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

) Chapter 15
In re:)
) Case No. 24-10699 (MEW)
Ted Baker Canada Inc., <i>et al.</i> , ¹)
) (Jointly Administration)
Debtors in a Foreign Proceeding.)
)
)
)

**SUPPLEMENT TO VERIFIED PETITION FOR
ENTRY OF ORDER RECOGNIZING FOREIGN MAIN
PROCEEDINGS AND GRANTING ADDITIONAL RELIEF**

Ted Baker Canada Inc. (“Ted Baker Canada”) is the Canadian Court-appointed and authorized foreign representative (the “Foreign Representative”) of the above-captioned debtors (the “Debtors”), which are the subject of jointly-administered proceedings under Canada’s *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36 (as amended, the “CCAA”) in the Ontario Superior Court of Justice, in Toronto, Ontario, Canada (the “Canadian Proceedings” and such court, the “Canadian Court”).

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

On April 24, 2024 (the “Petition Date”), the Foreign Representative commenced the above-captioned chapter 15 cases (the “Chapter 15 Cases”) in this Court and, the following day, this Court held the First Day Hearing (defined below) to consider the Debtors’ Provisional Relief Motion (defined below), Scheduling Motion (defined below), and the Joint Administration Motion (defined below). As further summarized below, following the First Day Hearing, the Court entered orders granting the motions. The Court scheduled a hearing to consider the relief sought in the Foreign Representative’s *Verified Petition for Entry of Order Recognizing Foreign Main Proceedings and Granting Related Relief* [Docket No. 6] (the “Verified Petition”)² for May 8, 2024, at 10:00 a.m. (ET) (the “Recognition Hearing”) and ordered that any objections or responses thereto be filed and served by May 3, 2024, at 4:00 p.m. (ET).

The Foreign Representative files this supplement to the Verified Petition to (i) update and apprise the Court, the Debtors’ creditors and other parties-in-interest of the Debtors’ activities since the First Day Hearing and related case developments, and (ii) provide a copy of the proposed Amended and Restated Initial Order (the “Proposed ARIO”),³ which the Debtors are requesting that the Canadian Court authorize and approve, along with certain other relief summarized below, at their “come back” hearing before the Canadian Court scheduled for May 3, 2024 (the “Comeback Hearing”). In connection with the Recognition Hearing, the Foreign Representative will be seeking recognition and enforcement by this Court of the proposed ARIO in the form ultimately entered by the Canadian Court.⁴

² Capitalized terms used but not defined herein have the meanings assigned to them in the Verified Petition.

³ A copy of the Proposed ARIO is attached hereto as Exhibit A.

⁴ The Foreign Representative will file and serve the Amended and Restated Initial Order actually entered by the Canadian Court, as well as other orders entered by the Canadian Court at the Comeback Hearing, following entry of such orders by the Canadian Court. Furthermore, the Foreign Representative will file and serve notice of an updated proposed Recognition Order in advance of the Recognition Hearing.

BACKGROUND

1. As set forth in the Verified Petition, on the Petition Date the Debtors filed petitions under the CCAA to commence proceedings under the supervision of the Canadian Court. On that same day, the Canadian Court entered the Initial CCAA Order.⁵

2. The Initial CCAA Order, among other things: (i) appointed Alvarez & Marsal Canada Inc. as monitor in the Canadian Proceedings (the “Monitor”); (ii) granted a stay of proceedings against the Debtors, the Monitor, and their respective employees, directors, advisors, officers and representatives acting in such capacities for an initial Stay Period (as defined therein); (iii) authorized Ted Baker Canada and Ted Baker Limited to continue to borrow from the “Interim Lender,” Canadian Imperial Bank of Commerce (“CIBC”), under the Debtors’ Existing Credit Facility (as defined therein) in a principal amount not to exceed USD \$7 million, subject to the requirements in the Initial CCAA Order; (iv) authorized the Debtors to pay certain pre-filing amounts, with the consent of the Monitor and the Interim Lender, to key participants in the Debtors’ distribution network and to other critical suppliers if required; (v) granted the following Charges (as defined in the Initial CCAA Order), in order of priority: an Administration Charge in the maximum amount of USD \$750,000; an Interim Lender’s Charge (as defined in the Initial CCAA Order); security granted with respect to the Existing Credit Facility (excluding the Interim Borrowings, as defined below); and a Directors’ Charge in the maximum amount of USD \$2.5 million; and (vi) authorized Ted Baker Canada (a) to act as the foreign representative of the Debtors for purposes of having the Canadian Proceedings recognized and approved in a

⁵ The Initial CCAA Order was attached to the Debtors’ chapter 15 petitions and the *Declaration of Antoine Adams in Support of Verified Petition for Entry of an Order Recognizing Foreign Main Proceedings and Granting Related Additional Relief* [Docket No. 4] (the “Adams Declaration”) and discussed in relevant part in the Verified Petition and Provisional Relief Motion (defined below).

jurisdiction outside of Canada, and (b) to apply in this Court for recognition of the Canadian Proceeding in the United States, including enforcement of the Initial CCAA Order and seeking provisional relief, as necessary.

3. On the Petition Date, promptly after the Canadian Court entered the Initial CCAA Order, the Foreign Representative filed chapter 15 petitions for each of the Debtors. The Foreign Representative also filed the following motions:

- a. the Verified Petition, seeking, *inter alia*, (i) recognition of the Canadian Proceedings, pursuant to Bankruptcy Code section 1517, as foreign main proceedings or, in the alternative, as foreign nonmain proceedings, (ii) recognizing and giving full force and effect in the United States to the Initial CCAA Order, including any and all extensions, amendments, restatements, and/or supplements thereto authorized by the Canadian Court, and (iii) granting the Debtors all relief afforded pursuant to Bankruptcy Code section 1520 and certain additional and further relief pursuant to Bankruptcy Code sections 1521 and 1507, including granting on a final basis the provisional relief sought in the Provisional Relief Motion (defined below), all as more fully and particularly set forth in the Verified Petition (together with its attachments and supporting papers);
- b. the *Motion of Ted Baker Canada Inc., as Foreign Representative of Ted Baker Canada Inc. and Certain of Its Affiliates, for an Order Granting Certain Provisional Relief* [Docket No. 7] (the “Provisional Relief Motion”), seeking, *inter alia*, (i) recognition and enforcement of the Initial CCAA Order, including all relief provided therein, in the United States on a provisional basis, (ii) granting, on a provisional basis, to and for the benefit of CIBC, as the Debtors’ “Interim Lender” (as that term was defined in the Initial CCAA Order and Provisional Relief Order) certain protections afforded by the Bankruptcy Code, including, among other protections and findings, those protections provided by Bankruptcy Code sections 363(m), 364(c), 364(d), and 364(e); (iii) providing that the CIBC (as the Interim Lender) shall not be subject in any way to the equitable doctrine of “marshaling” or any similar doctrine, claims under Bankruptcy Code section 506(c), and the “equities of the case” exception found in Bankruptcy Code section 552(b); and (iii) applying Bankruptcy Code sections 362 and 365(e) on a provisional basis, all as more fully and particularly set forth in the Provisional Relief Motion;
- c. the *Motion for Order Scheduling Recognition Hearing and Specifying Form and Manner of Service of Notice* [Docket No. 8] (the “Scheduling Motion”) requesting, *inter alia*, an order scheduling the hearing to consider the relief

sought in the Verified Petition and the form and manner of service of notice thereof; and

- d. The *Motion for Order, Pursuant to Bankruptcy Rule 1015(B), Directing Joint Administration of Chapter 15 Cases* [Docket No. 5] (the “Joint Administration Motion”) requesting an order directing the joint administration of the Debtors’ chapter 15 cases for procedural purposes only.

4. Pursuant to the Court’s Order [Docket No. 10] granting the Foreign Representative’s *ex parte* motion to schedule an emergency hearing on shortened notice, on April 25, 2024 (the “First Day Hearing”), the Court held a hearing to consider the Provisional Relief Motion, the Scheduling Motion, and the Joint Administration Motion. Following the First Day Hearing, the Court entered (i) the *Revised Order Granting Provisional Relief Pursuant to Section 1519 of the Bankruptcy Code* [Docket No. 22] (the “Provisional Relief Order”) granting certain provisional relief, (ii) the *Order Scheduling Recognition Hearing and Specifying Form and Manner of Service of Notice* [Docket No. 19] (the “Scheduling Order”) which, as indicated above, scheduled the Recognition Hearing and response deadline, among other things; and (iii) an order granting the Joint Administration Motion. As a result of the Interim Borrowings pursuant to the Initial CCAA Order and Provisional Relief Order, the Debtors were able to draw and make payroll, pay due rents and avoid an abrupt and chaotic shutdown of their operations.

DEVELOPMENTS SINCE THE FIRST DAY HEARING

5. Since the First Day Hearing, the Debtors have been working in good faith, and with due diligence to, among other things:

- a. stabilize their business and operations;
- b. advise their stakeholders, including landlords, employees, logistics suppliers, license partners, and others, wherever located, of the issuance of the Initial CCAA Order and the orders of this Court;
- c. develop a key employee retention plan (the “**KERP**”);

- d. negotiate a DIP Term Sheet (defined below) to establish more fulsome and appropriate financing for the Debtors' restructuring efforts which permits the Debtors, among other things, to repay the Interim Borrowings that mature on May 8, 2024;
- e. engage with their critical stakeholders and respond to numerous creditor and stakeholder inquiries regarding the restructuring proceedings; and
- f. reach out to various stakeholders in order to communicate the Debtors' receptiveness to potential going concern transactions.

6. On April 26, 2024, in accordance with the Court's Scheduling Order, the Foreign Representative caused (a) the notice of the Recognition Hearing (in the form approved by the Scheduling Order), together with a copy of the Notice Documents (as defined in the Scheduling Order) to be served upon the Notice Parties (as defined in the Scheduling Order) and (b) the referenced documents to be posted to the Monitor's website at www.alvarezandmaral.com/TBRetail.

7. Since commencement of these restructuring proceedings, the Debtors, with the advice and counsel of their advisors, and in consultation with the Monitor and CIBC, have continued to engage in discussions regarding the future of the Debtors and the best way to maximize constituent value. In light of the present circumstances, those parties determined that the best way to maximize value for the benefit of all stakeholders is to commence an orderly realization process. In this regard, subject to approval of the Canadian Court and this Court, the Debtors have negotiated and executed a Consulting Agreement dated as of April 30, 2024 (as may be amended, revised, and/or restated, the "Consulting Agreement") with Gordon Brothers Canada ULC and Gordon Brothers Retail Partners, LLC (together, the "Consultant") and developed proposed sale guidelines (the "Sale Guidelines") for the orderly realization of their assets through a sale process in accordance with the Sale Guidelines and with the assistance of the Consultant pursuant to the Consultant Agreement. The proposed Realization Process Approval Order (as defined below)

submitted to the Canadian Court includes a mechanism whereby the Debtors can add or remove retail stores as part of the realization process, including to capitalize upon any alternative going concern third-party transaction for some or all of the Debtors' business or assets that may arise.

8. On May 1, 2024, the Debtors filed a motion in the Canadian Court seeking approval and entry of (a) the Proposed ARIO, and (b) a proposed Realization Process Approval Order (the "Realization Process Approval Order"). As indicated above and as requested in the Verified Petition, the Foreign Representative seeks the Court's recognition and enforcement of the Proposed ARIO at the Recognition Hearing.

9. Substantially contemporaneously with this supplement, the Foreign Representative will be filing (a) a motion seeking, among other relief, an order from this Court recognizing, enforcing, and authorizing the Debtors to perform under and consummate the transactions contemplated by the Realization Process Approval Order (the "Realization Process Motion"); and (b) given the exigent circumstances of these cases, a motion to schedule the hearing on the Realization Process Motion on shortened notice, to be heard concurrently with the Recognition Hearing, and approving the form and manner of notice thereof.

THE PROPOSED ARIO⁶

10. In addition to the relief granted in the Initial CCAA Order, the Proposed ARIO extends relief provided therein and also provides certain additional relief, including, among other things:

- a. approval of the KERP and granting a Court-ordered charge (the "KERP Charge") as security for payments under the KERP, and granting a sealing order in relation to the KERP;

⁶ The foregoing summary of the additional relief sought in the Proposed ARIO is qualified in its entirety by the actual terms of the Proposed ARIO and ultimately subject to the actual ARIO entered by the Canadian Court.

- b. authorization for the Debtors to enter into the DIP Term Sheet (defined below), borrow under the DIP Facility (defined below) in the maximum principal amount of USD \$28 million, and granting the DIP Lender's Charge (as defined in the ARIO); and
- c. approving an increase to the Administration Charge from USD \$750,000 to USD \$1.5 million and the Directors' Charge from USD \$2.5 million to USD \$5 million.

I. The KERP and the Related Charge

11. The Debtors are seeking approval of the KERP for, at present, eight employees and the granting of the KERP Charge up to a maximum aggregate amount of USD \$250,000 as security for payments under the KERP.⁷

12. As will be set forth in as supplemental declaration to be submitted in support of the Verified Petition, the KERP was developed by the Debtors, in consultation with the Monitor, to incentivize these key active employees to remain in their positions through these proceedings to facilitate the efficient and orderly implementation of the restructurings. The proposed KERP provides for a one-time lump sum payment to eligible Canadian and U.S. employees who have been identified as critical to the success of the Debtors' realization process. Each of these employees is required to guide the business through the contemplated Sale (as defined in the Sale Guidelines) to preserve value for the Debtors' stakeholders.

13. The proposed KERP is structured so that each of the individuals will receive a retention bonus equal to 10% of their current annualized base salary, payable on the earlier of (a) the completion of the Sale, (b) the closing of a potential going-concern transaction for all or part of the Debtors' business, or (c) the date on which the KERP participants' services are no longer

⁷ With one exception, none of the employees are directors or officers of the Debtors or are otherwise "insiders" of the Debtors within the meaning of the Bankruptcy Code. One of the proposed KERP participants has the title of Vice President Finance / Logistics of Ted Baker Canada and has signing authority as an officer of Ted Baker Limited. The proposed KERP meets all of the requirements of applicable Canadian law.

required. Any payments under the KERP are conditional upon each employee continuing to provide services to the Debtors until such time as they are advised that they are no longer required to assist in the Sale or other matters in these proceedings.

14. Assuming the Debtors are able to retain these key employees, the total amount payable under the KERP will be a maximum of USD \$250,000. As previously noted, the Debtors are seeking the KERP Charge to secure amounts payable under the KERP. The KERP Charge is proposed to rank behind the Administration Charge, the Interim Lender's Charge (to the extent applicable) and the DIP Lender's Charge, the security granted by the Debtors with respect to the Existing Credit Facility (excluding the Interim Borrowings), and the Directors' Charge, but in priority to all other security interests, trusts, liens, charges and encumbrances, and claims of secured creditors, statutory or otherwise.

15. The KERP schedule contains the names of the proposed KERP recipients, their positions, their current compensation, and the proposed amount to be received by each recipient. This is highly sensitive, personal, and confidential information relating to a select group of the Debtors' employees. For this reason, the Monitor has attached the proposed KERP schedule as a confidential supplement to its first report prepared for the Comeback Hearing (which was filed today) and the Debtors propose to have the KERP schedule sealed by the Canadian Court, pursuant to the ARIO.⁸

16. For all the foregoing reasons and as will be evidenced by the supplemental declaration to be submitted in support of the Verified Petition, to the extent the implementation of the KERP is considered a non-ordinary course use of the Debtors' property under Bankruptcy

⁸ Upon request, the Foreign Representative will provide the KERP schedule to the Court for *ex parte* review and to the U.S. Trustee's office for confidential review.

Code section 363(b), the Foreign Representative submits that implementation of the KERP and the KERP Charge is a sound and reasonable exercise of the Debtors' business judgment and, therefore, the KERP and KERP Charge should be approved, recognized and enforced by this Court.⁹

II. DIP Financing

17. As noted above, pursuant to the Initial CCAA Order, and as recognized by this Court in its Provisional Relief Order, Ted Baker Canada and Ted Baker Limited were authorized to procure interim funding from the Interim Lender under the Existing Credit Facility during the initial Stay Period (the "Interim Borrowings"). The Interim Borrowings are secured by a Court-ordered charge (the "Interim Lender's Charge", as defined in the Initial CCAA Order) on all of the present and future assets, property and undertaking of the Debtors (the "Property"). The Interim Borrowings mature on May 8, 2024, *i.e.*, the date of the Recognition Hearing.

18. Subsequent to the granting of the Initial CCAA Order and this Court's Provisional Relief Order, CIBC (the "DIP Lender") engaged in productive, and good faith, discussions with the Debtors and the Monitor regarding the more fulsome and appropriate funding for the restructuring proceedings and the DIP Lender agreed to provide additional funding to Ted Baker Canada and Ted Baker Limited, as Borrowers, during these proceedings under a senior secured, super priority, debtor-in-possession, revolving credit facility (the "DIP Facility") on the terms set out in a term sheet agreed to between the Borrowers, Fashion Canada and Fashion Services as Guarantors, and the DIP Lender (the "DIP Term Sheet").¹⁰ Among other things, the DIP Facility

⁹ Unlike section 363 of the Bankruptcy Code, section 503(c) of the Bankruptcy Code does not apply in chapter 15 cases upon recognition of a foreign proceeding pursuant to sections 1520 of the Bankruptcy Code. Accordingly, the Foreign Representative submits that it does not apply here.

¹⁰ A copy of the DIP Term Sheet is attached hereto as Exhibit B.

will pay in full the Interim Borrowings Obligations (as defined in the DIP Term Sheet) and, upon payment in full of the Interim Borrowings Obligations, the Interim Facility and Interim Lender's Charge shall each be terminated. The DIP Facility is expected to provide the Debtors with sufficient liquidity to continue their business operations during these proceedings while completing the contemplated Sale described in the Realization Process Motion.

19. As set forth in the DIP Term Sheet and the Proposed ARIO, the DIP Facility is proposed to be secured by the DIP Lender's Charge in an amount equal to the obligations incurred under, and in connection with, the DIP Facility. Under the Proposed ARIO, the DIP Lender's Charge (a) will not secure any obligation that exists before the Filing Date, (b) will have priority over all other security interests, charges and liens (including unasserted tax liens, to extent there are any), except the Administration Charge and Permitted Priority Liens (as defined in the DIP Term Sheet), and (c) will remain in place until the DIP Facility and all obligations incurred in connection therewith are indefeasibly repaid in full to the satisfaction of the DIP Lender.

20. Furthermore, as previewed in the Provisional Relief Motion and Verified Petition, in addition to seeking recognition and enforcement of the Proposed ARIO (including the relief provided therein with respect to the DIP Facility), the Foreign Representative seeks this Court's approval of certain protections to and for the benefit of the Interim Lender, DIP Lender and CIBC, under the Bankruptcy Code, as applicable, including:

- a. Granting the Interim Lender, in connection with the Interim Borrowings, the protections of section 364(e) and 363(m) of the Bankruptcy Code and finding that any loans made by the Interim Lender in accordance with the Interim Borrowings were extended in "good faith" as contemplated by sections 363(m) and 364(e) such that the validity of the loans made pursuant to the Initial CCAA Order, and the priority of the Interim Lender's Charge in respect of the Debtors' property located within the territorial jurisdiction of the United States shall not be affected by any reversal or modification of the Provisional Relief Order on appeal or entry of an order denying the Foreign Representative's request for entry of an

order granting recognition, as well as, until such time as the Interim Borrowings Obligations are indefeasibly paid in full to the satisfaction of the Interim Lender consistent with the ARIO, other relief under Section 364 of the Bankruptcy Code similar to the relief described in (b) below with respect to the DIP Lender;

- b. Granting (i) the DIP Lender, in connection with the DIP Facility, the protections provided by section 364(c), 364(d), 364(e) and 363(m) of the Bankruptcy Code, including, without limitation, the grant of liens and security interests in the Debtors' property located within the territorial jurisdiction of the United States pursuant to section 364(d)(1), applying the DIP Lender's Charge to the Debtors' property located in the territorial jurisdiction of the United States and the grant of protections under the Bankruptcy Code necessary to give effect to the ARIO as it relates to the Debtors and their property in the United States, and finding that any loans made by the DIP Lender in accordance with the DIP Facility were be extended in "good faith" as contemplated by sections 363(m) and 364(e), such that the validity of the loans made pursuant to the ARIO, and the priority of the DIP Lender's Charge in respect of the Debtors' property located within the territorial jurisdiction of the United States shall not be affected by any reversal or modification of the Recognition Order on appeal or entry of an order denying the Foreign Representative's request for entry of an order granting recognition and (ii) CIBC adequate protection of its interest in its prepetition collateral from any diminution in value resulting from the use, sale, or lease of the collateral, including, without limitation, (i) granting valid, binding, enforceable and perfected liens in all property of the Debtors to secure CIBC's indebtedness under the Existing Credit Facility, (ii) granting an allowed administrative expense claim with priority under section 364(c)(1) of the Bankruptcy Code and liens in all property of the Debtors to secure CIBC's indebtedness under the Existing Credit Facility and (iii) payment for reasonable and documented fees and expenses incurred by CIBC's Canadian and U.S. counsel and other advisors; and
- c. providing that CIBC shall not be subject in any way to (i) the equitable doctrine of "marshaling" or any similar doctrine with respect to the collateral, (ii) 506(c), which the Debtors waive with respect to the DIP Lender and (iii) the "equities of the case" exception found within Bankruptcy Code Section 552(b).

21. Given the current financial circumstances of the Debtors, the DIP Lender has indicated that it is not prepared to advance funds without these protections, including the security of the DIP Lender's Charge and the requested priority thereof and the indefeasible payment in full

of the Interim Borrowings that mature on May 8, 2024. Absent the DIP Facility, the Debtors have no way to repay the Interim Borrowings.

III. Increase to Charges

22. The Initial CCAA Order approved the Administration Charge in the amount of USD \$750,000, which was sized only to reflect fees and disbursements expected to be incurred by the Debtors' counsel, the Monitor and Monitor's counsel during the initial Stay Period, plus the substantial accrued and unpaid fees outstanding when the Initial CCAA Order was granted. With the concurrence of the Monitor and CIBC, the Debtors are now seeking to increase the Administration Charge to USD \$1.5 million.

23. The Initial CCAA Order approved the Directors' Charge for the initial Stay Period in the amount of USD \$2.5 million. With the concurrence of the Monitor, the Debtors are now seeking to increase the Directors' Charge to USD \$5 million. As the Directors' Charge ranks subordinate to the DIP Lender's Charge, Interim Lender's Charge and the security granted with respect to the Existing Credit Facility and Interim Borrowings, the DIP Lender and CIBC do not object to the proposed increase to the Directors' Charge.

NOTICE

24. The Foreign Representative will serve notice of this supplement (together with all exhibits and attachments) upon the Notice Parties (as defined in the Scheduling Order) by U.S. first class mail post prepaid and, where available, electronic mail.

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CONCLUSION

WHEREFORE, the Foreign Representative respectfully requests that this Court enter an order, substantially in the form of the proposed order to be submitted in advance of the Recognition Hearing, granting the relief requested herein (and in the Verified Petition) and such other and further relief as may be just and proper.

Dated: May 2, 2024
New York, New York

Respectfully submitted,

COLE SCHOTZ P.C.

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EXHIBIT A

Proposed ARIIO

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

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE MR.)	FRIDAY, THE 3 rd
)	
JUSTICE BLACK)	DAY OF MAY, 2024

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

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

**AMENDED AND RESTATED INITIAL ORDER
(amending the Initial Order dated April 24, 2024)**

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

ON READING the Notice of Motion of the Applicants, the affidavit of Antoine Adams sworn April 24, 2024, and the Exhibits thereto (the "**Initial Adams Affidavit**"), the affidavit of Antoine Adams sworn May 1, 2024 and the Exhibits thereto (the "**Second Adams Affidavit**"), the pre-filing report dated April 24, 2024, of Alvarez & Marsal Canada Inc. ("**A&M**"), in its capacity as proposed monitor of the Applicants, and the first report dated May 1, 2024 (the "**First Report**"), of A&M, in its capacity as monitor of the Applicants (in such capacity, the "**Monitor**"), and the confidential supplement to the First Report, and on being advised that the secured creditors who are likely to be affected by the charges created herein were given notice, and on hearing the

submissions of counsel to the Applicants, the Monitor, the Interim Lender (as defined below), the DIP Lender (as defined below), and such other counsel present, and on reading the consent of A&M to act as Monitor.

SERVICE

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

DEFINITIONS

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

APPLICATION

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

POSSESSION OF PROPERTY AND OPERATIONS

4. **THIS COURT ORDERS** that the Applicants shall remain in possession and control of their respective current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof (the “**Property**”). Subject to further Order of this Court, the Applicants shall continue to carry on business in a manner consistent with the preservation of their business (the “**Business**”) and Property. The Applicants shall each be authorized and empowered to continue to retain and employ the employees, independent contractors, advisors, consultants, agents, experts, appraisers, valuers, brokers, accountants, counsel and such other persons (collectively, “**Assistants**”) currently retained or employed by them, with liberty to retain such further Assistants as they deem reasonably necessary or desirable in the ordinary course of business or for the carrying out of the terms of this Order.

5. **THIS COURT ORDERS** that the Applicants shall be entitled to continue to use the central cash management systems currently in place as described in the Initial Adams Affidavit, including,

without limitation, the Blocked Accounts Arrangement, or, with the consent of the Monitor and the DIP Lender, replace them with other substantially similar central cash management systems (together, the “**Cash Management System**”) and that any present or future bank providing the Cash Management System, including the Canadian Imperial Bank of Commerce, HSBC Bank USA, National Association, and American Savings Bank, shall not be under any obligation whatsoever to inquire into the propriety, validity or legality of any transfer, payment, collection or other action taken under the Cash Management System, or as to the use or application by the Applicants of funds transferred, paid, collected or otherwise dealt with in the Cash Management System, shall be entitled to provide the Cash Management System without any liability in respect thereof to any Person (as hereinafter defined) other than the Applicants, pursuant to the terms of the documentation applicable to the Cash Management System, and shall be, in its capacity as provider of the Cash Management System, an unaffected creditor under any plan of compromise or arrangement (“**Plan**”) with regard to any claims or expenses it may suffer or incur in connection with the provision of the Cash Management System.

6. **THIS COURT ORDERS** that, in accordance with the DIP Term Sheet (as defined below), the Applicants shall be entitled but not required to pay the following expenses whether incurred prior to, on or after April 24, 2024 (the “**Filing Date**”) to the extent that such expenses are incurred and payable by the Applicants:

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

programs, offers and benefits, in each case incurred in the ordinary course of business and consistent with existing policies and procedures;

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

7. **THIS COURT ORDERS** that, except as otherwise provided to the contrary herein, the Applicants shall be entitled but not required to pay all reasonable expenses incurred by them in carrying on the Business in the ordinary course after the Filing Date, and in carrying out the provisions of this Order and any other Order of this Court, which expenses shall include, without limitation:

- (a) all expenses and capital expenditures reasonably necessary for the preservation of the Property or the Business including, without limitation, payments on account of insurance (including directors and officers insurance), maintenance and security services; and

- (b) payment for goods or services actually supplied to the Applicants following the Filing Date.

8. **THIS COURT ORDERS** that the Applicants shall remit, in accordance with legal requirements, or pay:

- (a) any statutory deemed trust amounts in favour of the Crown in right of Canada or of any Province thereof or any other taxation authority which are required to be deducted from the Applicants' employees' wages, including, without limitation, amounts in respect of (i) employment insurance, (ii) Canada Pension Plan, (iii) Quebec Pension Plan, and (iv) income taxes;
- (b) all goods and services taxes, harmonized sales taxes or other applicable sales taxes (collectively, "**Sales Taxes**") required to be remitted by the Applicants in connection with the sale of goods and services by the Applicants, but only where such Sales Taxes are accrued or collected after the Filing Date, or where such Sales Taxes were accrued or collected prior to the Filing Date but not required to be remitted until on or after the Filing Date; and
- (c) any amount payable to the Crown in right of Canada or of any Province thereof or any political subdivision thereof or any other taxation authority in respect of municipal realty, municipal business, workers' compensation or other taxes, assessments or levies of any nature or kind which are entitled at law to be paid in priority to claims of secured creditors and which are attributable to or in respect of the carrying on of the Business by the Applicants.

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

be negotiated between such Applicant and the Landlord from time to time (“**Rent**”), for the period commencing from and including the Filing Date, twice-monthly in equal payments on the first and fifteenth day of each month, in advance (but not in arrears). On the date of the first of such payments, any Rent relating to the period commencing from and including the Filing Date shall also be paid.

10. **THIS COURT ORDERS** that, except as specifically permitted herein, the Applicants are hereby directed, until further Order of this Court: (a) to make no payments of principal, interest thereon or otherwise on account of amounts owing by any one of the Applicants to any of their creditors as of this date; (b) to grant no security interests, trust, liens, charges or encumbrances upon or in respect of any of the Property; and (c) to not grant credit or incur liabilities except in accordance with the DIP Term Sheet or the ordinary course of the Business or pursuant to this Order or any other Order of the Court.

RESTRUCTURING

11. **THIS COURT ORDERS** that the Applicants shall, subject to such requirements as are imposed by the CCAA and such covenants as may be contained in the DIP Term Sheet and the Definitive Documents (each as defined below), have the right to:

- (a) permanently or temporarily cease, downsize or shut down any of the Business or operations, and to dispose of redundant or non-material assets not exceeding \$50,000 in any one transaction or \$250,000 in the aggregate in any series of related transactions; provided that, with respect to leased premises, the Applicants may, subject to the requirements of the CCAA and paragraphs 12 and 13 herein, vacate, abandon or quit the whole (but not part of) and may permanently (but not temporarily) cease, downsize or shut down any of the Business or operations in respect of any leased premises;
- (b) terminate the employment of such of its employees or temporarily lay off such of its employees as the applicable Applicant deems appropriate;
- (c) pursue all offers for sales of material parts of the Business or Property, in whole or in part, subject to prior approval of this Court obtained before any sale (except as

permitted by paragraph 11(a) above or the Realization Process Order granted by this Court on May 3, 2024);

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

all of the foregoing to permit the Applicants to proceed with an orderly restructuring of the Business (the "**Restructuring**").

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

13. **THIS COURT ORDERS** that if a notice of disclaimer or resiliation is delivered pursuant to Section 32 of the CCAA, then (a) during the notice period prior to the effective time of the disclaimer or resiliation, the landlord may show the affected leased premises to prospective tenants during normal business hours, on giving the applicable Applicant and the Monitor 24 hours' prior written notice, and (b) at the effective time of the disclaimer or resiliation, the relevant landlord shall be entitled to take possession of any such leased premises without waiver of or prejudice to any claims or rights such landlord may have against the Applicant in respect of such lease or leased premises, provided that nothing herein shall relieve such landlord of its obligation to mitigate any damages claimed in connection therewith.

STAY OF PROCEEDINGS

14. **THIS COURT ORDERS** that until and including August 2, 2024, or such later date as this Court may order (the “**Stay Period**”), no proceeding or enforcement process in any court or tribunal (each, a “**Proceeding**”) shall be commenced or continued against or in respect of the Applicants or the Monitor, or any of their respective employees, directors, advisors, officers and representatives acting in such capacities, or affecting the Business or the Property, except with the prior written consent of the Applicants and the Monitor, or with leave of this Court, and any and all Proceedings currently under way against or in respect of the Applicants, or their employees, directors, officers or representatives acting in such capacities, or affecting the Business or the Property are hereby stayed and suspended pending further Order of this Court.

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

NO EXERCISE OF RIGHTS OR REMEDIES

16. **THIS COURT ORDERS** that during the Stay Period, all rights and remedies of any individual, firm, corporation, governmental body or agency, or any other entities (all of the foregoing, collectively being “**Persons**” and each being a “**Person**”) against or in respect of the Applicants or the Monitor, or their respective employees, directors, officers, advisors and representatives acting in such capacities, or affecting the Business or the Property, are hereby

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

NO INTERFERENCE WITH RIGHTS

17. **THIS COURT ORDERS** that during the Stay Period, no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, lease, sublease, concession arrangement, licence or permit in favour of or held by the Applicants, except with the prior written consent of the Applicants and the Monitor, or leave of this Court. Without limiting the foregoing, no right, option, remedy, and/or exemption in favour of the relevant Applicants shall be or shall be deemed to be negated, suspended, waived and/or terminated as a result of the insolvency of the Applicants, the commencement of the within proceedings or any related recognition proceedings or this Order.

NO PRE-FILING VS POST-FILING SET-OFF

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

CONTINUATION OF SERVICES

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

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

NON-DEROGATION OF RIGHTS

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

KEY EMPLOYEE RETENTION PLAN

21. **THIS COURT ORDERS** that the Key Employee Retention Plan (the “**KERP**”), as described in the Second Adams Affidavit, is hereby approved and the Applicants are authorized to make payments contemplated thereunder in accordance with the terms and conditions of the KERP.

22. **THIS COURT ORDERS** that the key employees referred to in the KERP (the “**Key Employees**”) shall be entitled to the benefit of and are hereby granted a charge on the Property, which charge shall not exceed an aggregate amount of USD \$250,000 (the “**KERP Charge**”), as security for amounts payable to the Key Employees pursuant to the KERP. The KERP Charge shall have the priority set out in paragraphs 48 and 50 hereof.

PROCEEDINGS AGAINST DIRECTORS AND OFFICERS

23. **THIS COURT ORDERS** that during the Stay Period, and except as permitted by subsection 11.03(2) of the CCAA, no Proceeding may be commenced or continued against any of the former, current or future directors or officers of the Applicants with respect to any claim against the directors or officers that arose before the date hereof and that relates to any obligations of the Applicants whereby the directors or officers are alleged under any law to be liable in their capacity as directors or officers for the payment or performance of such obligations.

DIRECTORS’ AND OFFICERS’ INDEMNIFICATION AND CHARGE

24. **THIS COURT ORDERS** that the Applicants shall indemnify their directors and officers against obligations and liabilities that they may incur as directors or officers of the Applicants after the commencement of the within proceedings, except to the extent that, with respect to any officer or director, the obligation or liability was incurred as a result of the director’s or officer’s gross negligence or wilful misconduct.

25. **THIS COURT ORDERS** that the directors and officers of the Applicants shall be entitled to the benefit of and are hereby granted a charge (the “**Directors’ Charge**”) on the Property, which charge shall not exceed an aggregate amount of USD \$5,000,000, as security for the indemnity provided in paragraph 24 of this Order. The Directors’ Charge shall have the priority set out in paragraphs 48 and 50 herein.

26. **THIS COURT ORDERS** that, notwithstanding any language in any applicable insurance policy to the contrary, (a) no insurer shall be entitled to be subrogated to or claim the benefit of the Directors' Charge; and (b) the Applicants' directors and officers shall only be entitled to the benefit of the Directors' Charge to the extent that they do not have coverage under any directors' and officers' insurance policy, or to the extent that such coverage is insufficient to pay amounts indemnified in accordance with paragraph 24 of this Order.

APPOINTMENT OF MONITOR

27. **THIS COURT ORDERS** that A&M is hereby appointed pursuant to the CCAA as the Monitor, an officer of this Court, to monitor the business and financial affairs of the Applicants with the powers and obligations set out in the CCAA or set forth herein and that the Applicants and their shareholders, partners, members, officers, directors, and Assistants shall advise the Monitor of all material steps taken by the Applicants pursuant to this Order, and shall co-operate fully with the Monitor in the exercise of its powers and discharge of its obligations and provide the Monitor with the assistance that is necessary to enable the Monitor to adequately carry out the Monitor's functions.

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

- (a) monitor the Applicants' receipts and disbursements;
- (b) assist the Applicants with the Restructuring;
- (c) assist the Applicants, to the extent required by the Applicants or the DIP Lender, in their dissemination to the DIP Lender and its counsel and financial advisor of financial and other information as agreed to between the Applicants and the DIP Lender, which may be used in these proceedings, including reporting on a basis to be agreed with the DIP Lender;
- (d) report to this Court at such times and intervals as the Monitor may deem appropriate with respect to matters relating to the Property, the Business, and such other matters as may be relevant to the proceedings herein;

- (e) advise the Applicants in their preparation of the Applicants' cash flow statements and the dissemination of other financial information;
- (f) have full and complete access to the Property, including the premises, books, records, data, including data in electronic form, and other financial documents of the Applicants, to the extent that is necessary to adequately assess the Applicants' business and financial affairs or to perform its duties arising under this Order;
- (g) liaise and consult with any Assistants and any liquidator selected through the Realization Solicitation Process, to the extent required, with respect to all matters relating to the Property, the Business and such other matters as may be relevant to the proceedings herein;
- (h) be at liberty to engage independent legal counsel, advisors or such other persons, or utilize the services of employees of its affiliates, as the Monitor deems necessary or advisable respecting the exercise of its powers and performance of its obligations under this Order;
- (i) assist the Applicants, to the extent required by the Applicants, with any matters relating to any foreign proceeding commenced in relation to any of the Applicants; and
- (j) perform such other duties as are required by this Order or by this Court from time to time.

29. **THIS COURT ORDERS** that the Monitor shall not take possession of the Property and shall take no part whatsoever in the management or supervision of the management of the Business and shall not, by fulfilling its obligations hereunder, be deemed to have taken or maintained possession or control of the Business or Property, or any part thereof.

30. **THIS COURT ORDERS** that nothing herein contained shall require the Monitor to occupy or to take control, care, charge, possession or management (separately and/or collectively, "**Possession**") of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste

or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the *Ontario Environmental Protection Act*, the *Ontario Water Resources Act*, the *Ontario Occupational Health and Safety Act*, the *British Columbia Environmental Management Act*, the *British Columbia Riparian Areas Protection Act*, the *British Columbia Workers Compensation Act*, the *Alberta Environmental Protection and Enhancement Act*, the *Alberta Water Act*, the *Alberta Occupational Health and Safety Act*, the *Manitoba Environment Act*, the *Manitoba Contaminated Sites Remediation Act*, the *Manitoba Workplace Safety and Health Act*, the *Quebec Environmental Quality Act*, and the *Quebec Act Respecting Occupation Health and Safety*, and regulations thereunder (the “**Environmental Legislation**”), provided however that nothing herein shall exempt the Monitor from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Monitor shall not, as a result of this Order or anything done in pursuance of the Monitor’s duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

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

32. **THIS COURT ORDERS** that, in addition to the rights and protections afforded the Monitor under the CCAA or as an officer of this Court, the Monitor shall incur no liability or obligation as a result of its appointment or the carrying out of the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part. Nothing in this Order shall derogate from the protections afforded the Monitor by the CCAA or any applicable legislation.

33. **THIS COURT ORDERS** that the Monitor, counsel to the Monitor, counsel to the Applicants, counsel to the Interim Lender and the DIP Lender and financial advisor thereto, shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges, whether incurred prior to, on or subsequent to the Filing Date, by the Applicants as part of the

costs of these proceedings. The Applicants are hereby authorized and directed to pay the accounts of the Monitor, counsel to the Monitor and, counsel to the Applicants, counsel to the Interim Lender and the DIP Lender and financial advisor thereto, in each case, on such terms as such parties may agree and are hereby authorized to pay to the Monitor, counsel to the Monitor and counsel to the Applicants, retainers, *nunc pro tunc*, to be held by them as security for payment of their respective fees and disbursements outstanding from time to time.

34. **THIS COURT ORDERS** that the Monitor and its legal counsel shall pass their accounts from time to time, and for this purpose the accounts of the Monitor and its legal counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.

ADMINISTRATION CHARGE

35. **THIS COURT ORDERS** that the Monitor, counsel to the Monitor and counsel to the Applicants shall be entitled to the benefit of and are hereby granted a charge (the “**Administration Charge**”) on the Property, which charge shall not exceed an aggregate amount of USD \$1,500,000, as security for their professional fees and disbursements incurred at their standard rates and charges of the Monitor and such counsel, both before and after the making of this Order in respect of these proceedings. The Administration Charge shall have the priority set out in paragraphs 48 and 50 hereof.

INTERIM FINANCING

36. **THIS COURT ORDERS** that on or after the Filing Date and until May 8, 2024, Ted Baker Canada and Ted Baker Limited are hereby authorized and empowered to continue to borrow from Canadian Imperial Bank of Commerce (in such capacity, the “**Interim Lender**”) under the existing credit facility (the “**Existing Credit Facility**”) pursuant to the Credit Agreement dated as of March 14, 2023 (as amended by a consent and first amendment agreement dated as of August 3, 2023, and as further amended by a second amendment agreement dated as of April 23, 2024, the “**Existing Credit Agreement**”) in order to finance the Applicants' working capital requirements and other general corporate purposes, capital expenditures and costs of these proceedings (each, an “**Interim Borrowing**” and collectively, the “**Interim Borrowings**”), provided that (i) such Interim Borrowings are to fund obligations which the Applicants, with the consent of the Monitor and the Interim Lender, deem to be necessary for the preservation of the Property or the Business,

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

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

38. **THIS COURT ORDERS** that the Interim Borrowings shall mature on May 8, 2024 and the Interim Borrowing Obligations shall be payable in full by the Applicants on such date.

39. **THIS COURT ORDERS** that (i) the Interim Lender shall be entitled to the benefit of and is hereby granted a charge (the “**Interim Lender’s Charge**”) on the Property of each of the Applicants, which Interim Lender’s Charge shall, for greater certainty, not secure any obligation that exists before this Order is made, (ii) the Interim Lender’s Charge shall have the priority set out in paragraphs 48 and 50 hereof, (iii) the Interim Lender’s Charge shall be terminated, released and discharged upon indefeasible payment in full of the Interim Borrowing Obligations from the

proceeds of the First Advance (as defined in the DIP Term Sheet), without any other act or formality; and (iv) until indefeasible payment in full of the Interim Borrowings Obligations, all consents required of the DIP Lender in this Order and all rights afforded to the DIP Lender under paragraph 28(c), 46 and 47 of this Order shall also apply to the Interim Lender *mutatis mutandis*.

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

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

DIP FINANCING

42. **THIS COURT ORDERS** that Ted Baker Canada and Ted Baker Limited are hereby authorized and empowered to obtain and borrow under a credit facility from the Canadian Imperial Bank of Commerce (the "**DIP Lender**") in order to finance the Applicants' working capital requirements and other general corporate purposes and costs of these proceedings, provided that borrowings under such credit facility shall not, individually or in the aggregate, exceed USD \$28,000,000 unless permitted by further Order of this Court.

43. **THIS COURT ORDERS THAT** such credit facility shall be on the terms and subject to the conditions set forth in the term sheet between the Applicants and the DIP Lender dated as of May 1, 2024 (the "**DIP Term Sheet**"), filed.

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

45. **THIS COURT ORDERS** that the DIP Lender shall be entitled to the benefit of and is hereby granted a charge (the "**DIP Lender's Charge**") on the Property, which DIP Lender's Charge shall not secure an obligation that exists before this Order is made. The DIP Lender's Charge shall have the priority set out in paragraphs 48 and 50 hereof.

46. **THIS COURT ORDERS** that, notwithstanding any other provision of this Order:

- (a) the DIP Lender may take such steps from time to time as it may deem necessary or appropriate to file, register, record or perfect the DIP Lender's Charge, the DIP Term Sheet or any of the Definitive Documents;
- (b) upon the occurrence of an event of default under the DIP Term Sheet or the Definitive Documents, the DIP Lender may cease making advances to the DIP Borrowers pursuant to the DIP Term Sheet and, upon approval of the Court, may exercise any and all of its rights and remedies against the Applicants or the Property under or pursuant to the DIP Term Sheet, Definitive Documents and the DIP Lender's Charge, including without limitation, to set off and/or consolidate any amounts owing by the DIP Lender to the Applicants against the obligations of the Applicants to the DIP Lender under the DIP Term Sheet, the Definitive Documents or the DIP Lender's Charge, to make demand, accelerate payment and give other notices, or to apply to this Court for the appointment of a receiver, receiver and manager or interim receiver, or for a bankruptcy order against the Applicants or the Property and for the appointment of a trustee in bankruptcy of the Applicants; and

- (c) the foregoing rights and remedies of the DIP Lender shall be enforceable against any trustee in bankruptcy, interim receiver, receiver or receiver and manager of the Applicants or the Property.

47. **THIS COURT ORDERS** that the DIP Lender shall be treated as unaffected in any plan of arrangement or compromise filed by the Applicants under the CCAA, or any proposal filed by the Applicants under the *Bankruptcy and Insolvency Act* of Canada with respect to any advances made under the DIP Term Sheet or the Definitive Documents.

VALIDITY AND PRIORITY OF CHARGES CREATED BY THIS ORDER

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

- (a) First – Administration Charge (to the maximum amount of USD \$1,500,000);
- (b) Second – Interim Lender's Charge, until such Charge is terminated pursuant to paragraph 39;
- (c) Third - DIP Lender's Charge;
- (d) Fourth – Security granted with respect to the Existing Credit Facility (excluding the Interim Borrowings);
- (e) Fifth - Directors' Charge (to the maximum amount of USD \$5,000,000); and
- (f) Sixth – KERP Charge (to the maximum amount of USD \$250,000).

49. **THIS COURT ORDERS** that the filing, registration or perfection of the Charges shall not be required, and that the Charges shall be valid and enforceable for all purposes, including as against any right, title or interest filed, registered, recorded or perfected subsequent to the Charges coming into existence, notwithstanding any such failure to file, register, record or perfect.

50. **THIS COURT ORDERS** that each of the Charges shall constitute a charge on the Property and such Charges shall rank in priority to all other security interests, trusts (including

deemed or constructive trusts), liens, charges and encumbrances, claims of secured creditors, statutory or otherwise (collectively, “**Encumbrances**”) in favour of any Person.

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

52. **THIS COURT ORDERS** that the Charges shall not be rendered invalid or unenforceable and the rights and remedies of the Chargees thereunder shall not otherwise be limited or impaired in any way by (a) the pendency of these proceedings and the declarations of insolvency made herein; (b) any application(s) for bankruptcy order(s) or receivership order(s) issued pursuant to the BIA or otherwise, or any bankruptcy order or receivership order made pursuant to such applications; (c) the filing of any assignments for the general benefit of creditors made pursuant to the BIA; (d) the provisions of any federal or provincial statutes; or (e) any negative covenants, prohibitions or other similar provisions with respect to borrowings, incurring debt or the creation of Encumbrances, contained in any existing loan documents, lease, sublease, offer to lease or other agreement (collectively, an “**Agreement**”) which binds the Applicants, and notwithstanding any provision to the contrary in any Agreement:

- (a) neither the creation of the Charges nor the execution, delivery, perfection, registration or performance of the Interim Borrowings or any amendment or document pursuant to paragraph 37, the DIP Term Sheet or the Definitive Documents shall create or be deemed to constitute a breach by the Applicants of any Agreement to which they are a party;
- (b) None of the Chargees shall have any liability to any Person whatsoever as a result of any breach of any Agreement caused by or resulting from the Applicant entering into the DIP Term Sheet, the Interim Borrowings, the creation of the Charges, the Interim Borrowings or the execution, delivery or performance of any amendment or document pursuant to paragraph 37, the DIP Term Sheet or the Definitive Documents; and

- (c) the payments made by the Applicants pursuant to this Order, including with respect to the Existing Credit Facility or in respect of the Interim Borrowings and/or the DIP Term Sheet or the Definitive Documents, and the granting of the Charges do not and will not constitute preferences, fraudulent conveyances, transfers at undervalue, oppressive conduct, or other challengeable or voidable transactions under any applicable law.

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

SEALING

54. **THIS COURT ORDERS** that the KERP and related payment information attached as confidential supplement to the First Report are hereby sealed and shall not form part of the Court record, subject to further order of this Court.

SERVICE AND NOTICE

55. **THIS COURT ORDERS** that the Monitor shall (a) without delay, publish in the Globe & Mail a notice containing the information prescribed under the CCAA; and (b) within five (5) days after the date of this Order, (i) make this Order publicly available in the manner prescribed under the CCAA, (ii) send, or cause to be sent, in the prescribed manner (including by electronic message to the e-mail addresses as last shown in the Applicants' books and records), a notice to all known creditors having a claim against the Applicants of more than \$1,000, and (iii) prepare a list showing the names and addresses of such creditors and the estimated amounts of those claims, and make it publicly available in the prescribed manner, all in accordance with Section 23(1)(a) of the CCAA and the regulations made thereunder, provided that the Monitor shall not make the claims, names and addresses of individuals who are creditors publicly available, unless otherwise ordered by the Court.

56. **THIS COURT ORDERS** that any employee of any of the Applicants who is sent a notice of termination of employment or any other communication by the Applicants after the date hereof shall be deemed to have received such communication by no later than 8:00 a.m. Eastern Standard/Daylight Time on the fourth (4th) day following the date any such notice is sent, if such notice is sent by ordinary mail, expedited parcel or registered mail to the individual's address as

reflected in the Applicants' books and records; provided, however, that any communication that is sent to an employee of the Applicants by electronic message to the individual's corporate email address and/or the individual's personal email address as last shown in the Applicants' books and records shall be deemed to have been received twenty-four (24) hours after the time such electronic message was sent, notwithstanding that any such notices of termination of employment or other employee communication was sent pursuant to any other means.

57. **THIS COURT ORDERS** that the E-Service Protocol of the Commercial List (the "**Protocol**") is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Protocol (which can be found on the Commercial List website at <http://www.ontariocourts.ca//scj/practice/practice-directions/toronto/eservice-commercial/>) shall be valid and effective service. Subject to Rule 17.05 this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the Rules of Civil Procedure. Subject to Rule 3.01(d) of the Rules of Civil Procedure and paragraph 21 of the Protocol, service of documents in accordance with the Protocol will be effective on transmission. This Court further orders that a case website shall be established in accordance with the Protocol with the following URL: www.alvarezandmarsal.com/TBRetail (the "**Monitor's Website**").

58. **THIS COURT ORDERS** that if the service or distribution of documents in accordance with the Protocol or the CCAA and the regulations thereunder is not practicable, the Applicants and the Monitor are at liberty to serve or distribute this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding copies thereof by prepaid ordinary mail, courier, personal delivery, facsimile transmission or electronic message to the Applicants' creditors or other interested parties at their respective addresses (including e-mail addresses) as last shown in the books and records of the Applicants and that any such service or distribution shall be deemed to be received on the earlier of (a) the date of forwarding thereof, if sent by electronic message on or prior to 5:00 p.m. Eastern Standard/Daylight Time (or on the next business day following the date of forwarding thereof if sent on a non-business day); (b) the next business day following the date of forwarding thereof, if sent by courier, personal delivery, facsimile transmission or electronic message sent after 5:00 p.m. Eastern Standard/Daylight Time; or (c) on the third (3rd) business day following the date of forwarding thereof, if sent by ordinary mail.

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

GENERAL

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

61. **THIS COURT ORDERS** that nothing in this Order shall prevent the Monitor from acting as an interim receiver, a receiver, a receiver and manager, or a trustee in bankruptcy of any or all of the Applicants, the Business or the Property.

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

63. **THIS COURT ORDERS** that the Applicants and the Monitor be at liberty and are hereby authorized and empowered to seek any relief deemed appropriate by them from the United States Bankruptcy Court and apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and that Ted Baker Canada is hereby authorized and empowered to act as the foreign representative

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

64. **THIS COURT ORDERS** that any interested party (including the Applicants and the Monitor) may apply to this Court to vary or amend this Order on not less than seven (7) calendar days’ notice to any other party or parties likely to be affected by the order sought or upon such other notice, if any, as this Court may order.

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

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

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

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

Applicants

Ontario
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

Proceeding commenced at Toronto

AMENDED AND RESTATED INITIAL ORDER
(amending the Initial Order dated April 24, 2024)**OSLER, HOSKIN & HARCOURT LLP**1 First Canadian Place, P.O. Box 50
Toronto, ON M5X 1B8
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Lawyers for the Applicants

EXHIBIT B

DIP Term Sheet

DIP TERM SHEET**Dated as of May 1, 2024**

WHEREAS on April 24, 2024 (the “**Filing Date**”), the Borrowers and Guarantors (each as defined below) commenced proceedings before the Ontario Superior Court of Justice (Commercial List) (the “**CCAA Court**”) and obtained an Initial CCAA Order (the “**Initial CCAA Order**”) pursuant to the *Companies’ Creditors Arrangement Act* (Canada) (the “**CCAA**”) and such proceedings, being the “**CCAA Proceedings**”) and Alvarez & Marsal Canada Inc. was appointed as monitor in the CCAA Proceedings (the “**Monitor**”).

AND WHEREAS, the Borrowers and Guarantors are seeking to have the CCAA Proceedings recognized by the United States Bankruptcy Court for the Southern District of New York (the “**US Court**”) under Chapter 15 of Title 11 of the United States Bankruptcy Code, 11 U.S.C. §101 *et al.* (the “**Recognition Proceedings**”) and together with the CCAA Proceedings, the “**Insolvency Proceedings**”).

AND WHEREAS, Ted Baker Canada Inc. (“**TB Canada**”) and Ted Baker Limited (“**TB US**”), as borrowers, OSL Fashion Services Canada Inc. (“**Fashion Canada**”) and OSL Fashion Services, Inc. (“**Fashion US**”), as guarantors, and Canadian Imperial Bank of Commerce, as lender (the “**Secured Lender**”), are parties to a Credit Agreement dated as of March 14, 2023 (as amended by a consent and first amendment agreement dated as of August 3, 2023, and as further amended by a second amendment agreement dated as of April 23, 2024, the “**Existing Credit Agreement**”).

AND WHEREAS, pursuant to the Initial CCAA Order, the CCAA Court, among other things, (i) authorized and directed the Borrowers and Guarantors to continue their existing cash management arrangements, including the Blocked Accounts Arrangement (as defined by way of reference in the Initial CCAA Order), (ii) authorized and empowered TB Canada and TB US to continue to borrow from Canadian Imperial Bank of Commerce (the “**Interim Lender**”) under the existing credit facility pursuant to the Existing Credit Agreement in order to finance the DIP Parties’ working capital requirements and other general corporate purposes and costs of the Insolvency Proceedings (each, an “**Interim Borrowing**” and collectively, the “**Interim Borrowings**”), provided that (a) such Interim Borrowings are to fund obligations which the DIP Parties, with the consent of the Monitor (as defined below) and the Interim Lender, deem to be necessary for the preservation of the Property or the Business (each as defined in the Initial CCAA Order), (b) such Interim Borrowings do not, individually or in the aggregate, exceed U.S.\$7,000,000, (c) such Interim Borrowings accrue interest at the default rates set out in the Existing Credit Agreement, (d) Fashion Canada and Fashion US are deemed to guarantee and secure the Interim Borrowings, together with all interest accrued thereon and costs and expenses incurred in connection therewith, in the same manner as the other Obligations (as defined in the Existing Credit Agreement) that they have guaranteed and secured under the Existing Credit Agreement and the loan and security documents provided by them in connection therewith, and (iii) ordered that the Interim Borrowings mature on May 8, 2024 (the “**Interim Borrowing Maturity Date**”), and (iv) granted a first-ranking super priority charge on the Collateral (as defined below) as security for all such Interim Borrowings (the “**Interim Lender’s Charge**”).

AND WHEREAS, pursuant to a Revised Order Granting Provisional Relief Pursuant to Section 1519 of the Bankruptcy Code entered by the US Court, Case No. 24-10699 (MEW) (jointly administered) (Docket No. 21), on April 26, 2024 (the “**Provisional Order**”), the US Court, among other things, (i) authorized the Borrowers and Guarantors to obtain funding under the Interim Borrowings facility subject to and secured by the Interim Lender’s Charge, to apply the Interim Lender’s Charge to the assets of the Borrowers and Guarantors located in the United States, and to confirm that the Interim Lender’s existing liens and security interests shall apply with respect to the funding obtained under the Interim Borrowings facility, in each case in accordance with the terms set forth in paragraphs 34 to 38 of the Initial CCAA Order, and (ii) authorized and directed the Borrowers and Guarantors to pay and perform all of their indebtedness, interest, fees, liabilities, and obligations to the Interim Lender under and pursuant to the Interim Borrowings facility and Initial CCAA Order (and in accordance with the cash flow forecast filed in connection with the Initial CCAA Order), as and when the same become due and are to be performed.

AND WHEREAS, the Borrowers require additional funding to, among other things, fund the repayment of the Interim Borrowings by the Interim Borrowing Maturity Date, working capital requirements and other general corporate purposes, and costs of the Insolvency Proceedings during the pendency of the Insolvency Proceedings, and the DIP Parties have concluded that the DIP Lender (as defined below) is the most cost effective and timely source of such funding that is available to the Borrowers and appropriate in the circumstances.

AND WHEREAS, the DIP Lender has agreed to provide additional funding to the Borrowers during the Insolvency Proceedings on the terms set out herein.

NOW THEREFORE, the parties, in consideration of the foregoing and the mutual agreements contained herein (the receipt and sufficiency of which are hereby acknowledged), agree as follows:

1. **BORROWERS:** TB Canada and TB US (each, a “**Borrower**”, and collectively, the “**Borrowers**”).
2. **GUARANTORS:** Fashion Canada and Fashion US (each, a “**Guarantor**”, and together, the “**Guarantors**” and the Guarantors, together with the Borrowers, the “**DIP Parties**”).
3. **DIP LENDER:** Canadian Imperial Bank of Commerce (the “**DIP Lender**”).
4. **DEFINED TERMS:** Unless otherwise defined herein, capitalized words and phrases used in this Term Sheet have the meanings given thereto in **Schedule “A”**.
5. **DIP FACILITY:** A senior secured, super priority, debtor-in-possession, revolving credit facility (the “**DIP Facility**”) up to a maximum principal amount of U.S.\$28,000,000 (the “**Facility Amount**”). Subject to the terms and conditions set forth herein, the Borrowers may, provided that no Default or Event of Default (as defined below),

other than Existing Events of Default, has occurred, at any time and from time to time prior to the Maturity Date (as defined below) borrow, prepay and reborrow loans from the DIP Lender under the DIP Facility.

The DIP Facility shall be made available to the Borrowers by way of advances in Canadian Dollars (Cdn.\$) or U.S. Dollars (U.S.\$) (each, an “**Advance**”) which in aggregate (after taking into consideration the Currency Exchange Rate for Advances denominated in Canadian Dollars) shall not exceed the Facility Amount. Each Advance, other than in connection with the repayment of the Interim Borrowings Obligations (as defined below), shall be made upon the Borrowers’ written request to the DIP Lender (an “**Advance Request**”), executed by each Borrower. Notwithstanding the foregoing, the First Advance, at a minimum, shall be in U.S. Dollars in an amount sufficient to repay in full the Interim Borrowings.

Each Advance Request shall (i) be in the form of **Schedule “B”**, (ii) specify the currency of the Advance, (iii) specify the aggregate amount of the requested Advance (which shall be a minimum of Cdn\$25,000 or U.S.\$25,000, as applicable), and the date such Advance is requested to be made by the DIP Lender (which shall be a Business Day), (iv) be made no more frequently than three (3) times a week, and (v) certify that (A) all representations and warranties of the DIP Parties contained in this Term Sheet remain true and correct in all respects, both before and after giving effect to the use of such proceeds, and (B) no Default or Event of Default then exists or would result following such Advance, other than the Existing Events of Default.

Each Advance Request shall be deemed to be acceptable and shall be honoured by the DIP Lender unless the DIP Lender has objected thereto in writing setting out why the Advance Request is not in compliance with this Term Sheet and/or the DIP Budget, by no later than 1:00 p.m. Eastern Time on the second Business Day following the delivery of such Advance Request.

A copy of each Advance Request shall be concurrently provided by the Borrowers to the DIP Lender and the Monitor.

From the first Advance under the DIP Facility (the “**First Advance**”), the Borrowers shall indefeasibly pay, in full, (i) all Interim Borrowings, together with interest accrued thereon, from the proceeds of the First Advance, which shall be repaid in U.S. Dollars, (ii) all reasonable and documented costs and expenses incurred by the Interim Lender in connection with the Interim

Borrowings (including the reasonable and documented fees and expenses of its counsel and financial advisor thereto) (the amounts set out clause (i) and (ii), together, being the “**Interim Borrowings Obligations**”), (iii) all costs and expenses of the DIP Lender incurred by the DIP Lender in connection with the negotiation and establishment of the DIP Facility, and (iv) the Commitment Fee (as defined below).

6. **EXISTING CREDIT AGREEMENT:**

Except as expressly provided for herein, nothing in this Term Sheet shall amend or affect the rights, remedies and entitlements of the DIP Parties or the DIP Lender under or in respect of the Existing Credit Agreement, the Credit Documents, the Obligations, the Interim Borrowings or, subject to the Court Orders, restrict the enforcement by the DIP Lender or Secured Lender of any such rights, remedies or entitlements.

7. **PURPOSE AND PERMITTED PAYMENTS:**

To provide for (i) the repayment of the Interim Borrowing Obligations, (ii) payment of DIP Lender Expenses, (iii) payment of the Commitment Fee, and (iv) liquidity needs of the DIP Parties pursuant to the DIP Budget (as defined below), in each case during the pendency of the Insolvency Proceedings.

For greater certainty, except to pay the Interim Borrowings Obligations (including amounts incurred in respect of fees of the Monitor and its counsel and counsel to the DIP Parties) or as expressly set forth herein, the DIP Parties may not use the proceeds of the DIP Facility to pay any obligation of the DIP Parties arising or relating to the period prior to the Filing Date (each, a “**Pre-Filing Obligation**”) unless (i) the Monitor has approved such payment; (ii) the DIP Lender has provided its prior written consent (which may be provided by email), in its sole and absolute discretion, and (iii) the payment of such Pre-Filing Obligation is authorized pursuant to the ARIO or any subsequent Court Order.

8. **CONDITIONS PRECEDENT:**

The DIP Lender’s agreement to make the Facility Amount available to the Borrowers and to make any Advance to the Borrowers is subject to the satisfaction, as determined by the DIP Lender, in its sole and absolute discretion, of each of the following conditions precedent, each of which is for the benefit of the DIP Lender and may be waived by the DIP Lender, in its sole and absolute discretion:

- (a) Each DIP Party shall have executed and delivered this Term Sheet and such other Credit Documents as the DIP Lender may request, in its sole and absolute discretion.

- (b) All representations and warranties of the DIP Parties under this Term Sheet shall be true and correct in all respects.
- (c) The CCAA Court shall have issued and entered the ARIO and the Realization Process Approval Order by no later than 6:00 pm Eastern Time on May 3, 2024, and the ARIO and the Realization Process Approval Order shall not have been amended, restated, modified, varied, vacated, stayed or set aside, and there shall have been no motion served or filed seeking leave to appeal or to amend, vary or set aside the ARIO or the Realization Process Approval Order.
- (d) The DIP Parties' cash management arrangement, including the Blocked Accounts Arrangement, shall have been approved by the ARIO.
- (e) The US Court shall have issued an order by no later than 6:00 pm Eastern Time on May 8, 2024, in form and substance satisfactory to the DIP Lender, in its sole and absolute discretion (as acceptable to the DIP Lender, in its sole and absolute discretion, the "**Final Recognition Order**"), that among other things, (i) recognizes (a) the CCAA Proceedings in respect of each of the DIP Parties as a "foreign main proceeding", (b) the ARIO, in its entirety, and (c) the Realization Process Approval Order, in each case, on a final basis, (ii) approves, and recognizes, the DIP Facility on a final basis, (iii) grants such other relief, including under Section 364 of the United States Bankruptcy Code, 11 U.S.C. §101 *et al.*, as required by the DIP Lender, in its sole and absolute discretion and (iv) the Final Recognition Order shall not have been amended, restated, modified, varied, vacated, stayed, or set aside, and there shall have been no motion served or filed seeking leave to appeal or amend, vary or set aside the Final Recognition Order.
- (f) There shall be no Liens ranking *pari passu* with or in priority to the DIP Lender's Charge over the Collateral other than the Permitted Priority Liens.
- (g) The DIP Parties shall have made all necessary or advisable registrations and taken all other steps in applicable jurisdictions to evidence the DIP Lender's Charge, in each case, as requested by the DIP Lender, in its sole and absolute discretion.

- (h) No Default or Event of Default shall have occurred or shall occur as a result of the requested Advance or otherwise other than the Existing Events of Default.
- (i) The Borrowers shall have delivered (a) an Advance Request in respect of such Advance, and (b) a Variance Report in respect of the Variance Period, in each case, in accordance with this Term Sheet.
- (j) Beginning on the week commencing on May 13, 2024: (i) cumulative actual receipts of the DIP Parties for the period commencing on May 6, 2024 and ending the week prior to such Advance Request shall be equal to or greater than the “Minimum Cumulative Receipts” line item in the DIP Budget for such week, and (ii) cumulative actual disbursements of the DIP Parties for the period commencing on May 6, 2024 and ending the week prior to such Advance Request shall be equal to or less than the “Maximum Cumulative Disbursements” line item in the DIP Budget for such week.

9. **COSTS AND EXPENSES:**

The Borrowers shall reimburse the DIP Lender for all reasonable and documented costs and expenses incurred by the DIP Lender (including the reasonable and documented fees and expenses of its counsel and financial advisor thereto) (collectively, the “**DIP Lender Expenses**”) in connection with the negotiation, development, and implementation of DIP Facility (including the administration of the DIP Facility). The DIP Lender Expenses shall form part of the DIP Financing Obligations secured by the DIP Lender’s Charge.

All accrued and unpaid DIP Lender Expenses as at the date of any Advance shall be paid in full through deduction from the proceeds of such Advance and the Borrowers shall be deemed to have irrevocably authorized and directed the DIP Lender to pay such DIP Lender Expenses from the proceeds of such Advance.

10. **DIP FACILITY SECURITY:**

All DIP Financing Obligations shall be secured by the DIP Lender’s Charge. The DIP Lender may, in its reasonable discretion (i) require the execution, filing or recording of any security agreements, hypothecs, pledge agreements, control agreements, financing statements, acknowledgments, confirmations or other documents or instruments, or (ii) take possession or control of any Collateral of the DIP Parties, to the extent it is necessary to do so, to preserve or evidence its senior secured, super-priority Lien on such Collateral.

**11. PERMITTED LIENS
AND PRIORITY:**

All of the Collateral will be free and clear of all Liens except for Permitted Liens.

The DIP Lender's Charge shall rank in priority to any and all Liens on the Collateral other than Permitted Priority Liens. As among the DIP Lender's Charge, the Administration Charge, the Directors' Charge, the KERP Charge and the security interests granted by the DIP Parties to the Secured Lender with respect to the Obligations under the Existing Credit Agreement, the relative priority shall be as follows:

- (a) the Administration Charge up to U.S.\$1,500,000;
- (b) the DIP Lender's Charge;
- (c) the security granted by the DIP Parties with respect to the Obligations under the Existing Credit Agreement (other than the Interim Lender's Charge);
- (d) the Directors' Charge up to U.S.\$5,000,000; and
- (e) the KERP Charge of up to U.S. \$250,000.

12. REPAYMENT:

The DIP Facility shall mature and the DIP Financing Obligations shall be due and repayable in full on the earlier of: (i) the occurrence of any Event of Default (other than the Existing Events of Default); (ii) the implementation of any CCAA plan of compromise and arrangement which is proposed and filed with the Court in the CCAA Proceedings (a "**Plan**"); (iii) the sale of all or substantially all of the Collateral; and (iv) the Outside Date (the earliest of such dates being the "**Maturity Date**"). The Maturity Date may be extended from time to time at the request of the Borrowers and with the prior written consent of the DIP Lender for such period and on such terms and conditions as the DIP Lender may agree, in its sole and absolute discretion.

Without the prior written consent of the DIP Lender, in its sole and absolute discretion, no Court Order sanctioning a Plan shall discharge or otherwise affect in any way the DIP Financing Obligations other than after the permanent and indefeasible full repayment of the DIP Financing Obligations on or before the date such Plan is implemented.

All repayments of Advances denominated in Canadian Dollars shall be made in Canadian Dollars and all repayments of Advances denominated in U.S. Dollars shall be made in U.S. Dollars.

13. **DIP BUDGET AND
VARIANCE
REPORTING:**

By no later than May 8, 2024, the DIP Parties, in consultation with the Monitor, shall deliver a DIP Budget, in the form of **Schedule “C”** and which shall be in form and substance satisfactory to the DIP Lender, in its sole and absolute discretion (the **“Initial DIP Budget”**). Such Initial DIP Budget shall be the DIP Budget referenced in this Term Sheet unless and until such time as a revised DIP Budget has been approved by the DIP Lender in accordance with this Section 13.

(i) At the written request of the DIP Lender (including by email), or (ii) upon a material change, or a material change reasonably anticipated by the DIP Parties, to any item set forth in the DIP Budget, the DIP Parties shall update and propose a revised 13-week DIP Budget to the DIP Lender (the **“Updated DIP Budget”**). The DIP Lender may make such request up to once every week, and if such request is made, the DIP Parties shall submit the Updated DIP Budget no later than three (3) Business Days following receipt of the request. Such Updated DIP Budget shall have been reviewed and approved by the Monitor, prior to submission to the DIP Lender. If the DIP Lender, in its sole and absolute discretion, determines that the Updated DIP Budget is not acceptable, it shall, within two (2) Business Days of receipt thereof, provide written notice (which may be provided by email) to the DIP Parties and the Monitor stating that the Updated DIP Budget is not acceptable and setting out the reasons why such Updated DIP Budget is not acceptable, and until the DIP Parties have delivered a revised Updated DIP Budget acceptable to the DIP Lender, in its sole and absolute discretion, the prior DIP Budget shall remain in effect and be the DIP Budget for the purpose of this Term Sheet.

Upon an Updated DIP Budget being accepted by the DIP Lender, such Updated DIP Budget shall be the DIP Budget for the purpose of this Term Sheet.

No later than the Wednesday of every week (provided that such day is a Business Day and, if not, on the next Business Day), the DIP Parties shall deliver to the Monitor and the DIP Lender and their legal and financial advisors (i) an updated borrowing base report, in form and substance satisfactory to the DIP Lender, in its sole and absolute discretion, which borrowing base report includes, without limitation, a breakdown of accounts receivable, collections, inventory sales and remaining inventory (the **“Borrowing Base Report”**), and (ii) a variance calculation (the **“Variance Report”**) setting forth actual receipts and disbursements of the DIP Parties for (a) the preceding week, and

(b) the period of May 6, 2024 to the end of the preceding week (each, a “**Variance Period**”), in each case, as against the DIP Budget, and setting forth all the variances, on a line-item and aggregate basis in comparison to the amounts set forth in respect thereof for such Variance Period in the DIP Budget; each such Variance Report to be promptly discussed with the DIP Lender and its advisors, if so requested. Each Variance Report shall include reasonably detailed explanations for any material variances during the relevant Variance Period.

14. **EVIDENCE OF INDEBTEDNESS:**

The DIP Lender’s accounts and records constitute, in the absence of manifest error, *prima facie* evidence of the DIP Financing Obligations.

15. **MANDATORY PAYMENTS:**

Provided the Monitor is satisfied that the DIP Parties have sufficient cash reserves to satisfy (i) amounts secured by any Permitted Priority Liens senior to the DIP Lender’s Charge, and (ii) obligations they have incurred from and after the Filing Date in accordance with this Term Sheet and the DIP Budget, for which payment has not been made, the DIP Parties shall use all excess cash on hand at the end of each Business Day (which for greater certainty does not include any of the proceeds of an Advance) to indefeasibly repay the following in the following order: (A) first, the Obligations until the remaining principal balance thereof is U.S.\$5,000,000, (B) second, the DIP Financing Obligations, until repaid in full, and (C) lastly, the remaining balance of the Obligations until paid in full.

If at any time the total amount of Advances exceeds the Facility Amount (any such excess being referred to in this Section 15 as a “**Currency Excess Amount**”), then the Borrowers shall immediately pay the DIP Lender an amount equal to the Currency Excess Amount, and, for greater certainty, the obligation to make such payment shall form part of the DIP Financing Obligations secured by the DIP Lender’s Charge.

If at any time, any account of the DIP Parties is in an overdraft position (any such amount in overdraft being the “**Overdraft Amount**”), then Borrowers shall immediately pay the DIP Lender an amount equal to the Overdraft Amount and, for greater certainty, the obligation to make such payment shall form part of the DIP Financing Obligations secured by the DIP Lender’s Charge.

16. **COMMITMENT FEE:** U.S.\$300,000 payable to the DIP Lender and deemed to have been fully earned by the DIP Lender on the date that the CCAA Court issues the ARIO (the “**Commitment Fee**”). The Borrowers hereby irrevocably direct the DIP Lender to deduct the Commitment Fee from Advances as follows: (i) U.S.\$150,000 before May 31, 2024, and (ii) U.S.\$150,000 before July 1, 2024.

17. **INTEREST RATE:** Interest shall be payable on the aggregate outstanding amount of the Facility Amount that has been advanced to the Borrowers from the date of the funding thereof at a rate equal to (i) 9.95% *per annum* for Advances denominated in Canadian Dollars; and (ii) 11.75 % *per annum* for Advances denominated in U.S. Dollars, in each case, compounded monthly and payable monthly in arrears in cash on the last Business Day of each month, with the first such payment being made on May 31, 2024. All interest payments on outstanding Advances denominated in Canadian Dollars shall be made in Canadian Dollars and all interest payments on outstanding Advances denominated in U.S. Dollars shall be made in U.S. Dollars. Upon the occurrence and during the continuation of an Event of Default (other than the Existing Events of Default), all overdue amounts shall bear interest at the applicable interest rate plus 2% *per annum* payable on demand in arrears in cash. All interest shall be computed on the basis of a 360-day year of twelve 30-day months, provided that, whenever any interest is calculated on the basis of a period of time other than a calendar year, the annual rate of interest to which each rate of interest determined pursuant to such calculation is equivalent for the purposes of the *Interest Act* (Canada) is such rate as so determined multiplied by the actual number of days in the calendar year in which the same is to be ascertained and divided by the number of days used in the basis for such determination.

The parties shall comply with the following provisions to ensure that the receipt by the DIP Lender of any payments under this Term Sheet does not result in a breach of section 347 of the *Criminal Code* (Canada):

If any provision of this Term Sheet would obligate the Borrowers to make any payment to the DIP Lender of an amount that constitutes “interest”, as such term is defined in the *Criminal Code* (Canada) and referred to in this section as “**Criminal Code Interest**”, during any one-year period after the date of the funding of the Facility Amount in an amount or calculated at a rate which would result in the receipt by the DIP Lender of Criminal Code Interest at a criminal rate (as defined in the *Criminal Code* (Canada) and referred to in this section as a

“**Criminal Rate**”), then, notwithstanding such provision, that amount or rate during such one-year period shall be deemed to have been adjusted with retroactive effect to the maximum amount or rate of interest, as the case may be, as would not result in the receipt by the DIP Lender during such one-year period of Criminal Code Interest at a Criminal Rate, and the adjustment shall be effected, to the extent necessary, as follows:

- (a) *first*, by reducing the amount or rate of interest required to be paid to the DIP Lender during such one-year period; and
- (b) *thereafter*, by reducing any other amounts (other than costs and expenses) (if any) required to be paid to the DIP Lender during such one-year period which would constitute Criminal Code Interest.

Any amount or rate of Criminal Code Interest referred to in this section shall be calculated and determined in accordance with generally accepted actuarial practices and principles as an effective annual rate of interest over the term that any portion of the DIP Facility remains outstanding on the assumption that any charges, fees or expenses that constitute Criminal Code Interest shall be *pro-rated* over the period commencing on the date of the advance of the Facility Amount and ending on the relevant Maturity Date (as may be extended by the DIP Lender from time to time under this Term Sheet) and, in the event of a dispute, a certificate of a Fellow of the Canadian Institute of Actuaries appointed by the DIP Lender shall be conclusive for the purposes of such calculation and determination.

18. **JUDGEMENT
CURRENCY:**

If for the purposes of obtaining judgment in any court it is necessary to convert a sum due hereunder in any currency (the “**Original Currency**”) into another currency (the “**Other Currency**”), the parties hereby agree, to the fullest extent permitted by Applicable Law, that the rate of exchange used shall be the rate at which the DIP Lender is able to purchase the Original Currency with the Other Currency after any premium and costs of exchange on the Business Day preceding that on which such payment is made or final judgment is given.

19. **REPRESENTATIONS
AND WARRANTIES:**

Each DIP Party represents and warrants to the DIP Lender upon which the DIP Lender is relying in entering into this Term Sheet and the other Credit Documents, that:

- (a) Upon the granting of the ARIO and the Final Recognition Order, the transactions contemplated by this Term Sheet and the other Credit Documents:

- (i) are within the powers of the DIP Parties;
 - (ii) have been duly executed and delivered by or on behalf of the DIP Parties;
 - (iii) constitute legal, valid and binding obligations of the DIP Parties, enforceable against the DIP Parties in accordance with their terms;
 - (iv) do not require any authorization from, the consent or approval of, registration or filing with, or any other action by, any governmental authority or any third party; and
 - (v) will not violate the charter documents, articles by-laws or other constating documents of any DIP Party or any Applicable Law relating to any DIP Party;
- (b) The business operations of each DIP Party have been and will continue to be conducted in material compliance with all laws of each jurisdiction in which the business has been or is carried out;
- (c) The DIP Parties own their respective assets and undertaking free and clear of all Liens other than the Permitted Liens;
- (d) Each DIP Party has been duly formed and is validly existing under the laws of its jurisdiction of incorporation;
- (e) All Material Contracts are in full force and effect and are valid, binding and enforceable in accordance with their terms and the DIP Parties have no knowledge of any material default that has occurred and is continuing thereunder, other than (i) those defaults arising as a result of the commencement of the CCAA Proceedings, or (ii) otherwise disclosed to the DIP Lender in writing prior to the date hereof, in each case of foregoing clause (i) and (ii), which are stayed by Court Orders, and no proceedings have been commenced or threatened to revoke or amend any Material Contracts; and
- (f) No Default or Event of Default has occurred and is continuing, other than the Existing Events of Default.

20. **AFFIRMATIVE
COVENANTS:**

Each DIP Party agrees to do, or cause to be done, the following:

- (a) (i) Allow representatives or advisors of the DIP Lender reasonable access to the books, records, financial information and electronic data rooms of or maintained by the DIP Parties, and (ii) cause management, any financial advisor and/or legal counsel of the DIP Parties to cooperate with reasonable requests for information by the DIP Lender and its advisors, in each case subject to solicitor-client privilege, all Court Orders and applicable privacy laws, in connection with matters reasonably related to the DIP Facility, the Collateral, the Realization Process, the Insolvency Proceedings and/or compliance of the DIP Parties with their obligations pursuant to this Term Sheet;
- (b) Deliver to the DIP Lender the reporting and other information from time to time reasonably requested by it and as set out in this Term Sheet, including, without limitation, updated DIP Budgets, Borrowing Base Reports and Variance Reports at the times set out herein;
- (c) Use the proceeds of the DIP Facility only in accordance with the restrictions set out in this Term Sheet and pursuant to the DIP Budget and Court Orders;
- (d) Comply with the provisions of the ARIQ, Realization Process Approval Order, the Provisional Order, the Final Recognition Order and all other Court Orders;
- (e) Preserve, renew and keep in full force their corporate existence;
- (f) Conduct their business in accordance with and otherwise comply with the DIP Budget, subject to the Court Orders;
- (g) Promptly notify the DIP Lender of the occurrence of any Default or Event of Default (other than the Existing Events of Default) or any event or circumstance that may materially affect the DIP Budget, the Collateral or the Realization Process, including, without limitation, any material changes in their contractual arrangements or relationships with third parties;
- (h) Provide the DIP Lender and its counsel draft copies of all motions, applications, pleadings, proposed Court Orders and other materials or documents that the DIP Parties intend to

file in the Insolvency Proceedings at least two (2) Business Days prior to any such filing or, where it is not practically possible to do so within such time, as soon as possible and in any event not less than one (1) day prior to the date on which such petition, motion, application, proposed order or other materials or documents are served on the service list in respect of the applicable Insolvency Proceedings, and any motion, petition and/or application materials and similar pleadings that affect the DIP Lender or the Collateral shall be reasonably satisfactory to the DIP Lender;

- (i) Take all actions necessary or available to defend the Court Orders that affect the DIP Lender and the Collateral, from any appeal, reversal, modifications, amendment, stay or vacating, unless expressly agreed to in writing in advance by the DIP Lender, in its sole and absolute discretion;
- (j) Promptly provide notice to the DIP Lender and its counsel, and keep them otherwise apprised, of any material developments in respect of any Material Contract or the Collateral, and of any material notices, orders, decisions, letters, or other documents, materials, information or correspondence received from any regulatory authority having jurisdiction over any of the DIP Parties;
- (k) Provide the DIP Lender and its counsel with draft copies of all material letters, submissions, notices, or other materials or correspondence that any DIP Party intends to file with or submit to any regulatory authority having jurisdiction over such DIP Party (other than in each case, routine or administrative materials or correspondence), at least three (3) Business Days prior to such submission or filing or, where it is not practically possible to do so within such time, as soon as possible;
- (l) Execute and deliver collateral security documentation including, without limitation, such security agreements, financing statements, discharges, opinions or other documents and information, in form and substance satisfactory to the DIP Lender and its counsel, in its sole and absolute discretion;
- (m) At all times maintain adequate insurance coverage of such kind and in such amounts and against such risks as is customary for the business of the DIP Parties with financially sound and reputable insurers in coverage and scope acceptable to the DIP Lender, in its sole and absolute

discretion, and cause the DIP Lender to be listed as the loss payee or additional insured (as applicable) on such insurance policies;

- (n) Pay all DIP Lender Expenses no less frequently than every four (4) weeks;
- (o) Pursuant to Section 15, at the end of each Business Day, cause any and all funds in any account of the DIP Parties that is not with the DIP Lender (excluding any payroll and cash collateral accounts) to be remitted to an account with the DIP Lender and applied as against the following in the following order: (A) first, the Obligations until the remaining principal balance thereof is U.S.\$5,000,000, (B) second, the DIP Financing Obligations in accordance with this Term Sheet, until repaid in full, and (C) lastly, the remaining balance of the Obligations until paid in full;
- (p) Consult with the DIP Lender with respect to any proposed termination or disclaimer of any Real Property Lease;
- (q) Promptly upon becoming aware thereof, provide details of the following to the DIP Lender:
 - (a) any pending, or threatened claims, potential claims, litigation, actions, suits, arbitrations, other proceedings or notices received in respect of same, against any DIP Party, by or before any court, tribunal, Governmental Authority or regulatory body, which are not stayed by Court Orders and would be reasonably likely to result, (i) individually or in the aggregate, in a judgment in excess of U.S. \$250,000, and/or (ii) the termination of any Material Contract; and
 - (b) any existing (or threatened in writing) default or dispute with respect to any of the Material Contracts which are not stayed by Court Orders.

**21. NEGATIVE
COVENANTS:**

Each DIP Party covenants and agrees not to do, or cause not to be done, the following, other than with the prior written consent of the DIP Lender, in its sole and absolute discretion:

- (a) Transfer, lease or otherwise dispose of all or any part of the Collateral outside of the ordinary course of business, except in accordance with the Realization Process Approval Order, or any subsequent Court Order and this Term Sheet;
- (b) Transfer any cash or receipts of the DIP Parties into any

account held by any Person other than the DIP Lender (excluding (i) any payroll account, and then only to the extent necessary to fund the applicable DIP Party's payroll obligations, (ii) any proceeds from the sale of the Collateral located in the United States in the ordinary course or pursuant to the Realization Process, which are deposited into existing accounts of the DIP Parties and subsequently transferred to an account held by the DIP Lender pursuant to Section 15 and Section 20(o)), and (iii) proceeds collected by YM Inc. (or any of its affiliates), and Jaytex Group (Sales) (or any of its affiliates) on behalf of the DIP Parties in the ordinary course of business.

- (c) Except to pay the Interim Borrowings Obligations or as expressly set forth in this Term Sheet, make any payment, including, without limitation, any payment of principal, interest or fees, in respect of Pre Filing Date Obligations, including payments with respect to pre Filing Date trade or unsecured liabilities of the DIP Parties, other than with the prior written consent of the DIP Lender, in its sole and absolute discretion, and in accordance with the ARIO or any subsequent Court Order;
- (d) (i) Create or permit to exist any indebtedness other than (A) the indebtedness existing as of the Filing Date, (B) the DIP Financing Obligations, (C) post Filing Date trade payables or other unsecured obligations incurred in the ordinary course of business on or following the Filing Date in accordance with the DIP Budget and the ARIO, and (ii) other than exists as at the Filing Date, make or give any financial assurances, in the form of bonds, letter of credit, financial guarantees or otherwise to any Person or Governmental Authority other than with the prior written consent of the DIP Lender, in its sole and absolute discretion;
- (e) Make (i) any distribution, dividend, return of capital or other distribution in respect of equity securities (in cash, securities or other property or otherwise); or (ii) a retirement, redemption, purchase or repayment or other acquisition of equity securities or indebtedness (including any payment of principal, interest, fees or any other payments thereon), other than with the prior written consent of the DIP Lender, in its sole and absolute discretion;
- (f) Make any investments or acquisitions of any kind, direct or indirect, in any business or otherwise other than in

accordance with the DIP Budget or with the prior written consent of the DIP Lender, in its sole and absolute discretion;

- (g) Pay, incur any obligation to pay, or establish any retainer with respect to the fees, expenses or disbursements of a legal, financial or other advisor of any party, other than (i) the Monitor and its legal counsel, (ii) the respective legal and financial advisors of the DIP Parties and the DIP Lender, in each case engaged as of Filing Date, and (iii) the prepayment to the liquidator in connection with the Realization Process, unless such fees, expenses, disbursements or retainers are reviewed and approved in writing advance by the DIP Lender, in its sole and absolute discretion;
- (h) Create or permit to exist any Liens on any of the Collateral other than the Permitted Liens;
- (i) Challenge or fail to support the Liens and claims of the DIP Lender;
- (j) Create or establish any employee retention plan, employee incentive plan or similar benefit plan for any employees of the DIP Parties after the Filing Date other than the KERP as included in the DIP Budget, except with the prior written consent of the DIP Lender, in its sole and absolute discretion;
- (k) Make any payments or expenditures (including capital expenditures) other than in accordance with the DIP Budget;
- (l) Terminate or disclaim any Material Contract (other than a Real Property Lease) or amend any Material Contract in any material manner, except with the prior consent of the DIP Lender, in its sole and absolute discretion;
- (m) Amalgamate, consolidate with or merge into or sell all or substantially all of its assets to another entity, or change its corporate or capital structure (including its organizational documents) or enter into any agreement committing to such actions except pursuant to the Realization Process Approval Order or with the prior written consent of the DIP Lender, in its sole and absolute discretion;
- (n) Make an announcement in respect of, enter into any agreement or letter of intent with respect to, or attempt to consummate, or support an attempt to consummate by

another party, any transaction or agreement outside the ordinary course of business, except pursuant to the Realization Process Approval Order or with the prior written consent of the DIP Lender, in its sole and absolute discretion;

- (o) Seek, obtain, support, make or permit to be made any Court Order or any change, amendment or modification to any Court Order in respect of any amendment relating to the DIP Facility, the Realization Process Approval Order or any other matter that affects the DIP Lender, except with the prior written consent of the DIP Lender, in its sole and absolute discretion;
- (p) Enter into any settlement agreement or agree to any settlement arrangements with any Governmental Authority or regulatory authority in connection with any claims, liabilities, litigation, arbitration, other investigations, proceedings or disputes or other similar proceedings which are threatened or pending against any one of them without the prior written consent of the DIP Lender, in its sole and absolute discretion;
- (q) Without the approval of the Court or the prior written consent of the DIP Lender, in its sole and absolute discretion, cease to carry on its business or activities or any component thereof as currently being conducted or modify or alter in any manner the nature and type of its operations or business, except pursuant to the Realization Process Approval Order; or
- (r) Seek, or consent to the appointment of an interim receiver, receiver, receiver manager, licensed insolvency trustee or any similar official in any jurisdiction.

**22. EVENTS OF
DEFAULT:**

The occurrence of any one or more of the following events shall constitute an event of default (each an “**Event of Default**”) under this Term Sheet:

- (a) Failure of the Borrowers to pay principal, interest or other amounts when due pursuant to this Term Sheet or any other Credit Document;
- (b) Failure of the Borrowers to deliver, by no later than May 8, 2024, the Initial DIP Budget, in form and substance satisfactory to the DIP Lender, in its sole and absolute discretion;

- (c) Failure of the DIP Parties to perform or comply with any term, condition, covenant or obligation pursuant to this Term Sheet or any other Credit Document;
- (d) Any representation or warranty by the DIP Parties made or deemed to be made in this Term Sheet or any other Credit Document is or proves to be incorrect or misleading in any respect as of the date made or deemed to be made;
- (e) Issuance of any Court Order (i) dismissing the CCAA Proceedings or the Recognition Proceedings, (ii) lifting the stay of proceedings in the CCAA Proceedings or the Recognition Proceedings to permit the enforcement of any security against any DIP Party or in respect of the Collateral (including, without limitation, any Material Contract), the appointment of an interim receiver, receiver, receiver and manager, licensed insolvency trustee or similar official, an assignment in bankruptcy, or the making of a bankruptcy order or receivership order against or in respect of any DIP Party, in each case which order is not stayed pending appeal thereof; (iii) granting any other Lien in respect of the Collateral that is in priority to or *pari passu* with the DIP Lender's Charge other than as expressly permitted pursuant to this Term Sheet, (iv) modifying this Term Sheet or any other Credit Document without the prior written consent of the DIP Lender, in its sole and absolute discretion; (v) commencing any proceedings in respect of any DIP Party pursuant to Chapter 7 or Chapter 11 of the Bankruptcy Code; (vi) terminating the Realization Process or (vii) staying, reversing, vacating or otherwise modifying any Court Order relating to the DIP Facility, the Realization Process or any other matter that affects the DIP Lender without the prior written consent of the DIP Lender, in its sole and absolute discretion;
- (f) Unless consented to in writing by the DIP Lender, in its sole and absolute discretion, the expiry without further extension of the stay of proceedings provided for in the ARIIO, the Provisional Order or the Final Recognition Order;
- (g) Unless consented to in writing by the DIP Lender, in its sole and absolute discretion, the termination of the Realization Process prior to its completion;
- (h) (i) a Borrowing Base Report, Variance Report or Updated DIP Budget is not delivered when due under this Term Sheet, (ii) cumulative actual receipts of the DIP Parties for

the period commencing on May 6, 2024 and ending at the end of any week are less than the “Minimum Cumulative Receipts” line item in the DIP Budget for such week, or (iii) cumulative actual disbursements of the DIP Parties for the period commencing on May 6, 2024 and ending at the end of any week are more than the “Maximum Cumulative Disbursements” line item in the DIP Budget for such week;

- (i) Unless the DIP Lender has consented thereto in writing, in its sole and absolute discretion the filing by any DIP Party of any motion or proceeding that (i) is not consistent with any provision of this Term Sheet or any other Credit Document, the ARIО, the Realization Process Approval Order or the Final Recognition Order, as applicable, (ii) could otherwise be expected to have a material adverse effect on the interests of the DIP Lender or the Collateral (including, without limitation, any Material Contract), or (iii) seeks to continue any of the Insolvency Proceedings under the jurisdiction of a court other than the CCAA Court with respect to the CCAA Proceedings or the US Court with respect to the Recognition Proceedings;
- (j) The making by the DIP Parties of a payment of any kind that is not permitted by this Term Sheet or any other Credit Document or is not in accordance with the DIP Budget;
- (k) Except as stayed by Court Orders or consented to by the DIP Lender in writing, in its sole and absolute discretion, a default under or a revocation, termination or cancellation of, any Material Contract (other than in connection with a termination or disclaimer or resiliation of a Real Property Lease by a DIP Party);
- (l) The denial or repudiation by the DIP Parties of the legality, validity, binding nature or enforceability of this Term Sheet or any other Credit Documents;
- (m) Any creditor, encumbrancer or other Person seizes or levies upon any Collateral or exercises any right of distress, execution, foreclosure or similar enforcement process against any Collateral;
- (n) The entry of one or more final judgements, writs of execution, garnishment or attachment representing a claim in excess of U.S.\$250,000 in the aggregate, against any Collateral, or the DIP Parties;

- (o) The occurrence of any “Default” or “Event of Default” as defined in the Existing Credit Agreement, other than the Existing Events of Default; or
- (p) Any Milestone set forth on **Schedule “D”** hereof is not satisfied as determined by the DIP Lender, in its sole and absolute discretion.

23. UNAFFECTED CREDITOR STATUS:

The DIP Lender shall at all times be treated as an “unaffected creditor” and “unimpaired” in the CCAA Proceedings and the Recognition Proceedings, including in any plan of compromise or arrangement filed pursuant thereto and/or in any other insolvency, restructuring, reorganization and/or arrangement proceeding with respect to any DIP Party thereafter, including, without limitation, proceedings under the CCAA, the *Bankruptcy and Insolvency Act* (Canada), United States Bankruptcy Code or any other legislation of any jurisdiction pertaining to insolvency or creditors’ rights.

24. REMEDIES:

Upon the occurrence of an Event of Default (other than the Existing Events of Default), the DIP Lender may, in its sole and absolute discretion, elect to terminate the commitments hereunder and declare the DIP Financing Obligations to be immediately due and payable and refuse to permit further Advances. In addition, upon the occurrence of an Event of Default, the DIP Lender may, in its sole and absolute discretion, subject to the Court Orders:

- (a) apply to a court for the appointment of a receiver, an interim receiver or a receiver and manager over the DIP Parties or the Collateral, or for the appointment of a trustee in bankruptcy of the DIP Parties;
- (b) on application to Court, set-off or combine any amounts then owing by the DIP Lender to the DIP Parties against the DIP Financing Obligations;
- (c) upon application to Court, exercise the powers and rights of a secured party under the *Personal Property Security Act* (Ontario), the *Uniform Commercial Code* or any other federal, provincial, state or territorial legislation of similar effect; and
- (d) exercise all such other rights and remedies under this Term Sheet, any other Credit Document, the Court Orders and Applicable Law.

25. **INDEMNITY AND
RELEASE:**

The DIP Parties agree to indemnify and hold harmless the DIP Lender and its respective directors, officers, employees, agents, advisors, attorneys, counsel and their respective advisors (all such Persons and entities being referred to hereafter as “**Indemnified Persons**”) from and against any and all actions, suits, proceedings, claims, losses, damages, liabilities or expenses of any kind or nature whatsoever (excluding indirect or consequential damages and claims for lost profits) which may be incurred by or asserted against any Indemnified Person (collectively, “**Claims**”) as a result of or arising out of or in any way related to the Interim Borrowings, the Existing Credit Agreement, the DIP Facility, this Term Sheet and any other Credit Document and, upon demand, to pay and reimburse any Indemnified Person for any reasonable legal or other expenses incurred in connection with investigating, defending or preparing to defend any such action, suit, proceeding or claim, which payment or reimbursement obligation shall form part of the DIP Financing Obligations; *provided, however*, the DIP Parties shall not be obligated to indemnify pursuant to this paragraph any Indemnified Person against any loss, claim, damage, expense or liability (x) to the extent it resulted from the gross negligence or wilful misconduct of any Indemnified Person as finally determined by a court of competent jurisdiction, or (y) to the extent arising from any dispute solely among Indemnified Persons other than any Claims arising out of any act or omission on the part of the DIP Parties.

Notwithstanding anything to the contrary herein, the indemnities granted under this Term Sheet shall survive any termination of the DIP Facility.

26. **TAXES:**

All payments by the DIP Parties to the DIP Lender, including the payment of any Obligations under the DIP Financing Obligations and any payments required to be made from and after the exercise of any remedies available to the DIP Lender upon an Event of Default (other than the Existing Events of Default), shall be made free and clear of, and without reduction for or on account of, any present or future taxes, levies, imposts, duties, charges, fees, deductions or withholdings of any kind or nature whatsoever or any interest or penalties payable with respect thereto now or in the future imposed, levied, collected, withheld or assessed by any Governmental Authority country or any political subdivision of any country (collectively “**Taxes**”); *provided, however*, that if any Taxes are required by Applicable Law to be withheld (“**Withholding Taxes**”) from any amount payable to the DIP Lender under this Term Sheet, the amount so payable to such DIP

Lender shall be increased by an amount necessary to yield to such DIP Lender on a net basis after payment of all Withholding Taxes, the amount payable under this Term Sheet at the rate or in the amount specified herein and the Borrowers shall provide evidence satisfactory to such DIP Lender that the Taxes have been so withheld and remitted.

If any DIP Party pays an additional amount to the DIP Lender to account for any deduction or withholding, the DIP Lender shall, at the sole cost and expense of the applicable DIP Party, reasonably cooperate with such DIP Party to obtain a refund of the amounts so withheld and paid to the DIP Lender. Any refund of an additional amount so received by the DIP Lender, without interest (other than any interest paid by the relevant Governmental Authority with respect to such refund which the DIP Lender determines, in its sole and absolute discretion, will leave it, after such payment, in no better or worse position than it would have been if no additional amounts had been paid to it), net of all out of pocket expenses of the DIP Lender, shall be paid over by the DIP Lender to the applicable DIP Party promptly. If reasonably requested by such DIP Party, the DIP Lender shall apply to the relevant Governmental Authority to obtain a waiver from such withholding requirement, and the DIP Lender shall reasonably cooperate, at the sole cost and expense of the applicable DIP Party, with the applicable DIP Party and assist such DIP Party to minimize the amount of deductions or withholdings required. The applicable DIP Party, upon the request of the DIP Lender, shall repay any portion of the amount repaid by the DIP Lender pursuant to this Section 26 (plus any penalties, interest or other charges imposed by the relevant Governmental Authority) in the event that the DIP Lender is required to repay such portion of the refund to such Governmental Authority. This Section 26 shall not be construed to require the DIP Lender to make available its tax returns (or any other information relating to its Taxes that it deems confidential) to the Borrowers or any other Person. The DIP Lender shall not by virtue of anything in this Term Sheet or any other Credit Document be under any obligation to arrange its tax affairs in any particular manner so as to claim any refund on behalf of the DIP Parties.

27. **FURTHER ASSURANCES:** The DIP Parties shall, at their expense, from time to time do, execute and deliver, or will cause to be done, executed and delivered, all such further acts, documents (including, without limitation, certificates, declarations, affidavits, reports and opinions) and things as the DIP Lender may request, in its sole and absolute discretion, for the purpose of giving effect to this Term Sheet.
28. **ENTIRE AGREEMENT; CONFLICT:** This Term Sheet, including the schedules hereto and any other Credit Documents delivered in connection with this Term Sheet, constitute the entire agreement between the parties relating to the subject matter hereof.
29. **AMENDMENTS, WAIVERS, ETC.:** No waiver or delay on the part of the DIP Lender in exercising any right or privilege hereunder will operate as a waiver hereof or thereof unless made in writing (including by e-mail) by the DIP Lender and delivered in accordance with the terms of this Term Sheet, and then such waiver shall be effective only in the specific instance and for the specific purpose given.
30. **ASSIGNMENT:** The DIP Lender may assign this Term Sheet and its rights and obligations hereunder, in whole or in part, subject in all cases to (i) providing the Monitor with reasonable evidence that such assignee has the financial capacity to fulfill the obligations of the DIP Lender hereunder, and (ii) the assignee providing written notice to the DIP Parties to confirm such assignment. Neither this Term Sheet nor any right or obligation hereunder may be assigned by any of the DIP Parties.
31. **NO THIRD-PARTY BENEFICIARY:** No Person, other than the DIP Parties, the DIP Lender, the Indemnified Persons or the Monitor, is entitled to rely upon this Term Sheet and the parties expressly agree that this Term Sheet does not confer rights upon any other party.
32. **COUNTERPARTS AND SIGNATURES:** This Term Sheet may be executed in any number of counterparts and delivered by electronic transmission including "pdf email", each of which when executed and delivered shall be deemed to be an original, and all of which when taken together shall constitute one and the same instrument.

33. NOTICES:

Any notice, request or other communication hereunder to any of the parties shall be in writing and be well and sufficiently given if delivered by email to such Person at its email address as set out below in this Section 33. Any such notice, request or other communication hereunder shall be concurrently sent to the Monitor and its counsel.

(a) If to the DIP Lender, to: Canadian Imperial Bank of Commerce, c/o Aryo Shalviri (aryo.shalviri@blakes.com), & Milly Chow (milly.chow@blakes.com),

(b) If to the DIP Parties, to: Ted Baker Canada Inc. and Ted Baker Limited, c/o Tracy C Sandler (tsandler@osler.com) and Shawn Irving (sirving@osler.com),

and in each case, with a copy to the Monitor c/o Greg Karpel (gkarpel@alvarezandmarsal.com) and Josh Nevsky (jnevsky@alvarezandmarsal.com) and its counsel, Sean Zweig (zweigs@bennettjones.com) and Jesse Mighton (mightonj@bennettjones.com).

Any such notice shall be deemed to be given and received when received, unless received after 5:00 p.m. Eastern Time or on a day other than a Business Day, in which case the notice shall be deemed to be received the next Business Day.

**34. ENGLISH
LANGUAGE:**

The parties hereto confirm that this Term Sheet and all related documents have been drawn up in the English language at their request. *Les parties aux présentes confirment que le présent acte et tous les documents y relatifs furent rédigés en anglais à leur demande.*

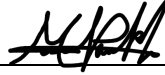
**35. GOVERNING LAW
AND JURISDICTION:**

This Term Sheet shall be governed by, and construed in accordance with, the laws of the Province of Ontario and the federal laws of Canada applicable therein. Without prejudice to the ability of the DIP Lender to enforce this Term Sheet in any other proper jurisdiction, each of the DIP Parties irrevocably submits and attorns to the non-exclusive jurisdiction of the CCAA Court.

IN WITNESS HEREOF, the parties hereby execute this Term Sheet as at the date first above mentioned.

CANADIAN IMPERIAL BANK OF COMMERCE

Per:



Name: **Manan Parikh**

Title: **Authorized Signatory**

TED BAKER LIMITED

DocuSigned by:

Per:



Name: **Antoine Adams**

Title: **Director**

TED BAKER CANADA INC.

DocuSigned by:

Per:



Name: **Antoine Adams**

Title: **Director**

OSL FASHION SERVICES CANADA INC.

DocuSigned by:

Per:



Name: **Antoine Adams**

Title: **Director**

OSL FASHION SERVICES, INC.

DocuSigned by:

Per:



Name: **Antoine Adams**

Title: **Director**

SCHEDULE "A"

DEFINED TERMS

"Administration Charge" means a priority charge over the Collateral granted by the CCAA Court pursuant to the ARIO with the priority and the amount as set out in Section 10, to secure the fees and expenses of (i) the legal and financial advisors of the DIP Parties, and (ii) the Monitor and its counsel, in each case, in connection with the Insolvency Proceedings.

"Advance" means an amount of the DIP Facility advanced to the Borrowers pursuant to the terms hereof from time to time.

"Advance Request" has the meaning given thereto in Section 5.

"Applicable Law" means, in respect of any Person, property, transaction or event, all applicable laws, statutes, rules, by-laws and regulations and all applicable official directives, orders, judgments and decrees of any Governmental Authority having the force of law.

"ARIO" means an Amended and Restated Initial CCAA Order to be issued by the CCAA Court in the CCAA Proceedings, which shall be in the form set out at **Schedule "E"**, with such changes as the DIP Lender may approve, in its sole and absolute discretion.

"Borrower" and **"Borrowers"** has the meanings given thereto in Section 1.

"Borrowing Base Report" has the meaning thereto in Section 13 .

"Business Day" means any day other than a Saturday, Sunday or any other day on which banks in Toronto, Ontario are not open for business.

"Canadian Dollars" and **"Cdn.\$"** refer to the lawful money of Canada.

"CCAA" has the meaning given thereto in the Recitals.

"CCAA Proceedings" has the meaning given thereto in the Recitals.

"Claims" has the meaning given thereto in Section 25.

"Collateral" means all present or future assets, undertakings and properties, of any kind, of the DIP Parties, real and personal, tangible or intangible, including all proceeds thereof, wherever situated.

"Commitment Fee" has the meaning given thereto in Section 16.

"Court" means the CCAA Court or the US Court.

"Court Orders" means the orders, judgments, directions, endorsements or opinions issued by any Court in the CCAA Proceedings or the Recognition Proceedings (including, for greater certainty, the Provisional Order), and **"Court Order"** means any one of them.

“**Credit Documents**” means this Term Sheet and any other document delivered in connection with or relating to this Term Sheet from time to time.

“**Criminal Code Interest**” has meaning given thereto in Section 17 .

“**Criminal Rate**” has meaning given thereto in Section 17.

“**Current Excess Amount**” has the meaning given thereto in Section 15.

“**Currency Exchange Rate**” means the U.S.\$/Cdn.\$ exchange rate applicable on the Business Day immediately prior to the date of an Advance denominated in Canadian Dollars, as such rate is determined by the Bank of Canada Noon Foreign Exchange Rate.

“**Default**” means an event or circumstance which, after the giving of notice or the passage of time, or both, will result in an Event of Default.

“**DIP Budget**” means the weekly financial projections prepared by the Borrowers covering the period commencing on the week ended May 12, 2024, and ending on the week ending August 4, 2024, on a weekly basis, which shall be in form and substance acceptable to the DIP Lender, in its sole and absolute discretion, which financial projections may be amended from time to time in accordance with Section 13. For greater certainty, for purposes of this Term Sheet, the DIP Budget shall include all supporting documentation provided in respect thereof to the DIP Lender.

“**DIP Facility**” has the meaning given thereto in Section 5.

“**DIP Financing Obligations**” means, collectively, all obligations owing by the DIP Parties pursuant to this Term Sheet and the other Credit Documents, including, without limitation, all principal, interest, fees, costs, expenses, disbursements and DIP Lender Expenses.

“**DIP Lender**” has the meaning given thereto in Section 3.

“**DIP Lender’s Charge**” means a first-ranking super priority charge on the Collateral as security for all DIP Financing Obligations, which shall have priority over all Liens on the Collateral other than the Administration Charge and the Permitted Priority Liens.

“**DIP Lender Expenses**” has the meaning given thereto in Section 9.

“**DIP Parties**” has the meaning given thereto in Section 2.

“**Directors’ Charge**” means a priority charge over the Collateral granted by the CCAA Court pursuant to the ARIO in favour of the directors and officers of the DIP Parties, with the priority and the amount as set out in Section 10.

“**Event of Default**” has the meaning given thereto in Section 22.

“**Existing Credit Agreement**” has the meaning given to it in the Recitals.

“**Existing Events of Default**” means the Events of Default (as defined in the Existing Credit Agreement) that to the knowledge of the DIP Lender existed as of the date of Filing Date, with

“knowledge” for the purposes of this definition to mean the knowledge of the DIP Lender, without having conducted any diligence.

“**Facility Amount**” has the meaning given thereto in Section 5.

“**Fashion Canada**” has the meaning given thereto in the Recitals.

“**Fashion US**” has the meaning given thereto in the Recitals.

“**Filing Date**” has the meaning given thereto in the Recitals.

“**Final Recognition Order**” has the meaning given thereto in 8(c).

“**First Advance**” has the meaning given thereto in Section 5.

“**Governmental Authority**” means any federal, provincial, state, municipal, local or other government, governmental or public department, commission, board, bureau, agency or instrumentality, domestic or foreign and any subdivision, agent, commission, board or authority of any of the foregoing.

“**Guarantor**” and “**Guarantors**” have the meaning given thereto in Section 2.

“**Indemnified Persons**” has the meaning given thereto in Section 25.

“**Initial DIP Budget**” has the meaning given thereto in Section 13.

“**Initial CCAA Order**” has the meaning given thereto in the Recitals.

“**Interim Borrowing**” and “**Interim Borrowings**” have the meaning given thereto in the Recitals.

“**Interim Borrowing Maturing Date**” has the meaning given thereto in the Recitals.

“**Interim Borrowings Obligations**” has the meaning given to it in Section 5.

“**Interim Lender**” has the meaning given thereto in the Recitals.

“**Interim Lender’s Charge**” has the meaning given thereto in the Recitals.

“**KERP**” means the key employee retention program in the amount set out in the DIP Budget and approved by the Court in the ARIO.

“**KERP Charge**” means a priority charge over the Collateral granted by the CCAA Court pursuant to the ARIO to secure payment of the KERP, with the priority and the amount as set out in Section 10.

“**Liens**” means (i) all liens, hypothecs, charges, mortgages, deeds of trusts, trusts, deemed trusts (statutory or otherwise), constructive trusts, encumbrances, security interests, and statutory preferences of every kind and nature whatsoever, (ii) the interest of a vendor or a lessor under

any conditional sale agreement, capital lease or title retention agreement (or any financing lease having substantially the same economic effect as any of the foregoing) relating to such asset, and (iii) in the case of securities, any purchase option, call or similar right of a third party with respect to such securities.

“Realization Process” means an orderly process for the liquidation of the inventory forming part of the Collateral, in form and substance satisfactory to the DIP Lender, in its sole and absolute discretion, and authorized pursuant to the Realization Process Approval Order.

“Realization Process Approval Order” means an order of the CCAA Court approving a Requisition Procedure which is in the form set out at **Schedule "F"**, with such changes as the DIP Lender may approve, in its sole and absolute discretion.

“Material Contract” means any contract, license or agreement: (i) to which a DIP Party is a party or is bound; (ii) which is material to, or necessary in, the operation of the business of the DIP Parties; and (iii) which a DIP Party cannot within a commercially reasonable timeframe replace by an alternative and comparable contract with comparable commercial terms, including, without limitation, the following:

- (a) License Agreement dated as of March 13, 2023, among Ted Baker Canada and Ted Baker US, as licensees, and No Ordinary Designer Label Limited, as licensor;
- (b) License Agreement dated as of January 1, 2024, among Ted Baker Canada and Ted Baker US, as licensees, and ABG-TB IPCO (UK) Limited, as licensor;
- (c) License Agreement dated as of April 1, 2023, among Ted Baker Canada, as licensee, and ABG-Lucky, LLC, as licensor;
- (d) License Agreement dated as of April 1, 2023, among Ted Baker Canada, as licensee, and ABG-BB IPCO, LLC, as licensor; and
- (e) Warehousing, Storage and Logistics Agreement dated as of October 19, 2017, among Ted Baker Limited and Future Forwarding Company.

“Maturity Date” has the meaning given thereto in Section 12.

“Monitor” has the meaning given thereto in the recitals.

“Obligations” has the meaning given thereto in the Existing Credit Agreement.

“Original Currency” has the meaning given thereto in Section 18.

“Other Currency” has the meaning given thereto in Section 18.

“Outside Date” means August 2, 2024.

“Overdraft Amount” has the meaning given thereto in Section 15.

“Permitted Liens” means (i) the DIP Lender’s Charge; (ii) the Administration Charge, (iii) the Directors’ Charge, (iv) the KERP Charge, (v) any other charges created under the ARIO, the Provisional Order, the Final Recognition Order, or other Court Order which ranks behind the DIP Lender’s Charge and is approved in writing by the DIP Lender, in its sole and absolute discretion; (vi) validly perfected Liens existing prior to the Filing Date including the OSL Retail Loan; (vii) inchoate statutory Liens arising after the Filing Date in respect of any accounts payable arising after the Filing Date in the ordinary course of business, subject to the obligation to pay all such amounts as and when due; and (viii) the Permitted Priority Liens.

“Permitted Priority Liens” means (i) the Administration Charge; and (ii) any amounts payable by the Borrowers for wages, vacation pay, employee deductions, sales tax, excise tax, tax payable pursuant to Part IX of the *Excise Tax Act* (Canada) (net of input credits), income tax and workers compensation claims, in each case solely to the extent such amounts are (a) accrued or collected by the Borrowers after the Filing Date, and (b) given priority by Applicable Law and only to the extent that the priority of such amounts has not been primed by the DIP Lender’s Charge.

“Person” means an individual, partnership, corporation, business trust, joint stock company, limited liability company, trust, unincorporated association, joint venture, Governmental Authority or other entity of whatever nature.

“Plan” has the meaning given thereto in Section 12.

“Pre-Filing Obligations” has the meaning given thereto in Section 7.

“Provisional Order” has the meaning given thereto in the Recitals.

“Real Property Lease” means a lease of real property of any DIP Party.

“Secured Lender” has the meaning given thereto in the Recitals.

“Taxes” has the meaning given thereto in Section 26.

“TB Canada” has the meaning given thereto in the Recitals.

“TB US” has the meaning given thereto in the Recitals.

“Updated DIP Budget” has the meaning given thereto in Section 13.

“U.S. Dollars” and **“U.S.\$”** refer to the lawful money of the United States of America.

“US Court” has the meaning given thereto in the recitals.

“Variance Period” has the meaning given thereto in Section 13.

“Variance Report” has the meaning given thereto in Section 13.

“Withholding Taxes” has the meaning given thereto in Section 26.

SCHEDULE "B"
FORM OF ADVANCE REQUEST

TO: Canadian Imperial Bank of Commerce, as DIP Lender

FROM: Ted Baker Canada Inc.
Ted Baker Limited
as Borrowers

DATE: ●, 2024

1. This request is delivered to you, as DIP Lender, in connection with a request for an Advance pursuant to the Term Sheet made as of ●, 2024 between the Borrowers and the DIP Lender, as amended, supplemented, restated or replaced from time to time (the "**Term Sheet**"). All defined terms used, but not otherwise defined in this certificate shall have the respective meanings set forth in the Term Sheet, unless the context requires otherwise.

2. The Borrowers hereby request an Advance as follows in respect of the week commencing on ●, 2024:

Aggregate amount of Advance: (a) Cdn.\$●¹

(b) [U.S.\$●²

Description of intended use of the proceeds of Advance: ●

3. All of the representations and warranties of the DIP Parties set forth in the Term Sheet are true and accurate in all respects as at the date hereof, as though made on and as of the date hereof.

4. All of the covenants of the DIP Parties contained in the Term Sheet and all other terms and conditions contained in the Term Sheet to be complied with by the DIP Parties, not properly waived in writing by the DIP Lender, have been fully complied with.

5. No Default or Event of Default, other than Existing Events of Default, has occurred nor will any such event occur as a result of the Advance hereby requested.

TED BAKER CANADA INC.

TED BAKER LIMITED

Per:

Per:

Name:
Title:

Name:
Title:

¹ Minimum of Cdn.\$25,000 and subject at all times to the aggregate Facility Amount.

² Minimum of U.S.\$25,000 and subject at all times to the aggregate Facility Amount.

SCHEDULE "C"
FORM OF DIP BUDGET

Cash Flow Forecast

Week ended

<i>Week 1</i>	<i>Week 2</i>	<i>Week 3</i>	<i>Week 4</i>	<i>Week 5</i>	<i>Week 6</i>	<i>Week 7</i>	<i>Week 8</i>	<i>Week 9</i>	<i>Week 10</i>	<i>Week 11</i>	<i>Week 12</i>	<i>Week 13</i>	<i>13-wk</i>
12-May-24	19-May-24	26-May-24	02-Jun-24	09-Jun-24	16-Jun-24	23-Jun-24	30-Jun-24	07-Jul-24	14-Jul-24	21-Jul-24	28-Jul-24	04-Aug-24	TOTAL

Collections

[illegible]

Duties, Freight & Warehousing

[illegible]**Cash on hand**[illegible]

Opening balance

[illegible]

Opening balance

[illegible]

Variance Report

SCHEDULE "D"
MILESTONES

Milestone Date*	Event/Item**
May 3, 2024	Issuance and Entry of the Amended and Restated Initial Order
May 8, 2024	Issuance and Entry of the Final Recognition Order for each DIP Party
On or before May 13, 2024	Commencement of the Realization Process
May 15, 2024	Execution of any applicable Credit Documents by the DIP Parties
June 14, 2024	Outstanding principal balance of Obligations to be no more than U.S.\$5,000,000
July 31, 2024	Completion of the Realization Process

* Notwithstanding the above, a specific Milestone may be extended or waived with the express prior written consent of the DIP Lender, in its sole and absolute discretion.

** Each to be in form and substance satisfactory to the DIP Lender, in its sole and absolute discretion.

SCHEDULE "E"
FORM OF AMENDED AND RESTATED INITIAL ORDER

SCHEDULE "F"
FORM OF REALIZATION PROCESS ORDER