

Court File No.: CV-23-00695619-00CL

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

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

MARCH 1, 2023

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1.0 INTRODUCTION

- 1.1 Alvarez & Marsal Canada Inc. (“**A&M**” or the “**Proposed Monitor**”) understands that Nordstrom Canada Retail, Inc., Nordstrom Canada Holdings, LLC and Nordstrom Canada Holdings II, LLC (together, the “**Applicants**”) intend to make an application to the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) for an order (the “**Initial Order**”) granting, among other things, a stay of proceedings pursuant to the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the “**CCAA**”), and appointing A&M as Monitor (the “**Monitor**”). The proceedings to be commenced by the Applicants under the CCAA are referred to herein as the “**CCAA Proceedings**”.
- 1.2 Although the limited partnership Nordstrom Canada Leasing LP (“**Canada Leasing LP**”) is not an applicant in this proceeding, the Applicants seek to have the stay of proceedings and other benefits and requirements of the Initial Order extended to Canada Leasing LP, which is wholly owned by certain of the Applicants and performs functions integral to the Applicants’ business. Together, the Applicants and Canada Leasing LP are referred to herein as the “**Nordstrom Canada Entities**”.
- 1.3 The purpose of this pre-filing report (the “**Report**”) is to provide the Court with information, and where applicable, the Proposed Monitor’s views on:
- (a) A&M’s qualifications to act as Monitor (if appointed);
 - (b) background information with respect to the Nordstrom Canada Entities;
 - (c) the proposed orderly wind-down of the Nordstrom Canada Entities;

- (d) the stays of proceedings sought in the proposed Initial Order;
- (e) the credit facility of Nordstrom, Inc. (“**Nordstrom US**”), the ultimate, indirect parent company of the Nordstrom Canada Entities;
- (f) the Nordstrom Canada Entities’ cash management system (the “**Cash Management System**”);
- (g) intercompany arrangements and agreements among the Nordstrom Canada Entities and Nordstrom US;
- (h) the Nordstrom Canada Entities’ 13-week cash flow forecast;
- (i) the establishment of a trust (the “**Employee Trust**”) funded by Nordstrom US for the benefit of employees of Nordstrom Canada Retail, Inc. (“**Nordstrom Canada**”) and the appointment of Gale Rubenstein in her personal capacity as trustee of the Employee Trust (the “**Trustee**”);
- (j) the proposed appointment of representative counsel (“**Employee Representative Counsel**”) to represent the interests of substantially all of the employees of Nordstrom Canada;
- (k) the proposed key employee retention plan, for which approval will be sought by the Applicants at the “comeback hearing” to occur within ten (10) days of the granting of the Initial Order;
- (l) the authority in the proposed Initial Order for the Nordstrom Canada Entities to pay certain pre-filing amounts to critical suppliers with the consent of the Monitor;

- (m) the Administration Charge and the Directors' Charge (each as defined below) sought by the Applicants in the Initial Order;
- (n) the intended next steps in the CCAA Proceedings; and
- (o) the Proposed Monitor's conclusions and recommendations in respect of the foregoing.

2.0 TERMS OF REFERENCE AND DISCLAIMER

2.1 In preparing this Report, A&M, in its capacity as the Proposed Monitor, has been provided with, and has relied upon, unaudited financial information and books and records prepared or provided by Nordstrom US and its affiliates, including the Nordstrom Canada Entities (collectively, the "**Nordstrom Group**") and has held discussions with management of the Nordstrom Group and the Nordstrom Canada Entities' legal counsel (collectively, the "**Information**"). Except as otherwise described in this Report, in respect of the Nordstrom Canada Entities' cash flow forecast:

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

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

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

2.3 Unless otherwise stated, all monetary amounts contained herein are expressed in Canadian dollars (“CAD”).

3.0 A&M’S QUALIFICATIONS TO ACT AS MONITOR

3.1 On November 14, 2022, Alvarez & Marsal Canada ULC (an affiliate of the Proposed Monitor) was engaged to act as consultant to Osler, Hoskin & Harcourt LLP to assist as the Nordstrom Canada Entities considered their options in relation to their business and operations in Canada. As such, the Proposed Monitor is familiar with the business and operations of the Nordstrom Canada Entities, their personnel and the key issues and stakeholders in the proposed CCAA Proceedings. A&M is a trustee within the meaning of subsection 2(1) of the *Bankruptcy and Insolvency Act* (Canada), R.S.C. 1985, C. B-3, as amended (the “BIA”), and is not subject to any of the restrictions on who may be appointed as monitor set out in subsection 11.7(2) of the CCAA.

- 3.2 A&M is related to Alvarez & Marsal Holdings, LLC, which is an independent international professional services firm, providing, among other things, bankruptcy, insolvency and restructuring services. The senior A&M professional personnel with carriage of this matter include experienced insolvency and restructuring practitioners who are Chartered Professional Accountants (Chartered Accountants), Chartered Insolvency and Restructuring Professionals, and Licensed Insolvency Trustees, and who have previously acted in CCAA matters of a similar nature and complexity in Canada.
- 3.3 The Proposed Monitor has retained Goodmans LLP (“**Goodmans**”) to act as its independent legal counsel.
- 3.4 A&M has consented to act as Monitor of the Nordstrom Canada Entities should the Court grant the Applicants’ request to commence the CCAA Proceedings.

4.0 BACKGROUND INFORMATION

General

- 4.1 This Report should be read in conjunction with the Affidavit of Misti Heckel, President of Nordstrom Canada, President and Treasurer of Nordstrom Canada Holdings, LLC and Nordstrom Canada Holdings II, LLC, and Vice President – Tax of Nordstrom US, sworn March 1, 2023 (the “**Heckel Affidavit**”). The Heckel Affidavit extensively describes the Nordstrom Canada Entities’ corporate structure, business, operations, and financial performance and position. Certain key points are summarized below.
- 4.2 Nordstrom US, the indirect and ultimate parent company of the Nordstrom Canada Entities, is a leading United States-based retailer headquartered in Seattle, Washington. Nordstrom

US is publicly traded on the New York Stock Exchange under the ticker “JWN”. The Nordstrom Group operates 358 stores in the United States and Canada, primarily under the Nordstrom and Nordstrom Rack banners. The Nordstrom Group also operates the Nordstrom.ca website in Canada for online orders, and separate websites for the Nordstrom and Nordstrom Rack banners in the US. The Nordstrom Group reported net consolidated sales of approximately USD\$14.4 billion during the fiscal year ended January 29, 2022 (FY2021) and USD\$10.9 billion through the three quarters ended October 29, 2022 (FY2022).

- 4.3 The Nordstrom Group entered the Canadian marketplace in September 2014 with the opening of its first full-line store and continued to add full-line and Nordstrom Rack stores through 2019. The Nordstrom Canada Entities currently operate six full-line stores (four in Ontario, one in Alberta and one in British Columbia) and seven Nordstrom Rack stores (four in Ontario, two in Alberta and one in British Columbia). The Nordstrom Canada Entities currently employ approximately 2,330 employees. There is no union representation of any of the employees of the Nordstrom Canada Entities.
- 4.4 All of the 13 retail stores operated in Canada are leased from third-party property owners pursuant to lease agreements entered into by Canada Leasing LP (the “**Leases**”), which Canada Leasing LP subleases to Nordstrom Canada by a separate sublease in accordance with the applicable Lease.
- 4.5 The Proposed Monitor understands that the obligations of the tenant under the Leases governing Nordstrom Canada’s six full-line stores are subject to an indemnity provided by Nordstrom US in favour of the applicable landlord (the “**Lease Indemnities**”). The

Proposed Monitor understands from Nordstrom Canada that four indemnities previously granted by Nordstrom US in respect of Leases for Nordstrom Rack stores have been released in accordance with their terms, and accordingly none of the Leases for the seven Nordstrom Rack stores in Canada is guaranteed or indemnified by Nordstrom US.

4.6 The Nordstrom Canada Entities have generated negative cash flows and losses during each year of operation since entering the Canadian market, excluding financial support from Nordstrom US. The Nordstrom Canada Entities have only been able to sustain operations over the past eight years because of the significant financial and operational support of Nordstrom US. Since 2014, Nordstrom US has absorbed most of the Nordstrom Canada Entities' cumulative losses through intercompany payments under its Transfer Pricing Policy (as defined below). The Heckel Affidavit indicates that Nordstrom US and its United States-based affiliates (other than NCH and NCHII (each as defined below)) have provided the Nordstrom Canada Entities with approximately USD\$775 million in funding (net of distributions received from the Nordstrom Canada Entities) through various means since the inception of the Nordstrom Canada Entities.

4.7 The impact of high operating costs, stagnant sales growth, unfavourable exchange rates, the effects of the COVID-19 pandemic and lack of brand awareness have contributed to the overall poor financial performance of the Nordstrom Canada Entities' business. During FY2022, the Nordstrom Canada Entities' earnings before interest and taxes, excluding transfer pricing adjustments and payments from Nordstrom US, was approximately negative \$72 million on annual revenue of approximately \$515 million.

- 4.8 As described in the Heckel Affidavit, following a thorough review by Nordstrom US of the Nordstrom Canada Entities' operations and financial performance and potential options to address the persistent financial challenges of the Canadian business, the board of directors of Nordstrom US determined to discontinue the operational and financial support provided by Nordstrom US to the Nordstrom Canada Entities. Without financial support from Nordstrom US, the Nordstrom Canada Entities cannot continue operations or meet their obligations as they become due. Further, without the significant operational support provided by Nordstrom US through shared service agreements, including the licensing of intellectual property, the Nordstrom Canada Entities cannot continue to operate.

Corporate Organization

Nordstrom Canada Retail, Inc.

- 4.9 Nordstrom Canada is the Canadian operating entity of the Nordstrom Group. Nordstrom Canada is a corporation incorporated pursuant to the laws of British Columbia and is an indirect subsidiary of Nordstrom US. Nordstrom Canada serves as the customer retail sales entity for the Nordstrom Group in the Canadian market and is the employer of the employees working in Canada. Nordstrom Canada is a wholly-owned subsidiary of Nordstrom International Limited ("NIL"). NIL is in turn a wholly-owned subsidiary of Nordstrom US.

Nordstrom Canada Holdings, LLC

- 4.10 Nordstrom Canada Holdings, LLC ("NCH") is a US single member limited liability company wholly owned by NIL. The Heckel Affidavit indicates that NCH is a dual-status

company in that it is a disregarded entity in the US, is treated as a corporation in Canada, and files Canadian income tax returns. NCH, as general partner, owns 99.9% of Canada Leasing LP.

Nordstrom Canada Holdings II, LLC

- 4.11 Nordstrom Canada Holdings II, LLC (“**NCHII**”) is a wholly-owned subsidiary of NCH. NCHII is a US single member limited liability company that owns 0.1% of Canada Leasing LP as its limited partner. The Heckel Affidavit indicates that NCHII is a dual status company, meaning it is a disregarded entity in the US, is treated as a corporation in Canada, and files Canadian income tax returns.

Nordstrom Canada Leasing LP

- 4.12 Canada Leasing LP is an Alberta limited partnership. Canada Leasing LP is responsible for the Nordstrom Canada Entities’ real estate activities, such as leasing retail space from third party property owners, committing capital to build and furnish stores, and subleasing retail space to Nordstrom Canada to operate stores. Canada Leasing LP is owned 99.9% and 0.1% by NCH and NCHII, respectively.
- 4.13 A simplified version of the Nordstrom Group’s corporate structure is attached hereto as **Appendix “A”**.

Financial Information

- 4.14 As a publicly-traded company, Nordstrom US files audited consolidated financial statements with the United States Securities and Exchange Commission, which include the

consolidated results of its United States and Canadian operations. A copy of Nordstrom US' audited consolidated financial statements for the year ended January 29, 2022 and the most recent interim financial statements for the nine-months ended October 29, 2022 are attached as exhibits to the Heckel Affidavit. The Nordstrom Canada Entities generate approximately 3% of the Nordstrom Group's consolidated net sales.

- 4.15 The Nordstrom Canada Entities do not prepare stand-alone financial statements for the Canadian operations. Exhibit "K" to the Heckel Affidavit contains an unaudited summarized trial balance reflecting the consolidated financial position of the Nordstrom Canada Entities as at January 28, 2023. For the twelve-month period ended January 28, 2023, the Nordstrom Canada Entities generated a net loss of approximately \$95.1 million and EBITDA of approximately negative \$34.6 million, before internal transfer pricing adjustments of approximately \$100.9 million in favour of the Nordstrom Canada Entities.
- 4.16 Until termination on March 1, 2023 of the inter-affiliate license and services agreement effective as of February 3, 2019, between Nordstrom US and Nordstrom Canada (the "**License and Services Agreement**"), operational funding for Nordstrom Canada was provided by Nordstrom US through transfer pricing arrangements and payments prescribed by the License and Services Agreement. The transfer pricing payments were set such that Nordstrom Canada and Nordstrom US each agreed to pay the other the US dollar amount necessary such that Nordstrom Canada realized an arm's length rate of return of 4.5% to 6.5% of operating income (the "**Transfer Pricing Policy**").
- 4.17 For the twelve-months ended January 28, 2023, transfer pricing adjustments payable by Nordstrom US to Nordstrom Canada of approximately \$100.9 million have been recorded

by Nordstrom Canada pursuant to the License and Services Agreement. Approximately \$74 million of the FY2022 transfer pricing adjustment (USD\$55 million) has not been cash settled and is currently recorded as an intercompany receivable of Nordstrom Canada due from Nordstrom US.

- 4.18 As of January 28, 2023, the Nordstrom Canada Entities had total net assets with a book value of approximately \$501 million and total liabilities with a net book value of approximately \$561 million.

Shared Services

- 4.19 The Nordstrom Canada Entities do not operate from a stand-alone Canadian headquarters; substantially all corporate functions required to manage and support the Nordstrom Canada Entities are provided by Nordstrom US, primarily from its headquarters in Seattle. Substantially all of the Nordstrom Canada Entities' information technology, site selection, construction management, operations, strategy, property maintenance, merchandising, logistics, marketing, treasury, banking, finance, legal, accounting and tax, bill processing, human resources and payroll functions are provided by Nordstrom US (collectively, the “**Shared Services**”). As noted above, the Nordstrom Canada Entities would be unable to operate without the Shared Services.

Employees

- 4.20 The following table summarizes the approximate number of employees at each of the locations operated by the Nordstrom Canada Entities:

Province	Store	Type	Full Time	Part Time	Total
Ontario	Yorkdale	Full Line	284	64	348
	Eaton Centre	Full Line	278	57	335
	Sherway	Full Line	156	74	230
	Rideau Centre	Full Line	180	56	236
	One Bloor	Rack	37	23	60
	Vaughan	Rack	29	22	51
	Ottawa Train Yards	Rack	22	16	38
	Heartland	Rack	22	12	34
	Toronto DC	Other	2	-	2
Subtotal Ontario			1,010	324	1,334
Alberta	Chinook Centre	Full Line	225	38	263
	Deerfoot Meadows	Rack	39	9	48
	Edmonton Commons	Rack	26	19	45
Subtotal Alberta			290	66	356
British Columbia	Pacific Centre	Full Line	498	98	596
	Willowbrook	Rack	31	16	47
Subtotal British Columbia			529	114	643
Total			1,829	504	2,333

- 4.21 The employee summary above includes approximately 50 non-store supervisory, information technology and human resources employees who are grouped into the nearest store location for presentation purposes.
- 4.22 Nordstrom Canada sponsors a group registered retirement savings plan issued by Canada Life Assurance Company and a deferred profit-sharing plan administered by Investors Group Trust Co. Ltd. for eligible employees. Nordstrom Canada also sponsors a full suite of group health and welfare benefits for eligible employees. The Nordstrom Canada Entities do not have any registered pension plans.
- 4.23 Nordstrom US manages payroll functions on behalf of Nordstrom Canada, including payroll processing and the collection and remittance of related source deductions.

Merchandising, Sourcing and Distribution

- 4.24 The sourcing and purchasing of goods sold by Nordstrom Canada is conducted from the Nordstrom Group's head office in Seattle by the merchandise buying and corporate procurement groups. Nordstrom Canada purchases its merchandise from a number of North American and international suppliers. In addition to sourcing merchandise from vendors, certain Nordstrom Canada stores carry brand-name merchandise sold by concession vendors, many of which are in designated areas within the full-line stores. Nordstrom Canada also sells Nordstrom private-label merchandise in stores and online that is sourced through Nordstrom US (in the name and at the cost of Nordstrom Canada) and is primarily imported from outside North America.
- 4.25 Merchandise sold by Nordstrom Canada is sourced in two primary ways:
- (a) approximately 60% of merchandise is purchased by Nordstrom Canada from vendors that are responsible for the transportation and delivery of the merchandise to Nordstrom Canada, including payment of customs duties and taxes. These goods are delivered to Nordstrom Canada's third-party distribution centre located in Etobicoke, Ontario (the "**Distribution Centre**"), and then shipped to stores; and
 - (b) approximately 40% of merchandise is purchased by Nordstrom Canada from vendors where Nordstrom Canada is responsible for transportation and logistics. Nordstrom Canada hires a carrier to transport the goods from a vendor location to the Distribution Centre and manages related customs duties and taxes.

- 4.26 Approximately 60% to 70% of the merchandise sold by Nordstrom Canada is imported into Canada from the US (irrespective of where the merchandise is manufactured). The remaining merchandise is sourced from within Canada or other international markets.
- 4.27 Commitments to suppliers are generally made three (3) to nine (9) months in advance through a purchase order (“PO”). The POs are then usually sent to the suppliers 45 days in advance of pre-determined shipment windows.
- 4.28 A significant amount of Nordstrom Canada’s merchandise is purchased in United States Dollars (“USD”). Unfavourable exchange rate fluctuations between CAD and USD currencies have contributed to the financial losses experienced by Nordstrom Canada.

Distribution Centre

- 4.29 The Distribution Centre located in Etobicoke, Ontario is managed by a third-party, National Logistics Services (2006) Inc. (“NLS”), pursuant to a master warehousing and distribution agreement effective October 28, 2013. NLS is responsible for all services required to operate the Distribution Centre, including receiving in-bound inventory and shipping out-bound inventory to Nordstrom Canada’s stores. The staff that work at the Distribution Centre are employees of NLS, with the exception of two Nordstrom Canada employees who provide coordination and oversight.

5.0 PROPOSED ORDERLY WIND-DOWN

- 5.1 The Nordstrom Canada Entities intend to undertake an orderly wind-down of their business and closure of all of their Canadian stores (the “**Orderly Wind-Down**”) during the CCAA

Proceedings. Key aspects of the Orderly Wind-Down include the following, subject to the approval of this Court:

- (a) the establishment of a key employee retention plan (the “**KERP**”) to facilitate and encourage the continued participation of certain key active employees during the Orderly Wind-Down and CCAA Proceedings. It is intended that Court approval of the proposed KERP will be sought at the comeback hearing;
- (b) the authorization (but not the requirement) to pay, with the consent of the Monitor, amounts for goods or services supplied to the Nordstrom Canada Entities prior to the date of the Initial Order by: (i) logistics and supply chain providers (including amounts payable in respect of customs and duties for goods); (ii) providers of technology services; (iii) providers of payment services; and (iv) other third-party suppliers or service providers (up to a maximum aggregate amount of \$1 million as part of the Initial Order, and to which an increase to \$1.5 million will be sought at the comeback hearing) that are critical to the Orderly Wind-Down;
- (c) the authorization (but not the requirement) to honour customer obligations arising before or after the date of the Initial Order, including in respect of gift cards, Nordstrom Notes, customer deposits and rebates, refunds and discounts;
- (d) the authorization for the Nordstrom Canada Entities, in consultation with the Monitor, to engage in discussions with and solicit proposals and agreements from third-party agents in respect of the liquidation of the inventory, furniture, fixtures and equipment of the Nordstrom Canada Entities (the “**Realization Process**”). It is intended that the Nordstrom Canada Entities will return to Court to seek approval

of the Realization Process and an agreement with a third-party agent in respect of same;

- (e) the authorization for the Nordstrom Canada Entities, in consultation with the Monitor and with the assistance of any real estate advisor or other assistants as may be desirable, to pursue all avenues and offers for the sale, transfer or assignment of the Leases to third parties, in whole or in part, subject to Court approval of any such sale, transfer or assignment; and
- (f) at such future time as the Nordstrom Canada Entities may deem appropriate: (i) the implementation of a claims process for purposes of determining creditor claims against the Nordstrom Canada Entities; and (ii) the filing with the Court of a plan of compromise or arrangement (a “**Plan**”).

5.2 In connection with the Orderly Wind-Down, Nordstrom US has agreed to fund the Employee Trust to provide eligible employees with a measure of financial security during the Orderly Wind-Down, accelerate in part the payment of statutory termination and severance amounts to such eligible employees, and facilitate the continued participation of such employees during the Orderly Wind-Down.

6.0 STAYS OF PROCEEDINGS

6.1 In addition to a stay of proceedings in favour of the Applicants, the Applicants are seeking the following additional stays of proceedings in the proposed Initial Order:

- (a) a stay of proceedings against Canada Leasing LP;

- (b) a stay of the exercise of any rights or remedies by third-party tenants of commercial properties in which the Nordstrom Canada Entities operate a store (the “**Co-Tenant Stay**”); and
- (c) a stay of proceedings against Nordstrom US and its direct and indirect subsidiaries (other than the Nordstrom Canada Entities) in respect of obligations that are derivative of the primary liability of or related to the Nordstrom Canada Entities (the “**Parent Stay**”).

Extension of the Stay to Canada Leasing LP

- 6.2 The Applicants are requesting that the stay of proceedings, and the benefits of the protections and authorizations provided by the Initial Order, be extended to Canada Leasing LP. As a limited partnership, Canada Leasing LP is not a “debtor company” pursuant to the CCAA.
- 6.3 Canada Leasing LP is closely intertwined with the operations of the Applicants. As referenced above, Canada Leasing LP is the Canadian leasing entity and is party to each of the Leases, which are subleased by Canada Leasing LP to Nordstrom Canada. Canada Leasing LP also provided capital for store construction and remodelling activities for the Canadian business.

Co-Tenant Stay

- 6.4 Many retail leases provide that tenants have certain rights against their landlords upon an anchor tenant’s insolvency or upon an anchor tenant ceasing operations. To assist the landlords under the Leases in dealing with the effects of the proposed Orderly Wind-Down,

the Applicants are requesting to stay rights that tenants or occupants may have against the owners, operators, managers and landlords of the commercial properties where Nordstrom Canada's stores are located that arise as a result of the declarations of insolvency by the Nordstrom Canada Entities, the granting of the Initial Order, or any actions taken by the Nordstrom Canada Entities pursuant to the Initial Order.

Parent Stay

- 6.5 The Applicants are requesting, subject to certain exceptions regarding the Cash Management System, a stay of any proceedings against or in respect of Nordstrom US and its direct and indirect subsidiaries arising out of or in connection with any obligation that is derivative of the primary liability of or related to the Nordstrom Canada Entities.
- 6.6 Among other things, the Parent Stay would affect contractual counterparties with contracts or purchase orders involving Nordstrom Canada merchandise and concession operations entered into or issued by Nordstrom US on behalf of, or jointly with, Nordstrom Canada.
- 6.7 As described above, the Lease Indemnities relate to six Leases for premises at which Nordstrom Canada operates its full-line stores. The Parent Stay would also have the effect of staying the exercise of rights or remedies by the applicable landlords against Nordstrom US under the Lease Indemnities, in order to preserve the status quo and provide time to engage in good faith discussions with the landlords.
- 6.8 While any enforcement actions in respect of the Lease Indemnities would be stayed pursuant to the proposed Initial Order, the proposed Initial Order provides that any landlord claim pursuant to an indemnity, guarantee or surety executed by Nordstrom US in relation

to any Nordstrom Canada Entity shall be unaffected and shall not be released in any CCAA Plan or BIA proposal filed by the Nordstrom Canada Entities.

6.9 The Proposed Monitor is of the view that the stays of proceedings sought by the Applicants in the proposed Initial Order, including the extension of the stay to Canada Leasing LP and the Co-Tenant Stay and the Parent Stay, are appropriate in the circumstances of this case to enable the Nordstrom Canada Entities to proceed with an Orderly Wind-Down. The Proposed Monitor notes the following:

- (a) a stay of proceedings in favour of the Nordstrom Canada Entities will provide the breathing space contemplated by the CCAA and enable the Applicants to undertake the Orderly Wind-Down in a controlled manner that maximizes value for all stakeholders;
- (b) the operations of Canada Leasing LP and Nordstrom Canada are closely intertwined since Canada Leasing LP leases each of the Canadian store premises from third parties and subleases the premises to Nordstrom Canada. The extension of the stay of proceedings to Canada Leasing LP is necessary to prevent enforcement actions against Canada Leasing LP that could impair the ability of the Nordstrom Canada Entities to maximize value through the Realization Process and to undertake the Orderly Wind-Down;
- (c) the Co-Tenant Stay will preserve the status quo among all parties, provide stability for the Nordstrom Canada Entities and their landlords while they are engaged in discussions with respect to the Orderly Wind-Down, and prevent actions by third

parties that could impair value and lead to claims against the Nordstrom Canada Entities' estates;

- (d) the Parent Stay will prevent a multitude of potential proceedings being commenced in several different jurisdictions against Nordstrom US during this initial period. The Parent Stay will stay derivative claims against Nordstrom US or its affiliated entities that would require the participation of the Nordstrom Canada Entities and the time and resources of senior management. The Parent Stay will therefore enable the Nordstrom Canada Entities to focus their efforts on the Orderly Wind-Down, which must occur on an expedited timeline in order to maximize value and creditor recoveries;
- (e) the stay of actions relating to the Lease Indemnities arising as a consequence of the Parent Stay will enable the Nordstrom Canada Entities and the landlords to focus their immediate attention on the conduct of the Orderly Wind-Down;
- (f) any prejudice to landlords arising from the temporary stay of the Lease Indemnities is mitigated by the provision in the Initial Order providing that the Lease Indemnities will not be compromised or released under a CCAA Plan or BIA proposal;
- (g) at the comeback hearing, the Applicants intend to request a continuation of the Parent Stay for a period beyond the initial 10-day stay period, which is subject to approval by the Court at that time; and

- (h) this Court has exercised its jurisdiction in other complex CCAA proceedings, where circumstances warranted, to grant stays of proceedings similar to those sought in the proposed Initial Order.

7.0 CREDIT FACILITY

- 7.1 Nordstrom US, as borrower, the Lenders party thereto, and Wells Fargo Bank, National Association, as Agent, Swing Line Lender and L/C Issuer are parties to a revolving credit agreement dated May 6, 2022 (the “**Credit Agreement**”)¹ under which the Lenders have made available to Nordstrom US a revolving USD\$800 million credit facility (the “**Credit Facility**”). The Proposed Monitor understands that there are no obligations outstanding under the Credit Agreement at this time.
- 7.2 Until very recently, Nordstrom Canada was a loan party and guarantor of the Credit Facility. On May 6, 2022, Nordstrom Canada entered into: (a) a guaranty agreement pursuant to which Nordstrom Canada guaranteed the obligations under the Credit Facility (the “**Guaranty Agreement**”); and (b) a Canadian security agreement pursuant to which Nordstrom Canada granted the Agent a continuing security interest in all of its present and after-acquired assets and property as security for the obligations under the Credit Facility (the “**Canadian Security Agreement**”).

¹ Capitalized terms used but not defined in this section have the meanings given to such terms in the Credit Agreement. A copy of the Credit Agreement (without exhibits) is attached as Exhibit “L” to the Heckel Affidavit.

- 7.3 The Proposed Monitor understands that, until the recent amendment of the Credit Agreement, the commencement of CCAA proceedings by Nordstrom Canada would have constituted an event of default under the Credit Agreement.
- 7.4 Pursuant to a First Amendment to Revolving Credit Agreement dated and effective as of March 1, 2023 (the “**Credit Agreement Amendment**”), Wells Fargo and the other secured parties to the Credit Agreement amended the Credit Agreement to, among other things: (i) remove Nordstrom Canada as a Loan Party thereunder; (ii) irrevocably release Nordstrom Canada from its guaranty provided pursuant to the Guaranty Agreement; (iii) irrevocably release and discharge the security interest granted by Nordstrom Canada to the Agent pursuant to the Canadian Security Agreement; (iv) remove each of the Nordstrom Canada Entities from the definitions of Subsidiary and Affiliate, except in limited circumstances; and (v) otherwise amend the Loan Documents to ensure that the proposed Orderly Wind-Down and any acts taken by Nordstrom US under agreements related to the Orderly Wind-Down, including with respect to the Employee Trust or any potential debtor in possession (“**DIP**”) financing provided to the Nordstrom Canada Entities, do not create a Default or Event of Default under the Loan Documents.
- 7.5 On February 24, 2022, Goodmans, in its capacity as counsel to the Proposed Monitor, conducted searches in respect of Nordstrom Canada and Canada Leasing LP under the *Personal Property Security Act* (Ontario) (the “**Ontario PPSA**”), the *Personal Property Security Act* (Alberta) (the “**Alberta PPSA**”) and the *Personal Property Security Act* (British Columbia) (the “**B.C. PPSA**”). The results of these searches are as follows:

- (a) with the exception of registrations in favour of the Agent which are to be discharged pursuant to the Credit Agreement Amendment, the searches: (i) did not disclose any registrations in respect of Nordstrom Canada under the Ontario PPSA or the Alberta PPSA; and (ii) disclosed six registrations in respect of Nordstrom Canada under the B.C. PPSA, consisting of (A) five registrations in favour of EMKAY Canada Leasing Corporation relating to VIN-listed motor vehicles, and (B) one registration in favour of Golden Goose S.P.A. in respect of all goods delivered by Golden Goose S.P.A. to Nordstrom Canada on consignment pursuant to a services agreement; and
- (b) the searches did not disclose any registrations against Canada Leasing LP under the Ontario PPSA, the Alberta PPSA or the B.C. PPSA.

8.0 CASH MANAGEMENT SYSTEM

- 8.1 The Nordstrom Canada Entities maintain a centralized Cash Management System, which is administered by Nordstrom US from its headquarters in Seattle, to collect, transfer and disburse funds generated by the operations of Nordstrom Canada.
- 8.2 The Nordstrom Canada Entities are dependent upon Nordstrom US for treasury, banking and related services that were provided pursuant to the License and Services Agreement with Nordstrom US and, going forward, will be provided pursuant to the Wind-Down Agreement (as described below).
- 8.3 The Nordstrom Canada Entities have 13 active bank accounts. Nordstrom Canada has seven accounts; Canadian Leasing LP has four accounts; NCH has one account; and NCHII

has one account. Ten bank accounts are maintained at the Bank of Nova Scotia (“**Scotiabank**”), two at Wells Fargo, and one at Toronto-Dominion Bank. Store receipts are deposited into the depository account at Scotiabank and debit and credit card receipts are deposited daily into the main Nordstrom Canada cash account at Scotiabank.

8.4 The Nordstrom Canada Entities maintain six bank accounts that process all outgoing wires, Automatic Clearing House and cheque payments for disbursements to landlords, vendors and employees, tax payments, and payments to Nordstrom US for intercompany charges. These accounts are funded by the main cash account in each respective Canadian entity. In addition, the Nordstrom Canada Entities hold nominal cash to ensure sufficient cash float at the stores. Excess cash is deposited into the Nordstrom Canada Entities’ main cash account as needed, which is typically twice a week.

8.5 The Nordstrom Canada Entities utilize corporate credit cards for travel, store and other miscellaneous expenses and are responsible for the related payments. The Nordstrom Canada Entities estimate that, on average, approximately \$300,000 is charged monthly to the Canadian credit cards. The obligations of the Nordstrom Canada Entities under these credit cards have been guaranteed by Nordstrom US pursuant to a guaranty made and entered into by Nordstrom US in favour of U.S. Bank National Association dated June 17, 2022.

8.6 The Nordstrom Canada Entities have advised the Proposed Monitor that the Cash Management System is critical to the Orderly Wind-Down and, accordingly, are seeking to continue to operate the Cash Management System during the CCAA Proceedings. The

providers of the Cash Management System will be unaffected under the Initial Order. The Proposed Monitor supports this request.

9.0 INTERCOMPANY ARRANGEMENTS AND AGREEMENTS

Intercompany Agreements

- 9.1 Prior to its recent termination, Nordstrom US and Nordstrom Canada were parties to the License and Services Agreement, a copy of which is attached to the Heckel Affidavit. Under the License and Services Agreement, Nordstrom US, among other things: (a) provided certain services to Nordstrom Canada in support of Nordstrom Canada's retail business operations; and (b) granted to Nordstrom Canada a non-exclusive, non-transferable license to use the Intellectual Property (as defined in the License and Services Agreement) owned or licensed by Nordstrom US. The License and Services Agreement also set the Transfer Pricing Policy.
- 9.2 Prior to their recent termination, Nordstrom US also had separate services agreements with each of Canada Leasing LP, NCH, and NCHII (collectively with the License and Services Agreement, the "**Intercompany Agreements**").
- 9.3 As described in the Heckel Affidavit, on March 1, 2023, Nordstrom US issued a written notice of termination to the Nordstrom Canada Entities advising that the Intercompany Agreements would terminate at the end of the prescribed 30-day notice period in accordance with the terms of the Intercompany Agreements.
- 9.4 Nordstrom Canada and Canada Leasing LP are parties to an inter-affiliate services agreement dated as of December 10, 2014 under which Canada Leasing LP provides

property management services to Nordstrom Canada, and Nordstrom Canada provides payroll, finance and accounting services to Canada Leasing LP through its shared services arrangements with Nordstrom US. The Wind-Down Agreement provides for the continuation of this agreement.

Wind-Down Agreement

- 9.5 In connection with the termination of the Intercompany Agreements, Nordstrom US and the Nordstrom Canada Entities entered into a Wind-Down Agreement dated and effective as of March 1, 2023 (the “**Wind-Down Agreement**”). Under the Wind-Down Agreement, the Nordstrom Canada Entities agreed to waive the 30-day notice termination period and consented to the immediate termination of the Intercompany Agreements. In consideration for such waiver, Nordstrom US agreed pursuant to the Wind-Down Agreement to: (a) provide the Services (as defined in the Wind-Down Agreement) during the Orderly Wind-Down; and (b) grant Nordstrom Canada a limited and temporary non-exclusive, non-transferable license and sublicense to use the Intellectual Property for purposes of the Orderly Wind-Down (including use by a liquidator).
- 9.6 The Wind-Down Agreement provides for the continuation of services that the Nordstrom Canada Entities anticipate requiring during the Orderly Wind-Down, including accounting and finance, cash management, communications and public relations, human resources and payroll, information technology, customer service, office administration, real estate, store management, treasury, internal audit, tax compliance, international administration, risk management and legal, merchandising and procurement, loss prevention, insurance, asset protection services and other ad hoc consulting requests. In addition, Nordstrom US has

also agreed under the Wind-Down Agreement to provide such other services as may be agreed by Nordstrom US and Nordstrom Canada with the consent of the Proposed Monitor. Nordstrom Canada also provides certain shared services to Nordstrom US, including human resources, information technology, and communications which will also continue under the Wind-Down Agreement.

- 9.7 The Wind-Down Agreement is to continue until the earlier of: (a) the date on which the stay pursuant to the Initial Order in favour of the Nordstrom Canada Entities expires without being extended; (b) the date on which the CCAA Proceedings are terminated; and (c) the date on which the Wind-Down Agreement is terminated in accordance with its terms; provided that Nordstrom US and the Nordstrom Canada Entities, in consultation with the Monitor, may agree to a later date of termination of the Wind-Down Agreement.
- 9.8 Under the Wind-Down Agreement, Nordstrom Canada, on behalf of the Nordstrom Canada Entities, will pay Nordstrom US, on a monthly basis, an arm's length fee as agreed between the parties from time to time with the consent of the Monitor. It is anticipated that the monthly fee will be reduced over the course of the CCAA Proceedings to reflect reductions in the level of support required by the Nordstrom Canada Entities as the Orderly Wind-Down progresses. The monthly fee payable by Nordstrom Canada will be net of the arm's length fee payable by Nordstrom US to Nordstrom Canada, on behalf of the Nordstrom Canada Entities, in respect of any services provided by employees of the Nordstrom Canada Entities to Nordstrom US pursuant to the Wind-Down Agreement, which are not expected to be material.

9.9 Schedule B to the Wind-Down Agreement sets out the estimated aggregate monthly fee over the period of the Wind-Down Agreement, which fee is subject to adjustment with the consent of the Monitor based on the actual level of services required during any particular period. The Nordstrom Canada Entities project the monthly fee for the first full month after the commencement of the CCAA proceedings to be approximately \$2.3 million. Based on its review of the scope of Services to be provided by Nordstrom US under the Wind-Down Agreement and its review of the historic fees paid by Nordstrom Canada to Nordstrom US for the provision of similar services, the Proposed Monitor believes that the estimated monthly fees set out on Schedule B to the Wind-Down Agreement are reasonable in the circumstances.

9.10 Pursuant to the Wind-Down Agreement, Nordstrom US has also agreed to make available to the Nordstrom Canada Entities in the CCAA Proceedings a standby DIP credit facility of up to \$15 million, on reasonable terms, upon the written request of the Nordstrom Canada Entities in consultation with the Monitor. As described below, the Cash Flow Forecast indicates that the Nordstrom Canada Entities will have a cash balance of approximately \$36 million at the outset of the CCAA Proceedings and will be cash flow positive over the Cash Flow Period (as defined below). Accordingly, the Nordstrom Canada Entities do not anticipate requiring any DIP financing during the Cash Flow Period and are not seeking approval of any DIP financing at this stage.

10.0 CASH FLOW FORECAST

10.1 The Nordstrom Canada Entities, with the assistance of the Proposed Monitor, have prepared a weekly cash flow forecast (the “**Cash Flow Forecast**”) for the 13-week period

from February 26 to May 27, 2023 (the “**Cash Flow Period**”). A copy of the Cash Flow Forecast, together with a summary of assumptions (the “**Cash Flow Assumptions**”) and Management’s report on the cash flow statement required by section 10(2)(b) of the CCAA, are attached hereto as **Appendices “B” and “C”**, respectively.

- 10.2 As summarized in the table below, during the Cash Flow Period, the Cash Flow Forecast shows positive net cash flow of approximately \$41.6 million.

<i>Cash Flow Forecast</i>	<i>000s CAD</i>
Receipts	114,794
Disbursements	
Salaries and Benefits	(29,114)
Occupancy Costs	(14,513)
Sales Tax Remittances	(8,391)
Logistics, Transportation and Customs	(8,529)
Shared Service Payments - Intercompany	(3,900)
Professional Fees	(6,051)
Liquidation Costs	(2,722)
Total Disbursements	(73,221)
Net Cash Flow	41,573
Opening Cash Balance	35,959
Net Cash Flow	41,573
Closing Cash Balance	77,532

- 10.3 The Cash Flow Forecast indicates that the Nordstrom Canada Entities are expected to have an opening consolidated cash position of approximately \$36 million after adjusting for March rents and other amounts scheduled to be paid in the ordinary course prior to the commencement of the CCAA Proceedings.

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

Forecast Receipts

- (a) Receipts reflect forecast receipts from near-term sales taking into consideration the forecast commencement date of the store closing sales. Assumptions with respect to forecast receipts from the Realization Process will be updated based on input from the liquidator, once selected and an agreement is finalized;

Forecast Disbursements

- (b) Salaries and Benefits includes payroll, benefits and taxes for all employees of Nordstrom Canada. Payroll estimates have been adjusted to reflect projected store closures towards the latter part of the Cash Flow Period;
- (c) Occupancy costs include payments required to operate the stores during the Orderly Wind-Down, including rents, utilities, security, cleaning, credit card processing and general supplies. Store rent for March 2023 was paid prior to the commencement of the CCAA Proceedings. Store rent for April 2023 and future months is forecast to be paid in equal instalments on the 1st and 15th of each month, in accordance with the proposed Initial Order, while the applicable Lease remains in effect. After the commencement of the CCAA proceedings, Nordstrom Canada intends to make the basic rent payments to Canada Leasing LP under the subleases that are then paid to the third-party landlords under the Leases. Nordstrom Canada does not intend to make the intercompany rent payments in respect of the Premises Fixturing Costs (as defined in the Heckel Affidavit). The proposed Initial Order includes a reservation of rights with respect to claims relating to Premises Fixturing Costs;

- (d) Sales Tax Remittances reflect sales taxes collected less sales taxes paid, to be remitted monthly;
- (e) Shared Service Payments are forecasted to be \$2.3 million for the month ended March 31, 2023 and then decrease in accordance with projected requirements as the Orderly Wind-Down progresses;
- (f) Professional Fees include the fees of the Nordstrom Canada Entities' Canadian legal counsel, legal counsel to the directors and officers of the Nordstrom Canada Entities, the Monitor, the Monitor's counsel, and Employee Representative Counsel; and
- (g) Liquidation Costs include fees and costs payable to the third-party liquidator, which are forecast as a percentage of sales receipts during the Realization Process. Assumptions related to these fees and costs will be updated based on input from the liquidator, once selected and an agreement is finalized.

10.5 Based on the Cash Flow Forecast and the current cash balance of the Nordstrom Canada Entities, the Monitor believes that the Nordstrom Canada Entities will have sufficient liquidity throughout the Cash Flow Period without the need for any DIP financing.

10.6 The Proposed Monitor has reviewed the Cash Flow Forecast to the standard required of a Court-appointed Monitor by section 23(1)(b) of the CCAA. Section 23(1)(b) requires a Monitor to review the cash flow statement as to its reasonableness and to file a report with the Court on the Monitor's findings. Pursuant to this standard, the Proposed Monitor's review of the Cash Flow Forecast consisted of inquiries, analytical procedures and

discussions related to information supplied to it by certain members of management. The Proposed Monitor reviewed information provided by management for the Cash Flow Assumptions. Since the Cash Flow Assumptions need not be supported, the Proposed Monitor's procedures with respect to them were limited to evaluating whether they were consistent with the purpose of the Cash Flow Forecast.

10.7 Based on the Proposed Monitor's review, nothing has come to its attention that causes it to believe, in all material respects that:

- (a) the Cash Flow Assumptions are not consistent with the purpose of the Cash Flow Forecast;
- (b) as at the date of this Report, the Cash Flow Assumptions are not suitably supported and consistent with the plans of the Nordstrom Canada Entities or do not provide a reasonable basis for the Cash Flow Forecast, given the Cash Flow Assumptions; or
- (c) the Cash Flow Forecast does not reflect the Cash Flow Assumptions.

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

11.0 PROPOSED EMPLOYEE TRUST

11.1 In order to provide eligible employees with a measure of financial security during the Orderly Wind-Down process and to accelerate in part the payment of statutory termination and severance amounts, the Nordstrom Canada Entities are seeking approval of: (a) a

proposed employee trust agreement (the “**Employee Trust Agreement**”) pursuant to which Nordstrom US will fund the Employee Trust for the benefit of eligible employees of Nordstrom Canada; (b) the appointment of Gale Rubenstein in her personal capacity as Trustee of the Employee Trust; and (c) the appointment of the Monitor as administrator of the Employee Trust (in such capacity, the “**Administrator**”).²

11.2 Nordstrom US is to be the settlor of the Employee Trust and will provide all funds required for payment under the Employee Trust, subject to the conditions of the Employee Trust Agreement. Subject to the approval of the Court, Nordstrom US will provide an initial contribution of \$14 million, followed by additional contributions to fund Eligible Employee Claims as requested by the Administrator and Trustee, up to a total maximum contribution of \$25 million (the “**Maximum Required Trust Contribution**”). If the Administrator considers there are excess funds, the Trustee, on the direction of the Administrator, may refund such excess to Nordstrom US. The Employee Trust will bear the costs of its establishment and administration, including the fees and expenses of the Administrator and the Trustee. No funds from any of the Nordstrom Canada Entities will be used to fund the Employee Trust.

11.3 Prior to each bi-weekly pay period, Nordstrom Canada and the Administrator will calculate the aggregate Eligible Employee Claims for such pay period. The aggregate amount of such Eligible Employee Claims, subject to a reconciliation in respect of prior pay periods, will be paid by the Employee Trust to Nordstrom Canada for payment to eligible

² Capitalized terms used but not defined in this section have the meanings given to such terms in the Employee Trust Agreement. A copy of the Employee Trust Agreement is attached as Exhibit “T” to the Heckel Affidavit.

employees (less required withholdings and deductions) pursuant to Nordstrom Canada's existing payroll system.

11.4 The Eligible Employee Claims will be determined by the formula A minus B, where:

- (a) A is such eligible Employee's statutory minimum termination entitlement under applicable employment standards legislation; and
- (b) B is all amounts earned by such Eligible Employee up to their Regular Wages for a Regular Work Week in respect of actual post-filing services provided following the effective date of notice of termination.

11.5 Each of the following persons will be Eligible Employees pursuant to the Employee Trust Agreement and hence eligible to receive payments from the Employee Trust:

- (a) each active Nordstrom Canada Employee as of the Filing Date, who has not given notice of termination to, or received notice of termination from, Nordstrom Canada prior to the Filing Date and who is terminated without cause by Nordstrom Canada following the Filing Date;
- (b) each inactive Nordstrom Canada Employee on approved disability leave, statutory leave or authorized personal and education leave as of the Filing Date who has not given notice of termination to, or received notice of termination from, Nordstrom Canada prior to the Filing Date and who is terminated without cause by Nordstrom Canada during the CCAA Proceedings; and

- (c) each such other inactive Nordstrom Canada Employee on authorized leave of absence that Nordstrom Canada and the Monitor may expressly agree.
- 11.6 Nordstrom Canada employees who voluntarily resign or abandon their employment prior to their effective date of termination, whether or not such individual has received notice of termination at the time of such resignation and/or abandonment, are not eligible to receive payments funded by the Employee Trust.
- 11.7 In its capacity as Administrator of the Employee Trust, the Monitor's primary role is to determine, in consultation with Nordstrom Canada, the amounts Eligible Employees are entitled to under the Employee Trust and to authorize, jointly with the Trustee, payments from the Employee Trust to Nordstrom Canada for distribution to the Eligible Employees.
- 11.8 The Employee Trust was developed by Nordstrom Canada and Nordstrom US and their respective counsel in consultation with the Proposed Monitor and its counsel. The terms of the Employee Trust have also been reviewed by, and reflect feedback from, proposed Employee Representative Counsel and the Trustee.
- 11.9 The Proposed Monitor has been provided with employee data and has considered various scenarios in which the Orderly Wind-Down process may take place. Based on the data provided and its analysis, the Proposed Monitor believes the Maximum Required Trust Contribution will be sufficient to meet all Eligible Employee Trust Claims. The Administrator and Trustee will keep Employee Representative Counsel informed of the status of funding and will report to this Court on the status of the Employee Trust on a regular basis.

11.10 The Employee Trust Agreement and the proposed Initial Order contain “Deemed Release Terms” pursuant to which each Eligible Employee will be deemed to release Nordstrom Canada, Nordstrom US and their affiliates, and each of their respective present and former officers, directors, employees, representatives and agents as follows:

- (a) for each Pay Period in which an amount is paid to an Eligible Employee from the Employee Trust, a release in an amount equal to such distribution; and
- (b) a full and final release in respect of an Eligible Employee’s total Eligible Employee Claim effective 60 days after the final payment to such Eligible Employee, provided that the Eligible Employee has not prior to that time provided notice of dispute to the Administrator and Representative Counsel in the manner set out in the proposed Initial Order. An Eligible Employee has 45 days from the date of the final payment to notify the Administrator and Employee Representative Counsel of any dispute with respect to an Eligible Employee Claim.

11.11 The Employee Trust does not cover, and does not release, any damages or claims other than Eligible Employee Claims. Any other claims or potential claims against the Nordstrom Canada Entities will be dealt with through the claims process, once established.

11.12 The terms of the Employee Trust and the proposed Initial Order provide that Nordstrom US will be subrogated to all rights of recovery of the Eligible Employees against Nordstrom Canada in an amount equal to the aggregate gross amounts paid to such Eligible Employees from the Employee Trust.

11.13 The Proposed Monitor supports the creation of the Employee Trust as:

- (a) the Employee Trust will provide a measure of financial security to eligible employees during the Orderly Wind-Down by: (i) paying a top-up to the wages actually earned by such employee during their working notice period to ensure such employee receives their regular wages (as determined by employment standards legislation), even if such employee's hours of work or wages vary or are reduced such that they do not receive such regular wages through actual services performed; and (ii) to the extent not paid during such employee's working notice period, providing to them additional entitlements owing under employment standards legislation at the end of employment, including termination and severance pay if and as required by such legislation;
- (b) the Employee Trust will be funded by Nordstrom US, with a right of subrogation against Nordstrom Canada in respect of amounts paid from the Employee Trust to Eligible Employees;
- (c) the Employee Trust will bear the costs of its establishment and administration, so that such costs do not affect amounts available to creditors generally that may be recoverable out of the Nordstrom Canada Entities' estate;
- (d) since the Employee Trust provides payments on a bi-weekly basis until the end of employment, it will also provide an incentive for employees to continue working during the Orderly Wind-Down;

- (e) proposed Employee Representative Counsel has reviewed and provided feedback on the terms of the Employee Trust; and
- (f) approval of the Employee Trust at the outset of the CCAA Proceedings will provide certainty to employees that the Employee Trust will be in place, enable the Administrator and the Trustee to commence the administrative steps necessary to establish the Employee Trust, and commence the 21-day appeal period that must expire in order for the Trust Conditions to be satisfied.

12.0 APPOINTMENT OF EMPLOYEE REPRESENTATIVE COUNSEL

- 12.1 The Nordstrom Canada Entities are seeking the appointment of Ursel Phillips Fellows Hopkinson LLP (“**Ursel Phillips**”) as representative counsel (“**Employee Representative Counsel**”) to represent the interests of Nordstrom Canada’s employees other than: (i) non-store level employees who will be eligible for a KERP payment; (ii) directors and officers of the Nordstrom Canada Entities; and (iii) the Senior Vice President, Regional Manager for Canada (all such employees other than the excluded employees, the “**Represented Employees**”). Susan Ursel of Ursel Phillips is to be lead counsel. The fees and expenses of Employee Representative Counsel will be funded by the Nordstrom Canada Entities on the terms of a retainer between Employee Representative Counsel and Nordstrom Canada.
- 12.2 The proposed Initial Order provides that Employee Representative Counsel will represent the Represented Employees in the CCAA Proceedings and any related insolvency proceedings in respect of any employment, human rights or other workplace law issues affecting such Represented Employees, including the Employee Trust, the claims process, and the settlement or compromise of any rights, entitlements or claims of the Represented

Employees. The proposed Initial Order provides an opt-out process for any Represented Employee who does not wish to be represented by Employee Representative Counsel.

- 12.3 The proposed Initial Order provides that Employee Representative Counsel will identify up to three (3) individual Represented Employees to be appointed as Court-appointed representatives of the Represented Employees (the “**Employee Representatives**”) who will, upon their appointment, represent and act in the overall best interests of all Represented Employees and advise and instruct Employee Representative Counsel in respect of the CCAA Proceedings. It is intended that Employee Representative Counsel will begin the process of identifying potential Employee Representatives as soon as practicable following her appointment by the Court. Employee Representative Counsel will be establishing a website for informational purposes for the Represented Employees.
- 12.4 The Nordstrom Canada Entities are seeking the appointment of Employee Representative Counsel as part of the Initial Order because of the importance of providing affected employees with the opportunity to have their questions answered and obtain advice from an independent legal advisor from the outset of the CCAA Proceedings.
- 12.5 The Monitor supports the appointment of Employee Representative Counsel and of Ursel Phillips in that role. Employee Representative Counsel will help to reduce costs and streamline the CCAA process by serving as a single point of contact between approximately 2,300 employees, the Nordstrom Canada Entities, the Monitor and the Court. Ursel Phillips is experienced employee representative counsel and has the expertise and resources required.

13.0 KEY EMPLOYEE RETENTION PLAN

- 13.1 In order to facilitate and encourage the continued participation of key active employees during the Orderly Wind-Down process and CCAA Proceedings, the Nordstrom Canada Entities intend to seek approval at the comeback hearing of: (i) a KERP for certain of their employees who are considered by the Nordstrom Canada Entities to be critical to the completion of the Orderly Wind-Down and CCAA Proceedings (the “**KERP Participants**”); and (ii) the creation of a related charge over the assets and property of the Nordstrom Canada Entities (the “**Property**”) to secure the payments due under the KERP (the “**KERP Charge**”).
- 13.2 Under the provisions of the KERP, any payments are conditional upon the KERP Participants continuing to provide services to Nordstrom Canada until such time as they are advised that they are no longer required to assist in the Orderly Wind-Down or other matters in the CCAA Proceedings.
- 13.3 The KERP Participants are categorized as follows
- (a) Non-Store Personnel – includes approximately 37 senior management, human resources and operations oversight employees. The Nordstrom Canada Entities estimate that the total KERP payments to this category of employees will be approximately \$532,000;
 - (b) Store Managers – includes up to 13 store managers who will be eligible for a KERP payment of 20% of base salary, for a total maximum payout of approximately \$359,000;

- (c) Department Managers – includes up to 117 department managers who will be eligible for a KERP payment of 15% of base salary, for a total maximum payout of approximately \$1.2 million;
 - (d) Assistant Department Managers – includes up to 42 assistant department managers who will be eligible for a KERP payment of 10% of base salary, for a total maximum payout of approximately \$193,000; and
 - (e) Asset Protection Personnel – includes up to 56 employees who will be eligible for a KERP payment of 10% of base salary, for a total maximum payout of approximately \$263,000.
- 13.4 The maximum aggregate amount of potential payments under the KERP is estimated to be approximately \$2.6 million, with approximately 10% of store level employees anticipated to be KERP Participants.
- 13.5 The KERP was developed by the Nordstrom Canada Entities in consultation with the Proposed Monitor. The Proposed Monitor supports the creation of the KERP as: (a) it will provide stability to, and facilitate, the Orderly Wind-Down process by encouraging key active employees to remain with Nordstrom Canada, as required; (b) the KERP Participants are considered to be key to the execution of the Orderly Wind-Down and their participation will assist in maximizing realizations for the benefit of stakeholders; and (c) given the nature of the merchandise and scale of store operations, particularly at the full-line stores, as outlined in the Heckel Affidavit, the KERP is reasonable and appropriate in the circumstances to ensure that value is preserved and maximized through the Orderly Wind-Down process.

- 13.6 While the Nordstrom Canada Entities are not seeking approval of the KERP until the comeback hearing, the Monitor has set out its views on the proposed KERP in this Report for the benefit of the Court and stakeholders of the Nordstrom Canada Entities.

14.0 CRITICAL SUPPLIERS

- 14.1 In the proposed Initial Order, the Nordstrom Canada Entities are seeking the authority (but not the requirement) to pay pre-filing amounts with the consent of the Proposed Monitor to certain suppliers, including: (i) logistics or supply chain providers, including transportation providers, customs brokers, freight forwarders and security and armoured truck carriers, and including amounts payable in respect of customs and duties for goods; (ii) providers of information, internet, telecommunications and other technology, including ecommerce providers and related services; (iii) providers of payment, credit, debit and gift card processing related services; and (iv) other third-party suppliers or service providers other than those listed above, up to a maximum aggregate amount of \$1 million, if, in the opinion of the Nordstrom Canada Entities following consultation with the Monitor, such supplier or service provider is critical to the Orderly Wind-Down. The Nordstrom Canada Entities intend to seek an increase of this amount to \$1.5 million at the comeback hearing.
- 14.2 The Proposed Monitor is of the view that the above relief is reasonable and appropriate in the circumstances to ensure the continued flow of inventory through the Nordstrom Canada Entities' supply chain, to avoid disruption with critical payment and service providers, and to maximize recoveries during the Realization Process. The proposed Initial Order provides that pre-filing amounts will only be paid to these parties with the consent of the Monitor.

15.0 INTENDED NEXT STEPS IN THE CCAA PROCEEDINGS

15.1 The following summarizes the intended primary next steps in the CCAA Proceedings should the Court grant the Initial Order:

- (a) following the granting of the Initial Order, the Nordstrom Canada Entities, with the assistance of the Monitor, will immediately:
 - (i) implement an extensive communications plan with stakeholders of the Nordstrom Canada Entities, including employees, landlords, concession parties, vendors, and service providers;
 - (ii) engage in discussions with landlords regarding the Orderly Wind-Down, proposed sale guidelines for the Realization Process, and Lease-related matters;
 - (iii) activate and fund the Employee Trust; and
 - (iv) engage in discussions with and solicit proposals and agreements from third-party agents in respect of the Realization Process.
- (b) at the comeback hearing, the Nordstrom Canada Entities intend to seek Court approval of, among other things:
 - (i) the KERP and the KERP Charge;
 - (ii) increases to the Administration Charge and Directors' Charge; and

- (iii) an extension of the stay of proceedings, including an extension of the Parent Stay and the Co-Tenant Stay, until June 30, 2023; and
- (c) within a short period following the comeback hearing, the Nordstrom Canada Entities intend to bring a motion before the Court seeking approval of sale guidelines with respect to the Realization Process and an agreement with a third-party liquidator to undertake the Realization Process.

16.0 COURT-ORDERED CHARGES SOUGHT IN THE INITIAL ORDER

- 16.1 The proposed Initial Order seeks the granting of an Administration Charge and a Directors' Charge (collectively, the "**Charges**") over the Property of the Nordstrom Canada Entities, as described below.

Administration Charge

- 16.2 The Initial Order provides for a superpriority charge over the Property in an amount not to exceed \$750,000 in favour of the Monitor, counsel to the Monitor, counsel to the Nordstrom Canada Entities, Employee Representative Counsel (up to the maximum amount of \$75,000) and counsel to the directors and officers of the Nordstrom Canada Entities (the "**Administration Charge**"). The Nordstrom Canada Entities intend to seek an increase in the amount of the Administration Charge in the Amended and Restated Initial Order to \$1.5 million at the comeback hearing.
- 16.3 The Proposed Monitor assisted the Nordstrom Canada Entities in the calculation of the Administration Charge and is of the view that the amount of the charge for the initial 10-day stay period is reasonable and appropriate in the circumstances, having regard to the

nature of the proceedings, the scope and level of work expected to be required during the period, and the size of charges approved in similar CCAA proceedings.

Directors' Charge

- 16.4 The Initial Order provides that the Nordstrom Canada Entities shall indemnify their directors and officers against obligations and liabilities that they may incur as directors and officers of the Nordstrom Canada Entities after commencement of the CCAA Proceedings, except to the extent that the obligation or liability was incurred as a result of an officer's or director's gross negligence or wilful misconduct. The Initial Order provides for a superpriority charge over the Property in the amount of \$10.75 million in favour of the directors and officers of the Nordstrom Canada Entities as security for that indemnity. The Nordstrom Canada Entities intend to seek an increase in the amount of the Directors' Charge to \$13.25 million at the comeback hearing.
- 16.5 The present and former directors and officers of the Nordstrom Canada Entities are among the potential beneficiaries under a liability insurance policy with an aggregate limit of USD\$10 million that covers directors and officers of the entire Nordstrom Group. The Nordstrom Canada Entities do not believe that the insurance policy provides sufficient coverage against the potential liability that directors and officers could incur in relation to the CCAA Proceedings in light of the extensive operations and hence potential liabilities associated with Nordstrom US.
- 16.6 The Proposed Monitor assisted the Nordstrom Canada Entities in the calculation of the initial amount of the Directors' Charge, taking into consideration the amount of the payroll source deductions, vacation pay, federal and provincial sales tax liabilities, and other

potential sources of director or officer liability during the initial 10-day stay period. The Proposed Monitor is of the view that the Directors' Charge is required and that the quantum of the charge is reasonable having regard to the significant employment and sales tax liabilities arising in the operation of the business. The Proposed Monitor notes that the quantum of potential director and officer liabilities will increase in the early stages of the Realization Process as sales are processed and sales taxes are collected, and then decline over time as sales volumes and employment levels decrease.

Priority of Charges Created by the Proposed Initial Order

16.7 The proposed priorities of the Charges, as between them, are as follows:

- (a) First – Administration Charge, to the maximum amount of \$750,000; and
- (b) Second – Directors' Charge, to the maximum amount of \$10,750,000.

16.8 The proposed Initial Order provides that the Charges shall rank in priority to all other Encumbrances (as defined in the Initial Order) in favour of any person, except for any secured creditor that did not receive notice of the CCAA application. At the comeback hearing, the Nordstrom Canada Entities intend to seek priority of the Charges ahead of all Encumbrances.

16.9 At the comeback hearing, the Nordstrom Canada Entities also intend to seek a KERP Charge in an amount not to exceed \$2.6 million in favour of the KERP Participants as security for all amounts that may become payable under the KERP. It is expected that the KERP Charge, if approved at the comeback hearing, will rank second in priority amongst the Charges (subordinate to the Administration Charge and in priority to the Directors'

Charge). In light of its support for the KERP for the reasons set forth in this Report, the Proposed Monitor is of the view that the KERP Charge is required and is reasonable in the circumstances.

17.0 CONCLUSIONS AND RECOMMENDATIONS

17.1 For the reasons set out in this Report, if the Court is prepared to grant the Applicants' CCAA application, the Proposed Monitor is of the view that the relief requested in the proposed Initial Order is reasonable, appropriate and necessary having regard to the current circumstances of the Nordstrom Canada Entities. As such, the Proposed Monitor respectfully recommends that the Court grant the Initial Order containing the relief requested by the Applicants.

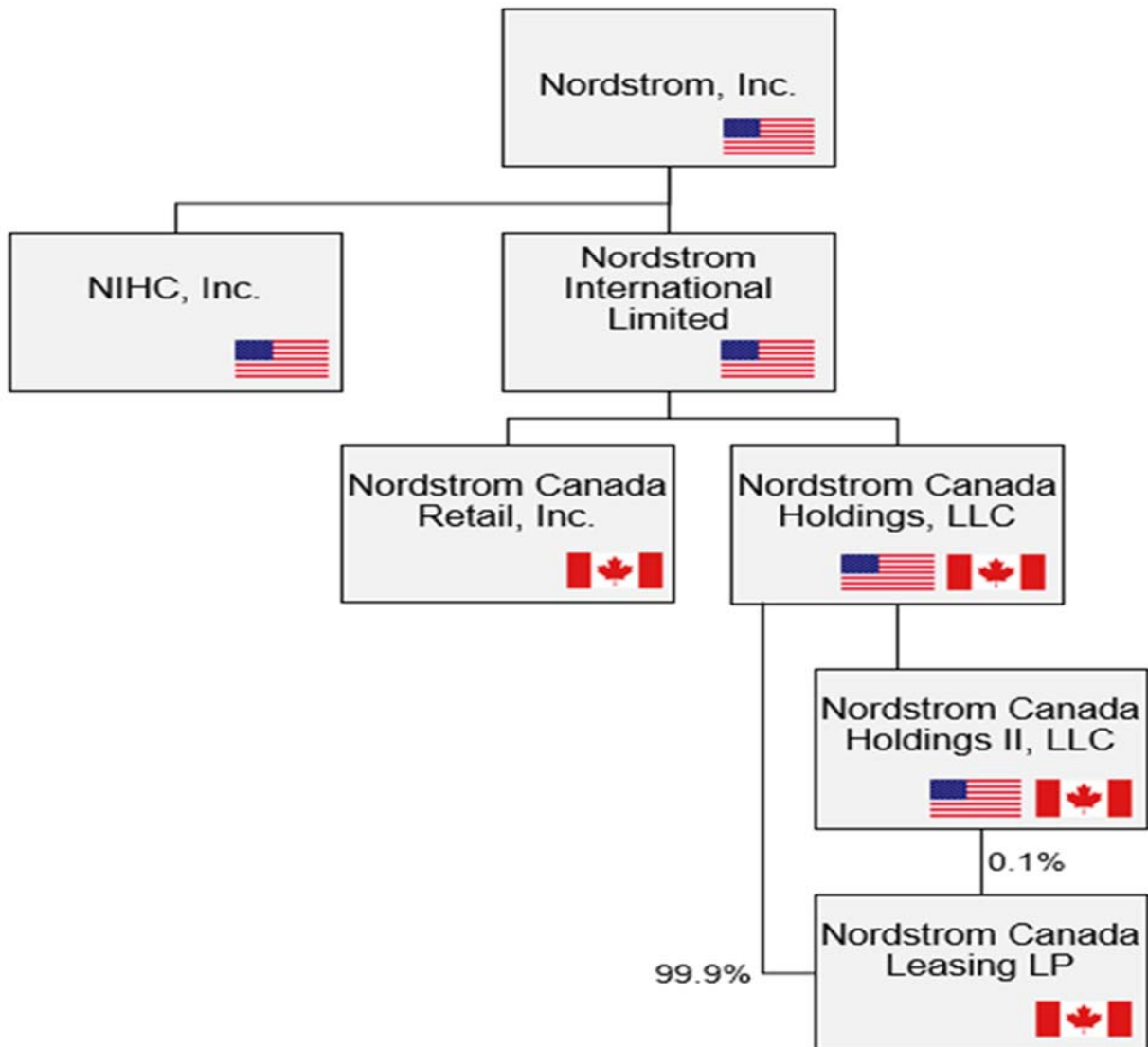
All of which is respectfully submitted to the Court this 1st day of March 2023.

**Alvarez & Marsal Canada Inc., in its capacity as
Proposed Monitor of Nordstrom Canada Retail, Inc.,
Nordstrom Canada Holdings, LLC,
Nordstrom Canada Holdings II, LLC, and
Nordstrom Canada Leasing LP,
and not in its personal or corporate capacity**

Per: 

Alan Hutchens
Senior Vice-President

APPENDIX A
NORDSTROM GROUP SIMPLIFIED CORPORATE CHART



APPENDIX B
CASH FLOW FORECAST

See attached.

Nordstrom Canada Entities
13-Week Cash Flow Forecast
(Unaudited, in 000s CAD)

Week Ending	Notes	Week 1	Week 2	Week 3	Week 4	Week 5	Week 6	Week 7	Week 8	Week 9	Week 10	Week 11	Week 12	Week 13	13-Week
		Mar 4	Mar 11	Mar 18	Mar 25	Apr 1	Apr 8	Apr 15	Apr 22	Apr 29	May 6	May 13	May 20	May 27	Total
Receipts	[1]	6,767	6,767	6,767	12,626	12,153	11,720	12,048	12,365	11,211	8,886	7,493	3,655	2,338	114,794
Operating Disbursements															
Salaries and Benefits	[2]	4,450	-	4,450	-	4,450	-	3,950	201	3,829	201	3,994	470	3,118	29,114
Occupancy Costs	[3]	1,061	1,061	534	739	1,984	2,484	1,984	266	641	1,952	232	1,363	213	14,513
Sales Tax Remittances	[4]	-	-	-	-	1,800	-	-	-	2,630	-	-	-	3,961	8,391
Logistics, Transportation and Customs	[5]	2,449	1,707	1,457	1,362	457	434	237	95	95	71	71	47	47	8,529
Professional Fees	[6]	-	1,901	-	1,805	-	838	-	503	-	503	-	503	-	6,051
Shared Service Payments - Intercompany	[7]	-	-	-	-	-	2,300	-	-	-	1,600	-	-	-	3,900
Liquidation Fees	[8]	-	-	-	848	-	-	-	-	-	-	-	-	1,875	2,722
Total Disbursements		7,961	4,670	6,441	4,754	8,691	6,055	6,170	1,065	7,195	4,326	4,298	2,383	9,215	73,221
Net Cash Flow		(1,194)	2,097	326	7,872	3,463	5,666	5,877	11,300	4,016	4,559	3,195	1,272	(6,877)	41,573
Opening Cash Balance		35,959	34,765	36,862	37,188	45,060	48,523	54,188	60,066	71,366	75,382	79,941	83,137	84,409	35,959
Net Cash Flow		(1,194)	2,097	326	7,872	3,463	5,666	5,877	11,300	4,016	4,559	3,195	1,272	(6,877)	41,573
Closing Cash Balance		34,765	36,862	37,188	45,060	48,523	54,188	60,066	71,366	75,382	79,941	83,137	84,409	77,532	77,532

Nordstrom Canada Entities
13-Week Cash Flow Forecast
Notes and Summary of Assumptions

Disclaimer

In preparing this cash flow forecast (the “Forecast”), the Nordstrom Canada Entities have relied upon unaudited financial information and have not attempted to further verify the accuracy or completeness of such information. The Forecast includes assumptions described below with respect to the requirements and impact of a filing under the Companies’ Creditors Arrangement Act (“CCAA”). Since the Forecast is based on assumptions about future events and conditions that are not ascertainable, the actual results achieved during the Forecast period will vary from the Forecast, even if the assumptions materialize, and such variations may be material. There is no representation, warranty or other assurance that any of the estimates, forecasts or projections will be realized.

The Forecast is presented in thousands of Canadian dollars.

1) Sales Receipts

Includes receipts from the sale of goods through Nordstrom Canada’s stores, with the Canadian e-commerce platform being closed on the day of the CCAA filing. Store closing sales are forecast to commence on March 20, 2023 subject to Court approval of the required agreement and guidelines. Sales include HST/GST and are net of anticipated returns and gift-card and Nordstrom Notes redemptions during the wind-down period. Assumptions to be updated based on input from the sales agent, once selected and agreement is finalized.

2) Salaries and Benefits

Includes payroll, benefits (including RRSP matching contributions) and taxes for all employees of the Nordstrom Canada Entities. Payroll estimates have been adjusted to reflect forecast store closures and includes approximately \$520,000 during the week ending May 13, 2023 upon the forecast closure of Rack stores for the proposed KERP and will include approximately \$2,040,000 outside the Cash Flow Period. The disbursements for salaries and benefits excludes payments to employees for claims that will be funded by the Employee Trust.

3) Occupancy Costs

Occupancy costs include payments required to operate the stores during the wind-down period, including third-party rents, property taxes, utilities, security, cleaning, credit card processing and general supplies. March rent was paid prior to commencement of the CCAA proceedings. For April forward, monthly rent to third-party landlords, which will include property taxes, is forecast to be paid in equal instalments on the 1st and 15th of each month while the leases remain in effect.

4) Sales Tax Remittance

Includes payment of February HST and estimated net monthly amounts based on forecast sales and disbursements.

5) Logistics, Transportation and Customs

Includes payment to logistics and supply chain providers and customs brokers.

6) Professional Fees

Includes payments to the Applicants’ legal counsel, the Monitor, Monitor’s legal counsel, Employee Representative Counsel and counsel to the directors and officers of the Nordstrom Canada Entities.

7) Shared Service Payments - Intercompany

Disbursements represent payments to Nordstrom, Inc. for fees and costs pursuant to the Wind-Down Agreement, which are forecast to decrease in accordance with projected requirements as the Orderly Wind-Down advances. Such payments will be net of amounts owed from Nordstrom US to Nordstrom Canada for fees pursuant to the Wind-Down Agreement.

8) Liquidation Fees

Includes estimated fees payable to a liquidator. Assumptions to be updated based on input from the sales agent, once selected and agreement is finalized.

APPENDIX C
MANAGEMENT'S REPRESENTATION LETTER
REGARDING CASH FLOW FORECAST

See attached.

NORDSTROM CANADA

Alvarez & Marsal Canada Inc.
200 Bay Street, Suite 2900
Toronto ON M5J 2J1

Attention: Mr. Alan Hutchens

March 1, 2023

Dear Sirs:

Re: Nordstrom Canada Retail, Inc. (“Nordstrom Canada”) and the Other Applicants and Partnerships Identified in the Proposed Initial Order (collectively the “Nordstrom Canada Entities”) - CCAA section 10(2) Prescribed Representations with Respect to Cash Flow Forecast

In connection with the application by the Applicants for the commencement of proceedings under the *Companies’ Creditors Arrangement Act*, management of Nordstrom Canada Retail, Inc. has, with the assistance of Alvarez & Marsal and management team members of Nordstrom US, prepared the attached 13-week projected cash flow statement for the period February 26, 2023 to May 27, 2023 (the “**Cash Flow Forecast**”) and the list of assumptions on which the Cash Flow Forecast is based. The purpose of the Cash Flow Forecast is to determine the liquidity requirements of the Nordstrom Canada Entities during the CCAA proceedings.

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

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

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

Yours truly,



Per: Misti Heckel
President
Nordstrom Canada Retail, Inc.

**IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF
NORDSTROM CANADA RETAIL, INC., NORDSTROM CANADA HOLDINGS, LLC
AND NORDSTROM CANADA HOLDINGS II, LLC**

Court File No.: CV-23-00695619-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

Proceeding commenced at Toronto

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

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