiliates;
 - (ii) the commencement of these CCAA proceedings;
 - (iii) any defaults and/or recapture rights which arise upon the assignment of the Leases to the applicable Purchaser; or
 - (iv) BBB L.P. having breached a non-monetary obligation under the Lease unless, (A) the applicable landlord under a Lease and the applicable Purchaser have agreed otherwise; or (B) (i) such non-monetary breach arises or continues after the Lease is assigned to the applicable Purchaser; (ii) such non-monetary breach is capable of being cured by such Purchaser; and (iii) such Purchaser has failed to remedy the default after having received notice of such default pursuant to the terms of the Lease,

and are hereby deemed to waive any defaults relating thereto. For greater certainty, and without limiting the foregoing, no landlord under a Lease shall rely on a notice of default sent prior to the filing of the applicable Monitor's Certificate to terminate a Lease as against the applicable Purchaser.

6. **THIS COURT ORDERS** that no 4(a) Lease may be assigned unless all amounts owing in respect of monetary defaults under the applicable 4(a) Lease, other than those arising by reason only of the BBB Entities' insolvency, the commencement of these CCAA proceedings, or BBB L.P.'s failure to perform a non-monetary obligation, are paid on the Closing Date (as defined below), or such later date as may be agreed to by the applicable Purchaser and the applicable landlord under the Lease on prior written notice to the Monitor (the "**Closing Date**" being the date of the delivery of the applicable Monitor's Certificate).

7. **THIS COURT ORDERS** that for the purposes of determining the nature and priority of Claims, the proceeds, net of fees payable to RVC pursuant to the Exclusive Listing Agreement (each as defined in the Haddad Affidavit) and other applicable amounts, 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 a Monitor's Certificate, all Claims and Encumbrances 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** that upon delivery of a Monitor's Certificate, except as expressly set out to the contrary in any agreement between BBB L.P., the Purchaser and the applicable landlord under the Lease, the applicable Purchaser shall be entitled to all of the rights and benefits and subject to all of the obligations as tenant pursuant to the terms of the applicable Leases and registrations thereof and may enter into and upon and hold and enjoy such premises contemplated by the applicable Leases and, if applicable, any renewals thereof, for its own use and benefit, all in accordance with and subject to the terms of the applicable Leases, without any interruption from BBB L.P. or the landlords under the Leases.

9. **THIS COURT ORDERS** that notwithstanding anything contained in this Order, nothing shall derogate from the obligations of the Purchasers to assume the applicable Leases and to

perform the Purchasers' obligations under the applicable Leases, as set out in the Assignment Agreements, except as expressly set out to the contrary in any agreement between BBB L.P., the Purchaser and the applicable landlord under the Lease.

10. **THIS COURT ORDERS AND DIRECTS** the Monitor to file with the Court a copy of each of the Monitor's Certificates, forthwith after delivery thereof.

APPROVAL OF MONITOR'S REPORTS, ACTIVITIES AND FEES

11. **THIS COURT ORDERS** that the Pre-Filing Report of the Monitor, dated February 10, 2023, the First Report of the Monitor, dated February 17, 2023, the Second Report of the Monitor dated April 7, 2023 and the Third Report and the activities, conduct and decisions of the Monitor and its counsel set out therein are hereby ratified and approved, provided that only the Monitor, in its personal capacity and only with respect to its own personal liability, shall be entitled to rely upon or utilize in any way such approval.

12. **THIS COURT ORDERS** that the fees and disbursements of the Monitor and its counsel, as set out in the Third Report and the Fee Affidavits, are hereby approved.

GENERAL

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

- (a) the pendency of these proceedings;
- (b) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) (the "**BIA**") in respect of any of the BBB Entities and any bankruptcy order issued pursuant to any such applications; and
- (c) any assignment in bankruptcy made in respect of any of the BBB Entities;

the vesting of the Purchased Assets in the Purchasers, as applicable, pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of any of the BBB Entities and shall not be void or voidable by creditors of any of the BBB Entities, 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.

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

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

16. **THIS COURT ORDERS** that this Order and all of its provisions are effective as of the date of this Order without the need for entry or filing.

**SCHEDULE “A”
LEASES**

(See attached)

LEASE ASSIGNMENT AND ASSUMPTION AGREEMENTS

4(a) Leases:

1. Assignment and Assumption of Lease Agreement among BBB LP, Winners Merchant International L.P. and Bed Bath & Beyond Inc., dated April 21, 2023, in respect of the Lease dated as of July 22, 2013, between Canadian Tire Properties, Inc., as successor-in-interest to RioCan Holdings (Collingwood) Inc., and BBB LP, in respect of certain premises located at Collingwood Centre, in the City of Collingwood, in the Province of Ontario

4(b) Leases:

2. Omnibus Assignment and Assumption of Leases among BBB LP, Canadian Tire Corporation, Limited and Bed Bath & Beyond Inc., dated April 21, 2023, in respect of the following Leases:

- (a) Lease dated December 24, 2008, between North American (Park Place) Corporation and 9613714 Canada Inc., as successors in interest to North American (Park Place) Corporation, and BBB LP (Park Place - Store 2009);
- (b) Lease dated February 2, 2009, between TPP Investments II Inc. and PSS Investments II Inc., as successors in interest to Sunstone Opportunity (2007) Realty Trust, and BBB LP (845 Marine Drive - Store 2019);
- (c) Lease dated February 18, 2010, between Southpointe Plaza Inc., and BBB LP (Southpointe Common - Store 2020);
- (d) Lease dated October 25, 2011, between 1445006 Alberta Inc. and BBB LP (Emerald Hills Centre – Store 2030);
- (e) Lease dated March 27, 2012, between Wonderland Power Centre Inc. and BBB LP (Westwood Power Centre – Store 2035);
- (f) Lease dated June 8, 2012, between 1651051 Alberta Ltd. and BBB LP (Westgate Home Centre – Store 2037);
- (g) Lease dated February 9, 2015, between Riotrin Properties (Kingston) Inc. and BBB LP (Riocan Centre Kingston – Store 2048);

- (h) Lease dated May 26, 2015, between Langley City Square Properties Ltd. and BBB LP (Langley City Square – Store 2050);
- (i) Lease dated October 3, 2017, between Skyline Retail Real Estate Holdings Inc., as successor in interest to Medicine Hat Hwy 1 Properties Inc., and BBB LP (Medicine Hat Mall – Store 2054);
- (j) Lease dated September 4, 2018, between RioKim Holdings (Ontario) Inc. and BBB LP (Sudbury New Millennium Centre – Store 2056);
- (k) Lease dated December 17, 2015, between 1663321 Ontario Inc. and BBB LP (Ottawa Trainyards – Store 3705); and
- (l) Lease dated December 21, 2018, between RioCan Holdings (Oakville Place) Inc. and BBB LP (Oakville Place – Store 3711).

**SCHEDULE “B”
FORM OF MONITOR’S CERTIFICATE**

Court File No. CV-23-00694493-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT
OF BBB CANADA LTD.

MONITOR’S CERTIFICATE

RECITALS

A. All undefined terms in this Monitor’s Certificate have the meanings ascribed to them in the Order of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) dated April 28, 2023 (the “**Assignment Order**”).

B. Pursuant to the Assignment Order, the Court approved the Assignment Agreements and provided for the vesting in the Purchasers of BBB L.P.’s right, title and interest in and to the Purchased Assets described in the Assignment Agreements, which vesting is to be effective with respect to the Purchased Assets described in an Assignment Agreement upon the delivery by the Monitor to the applicable Purchaser and BBB L.P. of a certificate confirming (i) the conditions to closing as set out in such Assignment Agreement have been satisfied or waived by such Purchaser and BBB L.P., as applicable; and (ii) the applicable Transaction has been completed to the satisfaction of the Monitor.

THE MONITOR CERTIFIES the following:

1. _____ [PURCHASER] (the “**Assignee**”) has paid and BBB L.P. has received the Consideration payable on the Closing Date pursuant to the Assignment Agreement between, *inter alios*, the Assignee and BBB L.P. (each as defined in such Assignment Agreement);

2. The Monitor has received written notice from the Assignee and BBB L.P. that the conditions to closing as set out in such Assignment Agreement have been satisfied or waived by the Assignee and BBB L.P., as applicable; and

3. The applicable Transaction has been completed to the satisfaction of the Monitor.

This Monitor's Certificate was delivered by the Monitor at _____ [TIME] on _____ [DATE].

Alvarez & Marsal Canada Inc., in its capacity as Monitor of BBB Canada Ltd. and Bed Bath & Beyond Canada L.P., and not in its personal or corporate capacity

By: _____

Name:

Title:

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

Court File No: CV-23-00694493-00CL

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF BBB CANADA LTD.

Applicant

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

Proceeding commenced at Toronto

**ASSIGNMENT, APPROVAL AND VESTING
ORDER**

OSLER, HOSKIN & HARCOURT, LLP

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Toronto, ON M5X 1B8

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Shawn Irving (LSO# 50035U)
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Lawyers for the Applicant

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

Court File No. CV-23-00694493-00CL

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF BBB CANADA LTD.

Applicant

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

Proceeding commenced at: TORONTO

MOTION RECORD OF THE APPLICANT
(Motion for Assignment and Approval & Vesting Order)

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 Toronto ON M5X 1B8

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Lawyers for the Applicant