

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)**

B E T W E E N:

**TRINITY PLASTICS PRODUCTS INC.**

Applicant

- and -

**CUSTOM CO-EX TECHNOLOGIES INC.**

Respondent

APPLICATION UNDER SUBSECTION 243(1) OF THE *BANKRUPTCY AND INSOLVENCY ACT*, R.S.C. 1985, c.B-3, AS AMENDED, AND SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O. 1990, c.C.43, AS AMENDED

**APPLICATION RECORD**

**CHAITONS LLP**

5000 Yonge Street, 10th Floor  
Toronto, Ontario M2N 7E9

**Harvey Chaiton** (LSO # 21592F)

Tel: (416) 218-1129

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**Sanea Tanvir** (LSO # 77838T)

Tel: (416) 218-1128

Fax: (416) 218-1853

E-mail: [harvey@chaitons.com](mailto:harvey@chaitons.com)

**Lawyers for the Applicant**

TO: **Custom Co-Ex Technologies Inc.**  
9030 Keele Street  
Concord, Ontario L4K 2N2

Respondent

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
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**INDEX**

<b>Tab</b>	<b>Document</b>
1.	Notice of Application
2.	Affidavit of Kevin Watkinson, sworn June 21, 2020
A & A1	Corporation Profile Reports, dated June 27, 2019 and June 18, 2020
B	Lease for 9030 Keele Street, Vaughan
C	Loan, dated September 17, 2018
D	General Security Agreement, dated September 17, 2018
E	PPSA Search, dated May 27, 2020
F	Demand Letter from Stein Law to Respondent, dated January 31, 2020

G	Demand Letter from Chaitons LLP to Simmons DaSilva LLP, dated February 10, 2020 and Notice of Intention to Enforce Security, dated February 10, 2020
H	Letter from Stein Law to Black Sutherland LLP, dated May 29, 2020
I	Letter from Black Sutherland LLP to Stein Law, dated June 16, 2020
3.	Receivership Order
4.	Blackline Model to Receivership Order
5.	Consent to Act as Receiver, signed June 22, 2020

**TAB 1**

Court File No. CV-20-00642816-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)**

BETWEEN:



**TRINITY PLASTICS PRODUCTS INC.**

Applicant

- and -

**CUSTOM CO-EX TECHNOLOGIES INC.**

Respondent

APPLICATION UNDER SUBSECTION 243(1) OF THE *BANKRUPTCY AND INSOLVENCY ACT*, R.S.C. 1985, c.B-3, AS AMENDED, AND SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O. 1990, c.C.43, AS AMENDED

**NOTICE OF APPLICATION**

**TO THE RESPONDENT**

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

**THIS APPLICATION** will come on for a hearing on June 25, 2020, at 11:00 a.m. before a Judge presiding over the Commercial List by way of video conference.

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

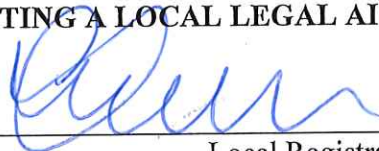
**IF YOU WISH TO PRESENT AFFIDAVIT OR OTHER DOCUMENTARY EVIDENCE TO THE COURT OR TO EXAMINE OR CROSS-EXAMINE WITNESSES ON THE APPLICATION**, you or your lawyer must, in addition to serving your notice of appearance, serve a copy of the evidence on the Applicant's lawyer or, where the Applicant does not have a lawyer, serve it on the Applicant, and file it, with proof of service, in the court office where the application is to be heard as soon as possible, but at least four days before the hearing.

- 2 -

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

Date JUNE 22, 2020

Issued by



Local Registrar

C. Irwin

Registrar

Address of court office: Superior Court of Justice  
330 University Avenue, 9th Floor  
Toronto, Ontario M5G 1R7

TO: **Custom Co-Ex Technologies Inc.**  
9030 Keele Street  
Concord, Ontario L4K 2N2

## APPLICATION

1. The Applicant, Trinity Plastics Products Inc. (“**Trinity**”), makes an application for:
  - (a) an order appointing BDO Canada Limited (“**BDO**”) as receiver (“**Receiver**”) of the property, assets and undertaking of Custom Co-Ex Technologies Inc. (the “**Debtor**” or “**CCX**”) pursuant to Section 243 of the *Bankruptcy and Insolvency Act*, R.S.C 1985, c. B-3 (the “**BIA**”), and Section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43 (the “**CJA**”); and
  - (b) such further and other relief as this Honourable Court may deem just.
2. The grounds for the application are:

### The Parties

- (a) The Debtor is an Ontario corporation and has its registered head office in Concord, Ontario. The Debtor is a manufacturer and supplier of various online packaging solutions.
- (b) Trinity is an Ontario corporation and is a part of the In-Store Products Limited (“**In-Store**”) group of companies.
- (c) The sole officer and director of CCX is Noel Chantiam Sr. (“**Francis**”). Francis retired from CCX on December 31, 2019 and his son, Noel Chantiam Jr. (“**Noel**”) currently oversees the business.

- 4 -

- (d) CCX has around 20-25 employees and leases its premises from 9024 Keele Park Properties Ltd. (the “**Landlord**”). The lease is for a term of fifteen years and expires on July 31, 2030.

### **Loan and Security**

- (e) Francis was a friend of Michael Davidson (“**Michael**”), the President of In-Store and Trinity. At the request of Francis, and following preliminary due diligence, Trinity agreed to make a loan to CCX in the amount of \$1,500,000 to partially repay CCX’s lender, the Royal Bank of Canada, which had demanded repayment of its loan to CCX.
- (f) On September 17, 2018, Trinity and the Debtor entered into a Debenture (the “**Debenture**”), pursuant to which it loaned \$1,500,000 to the Debtor (the “**Loan**”).
- (g) As security for payment of all indebtedness and the performance of all its obligations to Trinity, the Debtor granted a general security agreement (the “**GSA**”) to Trinity.
- (h) Pursuant to the Debenture and the GSA, upon the occurrence of an event of default, Trinity may appoint a receiver over the property and assets of the Debtor and/or apply to a court for the appointment of a receiver.

### **Default and Demand**

- (i) On or around January 30, 2020, Trinity became aware that the Chantiam’s had changed the signing authority on CCX’s bank account at Bank of Montreal



- 5 -

(“BMO”) and removed CCX’s controller as a signing authority and removed the controller’s viewing access. The controller had been providing Trinity with CCX’s daily bank balances to monitor the company’s financial performance.

- (j) As a result, on January 31, 2020, Andrew Stein of Andrew Stein Law Office, on behalf of Trinity sent a demand letter to CCX. The demand letter did not include a Notice of Intention to Enforce its Security (“NITES”).
- (k) On February 10, 2020, Trinity’s insolvency counsel, Chaitons LLP, issued a demand for payment of the Loan from CCX in the sum of \$1,620,328.77 inclusive of interest, plus costs. Trinity also issued the NITES.
- (l) Following the issuance of the demand letters and NITES, Trinity and the Debtor entered into negotiations to come to a resolution of the payment demand. However, the parties were unable to come to a resolution and the negotiations terminated on June 16, 2020.
- (m) As a result, on June 16, 2020, Mr. Stein sent a letter to the Debtor demanding payment on or before 5:00 p.m. on June 18, 2020. Trinity has received no response.
- (n) Trinity was concerned that Noel and/or Francis might withdraw funds from CCX’s bank account and use it for improper purposes or for making preferential payments to select creditors.
- (o) As a result, on June 19, 2020, Trinity appointed BDO as a private receiver solely for the purpose of taking possession of the funds in the BMO bank account.

**Other Secured Creditors**

- (p) The Debtor is also indebted to TD Equipment Finance Canada, a division of Toronto-Dominion Bank, which holds security of certain equipment pursuant to a loan agreement.

**Just and Convenient to Appoint a Receiver**

- (q) To date, Trinity has received no payments from the Debtor in response to the demands for payment.
- (r) Trinity requires a stay of proceedings to prevent the Landlord from terminating the Debtor's lease which is a valuable asset and will assist the receiver in selling the business as a going concern or on a turnkey basis.
- (s) It is in the best interests of Trinity and the Debtor's creditors generally that a Receiver be appointed to take control over and realize on the Debtor's property for the benefit of all of the Debtor's stakeholders.
- (t) It is just and convenient in the circumstances to appoint a Receiver.
- (u) Trinity proposes that BDO be appointed as Receiver. BDO has agreed to accept the appointment.

**Statutory and Other Grounds**

- (v) Section 243 of the BIA, and Section 101 of the CJA.
- (w) Rules 1.04(1), 1.05, 2.01, 2.03, 3.02, and 38 of the *Rules of Civil Procedure*.

- 7 -

(x) Such further and other grounds as the lawyers may advise.

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

(a) the Affidavit of Kevin Watkinson sworn June 21, 2020 and the exhibits thereto;  
and

(b) such further and other evidence as the lawyers may advise and this Honourable  
Court may permit.

June 22, 2020

**CHAITONS LLP**  
5000 Yonge Street, 10th Floor  
Toronto, Ontario M2N 7E9

**Harvey Chaiton** (LSO # 21592F)  
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**Lawyers for the Applicant**

TRINITY PLASTICS PRODUCTS INC.

Applicant

-and-

CUSTOM CO-EX TECHNOLOGIES INC.

Respondent

Court File No. CV-20-00642816-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)**

**PROCEEDING COMMENCED AT  
TORONTO**

**NOTICE OF APPLICATION**

**CHAITONS LLP**

5000 Yonge Street, 10th Floor  
Toronto, Ontario M2N 7E9

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**Lawyers for the Applicant**

**TAB 2**

Court File No.

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)**

B E T W E E N:

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APPLICATION UNDER SUBSECTION 243(1) OF THE *BANKRUPTCY AND INSOLVENCY ACT*, R.S.C. 1985, c.B-3, AS AMENDED, AND SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O. 1990, c.C.43, AS AMENDED

**AFFIDAVIT OF KEVIN WATKINSON**

(sworn June 21<sup>st</sup> 2020)

I, Kevin Watkinson, of the City of Mississauga, in the Province of Ontario, MAKE OATH AND SAY AS FOLLOWS:

1. I am the Chief Financial Officer of In-Store Products Limited (“**In-Store**”) and Trinity Plastics Products Inc. (“**Trinity**”). As such, I have personal knowledge of the facts and matters hereinafter deposed, except where stated to be based on information and belief, in which case, I verily believe the same to be true.
  
2. This affidavit is sworn in support of the application by Trinity for the appointment of BDO Canada Limited (“**BDO**”) as receiver over the property, assets and undertakings of the Respondent (the “**Debtor**”) pursuant to section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c.

B-3, as amended (the “**BIA**”) and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended.

## **OVERVIEW**

3. On September 17, 2018, Trinity made a loan of \$1,500,000 to the Debtor (the “**Loan**”), Custom Co-Ex Technologies Inc. (“**CCX**”) by way of a Subordinated Convertible Debenture (“**Debenture**”) and secured by a General Security Agreement (“**GSA**”).

4. On February 10, 2020, Trinity issued a demand and a Notice of Intention to Enforce its Security (“**NITES**”) to CCX pursuant to section 244(1) of the BIA. Subsequently, the parties entered into negotiations to come to a resolution of the matter. The negotiations were recently terminated as the parties could not reach an agreement.

5. On June 19, 2020, Trinity appointed BDO as a private receiver to seize the funds in CCX’s bank accounts due to concerns that the principal of CCX might withdraw the cash and use it for improper purposes.

6. Trinity seeks the appointment of a court appointed receiver to preserve, market and sell CCX as a going concern or liquidate the business assets to maximize value for Trinity and other stakeholders.

## **THE PARTIES**

7. CCX is a corporation that is governed by the *Business Corporations Act* (Ontario) and has its registered head office located in Concord, Ontario. CCX is a manufacturer and supplier of various packaging solutions and employs around 20-25 individuals. According to the Corporate Profile report dated June 27, 2019, the sole officer and director of the Debtor is Noel Chantiam Sr.

(“**Francis**”). Before June 27, 2019 the sole officer and director was Francis’ son, Noel Chantiam Jr. (“**Noel**”). Attached hereto and marked as **Exhibit “A”** and **Exhibit “A1”** respectively is a copy of the Corporation Profile Reports for the Debtor dated June 27, 2019 and June 18, 2020.

8. Francis is the founder and is the owner of CCX. Francis retired from his role as a sales consultant from CCX on December 31, 2019. Noel currently oversees the business affairs of the company and the operations of CCX.

9. CCX leases its premises located at 9030 Keele Street, Vaughan, Ontario (the “**Leased Premises**”) from 9024 Keele Park Properties Ltd. (the “**Landlord**”). The lease is for a term of fifteen years, expiring at July 31, 2030 at \$4.00 per annum per square foot for the first five years of the term with an escalating price as set out therein. I understand that the price being charged by the Landlord is substantially below current market rent. A copy of the lease is attached hereto and marked as **Exhibit “B”**.

10. Trinity is a corporation governed by the *Business Corporations Act* (Ontario) and has its registered head office located in Mississauga, Ontario.

#### **LOAN AND SECURITY**

11. Francis was a friend of Michael Davidson (“**Michael**”), the President of In-Store and Trinity. On or about September 6, 2018, Francis and his acting Chief Financial Officer of CCX Frank Petti met with Michael and myself to discuss the possibility that one of the In-Store entities could make a loan to CCX in the amount of \$500,000. During this meeting, Francis informed Michael that CCX was at the limit of their line of credit with the Royal Bank of Canada (“**RBC**”) and was receiving significant pressure from RBC.



12. Before Michael could agree to provide funding to CCX, Michael and I agreed to conduct limited due diligence on the business. On September 10, 2018, I attended CCX's office and after completing preliminary due diligence it became clear to me that the company was in worse financial condition than was initially presented to Michael and myself. CCX would require at a minimum \$1,500,000 rather than the \$500,000 Francis had initially requested. During my due diligence, I discovered that RBC had demanded full repayment of its loan to CCX in early August 2018. The date for repayment had been extended and RBC was in a position to enforce its security over CCX.

13. At the time the Loan was advanced from Trinity to CCX, it was my understanding based on discussions with the Chantiam's that the sole shareholder of CCX was Noel. On September 17, 2018, Trinity and CCX entered into the Debenture with a maturity date of September 17, 2023, a copy of which is attached hereto and marked as **Exhibit "C"**.

14. As security for payment by the Debtor of all debts and liabilities owed by it to Trinity, including the Loan, the Debtor granted the GSA, which secured Trinity's interest in all of the Debtor's presently owned and after acquired personal property, assets and undertakings. A copy of the GSA is attached hereto and marked as **Exhibit "D"**.

15. On September 19, 2018, Trinity registered a financing statement under the Ontario PPSA against the Debtor to perfect its security interest in all of the Debtors' present and after acquired personal property. Attached hereto and marked as **Exhibit "E"** is a copy of the Ontario PPSA search results for the Debtor obtained on May 27, 2020.

16. Pursuant to section 6.16 of the GSA and section 8.2 of the Debenture, upon the occurrence of an event of default, Trinity may appoint a receiver over the property and assets of the Debtor and/or apply to a court for the appointment of a receiver.

17. At the time the Loan was made, Michael and Francis also agreed that Trinity would assist with improving the business operations and financial performance of the company. As a result, I was asked to attend CCX offices on a weekly basis to assist.

18. On or about the end of September 2018, Francis announced that he would be absent from CCX for a couple of months because he had serious health concerns. He returned in November of 2018 but took another leave from the company in June of 2019 to deal with a personal legal matter. After returning to CCX in November 2019, Francis announced he was resigning as a sales consultant from CCX effective December 31, 2019.

19. Upon Francis's departure from CCX, his son, Noel continued in his role as President and assumed full responsibility for the sales and the operations of CCX.

#### **DEFAULT AND DEMAND**

20. On January 14, 2020, I met with Francis and Noel and I was informed by Noel that he no longer wished to be President of CCX and intended to resign. Francis also stated that he would transfer his shares in CCX to Trinity for nominal consideration. This was the first time that I became aware that the shares were owned by Francis and not Noel.

21. The Debtor has bank accounts with the Bank of Montreal ("**BMO**"), to which Noel and the Debtor's controller, Antoinetta MacDonald, were both a signing authority. It was agreed that Ms. MacDonald would provide Trinity with a copy of the bank balances on a daily basis.

22. However, on or around January 30, 2020, the Chantiam's changed the signing authority on the BMO bank account and removed Ms. MacDonald as a signing authority and cancelled her viewing access to the bank accounts and the Chantiam's failed to notify or provide an explanation to Trinity. Thereafter, the Debtor failed to disclose current bank balances in the Debtor's business accounts for approximately one week. On or about February 10<sup>th</sup> 2020, Ms. MacDonald's viewing access to the bank accounts was re-instated but she was not granted signing authority. Thereafter, Ms. McDonald resumed providing Trinity with disclosure of the bank balances on a daily basis.

23. As a result, on January 31, 2020 Andrew Stein Law Office, on behalf of Trinity sent a demand letter to Noel. The demand letter did not include the NITES. Attached hereto and marked as **Exhibit "F"** is a copy of the demand letter.

24. As a result of the Chantiam's actions referred to in paragraph 22 above, on February 10, 2020, Trinity, through its insolvency counsel, Chaitons LLP, issued a demand for payment of the Loan from the Debtor in the sum of \$1,620,328.77 inclusive of interest, plus costs (based on the events in the default described therein). Trinity also issued the NITES. Trinity also offered to meet with Noel and Francis on a without prejudice basis to attempt to negotiate a resolution to the matter. Attached hereto and marked as **Exhibit "G"** is a copy of the demand letter and NITES.

25. Following the issuance of the demand letters and NITES, Trinity and the Debtor entered into negotiations to come to a resolution of the payment. The negotiations between the parties involved a potential transfer of CCX shares by Francis to Trinity and the retention of Noel as an employee.

26. On May 29, 2020, Andrew Stein of Stein Law Office, on behalf of Trinity, sent a letter to the Debtor's counsel, Warren Rapoport of Black Sutherland LLP, confirming that Trinity has not

waived any of its rights as a secured creditor and if the negotiations do not succeed, it will exercise its rights and remedies available to it under its security. Attached hereto and marked as **Exhibit “H”** is a copy of the letter.

27. Despite Trinity’s efforts, the parties were unable to come to a resolution of the matter and as a result the negotiations ended on approximately June 16, 2020.

28. As a result, on June 16, 2020, Mr. Stein sent a letter to Mr. Rapoport demanding payment by the Debtor of the sum of \$1,655,095.89 plus costs on or before 5 p.m. on June 18, 2020. Attached hereto and marked as **Exhibit “I”** is a copy of the letter. Trinity has not received a response.

29. On June 16<sup>th</sup>, 2020, I was advised by Ms. MacDonald that CCX had approximately \$700,000 in its BMO bank accounts. Due to the previous unilateral decision made by the Chantiams and that Noel continued to be sole signing authority, Trinity was concerned that Noel and/or Francis might withdraw the funds from the Debtor’s BMO bank accounts and use it for improper purposes or for making preferential payments to select creditors. As a result, on June 19, 2020, Trinity appointed BDO as a private receiver solely for the purpose of taking possession of the funds in the BMO account, pending this application for the appointment of a court-appointed receiver.

#### **OTHER SECURED CREDITORS**

30. With respect to the Debtor, in addition to Trinity’s registrations, there are financing statements registered under the Ontario PPSA in favour of the following parties:

- (a) TD Equipment Finance Canada, a division of Toronto-Dominion Bank (“**TD Bank**”) with respect to certain equipment; and
- (b) 1149610 Alberta Ltd (“**114**”) with respect to all of the Debtor’s present and after acquired property.

31. The loan made by 114 was repaid back in December 2018 but 114 has not registered a discharge of its financing statement.

32. From my involvement with the Debtor, I understand that TD Bank is owed approximately \$402,000 by CCX on its loan secured by the equipment.

**JUST AND CONVENIENT TO APPOINT A RECEIVER**

33. Since February 10, 2020, Trinity has entered into negotiations with the Debtor to resolve the matter. Both before and after the demand for payment, Trinity and CCX had been in discussions with respect to CCX’s indebtedness to Trinity. The negotiations were not successful.

34. Trinity requires a stay of proceedings to prevent the Landlord from terminating the Leased Premises which is a valuable asset and will assist the receiver in selling the business as a going concern or on a turnkey basis.

35. In these circumstances, I believe it is in the best interests of Trinity and the Debtor’s creditors generally that a receiver be appointed to take control over and realize on the Debtor’s property for the benefit of Trinity and all other stakeholders.

36. Accordingly, it is just and convenient in the circumstances to appoint a receiver.

37. Trinity proposes that BDO be appointed as receiver. BDO has agreed to accept the appointment.

38. This affidavit is sworn in support of Trinity's application for the appointment of a receiver and for no other or improper purpose.

**SWORN BEFORE ME** at the City of Mississauga, in the Province of Ontario on June 21<sup>st</sup> 2020




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

LSO: 64912F



Kevin Watkinson

This is Exhibit "A" referred to in the  
affidavit of Kevin Watkinson sworn June 21<sup>st</sup>, 2020

  
A Commissioner for the Taking of Affidavits

Request ID: 023272923  
Transaction ID: 72255694  
Category ID: UN/E

Province of Ontario  
Ministry of Government Services

19

Date Report Produced: 2019/06/27  
Time Report Produced: 13:43:39  
Page: 1

## CORPORATION PROFILE REPORT

<b>Ontario Corp Number</b>	<b>Corporation Name</b>	<b>Incorporation Date</b>
2074479	CUSTOM CO-EX TECHNOLOGIES INC.	2005/06/10
		<b>Jurisdiction</b>
		ONTARIO
<b>Corporation Type</b>	<b>Corporation Status</b>	<b>Former Jurisdiction</b>
ONTARIO BUSINESS CORP.	ACTIVE	NOT APPLICABLE
<b>Registered Office Address</b>	<b>Date Amalgamated</b>	<b>Amalgamation Ind.</b>
9030 KEELE STREET	NOT APPLICABLE	NOT APPLICABLE
<b>Suite # 2</b>	<b>New Amal. Number</b>	<b>Notice Date</b>
CONCORD	NOT APPLICABLE	NOT APPLICABLE
ONTARIO		
CANADA L4K 2N2		<b>Letter Date</b>
<b>Mailing Address</b>		NOT APPLICABLE
9030 KEELE STREET	<b>Revival Date</b>	<b>Continuation Date</b>
<b>Suite # UNIT 2</b>	NOT APPLICABLE	NOT APPLICABLE
CONCORD	<b>Transferred Out Date</b>	<b>Cancel/Inactive Date</b>
ONTARIO	NOT APPLICABLE	NOT APPLICABLE
CANADA L4K 2N2	<b>EP Licence Eff.Date</b>	<b>EP Licence Term.Date</b>
	NOT APPLICABLE	NOT APPLICABLE
	<b>Number of Directors</b>	<b>Date Commenced</b>
	<b>Minimum</b>	<b>in Ontario</b>
	<b>Maximum</b>	<b>Date Ceased</b>
	00001	<b>in Ontario</b>
	00010	NOT APPLICABLE
<b>Activity Classification</b>		NOT APPLICABLE
NOT AVAILABLE		



Request ID: 023272923  
Transaction ID: 72255694  
Category ID: UN/E

Province of Ontario  
Ministry of Government Services

20  
Date Report Produced: 2019/06/27  
Time Report Produced: 13:43:39  
Page: 2

## CORPORATION PROFILE REPORT

**Ontario Corp Number**

2074479

**Corporation Name**

CUSTOM CO-EX TECHNOLOGIES INC.

**Corporate Name History**

CUSTOM CO-EX TECHNOLOGIES INC.

**Effective Date**

2005/06/10

**Current Business Name(s) Exist:**

NO

**Expired Business Name(s) Exist:**

NO

**Administrator:****Name (Individual / Corporation)**

NOEL  
CHANTIAM JR.

**Address**

170 WATER STREET  
Suite # 803  
CAMBRIDGE  
ONTARIO  
CANADA N1R 3B6

**Date Began**

2011/06/30

**First Director**

NOT APPLICABLE

**Designation**

DIRECTOR

**Officer Type****Resident Canadian**

Y

## CORPORATION PROFILE REPORT

<b>Ontario Corp Number</b>	<b>Corporation Name</b>
2074479	CUSTOM CO-EX TECHNOLOGIES INC.

<b>Administrator: Name (Individual / Corporation)</b>	<b>Address</b>
NOEL CHANTIAM JR.	170 WATER STREET  Suite # 803 CAMBRIDGE ONTARIO CANADA N1R 3B6

<b>Date Began</b>	<b>First Director</b>	
2011/06/30	NOT APPLICABLE	
<b>Designation</b>	<b>Officer Type</b>	<b>Resident Canadian</b>
OFFICER	PRESIDENT	Y

<b>Administrator: Name (Individual / Corporation)</b>	<b>Address</b>
NOEL CHANTIAM JR.	170 WATER STREET  Suite # 803 CAMBRIDGE ONTARIO CANADA N1R 3B6

<b>Date Began</b>	<b>First Director</b>	
2011/06/30	NOT APPLICABLE	
<b>Designation</b>	<b>Officer Type</b>	<b>Resident Canadian</b>
OFFICER	SECRETARY	Y

Request ID: 023272923  
Transaction ID: 72255694  
Category ID: UN/E

Province of Ontario  
Ministry of Government Services

22

Date Report Produced: 2019/06/27  
Time Report Produced: 13:43:39  
Page: 4

## CORPORATION PROFILE REPORT

**Ontario Corp Number**

2074479

**Corporation Name**

CUSTOM CO-EX TECHNOLOGIES INC.

**Administrator:  
Name (Individual / Corporation)**

NOEL  
CHANTIAM JR.

**Address**

170 WATER STREET  
Suite # 803  
CAMBRIDGE  
ONTARIO  
CANADA N1R 3B6

**Date Began**

2011/06/30

**First Director**

NOT APPLICABLE

**Designation**

OFFICER

**Officer Type**

TREASURER

**Resident Canadian**

Y

Request ID: 023272923  
Transaction ID: 72255694  
Category ID: UN/E

Province of Ontario  
Ministry of Government Services

23  
Date Report Produced: 2019/06/27  
Time Report Produced: 13:43:39  
Page: 5

## CORPORATION PROFILE REPORT

**Ontario Corp Number**

2074479

**Corporation Name**

CUSTOM CO-EX TECHNOLOGIES INC.

**Last Document Recorded**


<b>Act/Code</b>	<b>Description</b>	<b>Form</b>	<b>Date</b>
CIA	ANNUAL RETURN 2018	1C	2019/01/06 (ELECTRONIC FILING)

THIS REPORT SETS OUT THE MOST RECENT INFORMATION FILED BY THE CORPORATION ON OR AFTER JUNE 27, 1992, AND RECORDED IN THE ONTARIO BUSINESS INFORMATION SYSTEM AS AT THE DATE AND TIME OF PRINTING. ALL PERSONS WHO ARE RECORDED AS CURRENT DIRECTORS OR OFFICERS ARE INCLUDED IN THE LIST OF ADMINISTRATORS.

ADDITIONAL HISTORICAL INFORMATION MAY EXIST ON MICROFICHE.

The issuance of this report in electronic form is authorized by the Director of Companies and Personal Property Security Branch.

This is Exhibit "A1" referred to in the  
affidavit of Kevin Watkinson sworn June 21<sup>st</sup>, 2020

  
A Commissioner for the Taking of Affidavits

Request ID: 024661916  
Transaction ID: 75734888  
Category ID: UN/E

Province of Ontario  
Ministry of Government Services

25

Date Report Produced: 2020/06/18  
Time Report Produced: 11:46:05  
Page: 1

## CORPORATION PROFILE REPORT

<b>Ontario Corp Number</b>	<b>Corporation Name</b>	<b>Incorporation Date</b>
2074479	CUSTOM CO-EX TECHNOLOGIES INC.	2005/06/10
		<b>Jurisdiction</b>
		ONTARIO
<b>Corporation Type</b>	<b>Corporation Status</b>	<b>Former Jurisdiction</b>
ONTARIO BUSINESS CORP.	ACTIVE	NOT APPLICABLE
<b>Registered Office Address</b>	<b>Date Amalgamated</b>	<b>Amalgamation Ind.</b>
9030 KEELE STREET	NOT APPLICABLE	NOT APPLICABLE
<b>Suite # 2</b>	<b>New Amal. Number</b>	<b>Notice Date</b>
CONCORD	NOT APPLICABLE	NOT APPLICABLE
ONTARIO		
CANADA L4K 2N2		<b>Letter Date</b>
<b>Mailing Address</b>		NOT APPLICABLE
45 STAFFORD COURT	<b>Revival Date</b>	<b>Continuation Date</b>
	NOT APPLICABLE	NOT APPLICABLE
CAMBRIDGE	<b>Transferred Out Date</b>	<b>Cancel/Inactive Date</b>
ONTARIO	NOT APPLICABLE	NOT APPLICABLE
CANADA N1T 1B3	<b>EP Licence Eff.Date</b>	<b>EP Licence Term.Date</b>
	NOT APPLICABLE	NOT APPLICABLE
	<b>Number of Directors</b>	<b>Date Commenced</b>
	<b>Minimum</b> <b>Maximum</b>	<b>in Ontario</b>
	00001      00010	NOT APPLICABLE
<b>Activity Classification</b>		<b>Date Ceased</b>
NOT AVAILABLE		<b>in Ontario</b>
		NOT APPLICABLE

Request ID: 024661916  
Transaction ID: 75734888  
Category ID: UN/E

Province of Ontario  
Ministry of Government Services

26  
Date Report Produced: 2020/06/18  
Time Report Produced: 11:46:05  
Page: 2

## CORPORATION PROFILE REPORT

**Ontario Corp Number**

2074479

**Corporation Name**

CUSTOM CO-EX TECHNOLOGIES INC.

**Corporate Name History**

CUSTOM CO-EX TECHNOLOGIES INC.

**Effective Date**

2005/06/10

**Current Business Name(s) Exist:**

NO

**Expired Business Name(s) Exist:**

NO

**Administrator:**

**Name (Individual / Corporation)**

NOEL

CHANTIAM SR.

**Address**

170 WATER ST. N

Suite # 803  
CAMBRIDGE  
ONTARIO  
CANADA N1R 3B6

**Date Began**

2019/06/27

**First Director**

NOT APPLICABLE

**Designation**

DIRECTOR

**Officer Type**

**Resident Canadian**

Y

Request ID: 024661916  
Transaction ID: 75734888  
Category ID: UN/E

Province of Ontario  
Ministry of Government Services

27

Date Report Produced: 2020/06/18  
Time Report Produced: 11:46:05  
Page: 3

## CORPORATION PROFILE REPORT

**Ontario Corp Number**

2074479

**Corporation Name**

CUSTOM CO-EX TECHNOLOGIES INC.

**Administrator:  
Name (Individual / Corporation)**

NOEL  
CHANTIAM SR.

**Address**

170 WATER ST. N  
Suite # 803  
CAMBRIDGE  
ONTARIO  
CANADA N1R 3B6

**Date Began**

2019/06/27

**First Director**

NOT APPLICABLE

**Designation**

OFFICER

**Officer Type**

PRESIDENT

**Resident Canadian**

Y

**Administrator:  
Name (Individual / Corporation)**

NOEL  
CHANTIAM SR.

**Address**

170 WATER ST. N  
Suite # 803  
CAMBRIDGE  
ONTARIO  
CANADA N1R 3B6

**Date Began**

2019/06/27

**First Director**

NOT APPLICABLE

**Designation**

OFFICER

**Officer Type**

SECRETARY

**Resident Canadian**

Y



Request ID: 024661916  
Transaction ID: 75734888  
Category ID: UN/E

Province of Ontario  
Ministry of Government Services

28  
Date Report Produced: 2020/06/18  
Time Report Produced: 11:46:05  
Page: 4

## CORPORATION PROFILE REPORT

Ontario Corp Number	Corporation Name
2074479	CUSTOM CO-EX TECHNOLOGIES INC.

Administrator: Name (Individual / Corporation)	Address
NOEL CHANTIAM SR.	170 WATER ST. N Suite # 803 CAMBRIDGE ONTARIO CANADA N1R 3B6

Date Began	First Director	Resident Canadian
2019/06/27	NOT APPLICABLE	
Designation	Officer Type	Resident Canadian
OFFICER	TREASURER	Y

Request ID: 024661916  
Transaction ID: 75734888  
Category ID: UN/E

Province of Ontario  
Ministry of Government Services

29  
Date Report Produced: 2020/06/18  
Time Report Produced: 11:46:05  
Page: 5

## CORPORATION PROFILE REPORT

Ontario Corp Number

Corporation Name

2074479

CUSTOM CO-EX TECHNOLOGIES INC.

### Last Document Recorded


Act/Code	Description	Form	Date
CIA	ANNUAL RETURN 2019	1C	2020/03/15 (ELECTRONIC FILING)

THIS REPORT SETS OUT THE MOST RECENT INFORMATION FILED BY THE CORPORATION ON OR AFTER JUNE 27, 1992, AND RECORDED IN THE ONTARIO BUSINESS INFORMATION SYSTEM AS AT THE DATE AND TIME OF PRINTING. ALL PERSONS WHO ARE RECORDED AS CURRENT DIRECTORS OR OFFICERS ARE INCLUDED IN THE LIST OF ADMINISTRATORS.

ADDITIONAL HISTORICAL INFORMATION MAY EXIST ON MICROFICHE.

The issuance of this report in electronic form is authorized by the Ministry of Government Services.

This is Exhibit "B" referred to in the  
affidavit of Kevin Watkinson sworn June 21<sup>st</sup>, 2020

  
A Commissioner for the Taking of Affidavits

## LEASE OF INDUSTRIAL SPACE

DATE:

June 23, 2015

BETWEEN

**9024 KEELE PARK PROPERTIES LTD., a corporation incorporated pursuant  
to the laws of Ontario  
("Landlord")**

AND:

**CUSTOM COEX TECHNOLOGIES INC., a corporation incorporated pursuant  
to the laws of Ontario  
("Tenant")**

CENTRE:

9030 Keele Street Vaughan, Ontario

PREMISES NUMBER:

Unit 2

TENANT BUSINESS  
NAME:

Custom Coex Technologies Inc.

**TENANT'S ADDRESS:**  
9030 Keele Street; Unit 2  
Vaughan, Ontario  
L4K 2N2

**LANDLORD'S ADDRESS:**  
31 Densley Avenue  
Toronto, Ontario  
M6M 2P5  
Phone 416 247-7474  
Telecopier: 416 247-6309

LANDLORD AND TENANT, in consideration of the covenants herein contained, hereby agree as follows:

### ARTICLE 1.0 DEFINITIONS

1.1 In this Lease capitalized terms and expressions shall have the meanings provided for in Exhibit A.

### ARTICLE 2.0 GRANT OF LEASE

2.1 **Grant** Landlord hereby demises and leases the Premises to Tenant, and Tenant hereby leases and accepts the Premises from Landlord, to have and to hold during the Term, subject to the terms and conditions of this Lease.

2.2 **Quiet Enjoyment** Landlord will warrant and defend Tenant in the quiet enjoyment and possession of the Premises during the Term, subject to the terms and conditions of this Lease.

2.3 **Covenants of Landlord and Tenant** Landlord covenants to observe and perform all of the terms and conditions to be observed and performed by Landlord under this Lease. Tenant covenants to pay the Rent when due under this Lease, and to observe and perform all of the terms and conditions to be observed and performed by Tenant under this Lease.



### ARTICLE 3.0 TERM AND POSSESSION

3.1 **Term** Notwithstanding Articles 3.2 and 3.3, the term of this Lease will be fifteen (15) years, beginning on the 1<sup>st</sup> day of the month of August, 2015 and ending on the 31<sup>st</sup> day of the month of July, 2030, unless terminated earlier as provided in this Lease.

3.2 **Early Occupancy** If Tenant begins to conduct business in all or any portion of the Premises before the Commencement Date, Tenant will pay to Landlord on the Commencement Date a rental in respect thereof from the date Tenant begins to conduct business in all or any part of the Premises to the Commencement Date, which rental will be that proportion of Rent for one calendar year which the number of days in such period bears to 365. Except where clearly inappropriate, the provisions of this Lease will be applicable during such period. Tenant will not conduct business from the Premises before the Commencement Date without Landlord's prior written approval.

3.3 **Delayed Possession** If Landlord is delayed in delivering possession of all or any portion of the Premises to Tenant on or before the Commencement Date, then unless such delay is principally caused by or attributable to Tenant (and availability of the delivery of this Lease for execution by the Tenant only on August 1, 2015 shall be deemed to be a delay principally caused by the Tenant), its employees, servants, agents or independent contractors, Tenant will take possession of the Premises on the date (not later than one year after the Commencement Date) when Landlord delivers possession of all of the Premises, which date will be conclusively established by notice to Tenant, accompanied and confirmed by an Architect's certificate, at least five (5) days before such date. This Lease will not be void or voidable nor will Landlord be liable to Tenant for any loss or damage resulting from any delay in delivering possession of the Premises to Tenant, but no Rent will be payable by Tenant for the period prior to the date on which Landlord can so deliver possession of all of the Premises, unless Tenant elects to take possession of a portion of the Premises, whereupon Rent will be payable in respect of such portion from the date such possession is so taken.

3.4 **Acceptance of Premises** Tenant acknowledges acceptance of the premise on an as is basis. Taking possession of all or any portion of the Premises by Tenant will be conclusive evidence as against Tenant that the Premises or such portion thereof are in satisfactory condition on the date of taking possession, subject only to latent defects and to those deficiencies (if any) listed in writing in a notice delivered by Tenant to Landlord not more than 30 days after the earlier of the date of taking possession and the Commencement Date.

Landlord's Initials   
Tenants Initials 

**ARTICLE 4.0 RENT AND OCCUPANCY COSTS**

4.1 **Annual Rent** Tenant will pay to Landlord as Annual Rent for the Premises:

(a) During the period commencing August 1, 2015 and ending on July 31, 2020, the sum of \$160,000.00 Dollars of Lawful money of Canada payable in advance and without notice in equal consecutive monthly installments of \$13,333.33, each on the first day of each month during the said period; and

(b) During the period commencing August 1, 2020 and ending on July 31, 2025, the sum of \$190,000.00 Dollars of Lawful money of Canada payable in advance and without notice in equal consecutive monthly installments of \$15,833.33 each on the first day of each month during the said period; and

(c) During the period commencing August 1, 2025 and ending on July 31, 2030, the sum of \$210,000.00 Dollars of Lawful money of Canada payable in advance and without notice in equal consecutive monthly installments of \$17,500.00, each on the first day of each month during the said period;

**Annual Rent adjustment** The Annual Rent is based on a charge of \$4.00 per annum per Square Foot of Space in the Premises for the first five full years of the Term and escalating \$4.75 per Square Feet of Space in the Premises for the sixth to tenth years and further escalating to \$5.25 per annum per Square Feet of Space for the eleventh to fifteenth years thereafter. Such amount, having been determined on the basis of the number of square feet stated in Article 1.1 (aa) of Exhibit A, and if the Landlord provides written notice to the Tenant, will be subject to a proportionate adjustment in the event that the number of Square Feet of Space in the Premises as calculated by the Architect or certified representative, is greater or lesser than the number stated in the said Article 1.1 (aa). If, as the result of a certification or re-certification by the Architect of the number of Square Feet of Space in the Premises, there is to be a proportionate adjustment of Rent and/or of other Tenant charges which are based upon the number of Square Feet of Space in the Premises, such adjustment shall be made and become effective on: (a) the Commencement Date if certified in the first year of the Term; and (b) the first certified after the end of the first year of the Term. In the event that the Landlord permits a request of the Tenant for a certification or re-certification by the Architect of the number of Square Feet of Space in the Premises at any time prior to or during the Term, Tenant will pay for the cost of same. Prior to any such certification or re-certification Tenant shall agree in writing on Landlord's form to the exact cost thereof.

4.2 **Occupancy Costs** It is the stated purpose and intent of Landlord and Tenant that this Lease will be fully net to Landlord. Tenant will pay to Landlord, at the times and in the manner provided in Article 4.6, the Occupancy Costs (including, without limiting the generality of the foregoing, common area costs and taxes) determined under Exhibit B.

4.3 **Other Charges** Tenant will pay to Landlord, at the times and in the manner provided in this Lease or, if not so provided, as reasonably required by Landlord, all amounts (other than that payable under Articles 4.1 and 4.2) which are payable by Tenant to Landlord under this Lease.

4.4 **Payment of Rent-General** All amounts payable by Tenant to Landlord under this Lease will be deemed to be Rent and will be payable and recoverable as Rent in the manner herein provided, and Landlord will have all rights against Tenant for default in any such payments as in the case of arrears of Rent. Rent will be paid to Landlord, without deduction or set-off, in legal tender of Canada. If and to the extent Landlord so requires, Rent will be paid to Landlord, at Tenant's expense, by an automated debiting system, under which payments are deducted from Tenant's bank account and credited to Landlord's bank account, without prejudice to any other right or remedy of Landlord; otherwise, Tenant shall provide Landlord on the earlier of, the Commencement Date or possession being taken by the Tenant of all or any part of the Premises, and prior to each Lease year thereafter, with twelve (12) post dated cheques each in the amount of the Rent reserved and to be paid under this lease. Rent will in any event be paid to Landlord or to such other person at such address as Landlord may from time to time designate in writing. Tenant's obligation to pay Rent will survive the expiration or earlier termination of this Lease.



4.5 **Rent-Adjustment for Partial Months** If the Commencement Date is not the first day of a calendar month, the installment of Rent payable on the Commencement Date will be that proportion of the Rent which the number of days from the Commencement Date to the last day of the calendar month in which the Commencement Date occurs (both the Commencement Date and the last day being inclusive) bears to 365. If the Term ends on a day other than the last day of a calendar month, the installment of Rent payable on the first day of the last calendar month of the Term will be that proportion of the Rent which the number of days from the first day of such last calendar month to the last day of the Term (both the first day and the last day being inclusive) bears to 365.

4.6 **Payment – Occupancy Costs**

(a) Prior to the Commencement Date (or as soon as possible thereafter) and beginning of each Fiscal Year thereafter, Landlord will compute and deliver to Tenant a bona fide estimate of Occupancy Costs for the appropriate Fiscal Year and without further notice Tenant will pay to Landlord in monthly installments one-twelfth of such estimate simultaneously with Tenant's payments of Annual Rent during such Fiscal Year.

(b) Unless delayed by causes beyond Landlord's reasonable control, Landlord will deliver to Tenant within 120 days after the end of each Fiscal year a written statement (the "Statement") setting out in reasonable detail the amount of Occupancy Costs for such Fiscal Year and certified to be correct by an officer of Landlord, its accountant or of the management company, if any, for the Project appointed by Landlord. If the aggregate of monthly installments of Occupancy Costs actually paid by Tenant to Landlord during such Fiscal year differs from the amount of Occupancy Costs payable for such Fiscal year under Article 4.2, within 30 days after the date of delivery of the Statement, Tenant will pay or Landlord will credit the difference without interest, (as the case may be), subject to the deduction by Landlord of Rent and any other amount then owing by Tenant to Landlord under this Lease.

(c) If Landlord and Tenant disagree on the accuracy of Occupancy Costs as set forth in a Statement, Tenant will nevertheless make payment in accordance with any notice given by Landlord, but the disagreement will immediately be referred by Landlord for prompt decision by a mutually acceptable chartered accountant, architect, insurance broker or other professional consultant who will be deemed to be acting as expert and not arbitrator, and a determination signed by the selected expert will be final and binding on both Landlord and Tenant. No such reference shall be made unless Tenant prepays all costs of associated with the reference. Any adjustments required to any previous payment made by Tenant or Landlord by reason of any such decision will be made within 14 days thereof, and the party required to make

Landlord's Initials   
Tenants Initials 

payment under such adjustment will bear all costs of the expert making such decision; however in the event that the adjustment is less than 3% of the overall the cost the tenant will be responsible for all professional and associated costs.

(d) Tenant may not claim a re-adjustment in respect of Occupancy Costs for a Fiscal Year except by notice delivered to Landlord within 60 days after the date of delivery of the Statement.

**4.7 No Abatement of Rent**

There shall be no abatement from or reduction of Rent due hereunder, nor shall the Tenant be entitled to damages, losses, costs or disbursements from the Landlord during the Term hereby created on, caused by or on account of fire (except as noted in Article 16), water, sprinkler systems, partial or temporary heat failure or stoppage of heat, light, live steam or plumbing service in or to the said Premises or Building, whether due to acts of God, strikes, accidents, the making of alterations, repairs, renewals, improvements, structural changes to the said premises or building or the equipment or systems supplying the said services, or from any cause whatsoever, provided same has not been caused by the gross negligence of the Landlord or for whom it is at law responsible: provided that the said failure or stoppage be remedied with a reasonable period of time.

**4.8 Sales Taxes** Notwithstanding any other section or clause of this Lease, the Tenant shall pay to the Landlord an amount equal to any and all goods and services taxes, sales taxes, harmonized sales taxes, value added taxes, business transfer taxes, or any other taxes imposed on the Landlord with respect to Rent payable by the Tenant to the Landlord under this Lease, or in respect of the rental of space under this Lease, whether characterized as a goods and services tax, sales tax, value added tax, business transfer tax, or otherwise (herein called "Sales Taxes"), it being the intention of the parties that the Landlord shall be fully reimbursed by the Tenant with respect to any and all Sales Taxes payable by the Landlord. The amount of the Sales Taxes so payable by the Tenant shall be calculated by the Landlord in accordance with the applicable legislation and shall be paid to the Landlord at the same time as the amounts to which such Sales Taxes apply are payable to the Landlord under the terms of this Lease or upon demand at such other time as the Landlord from time to time determines. Despite any other section or clause in this Lease, the amount payable by the Tenant under this paragraph shall be deemed not to be Rent, but the Landlord shall have all of the same remedies for and rights of recovery of such amount as it has for recovery of Rent under this Lease.

**ARTICLE 5.0 USE OF PREMISES**

**5.1 Use and Business Name** The Premises will be used and occupied only as a place of manufacturing, warehousing & office and the business of Tenant in the Premises will be carried on under the name and style of "Custom Coex Technologies Inc." and under no other name and style unless approved by Landlord in writing. The Landlord does not represent or warrant that the foregoing use is permitted in whole or in part in accordance with governing zoning bylaws and the Tenant accepts the sole risk thereof.

**5.2 Occupancy Acknowledgment** Tenant acknowledges that its continued occupancy of the Premises and that regular conduct of its business therein are of utmost importance to neighbouring tenants and to Landlord in the renting of space in the Project, the renewal of other leases therein, the efficient and economic supply of services and utilities, and in the character and quality of the other tenants in the Project.

**5.3 Continuous Occupancy** Tenant therefore covenants and agrees that throughout the Term it will occupy the entire Premises and not vacate or abandon the Premises at any time during the Term. Tenant acknowledges that Landlord is executing this Lease in reliance thereupon and that the same is a material element inducing Landlord to execute this Lease. Tenant further agrees that if it vacates or abandons the Premises or fails to so conduct its business therein, or uses or permits or suffers the use of the Premises for any purpose not specifically herein authorized and allowed, Tenant will be in breach of Tenant's obligations under this Lease, and then, without constituting a waiver of Tenant's obligations or limiting Landlord's remedies under this Lease, all Rent reserved in this Lease will immediately become due and payable to Landlord unless guaranteed to the satisfaction of Landlord. Landlord will have the right, without prejudice to any other rights which it may have under this Lease or at law, to obtain an injunction requiring Tenant to comply with the provisions of this Article 5.3.

**5.4 Restrictions on Use & Occupancy**

(a) Tenant will carry on its business on the Premises in a reputable manner and in compliance with all the provisions of this Lease, and in particular Tenant will not advertise, do, omit, permit or suffer to be done or exist upon the Premises anything which will be or result in or bring about a breach of any provision of this Lease.



(b) Tenant will not conduct or advertise on or from or pertaining to the Premises as any part of its business the sale of bankruptcy, distress or secondhand goods, war surplus articles, insurance salvage stock, fire sale stock or merchandise damaged by fire or purported to be damaged by fire, unless such damage actually occurred on the Premises, or hold any auctions or conduct any business which because of the merchandise likely to be sold or the merchandising methods likely to be used would tend to lower the character of the Project or injure the Project or the business done therein.

(c) Tenant, or anyone acting through, for, or in place of Tenant, will not conduct or advertise on or from or pertaining to the Premises any auction, bankruptcy or receivership sale or any closing-out distress business, nor will Tenant grant any concession, license or permission to any third party to sell or take orders for merchandise or services in the Premises.

(d) Tenant will not use in the Premises any traveling or flashing lights or signs or any loudspeakers, television, phonographs, radio or other audio-visual or mechanical devices in a manner so that they can be heard or seen outside the Premises. Landlord will be entitled to remove such equipment without notice at any time and such removal will be done and all damages as a result thereof will be made good, in each case at the cost of Tenant together with a 20% charge on account of Landlord's overhead and supervision costs payable as Rent forthwith on demand.

(e) No outside storage of any kind will be permitted, nor will the Tenant be permit to construct any exterior storage facility without the Landlord's express written consent.

**5.5 Compliance with Laws** Tenant will use and occupy the Premises in a safe, careful and proper manner so as not to contravene any present or future government or quasi-governmental laws in force or regulations or orders including, without limitation, each Environmental Law. If, due solely to Tenant's use of the Premises, improvement are necessary to comply with any of the foregoing or with the requirements of insurance carriers, Tenant will pay the entire cost thereof.

Landlord's Initials   
Tenants Initials 

5.6 **Nuisance** Tenant will not cause or maintain any nuisance or hazard in or about the Premises and will keep the Premises free of Hazardous Waste, debris, trash, rodents, vermin and anything of a dangerous, noxious or offensive nature or which could create a fire hazard (through undue load on electrical circuits or otherwise) or undue vibration, heat or any unusual or objectionable noises or odors or anything which may disturb the enjoyment of the Project and all the Common Areas and facilities thereof by customers and other tenants of the Project. Tenant will not place or keep any merchandise or other thing outside of the Premises or in the Common Areas.

#### ARTICLE 6.0 SERVICES, MAINTENANCE, REPAIR AND ALTERATIONS BY LANDLORD

6.1 **Operation of Project** During the Term Landlord will operate and maintain the Project in accordance with all applicable laws and regulations and with standards from time to time prevailing for first-class buildings of this type in the area in which the Project is located and, subject to participation by Tenant by payment of Occupancy Costs under Article 4.2, will provide the services set out in Articles 6.2 and 6.3.

6.2 **Maintenance, Repair and Replacement** Landlord will operate, maintain, repair and replace the systems, facilities and equipment necessary for the proper operation of the Project (except as such may be installed by or be the property of Tenant or others (excluding Landlord) or both and except for the heating, ventilating and any air-conditioning equipment installed for the Premises where such equipment is not part of a shared or central system), and will be responsible for and will expeditiously maintain and repair the foundations, structure and roof of the Project (excluding the roof membrane) and repair damage to the Project which Landlord is obligated to insure against under Article 9.0, provided that:

- (a) if all or part of such systems, facilities and equipment are destroyed, damaged or impaired, Landlord will have a reasonable time in which to complete the necessary repair or replacement, and during that time will be required only to maintain such services as are reasonably possible in the circumstances;
- (b) Landlord may temporarily discontinue such services or any of them at such times as may be necessary due to causes beyond the reasonable control of Landlord;
- (c) Landlord will use reasonable diligence in carrying out its obligations under this Article 6.2, but will not be liable under any circumstances for any consequential damage to any person (including without limitation, Tenant) or any property for any failure to do so;
- (d) no reduction or discontinuance of such services under clauses (a) or (b) of this Article 6.2 will constitute an eviction of Tenant or (except as specifically provided in this Lease) release Tenant from any obligation of Tenant under this Lease; and
- (e) nothing contained herein will derogate from the provisions of Articles 16.1, 16.2, 16.3, 16.4 or 16.5

6.3 **Alterations by Landlord** Landlord may from time to time:

- (a) make repairs, replacements, changes or additions to the structure, systems, facilities and equipment in the Premises where necessary to serve the Premises or other parts of the Project;
- (b) make changes in or additions to any part of the Project not in or forming part of the Premises; add to the Rentable Components of the Project, including the roof and the air space above and around the Project; and
- (c) change or alter the location of Common Areas;

provided that in doing so Landlord will not disturb or interfere with Tenant's use of the Premises and operation of its business any more than is reasonably necessary in the circumstances and will repair any damage to the Premises caused thereby.

6.4 **Access by Landlord** Tenant will permit Landlord to enter the Premises outside normal business hours, and during normal business hours where such will not unreasonable disturb or interfere with Tenant's use of the Premises and operation of its business, to examine, inspect and show the Premises to persons wishing to lease them, to provide services or make repairs, replacements, changes or alterations as set out in this Lease, and to take such steps as Landlord may deem necessary for the safety, improvement or preservation of the Premises or the Project. Landlord will whenever possible consult with or give reasonable notice to Tenant prior to such entry, but no such entry will constitute an eviction or entitle Tenant to any abatement of Rent.

6.5 **Energy, Conservation and Security Policies** Landlord will be deemed to have observed and performed the terms and conditions to be performed by Landlord under this Lease, including those relating to the provision of utilities and services, if in not so doing it acts in accordance with a directive, policy or request of a governmental or quasi-governmental authority serving the public interest in the fields of energy, conservation or security.



#### ARTICLE 7.0 UTILITIES, SERVICES, MAINTENANCE AND ALTERATIONS TENANT

7.1 **Cleaning** During the Term, Tenant will keep the Premises in a clean and wholesome condition, and will provide at its own expense therein janitor services, removal of debris and garbage, and cleaning of all windows, doors and the interior and exterior of the Premises.

7.2 **Heat, Ventilation, Air Conditioning, Utilities** Subject to Article 7.3, during the Term, Tenant will provide in the Premises at its own expense heat, ventilation, air-conditioning, water, gas electricity, steam and other utilities and services.

7.3 **Common Utilities** If heat, ventilation, air conditioning, water, gas electricity, steam or any other utility or service is provided by Landlord, but is not metered or is supplied to the Premises through meters common to other tenants or a group of tenants in the Project, Landlord will pay the cost thereof and, if not otherwise provided in this Lease, Landlord will apportion such cost pro rata among the tenants utilizing the utility or service or supplied through such common meters, and Tenant will reimburse Landlord the amount of its pro rata share of such cost plus 15% to cover Landlord's costs of administration of such pro rata share, provided that if Landlord will from time to time reasonably determine that the use by the Tenant of any such utility or service in the Premises is disproportionate to the use of other tenants, Landlord may adjust Tenant's share of the cost thereof from a date reasonably determined by Landlord to take reasonable account of the disproportionate use. At Landlord's request, Tenant will install and maintain at Tenant's expense metering devices for checking the use of any such utility or service in the Premises. In all cases Tenant will reimburse Landlord for any utility or service charges.

7.4 **Condition of Premises** Except to the extent that Landlord is specifically responsible therefore under this Lease, Tenant will maintain the Premises and all improvements therein in good order and condition, including:

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 Tenants Initials 

- (a) repainting and redecorating the Premises and cleaning drapes and carpets (if any) at reasonable intervals as needed;
- (b) making repairs and replacements as needed to glass, plate glass, windows and storefronts, signs, mouldings, doors, hardware, partitions, walls, fixtures, lighting, finishes, plumbing, wiring, ductwork and piping (including that portion which is contiguous to the Premises), ceilings, floors and thresholds in the Premises;
- (c) maintaining, repairing and replacing as needed all mechanical, electrical and plumbing systems, facilities and equipment in the Premises. Without limiting the generality of the foregoing, Tenant will be responsible for maintaining, repairing and replacing the heating, ventilating and air-conditioning equipment (the "Tenant HVAC System") installed for the Premises where such equipment is not part of a shared or central system, provided that Landlord may, at its option and upon written notice to Tenant, elect to carry out the maintenance and repair of the Tenant HVAC System as may be required from time to time, in which case Tenant will thereafter cease to be responsible for the maintenance and repair of the Tenant HVAC System and Tenant will reimburse Landlord for Tenant's pro rata share (determined on a reasonable basis) of the costs incurred by Landlord in carrying out maintenance and repairs to heating, ventilating and air-conditioning equipment installed for premises as may be required from time to time plus an administration fee equal to 15% of such costs. Landlord will compute and deliver to Tenant prior to the Commencement Date (or as soon as possible thereafter) and prior to the beginning of each Fiscal Year thereafter, a bona fide estimate of the costs of such maintenance and repairs for the appropriate Fiscal year and without further notice Tenant will pay to Landlord in monthly installments one-twelfth of such estimate simultaneously with Tenant's payments of Annual Rent during such Fiscal Year, subject to adjustment following delivery of a written statement after the end of each Fiscal Year in the same manner as set out in Article 4.6(b). If Landlord elects to carry out the maintenance and repair of the Tenant HVAC System as aforesaid, Landlord or its authorized representatives shall be entitled to enter the Premises for the purpose of performing such repairs and maintenance from time to time without liability to Tenant to any loss or damage thereby incurred;
- (d) making other repairs and replacements in the Premises as needed, except repairs and replacements to the Premises for which Landlord is specifically responsible under this Lease; and
- (e) keeping the Premises in such condition as to comply with the requirements of any Authority having jurisdiction.

7.5 **Failure to Maintain Premises** If Tenant fails to perform any obligation under Articles 7.1, 7.2, 7.3, 7.4, 7.6, 7.7, 7.8 or 7.9, then on not less than ten days' notice to Tenant, Landlord may, at Landlord's sole option, enter the Premises and perform such obligation without liability to Tenant for any loss or damage to Tenant thereby incurred, and Tenant will pay Landlord for the cost thereof, plus 20% of such cost for overhead and supervision, upon receipt of Landlord's invoice therefor.

7.6 **Alterations by Tenant** Tenant may from time to time at its own expense make changes, additions and improvements in the Premises to better adapt the same to its business, provided that any such change, addition or improvement will:

- (a) comply with the requirements of Landlord's insurer and any Authority having jurisdiction;
- (b) be made only with the prior written consent of Landlord;
- (c) equal or exceed the then current standards for the Project; and
- (d) be carried out only by persons selected by Tenant and approved in writing by Landlord, and such persons will, if required by Landlord, deliver to Landlord before commencement of the work, performance and payment bonds as well as proof of worker's compensation and public liability and property damage insurance coverage, with Landlord named as an additional insured in amounts, with companies and in form reasonably satisfactory to Landlord, which will remain in effect during the entire period in which the work will be carried out.



Any such change, addition or improvement to the Premises shall forthwith upon the installation thereof become the absolute property of Landlord without compensation therefor but without Landlord's having or thereby accepting any responsibility in respect of the maintenance, repair or replacement thereof, all of which shall be Tenant's responsibility. Any increase in property taxes on, or fire or casualty insurance premiums for the Project, or any part thereof, attributable to such change, addition or improvement will be borne by Tenant and Tenant will pay Landlord for the cost of such increase upon receipt of Landlord's invoice therefor.

7.7 **Trade Fixtures and Personal Property** Tenant may install in the Premises its usual trade fixtures and personal property in a proper manner, provided that no such installation will interfere with or damage the mechanical, plumbing, sprinkler, or electrical systems or all or any part of the structure of the Project. If Tenant is not then in default under this Lease, trade fixtures and personal property installed in but not affixed to the Premises by or on behalf of Tenant may be removed from the Premises:

- (a) from time to time in the ordinary course of Tenant's business or in the course of permitted reconstruction, renovation or alteration of the Premises by Tenant; and
- (b) during a reasonable period prior to the expiration of the Term,

provided that Tenant in all cases promptly repairs at its own expense any damage to the Premises resulting from such installation and removal. In no case will such trade fixtures or personal property include the ceiling or ceiling panels, electric light fixtures, carpeting where laid, doors, storefront, plumbing fixtures and fittings or any affixed cabinets, shelves, hardware or decorative items in or upon the Premises, all of which upon installation become the property of Landlord. ~~Any personal property or trade fixtures affixed to the Premises in a permanent manner shall forthwith upon the installation thereof become the absolute property of Landlord without compensation therefor but without Landlord's having or thereby accepting any responsibility in respect of the maintenance, repair or replacement thereof, all of which shall be Tenant's responsibility.~~ Notwithstanding the foregoing, all trade fixtures and apparatus (as distinguished from the leasehold improvements) owned by the Tenant and installed in the Premises shall remain the property of the Tenant and shall be removed at the expiration of the term, provided that the Tenant shall not at such time be in default of any terms or covenants of this lease and provided that the Tenant shall, at its expense, make good any damage caused by such removal. If the Tenant is in default, the Landlord shall have the benefit of any applicable lien on the Tenant's property located in or on the Premises as may be permitted under the laws of the Province of Ontario and in the event such lien is asserted by the Landlord in any manner or by operation of law the Tenant shall not remove or permit the removal of said property until the lien has been removed and all defaults have been cured.

7.8 **Liens** Tenant will pay before delinquency all costs for work done, permitted, or caused to be done by Tenant in the Premises which could result in any lien or encumbrance on Landlord's interest or Tenant's interest or both in the Land or the Project or any part thereof. Tenant will keep the title to the Land and the Project and every part thereof free and clear of any lien

Landlord's Initials   
Tenants Initials 



or encumbrance in respect of such work and will indemnify and hold harmless Landlord against any claim, loss, cost, demand and legal or other expense, whether in respect of any lien or otherwise, arising out of the supply of material, services or labor for such work. Tenant will immediately notify Landlord of any such lien, claim of lien or other action of which it has or reasonably should have knowledge and which affects the title of the Land or Project or any part thereof, and will cause the same to be removed within five (5) days (or such additional time as Landlord may consent to in writing), failing which Landlord may take such actions as Landlord deems necessary to remove the same and the entire cost thereof will be immediately due and payable by Tenant to Landlord together with 20% of such cost on account of the Landlord's overhead and administration.

7.9 **Signs - General** Any sign, decal, lettering or design of Tenant which is visible from the exterior of the Premises or as provided in Article 7.10 will be at Tenant's expense and subject to approval by Landlord, and will conform to such uniform pattern of identification signs for tenants in the Project as may now or hereafter be prescribed by Landlord. Tenant will not inscribe or affix any sign, lettering or design in the Premises or Project which is visible from the exterior of the Project.

7.10 **Signs - Pylon** Subject to availability of space, Tenant may rent space on the pylon sign of the Landlord located at the Project at rates prescribed by the Landlord from time to time. Such rent will be payable as Rent under this Lease.

#### ARTICLE 8.0 TAXES

8.1 **Landlord's Taxes** Landlord will pay before delinquency (subject to participation by Tenant by payment of Occupancy Costs under Article 4.2) every real estate tax, assessment, local improvement, licence fee, excise and other charge, excepting Tenant's Taxes under Article 8.2, which is imposed, levied, assessed or charged by any governmental or quasi-governmental authority having jurisdiction and which is payable in respect of the Term upon or on account of the Land or the Project.

8.2 **Tenant's Taxes** Tenant will pay before delinquency every tax, assessment, licence fee, local improvement, excise and other charge, however described, which is imposed, levied, assessed or charged by any governmental or quasi-governmental authority having jurisdiction and which is payable during the Term (other than such taxes as corporate, income, profits or excess profits taxes assessed upon the income of the Landlord, capital taxes, capital gain taxes and large corporation taxes) upon or on account of operations at, occupancy of, or conduct of business in or from the Premises by or with the permission of Tenant; fixtures or personal property in the Premises which do not belong to Landlord; and the Rent paid or payable by Tenant to Landlord for the Premises or for the use and occupancy of all or any part thereof, provided that if Landlord so elects by notice to Tenant, Tenant will add any amounts payable under this Article 8.2 to the monthly installments of Annual Rent payable under Article 4.1 and Landlord will remit such amounts to the appropriate authorities.

8.3 **Changes in Taxes** If by law, regulation or otherwise all or any part of any tax, assessment, local improvement, licence fee, excise or other charge referred to in Article 8.2 is made payable by Landlord or if the mode of collecting such tax, assessment, local improvement, licence fee, excise or other charge is so altered so as to make Landlord liable in whole or in part therefore instead of Tenant or if all or any part of Tenant's taxes under Article 8.2 is imposed, levied, assessed or charged upon or on account of the Land or the Project, Tenant will repay to Landlord, from time to time, within seven (7) days after demand the amount payable by Landlord, from time to time as a result of such change, as determined by Landlord in the same manner as Occupancy Costs is determined under the terms of this Lease and Tenant will indemnify and save Landlord harmless from any cost or expense in respect thereof.



8.4 **Right to Contest** Landlord and Tenant will each have the right to contest in good faith the validity or amount of any tax, assessment, local improvement, licence fee, excise and other charge which it is responsible to pay under Articles 8.1, 8.2 or 8.3, provided in each case: (a) Tenant has obtained the prior written consent of Landlord for each such contest; (b) Tenant will at the same time appeal, as agent of Landlord, the assessment of Landlord's interest in the Tenant's portion of the Project; (c) no contest by Tenant may involve the possibility of forfeiture, sale or disturbance of Landlord's interest in the Premises; and, (d) upon the final determination of any contest by Tenant, if Tenant has not already done so, Tenant will immediately pay and satisfy the amount found to be due, together with any costs, penalties and interest. Notwithstanding anything contained herein to the contrary, Tenant will not have the right in the event of any such contest to withhold payment to Landlord of the amounts which are the subject of the contest and Landlord may withhold consent hereunder until all such amounts and penalties and interest reasonably estimated by Landlord are paid to or secured in favor of and to the satisfaction of Landlord. Tenant will fully indemnify Landlord for all costs and expenses (including legal fees and disbursements) incurred by Landlord as a result of any contesting by Tenant as provided for in this Article 8.4.

#### ARTICLE 9.0 INSURANCE

9.1 **Landlord's Insurance** During the Term, Landlord will maintain (subject to participation by Tenant by payment of Occupancy Costs under Article 4.2) liability insurance, fire insurance with extended coverage, boiler and pressure vessel insurance, rental insurance and other insurance on the Project and all property and interest of Landlord in the Project with coverage and in amounts not less than those which are from time to time acceptable to a prudent owner in the area in which the Project is located. Notwithstanding such participation by Tenant, Tenant will have no insurable interest in insurance carried by Landlord and no right to receive any proceeds of any such insurance. Policies for such insurance will waive, to the extent available from Landlord's carrier(s), any right of subrogation against Tenant.

9.2 **Tenant's Insurance** During the Term and any period Tenant is in possession of the Premises, Tenant will maintain at its own expense:

- (a) all risks (including flood and earthquake) property insurance and broad comprehensive boiler and machinery insurance in amounts sufficient to fully cover on a replacement cost basis Tenant's improvements and all property in the Premises which is not owned by Landlord or which Tenant is responsible to repair or maintain, or which is installed by or on behalf of Tenant; and
- (b) liability insurance, with Landlord and its mortgagee(s) named as additional insured's, against claims for death, personal injury and property damage in or about the Project and arising out of or connected with the business of Tenant carried on within the Project in amounts which are from time to time acceptable to a prudent tenant in the community in which the Project is located, but not less than \$2,000,000.00 in respect of any injury to or death of one or more persons and any loss or damage to the property of others, (including, without limiting the generality of the foregoing, Landlord's property) in respect of each occurrence and with provisions for severability of interest, cross-liability, owner's protective liability and blanket contractual liability; and
- (c) business interruption insurance in such amount as will reimburse Tenant for direct or indirect loss of earnings attributable to all perils insured against and other perils commonly insured against by prudent tenants or attributable to prevention of access to the Premises or the Project as a result of such perils; and

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Tenants Initials 

- (d) any other form of insurance as Landlord, acting reasonably, or any mortgagee requires from time to time in form, in amounts and for insurance risks against which a prudent tenant would insure; and
- (e) plate glass insurance on a full replacement cost basis.

All insurance required under this Section 9.2 will be in a form and with an insurer reasonably acceptable to Landlord and on terms and conditions satisfactory to Landlord and will waive any right of subrogation against Landlord and its mortgagee(s) and against those for whom any of them is responsible in law and will name Landlord and any persons, firms or corporations designated by Landlord as additional named insured as their interests may appear. All policies of such insurance will have deductibles not greater than three percent (3%) of the amount insured and will be primary and not call into contribution or be in excess of any other insurance available to Landlord or the additional named insured(s). Tenant agrees to deliver to Landlord, on request, proof of above required insurance in force at such date, such proof to be in the form of copies for current policies or certificates of insurance. Tenant also agrees to deliver to Landlord an endorsement or endorsements describing the above-noted insurance, wherein Tenant's insurer or insurers agrees to give 30 days prior written notice by prepaid, registered mail to Landlord of any material change in, cancellation of, or termination of such insurance, and Tenant further agrees to deliver to Landlord copies of renewal policies or certificates together with endorsements including the above-noted information, and if Tenant fails to insure or file satisfactory proof of insurance, Landlord may without notice to Tenant effect such insurance and recover any premiums paid therefor plus an overhead and administrative charge of the Landlord equal to 20% of such premium from Tenant on demand. Tenant will promptly pay all premiums due on the insurance required to be effected by it hereunder, will not carry any stock of goods or have or do anything upon the Premises which would impair or invalidate the obligation of any insurer, whether of Landlord or of Tenant. If the insurance premiums of Landlord will increase because of anything omitted by Tenant or anything done by Tenant outside its normal course of business on the Premises as permitted under this Lease the amount of increase will be paid by Tenant as Rent to Landlord on demand. Landlord agrees to notify Tenant as soon as possible after Landlord becomes aware that insurance premiums are to be increased as a result of Tenant's activity. In determining whether increased premiums are caused by or result from the use or occupancy of the Premises, or the sale of any article therein or there from, a schedule issued by the organization computing the insurance rate on the Project showing the various components of such rate, will be conclusive evidence of the several items and charges which make up such rate. Tenant will comply promptly with all requirements of the insurer's advisory organization of any insurer now or hereafter in effect, pertaining to or affecting the Premises or the Project. If the breach or non-performance of any of the covenants or agreements herein contained on the part of Tenant will immediately endanger the premises or any other of the buildings or property in or on the Project or result in the voiding, cancellation or threatened cancellation of any insurance policy affecting such buildings or property or part thereof Landlord may, either, at Landlord's sole discretion, terminate this Lease effective upon written notice to Tenant, or without terminating this Lease and after giving such notice, if any, as is reasonable in the circumstances, enter upon the Premises and take such actions, including removing Tenant and any persons or property from the Project, as is reasonable to remove or abate the cause of the danger or voiding or cancellation of the policy, and Landlord will not be liable to any damages of any kind howsoever caused arising out of such termination or such action.

9.3 **Mutual Release** Each of the Landlord and Tenant hereby releases the other and waives all claims against the other and those for whom the other is in law responsible with respect to occurrences insured against or required to be insured against by the releasing party, whether any such claims arise as a result of the negligence or otherwise of the other or those for whom it is in law responsible, subject to the following:

- (a) such release and waiver shall be effective only to the extent of proceeds of insurance received by the releasing party or proceeds which would have been received if the releasing party had obtained all insurance required to be obtained by it under this Lease (whichever is greater) and, for this purpose, deductible amounts shall be deemed to be proceeds of insurance received (subject to the right of the Landlord to include such deductible amounts in Operating Costs); and
- (b) to the extent that both parties have insurance or are required to have insurance for any occurrence, the Tenant's insurance shall be primary.



Notwithstanding the foregoing or anything else herein contained, in no event, whether or not the result of the willful act or the negligence of the Landlord, its agents, officers, employees or others for whom it is legally responsible, and irrespective of any insurance that may or may not be carried or required to be carried, shall the Landlord be liable for: (i) damage to property of the Tenant or others located on the Premises; (ii) any injury or damage to persons or property resulting from fire, explosion, steam, water, rain, snow or gas which may leak into or issue or flow from any part of the Project or from the water, steam or drainage pipes or plumbing works of the Project or from any other place or quarter; (iii) any damage caused by or attributable to the condition or arrangement of any electric or other wiring; (iv) any damage caused by anything done or omitted to be done by any other tenant of the Project; or (v) any indirect or consequential damages suffered by the Tenant.

#### ARTICLE 10.0 INJURY TO PERSON OR PROPERTY

10.1 **Indemnity by Tenant** Notwithstanding any other terms, covenants or conditions contained in this Lease, Tenant will indemnify Landlord, registered owners of the Land, and mortgagee(s) (collectively the "Indemnities") and save the Indemnities harmless from and against any and all claims, costs, actions, damages, expenses (including legal costs and expenses), and liability in connection with loss of life, personal injury, damage to property or any other loss or injury arising from any occurrence, in, on, about or upon the Premises or from or in connection with the use, occupancy, possession or control of the Premises or the business of Tenant carried on in the Project, or any part thereof, or occasioned wholly or in part by the act or omission of Tenant or its subtenants, licensees, concessionaires (collectively, the "Occupants") or Tenant's or Occupant(s)' servants, representatives, agents, employees, contractors, invitees or anyone permitted by Tenant or Occupant(s) to be on the Premises, including, and without in any way limiting the generality of the indemnity given by the Tenant to the Landlord, any and all costs and charges whatsoever incurred by the Landlord as a result of any breach by the Tenant, whether or not permitted by the Landlord, of any governing laws, including municipal bylaws and regulations unless and to the extent caused by the gross negligence of the Landlord, its agents, successors or assigns, such negligence to be proven in a court of competent jurisdiction. Upon presentation of an invoice by the Landlord, the Tenant shall honour and satisfy this indemnity in the same manner as the rent reserved hereunder.

#### ARTICLE 11.0 TRANSFERS

11.1 **Transfers** Except to an Eligible Corporation (which for the purpose of this Article 11.0 is a corporation which controls or is controlled by or under common control with Tenant, where to control means to own beneficially either directly or indirectly more than fifty percent (50%) of the voting shares of a corporation) and subject to the provisions of Article 11.3, Tenant will not,

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and will not permit a permitted subtenant to, assign this Lease in whole or in part or sublet all or part of the Premises, or mortgage or encumber this Lease or all of part of the Premises, or transfer this Lease in any other manner and will not permit the occupation or use of all or part of the Premises by others (any of which events are therein after referred to as a "Transfer"), without the prior written consent of Landlord in each case, which consent, ~~despite any statutory provision to the contrary,~~ may not be arbitrarily or unreasonably withheld; provided, however, that Tenant may Transfer this Lease or the Premises to an Eligible Corporation, with the prior written consent of Landlord which consent may not be arbitrarily or unreasonably withheld. The consent by Landlord to a Transfer will not constitute a waiver of the requirement for its consent to a subsequent Transfer. This prohibition against transferring includes a Transfer by operation of law. If this lease is Transferred, or if all or part of the Premises is Transferred to or occupied by anybody other than Tenant without the consent of Landlord when required, Landlord may collect rent from the assignee, subtenant, mortgagee, encumbrancer, user or occupant as the case may be (hereinafter the "Transferee"), and apply the net amount collected to the rent herein reserved, but no such Transfer, occupancy or collection will be deemed a waiver of this covenant, or be deemed the acceptance by Landlord of Transferee as tenant hereunder notwithstanding any rule of law to the contrary. Despite a Transfer, Tenant remains fully liable under this Lease during the remainder of the Term and renewal of this Lease, if any, whether or not consented to by Landlord. A permitted Transfer of all or part of this Lease or the Premises will be documented by Landlord or its solicitors, and all charges for its administration and documentation will be paid by Tenant as Rent. Notwithstanding anything contained in this Lease to the contrary, Landlord may immediately terminate this Lease if Tenant effects a Transfer without Landlord's prior written consent thereto, whether or not Tenant gives prior written notice thereof, without prejudice to any of the rights and remedies of Landlord in consequences of such repudiation by Tenant.

11.2 **Conditions** Any Transfer referred to in Article 11.1 or elsewhere in this Lease will be subject to the following conditions:

- (a) ~~that the Annual Rent payable by Transferee, or Tenant in the case of a sublease or licence, will be increased to be equal to the then fair market rate rental for the Premises as determined by Landlord taking into account the then actual rental rates for comparable, improved premises within the Project and within similar types of buildings (if any) within a comparable trading area; provided that Tenant and Transferee will not be thereby relieved from paying any greater Annual Rent as may be otherwise specified in this Lease;~~
- (b) that Tenant causes any Transferee to promptly execute an agreement in writing with Landlord agreeing to be bound by the terms, provisions and conditions contained in this Lease as if such Transferee had originally executed this Lease as Tenant (provided that such agreement will not in any way affect the rights of Landlord under this Lease);
- (c) where the sublease or the grant of a right to occupy or use relates to a part only of the Premises, the reference to Annual Rent will be adjusted proportionately on an area basis;
- (d) that all charges payable by Tenant under Article 11.1 of this Lease have been paid; and
- (e) that, if applicable, Tenant has established to the satisfaction of Landlord, acting reasonably, that Transferee is an Eligible Corporation.

11.3 **Notification of Landlord** If Tenant wishes to Transfer this Lease or the Premises in any manner, in whole or in part, or an estate or interest under this Lease, Tenant will give prior written notice to Landlord naming the proposed Transferee and will provide to Landlord such other information that Landlord may reasonably require. No Transfer shall be effective unless this Article 11.3 is complied with and, if required, the written approval of Landlord is provided to Tenant.



11.4 **Corporate Ownership** If after the date of execution of this Lease shares not listed for sale on a recognized stock exchange in Canada either of Tenant or of a Eligible Corporation which controls Tenant are transferred by sale, assignment, bequest, inheritance, operation of law or other disposition, or issued by subscription or allotment or canceled or redeemed, so as to result in a change in the effective voting or other control on the date of execution of this Lease or on the date when Tenant becomes a corporation, if later, or if other steps are taken to accomplish a change of the control, Tenant will promptly notify Landlord in writing of the change which will be considered to be a Transfer of this Lease to which Article 11.1 and 11.2, and 11.3 apply; and whether or not Tenant notifies Landlord, Landlord may terminate this Lease within sixty (60) days after Landlord learns of the change unless Landlord previously had consented to the change. Tenant will make available to Landlord or its lawful representatives all corporate books and records of Tenant and of any Eligible Corporation which controls Tenant for inspection at all reasonable times, to ascertain to the extent possible whether there has been a change of control.

11.5 **Insolvency of Transferee** In the event Transferee becomes insolvent or commits an act of bankruptcy and the Lease is disclaimed or terminated, or Transferee repudiates the Lease pursuant to any bankruptcy or insolvency legislation, the original Tenant named in this Lease and any Transferee (except the bankrupt or insolvent Transferee) will be deemed, upon thirty (30) days notice from Landlord, to have entered into a lease with Landlord for the remainder of the Term, on the terms and conditions of the Lease prevailing immediately prior to the date of such disclaimer, termination or repudiation (including, without limitation, future Rent escalations (if any) effective upon the effective date of such disclaimer, termination or repudiation).

## ARTICLE 12.0 SURRENDER

12.1 **Possession** Upon the expiration of the Term or other termination of this Lease, in addition to the provisions of Article 20.9, Tenant will immediately quit and peaceably surrender possession of the Premises to Landlord in substantially the condition in which Tenant is required to maintain the Premises under Article 7.4 excepting only reasonable wear and tear and damage covered by Landlord's insurance under Article 9.1. Upon such surrender, all right, title and interest of Tenant in the Premises will cease. Upon expiry or other termination, as aforementioned, at the request of Landlord, Tenant will execute and deliver to Landlord a surrender of lease in registerable form and if Tenant has filed a caveat, caution or other document or instrument giving notice of this Lease against title to the Land, it will promptly cause the same to be discharged. The costs of preparing and/or registering a surrender of this Lease or a discharge of caveat, caution or other document or instrument will be paid by Tenant.

12.2 **Trade Fixtures, Personal Property and Improvements** Subject to Tenant's rights under Article 7.7, after the expiration of the Term or other termination of this Lease, all of Tenant's trade fixtures and personal property remaining in the Premises will be deemed conclusively to have been abandoned by Tenant and may be appropriated, sold, destroyed or otherwise disposed of by Landlord without notice or obligation to compensate Tenant or to account therefor, and Tenant will pay to Landlord on written demand all cost incurred by Landlord in connection therewith upon Landlord's request. At Tenant's sole expense, Tenant will remove its trade fixtures and personal property installed in the Premises upon the expiration of the Term or other termination of this Lease in which case Tenant will promptly repair, at Tenant's sole expense, any damage to the Premises resulting from such installation or removal. Tenant will also remove from the Premises, at Tenant's sole expense, such other improvements and other items of work installed by Tenant or on its behalf as Landlord may request Tenant to remove and promptly repair, at Tenant's sole expense, any damage to the Premises resulting from such installation or removal, provided that

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the Landlord did not previously consent to or approve such improvements or other items of work. Should Tenant fail to carry out any removal requested by Landlord under this Article 12.2 then Landlord, at its sole option, and without prejudice to other rights or remedies of Landlord, may claim compensation from Tenant for Landlord's costs of such removal and of repairing the Premises as aforesaid plus an overhead and administration fee equal to 20% of such costs, and Tenant shall forthwith pay such compensation to Landlord.

12.3 **Merger** The voluntary or other surrender of this Lease by Tenant or the cancellation of this Lease by mutual written agreement of Tenant and Landlord will not work a merger, and will, at Landlord's option, either terminate all or any subleases and sub tenancies or operate as an assignment to Landlord of all or any subleases or sub tenancies. Landlord's option hereunder will be exercised by notice to Tenant and all sub lessees or subtenants in the Premises or any part thereof known to Landlord. If Landlord does not give notice within a reasonable period of time after such cancellation of this Lease, then all such subleases will be deemed to have been terminated on the date of such cancellation.

12.4 **Payments After Termination** No payment of money by Tenant to Landlord after the expiration of the Term or other termination of this lease or after the giving of any notice by Landlord to Tenant, will reinstate, continue or extend the Term or make ineffective any notice given to Tenant prior to the payment of such money. After the service of notice or the commencement of a suit, or after final judgment granting Landlord possession of the Premises, Landlord may receive and collect any sums of Rent due under this Lease, and the payment thereof will not make ineffective any notice, or in any manner affect any pending suit or any judgment theretofore obtained.

#### ARTICLE 13.0 HOLDING OVER

13.1 **Month-to-Month Tenancy** If Tenant remains in possession of the Premises after the expiration of the Term or other termination of this Lease, Tenant will be deemed to be occupying the Premises on a month-to-month tenancy only, at one hundred and fifty percent (150%) of the monthly Basis Rent payable during the last year of this Lease and otherwise on the terms and conditions herein set out except as to length of tenancy. The tenancy may be terminated by Landlord or Tenant on the last day of any calendar month by delivery of at least 90 days' advance written notice of termination to the other.

13.2 **Tenancy at Sufferance** If without Landlord's written consent Tenant remains in possession of the Premises after the expiration of the Term or other termination of this Lease, Tenant will be deemed to be occupying the Premises upon a tenancy at sufferance only, at a monthly rental equal to two times the Rent determined in accordance with Articles 4.1, 4.2 and 4.3. Such tenancy at sufferance may be immediately terminated by Landlord at any time by notice of termination to Tenant, and by Tenant on the last day of any calendar month by at least 30 days' advance written notice of termination to Landlord.

13.3 **General** Any month-to-month tenancy or tenancy at sufferance hereunder will be subject to all other terms, provisions and conditions of this Lease except any right of renewal and nothing contained in Articles 13.1, 13.2 or 13.3 will be construed to limit or impair any of Landlord's rights of re-entry or eviction or constitute a waiver thereof.

#### ARTICLE 14.0 RULES AND REGULATIONS

14.1 **Purpose** The Rules and Regulations in Exhibit D have been adopted by Landlord for the safety, benefit and convenience of all tenants and other persons in the Project

14.2 **Observance** Tenant will at all times comply with, and will cause its employees, servants, agents, licensees and invitees to comply with the Rules and Regulations from time to time in effect.

14.3 **Modification** Landlord may from time to time, for the purposes set out in Article 14.1, amend, delete from, or add to the Rules and Regulations, provided that any such modification:

- (a) will not be repugnant to any other provision of this Lease;
- (b) will be reasonable and have general application to tenants in the Project; and
- (c) will be effective only upon delivery of a copy thereof to Tenant at the Premises.

14.4 **Non-compliance** Landlord will use reasonable efforts to secure compliance by all tenants and other persons in the Project with the Rules and Regulations from time to time in effect, but will not be responsible to Tenant for failure of any person to comply with such Rules and Regulations.

#### ARTICLE 15.0 EXPROPRIATION



15.1 **Taking of Premises** If during the Term all of the Premises will be taken for any public or quasi-public use under any statute or by right of eminent domain, or purchased under threat of such taking, this Lease will automatically terminate on the date on which the condemning Authority takes possession of the Premises.

15.2 **Partial Taking of Project** If during the Term only part of the Project is taken for any public or quasi-public use under any statute or by right of eminent domain, or purchased under threat of such taking, then:

- (a) if in the reasonable opinion of Landlord substantial alteration or reconstruction of the Project is necessary or desirable as a result thereof, whether or not the Premises are or may be affected, Landlord will have the right to terminate this Lease by giving Tenant at least 30 days' written notice of such termination; and
- (b) if more than one-third of the number of Square Feet of Space in the Premises is included in such taking or purchase, Landlord and Tenant will each have the right to terminate this Lease by giving the other at least 30 days' written notice thereof.

If either party exercises its right of termination hereunder, this Lease will terminate on the date stated in the notice, provided, however, that no termination pursuant to notice hereunder may occur later than 60 days after the date (hereinafter the "Date of Such Taking") on which the condemning Authority takes possession of that part of the Project so taken or purchased.

15.3 **Surrender** On any date of termination under Article 15.1 or 15.2, Tenant will immediately surrender to Landlord the Premises and all interests therein under this Lease. Landlord may re-enter and take possession of the Premises and remove Tenant there from, and the Rent will abate on the date of termination, except that if the Date of Such Taking differs from the date

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of termination, Rent will abate on the former date in respect of the portion taken. After such termination, and on notice from Landlord stating the Rent then owing, Tenant will immediately pay Landlord such Rent.

**15.4 Partial Taking of Premises** If any portion of the Premises (but less than the whole thereof) is so taken, and no rights of termination herein conferred are timely exercised; the Term of this Lease will expire with respect to the portion so taken on the Date of Such Taking. In such event the Rent payable hereunder with respect to such portion so taken will abate on such date, and the Rent thereafter payable with respect to the remainder not so taken will be adjusted pro rata by Landlord in order to account for the resulting reduction in the number of Square Feet of Space in the Premises.



**15.5 Awards** Upon any such taking or purchase, Landlord will be entitled to receive and retain the entire award or consideration for the affected lands and improvements, and Tenant will not have nor advance any claim against Landlord for the value of its property or its leasehold estate or the unexpired Term of this Lease, or for costs of removal or relocation, or business interruption expense or any other damages arising out of such taking or purchase. Nothing herein will give Landlord any interest in or preclude Tenant from seeking and taking or purchase of Tenant's improvements, chattels or trade fixtures, or the removal or relocation of its business and effects, or the interruption of business. If any such award made or compensation paid to either party specifically includes an award or amount for the other, the party first receiving the same will promptly account therefore to the other.

#### ARTICLE 16.0 DAMAGE BY FIRE OR OTHER CASUALTY

- 16.1 Limited Damage to Premises** If all or part of the Premises are rendered untenable by damage from fire or other casualty which, in the reasonable opinion of the Architect, can be substantially repaired under applicable laws and governmental regulations within 180 days from the date of such casualty (employing normal construction methods without overtime or other premium), Landlord will immediately at its own expense repair such damage other than damage to improvements, furniture, chattels or trade fixtures which do not belong to Landlord or which have been installed by or on behalf of Tenant, which instead will be repaired immediately by Tenant at Tenant's own expense.
- 16.2 Major Damage to Premises** If all or part of the Premises are rendered untenable by damage from fire or other casualty which, in the reasonable opinion of the Architect, cannot be substantially repaired under applicable laws and governmental regulations within 180 days from the date of such casualty (employing normal construction methods without overtime or other premium), then Landlord may elect to terminate this Lease as of the date of such casualty by written notice delivered to Tenant not more than 20 days after receipt of the Architect's opinion, failing which Landlord will forth with at its own expense repair such damage other than damage to improvements, furniture, chattels or trade fixtures which do not belong to Landlord or which have been installed by or on behalf of Tenant, which instead will be repaired forthwith by Tenant at Tenant's own expense.
- 16.3 Abatement** If Landlord is required to repair damage to all or part of the Premises under Article 16.1 or 16.2, provided such damage is caused by a peril Landlord is required to insure against pursuant to Article 9.1, the Rent payable by Tenant under this Lease will be proportionately reduced to the extent that the Premises are thereby rendered untenable by Tenant in its business, from the date of such casualty until five days after completion by Landlord of the repairs to the Premises (or the part thereof rendered untenable) or until Tenant again uses the Premises (or the part thereof rendered untenable) in its business, whichever first occurs.
- 16.4 Major Damage to Project** If all or a substantial part (whether or not including the Premises) of the Project is rendered untenable by damage from fire or other casualty to such a material extent that in the reasonable opinion of Landlord the Project must be totally or partially demolished, whether or not to be reconstructed in whole or in part, Landlord may elect to terminate this Lease as of the date of such casualty (or on the date of notice if the Premises are unaffected by such casualty) by written notice delivered to Tenant not more than 60 days after the date of such casualty.
- 16.5 Limitation on Landlord's Liability** Except as specifically provided in Articles 16.1, 16.2, 16.3 or 16.4, there will be no reduction of Rent and Landlord will have no liability to Tenant by reason of any injury to or interference with Tenant's business or property arising from fire or other casualty, howsoever caused, or from the making of any repairs resulting there from in or to any portion of the Project. Notwithstanding anything contained herein, Rent payable by Tenant under this Lease will not be abated if the damage is caused by any act or omission of Tenant, its agents, servants, employees or any other person entering upon the Premises under express or implied invitation of Tenant.

#### ARTICLE 17.0 TRANSFERS BY LANDLORD

- 17.1 Sales, Conveyance and Assignment** Nothing in this Lease will restrict the right of Landlord to sell, convey, assign or otherwise deal with all or any part of the Project, subject only to the rights of Tenant under this Lease.
- 17.2 Effect of Sale, Conveyance or Assignment** A sale, conveyance or assignment of the Project will operate to release Landlord from liability from and after the effective date thereof upon all of the covenants, terms and conditions of this Lease, express or implied, except as such may relate to the period prior to such effective date, and Tenant will thereafter look solely to Landlord's successor in interest in and to this Lease, provided the Landlord's successor agrees in writing to be bound by the provisions of this lease. This Lease will not be affected by any such sale, conveyance or assignment, and Tenant will attorn to Landlord's successor in interest there under.
- 17.3 Subordination** Unless this Lease is required by a mortgagee or holder of a debenture or trust deed or by Landlord to be registered (by caveat or otherwise) in priority to any such mortgage, debenture or trust deed, this Lease is and will be subject and subordinate in all respects to any and all mortgages, debentures and deeds of trust now or hereafter placed on the Project or Land, and to all renewals, modifications, consolidations, replacements and extensions thereof.
- 17.4 Attornment** Subject to Article 17.5, if the interest of Landlord is transferred to any person (herein called "Purchaser") by reason of foreclosure or other proceedings for enforcement of any such mortgage, debenture or deed of trust, or by delivery of a transfer or deed in lieu of such foreclosure, or other proceedings, Tenant will immediately and automatically attorn to Purchaser.
- 17.5 Nondisturbance** No attornment by Tenant under Article 17.4 will be effective unless and until, Purchaser delivers to Tenant a written undertaking, binding upon Purchaser and enforceable by and for the benefit of Tenant under applicable law, that this Lease and Tenant's rights under this Lease will continue undisturbed while Tenant is not in default of this Lease despite such enforcement proceedings and transfer.

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17.6 **Effect of Attornment** Upon attornment under Article 17.4 this Lease will continue in full force and effect as a direct lease between Purchaser and Tenant, upon all of the same terms, conditions and covenants as are set forth in this Lease except that, after such attornment, Purchaser will not be:

- (a) liable for any act or omission of Landlord prior to such attornment; or
- (b) subject to any offsets or defenses which Tenant might have against Landlord prior to such attornment; or
- (c) bound by any prepayment by Tenant of more than one month's installment of Rent, or by any previous modifications of this Lease, unless such prepayment or modification will have been approved in writing by Purchaser or any predecessor in interest except Landlord.

17.7 **Execution of Instruments** Except as otherwise provided herein, the subordination and attornment provisions of Articles 17.1, 17.2, 17.3, 17.4, 17.5, 17.6 and 17.7 will be self-operating and except as set out in Article 17.5 no further instrument will be required. Nevertheless Tenant, on request by and without cost to Landlord or any successor in interest, will execute and deliver any and all instruments further evidencing such subordination and (where applicable hereunder) attornment.

#### ARTICLE 18.0 NOTICES, ACKNOWLEDGMENTS, AUTHORITIES FOR ACTION

18.1 **Notices** Any notice from one party to the other under this Lease will be in writing and will be deemed duly given, if delivered personally to the party being given such notice or to a responsible employee of the party being given such notice, or if transmitted by telecopier, or if mailed in Canada by registered or certified mail addressed to Tenant at the Premises (whether or not Tenant has departed from, vacated or abandoned the Premises) or to Landlord at its head office, which as of the date of this Lease is located at Landlord's address shown on Page 1 of this Lease. Any notice will be deemed to have been given at the time of personal delivery or if transmitted during normal business hours by telecopier, at the time of transmission, otherwise the next business day, or if mailed, on the third postal delivery day after the date of mailing thereof. Either party will have the right to designate by notice, in the manner above set forth, a different address to which notices are to be given. If it is reasonably anticipated that, due to mail service being disrupted, such notice, if mailed, will not be received by the third postal delivery day following mailing, then such notice must be personally delivered as provided in this Article 18.1 or, in lieu of mailing, sent by the most reasonably expeditious means of delivery available to the address for mailing and will be deemed duly given upon such delivery.

18.2 **Acknowledgments** The Tenant will at any time and from time to time upon not less than 10 days prior notice from the Landlord execute, acknowledge and deliver a written statement certifying that:

- (a) this Lease is in full force and effect, subject only to such modification (if any) as may be set out therein;
- (b) Tenant is in possession of the Premises and paying Rent as provided in this Lease;
- (c) the dates (if any) to which Rent is paid in advance; and
- (d) that there are not, to such party's knowledge, any uncured defaults on the part of the Landlord under this Lease, or specifying such defaults if any are claimed.

Any such statement may be relied upon by any prospective transferee or encumbrancer of all or any portion of the Project, or any assignee of any such persons. If Tenant fails to timely deliver such statement, Tenant will be deemed to have acknowledged that this Lease is in full force and effect, without modification except as may be represented by Landlord, and that there are no uncured defaults in Landlord's performance.



18.3 **Tenant to Execute Documents** Tenant will, at Landlord's request, execute promptly any certificate, priority agreement, postponement agreement or other instrument which, from time to time, may be requested by Landlord to ensure that this Lease (and any Registration Document respecting this Lease) either has priority to or is subordinate to any mortgage, debenture or deed of trust which may now or hereafter affect all or any part of the Land or the Project, all as Landlord may require.

18.4 **Authorities for Action** Landlord may act in any matter provided for herein by its property manager and any other person who will from time to time be designated by Landlord by notice to Tenant. Tenant will designate in writing one or more persons to act on its behalf in any matter provided for herein and may from time to time change, by notice to Landlord, such designation. In the absence of any such designation, the person or persons executing this Lease for Tenant will be deemed to be authorized to act on behalf of Tenant in any matter provided for in this Lease.

#### ARTICLE 19.0 DEFAULT

19.1 **Interest and Costs** Tenant will pay to Landlord interest at a rate equal to the lesser of a floating rate per annum equal to six percent (6%) per annum above the prime commercial lending rate per annum charged by Royal Bank of Canada at its main office in Toronto, Ontario, from time to time, on loans made in Canadian funds to its most favoured commercial borrowers, calculated and compounded monthly with any adjustment in such floating rate to be effective on the 1<sup>st</sup> day of the month next following such change in the said prime commercial lending rate, or the maximum rate permitted by applicable law, upon all Rent required to be paid under this Lease from the due date for payment thereof until the same is fully paid and satisfied. The Tenant shall also pay all costs, expenses and legal fees (on a solicitor and his client basis) that may be incurred or paid by the Landlord in enforcing the terms, covenants and conditions of this Lease, unless a court of competent jurisdiction shall decide otherwise, and all such costs, expenses and legal fees that may be incurred or paid by the Landlord in enforcing the terms, covenants and conditions in this Lease shall be considered as Rent. Tenant will pay to Landlord the sum of \$150.00 for each cheque returned unpaid by the financial institution upon which funds are drawn as an administrative charge of the Landlord together with any and all bank charges or penalties imposed by the bank.

19.2 **Right of Landlord to Perform Covenants** All covenants and agreements to be performed by Tenant under any of the terms of this Lease will be performed by Tenant, at Tenant's sole cost and expense, and without any abatement of Rent. If Tenant fails to perform any act on its part to be performed under this Lease, and such failure continues for 10 days after notice thereof from Landlord, Landlord may (but will not be obligated so to do) perform such act without waiving or releasing Tenant from any of its obligations relative thereto. All sums paid or costs incurred by Landlord in so performing such acts under this Article 19.2, together with interest thereon at the rate set out in Article 19.1 from the date each such payment was made or each such cost was incurred by Landlord, will be payable by Tenant to Landlord on demand together 20% of such amounts on account of Landlord's overhead and administration.

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19.3 **Events of Default** If and whenever:

- (a) part or all of the Rent hereby reserved is not paid when due, whether lawfully demanded or not, and such default continues for five days after the due date thereof; and further provided that the Tenant shall compensate the Landlord forthwith on a solicitor and own client basis for all costs incurred by the Landlord in providing such notice (it being understood that the specific provision requiring payment of the Landlord's costs in this subsection in no way derogates from the further provisions of this Lease entitling the Landlord to recover legal costs from the Tenant); or
- (b) the Term or any goods, chattels or equipment of Tenant is taken or eligible in execution or in attachment or if a writ of execution is issued against Tenant; or
- (c) Tenant becomes insolvent or commits an act of bankruptcy or becomes bankrupt or takes the benefit of any statute that may be in force for bankrupt or insolvent debtors or becomes involved in voluntary or involuntary winding-up or dissolution or liquidation proceedings or if a receiver will be appointed for the business, property, affairs or revenues of Tenant; or
- (d) any person other than Tenant or a Transferee permitted under this Lease has or exercises the right to manage or control the Premises, any part thereof or any business carried on in the Premises; or
- (e) Tenant makes a bulk sale of its goods or moves or commences, attempts or threatens to move its goods, chattels or equipment out of the Premises (other than in the normal course of its business) or Tenant ceases to conduct business from the Premises or the Premises are not open for business to the public on any 5 consecutive days that Tenant is required to conduct its business in the Premises or on more than 15 days that Tenant is required to conduct its business in the Premises in any 12 month period; or
- (f) Tenant fails to observe, perform and keep each and every of the covenants, agreements, provisions, stipulations and conditions herein contained to be observed, performed and kept by Tenant (other than payment of Rent) and persists in such failure after 10 days notice by Landlord specifying with reasonable particularity the nature of such failure and requiring that Tenant remedy, correct, desist or comply (or if any such breach would reasonably require more than 10 days to rectify, unless Tenant commences rectification within the 10 day notice period and thereafter promptly, effectively and continuously proceeds with the rectification of the breach to completion of rectification); or
- (g) termination of this Lease by Landlord is permitted by reason of Tenant's default under any other part of this Lease or in law,

then and in any of such cases, at the option of Landlord, the full amount of the current month's and the next ensuing three months installments of Rent will immediately become due and payable together with all tenant allowance monies paid to Tenant or the value of other inducements given to Tenant (such as, but not limited to, rent-free periods) in accordance with the provisions of this Lease or any other agreement between Landlord and Tenant relating to the Premises (such allowance and inducements hereinafter referred to as "Tenant Inducements") and Landlord may immediately take legal proceedings, including distraint, for the same, together with any arrears then unpaid; and Landlord may without notice or any form of legal process forthwith re-enter upon and take possession of the Premises or any part thereof in the name of the whole and remove and sell Tenant's goods, chattels and trade fixtures therefrom, any rule of law or equity to the contrary notwithstanding; and Landlord may seize and sell such goods, chattels and equipment of Tenant as are in the Premises and may apply the proceeds thereof to all Rent and other payments to which Landlord is then entitled under this Lease. Any such sale may be effected in the discretion of Landlord by public auction or otherwise, and either in bulk or by individual item, or partly by one means and partly by another, all as Landlord in its sole and unfettered discretion may decide. If any of Tenant's property is disposed of as provided in this Article 19.3, 10 days prior notice to Tenant of disposition will be deemed to be commercially reasonable.



19.4 **Waiver of Exemption and Redemption** Notwithstanding anything contained in any statute now or hereafter in force limiting or abrogating the right of distress, none of Tenant's goods, chattels or trade fixtures on the Premises at any time during the continuance of the Term will be exempt from levy by distress for Rent in arrears and upon any claim being made for such exemption by Tenant or on distress being made by Landlord this Lease may be pleaded as an estoppel against Tenant. In any action brought to test the right to the levying upon any such goods as are named as exempted in any such statute, Tenant hereby waives all and every benefit that could or might have accrued to Tenant under and by virtue of any such statute but for this Lease. Tenant hereby expressly waives any and all rights of redemption granted by or under any present or future laws in the event of Tenant being evicted or dispossessed for any cause, or in the event of Landlord obtaining possession of the Premises, by reason of the violation by Tenant of any of the terms and conditions of this Lease or otherwise.

19.5 **Surrender** If and whenever Landlord is entitled to or does re-enter, Landlord may terminate this Lease by giving notice thereof, and in such even Tenant will forth with vacate and surrender the Premises.

19.6 **Payments** If Landlord re-enters or if this Lease is terminated, Tenant will pay to Landlord on demand:

- (a) rent up to the time of re-entry or termination, whichever will be the later, plus accelerated rent as herein provided; and
- (b) all expenses incurred by Landlord, in performing any of Tenant's obligations under this Lease, re-entering or terminating and re-letting, collecting sums due or payable by Tenant, realizing upon assets seized (including brokerage, legal fees and disbursements), and the expense of keeping the Premises in good order, repairing the same and preparing them for re-letting; and
- (c) as damages for the loss of income of Landlord expected to be derived from the Premises, the amounts (if any) by which the Rent which would have been payable under this Lease exceeds the payments (if any) received by Landlord from other tenants in the Premises, payable on the first day of each month during the period which would have constituted the unexpired portion of the Term had it not been terminated, or if elected by Landlord by notice to Tenant at or after re-entry or from the date of such election during the period which would have constituted the unexpired portion of the Term, had it not been terminated, reduced by the rental value of the Premises for the same period, established by reference to the terms and conditions upon which Landlord re-lets them if such re-letting is accomplished within a reasonable period after termination, and otherwise established by reference to all market and other relevant circumstances; Rent and rental value being reduced to present worth at an assumed interest rate of 6% on the basis of Landlord's estimates and assumptions of fact which will govern unless shown to be obviously erroneous.
- (d) all Tenant Inducements, concessions and forbearances given by Landlord to Tenant in respect of the Premises.

19.7 **Remedies Cumulative** No reference to nor exercise of any specific right or remedy by Landlord will prejudice or preclude Landlord from exercising or invoking any other remedy in respect thereof, whether allowed at law or expressly provided

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for in this Lease. No such remedy will be exclusive or dependent upon any other such remedy, but Landlord may from time to time exercise any one or more of such remedies independently or in combination.

#### ARTICLE 20.0 ENVIRONMENTAL PROVISIONS

##### 20.1 *Compliance with Environmental Laws*

- (a) Notwithstanding any other provision of this Lease, Tenant will fully comply with all applicable Environmental Laws.
- (b) If Tenant is convicted of an offence contrary to an Environmental Law which relates to the Premises or the Project, Landlord will have the option, at its sole discretion, to terminate this Lease forthwith by notice in writing, and Landlord will not be liable for any damages of any kind however caused arising out of such termination.

20.2 *Approvals* Tenant will obtain and comply with the terms of all licenses, certificates of approval, permits and other approvals necessary or appropriate under applicable Environmental Law for the safe and lawful conduct of its business at or from the Premises.

20.3 *Operations and Maintenance* Tenant will design, install, operate, repair, replace and maintain, or cause to be designed, installed, operated, repaired, replaced and maintained, all equipment located in the Premises, and will train all of its staff, so as to minimize the risk of spills and other accidents, particularly those accidents which might result in a Discharge of Contaminants. If Tenant uses pollution control equipment, or any pollution control equipment is located in the Premises, Tenant will conduct regular preventative maintenance of such equipment, and will keep it in good working order at all times.

20.4 *Pest Control* Prior to occupying the Premises, the Tenant will enter into a contract with a reputable pest control company for regular maintenance of the Premises and will provide the Landlord with a copy of the Pest Control Contract on an annual basis during the Term and any extension(s) thereof. The cost of such pest control contract will be at the sole expense of the Tenant. The Tenant or its agents will not use pesticides in the Premises or the Project unless Tenant has first obtained written consent from Landlord to so and all necessary permits under applicable Environmental Law.

##### 20.5 *Waste Disposal*



- (a) Tenant will store and dispose of all of its waste in a lawful manner. In particular, Tenant will use the garbage collection service provided by Landlord, if any, only to dispose of solid waste (which is not Hazardous Waste) which can lawfully be transported to, and dumped at, the closest landfill site without requiring payment of surcharges or penalties, and will use the sewers only to dispose of liquid waste (which is not Hazardous Waste) which may be lawfully discharged into the municipal sewer. All other wastes will be disposed of by Tenant, at its expense, at least once every three months, using a properly licensed waste hauler retained by Landlord, subject to Landlord's right to require Tenant, by giving Tenant notice thereof, to retain a properly licensed waste hauler to take away all or part (as designated by Landlord) of Tenant's waste. Regardless of whether the waste hauler is retained by Landlord or Tenant, Landlord, and not Landlord, shall be deemed to be the generator of Tenant's waste.
- (b) Where Landlord provides separate waste collection facilities for different types of waste, Tenant will separate its waste and will deliver each waste to the appropriate facility. If contamination of separated waste occurs as a result of Tenant's failure to comply with the foregoing sentence, Tenant will indemnify Landlord for all damages and costs incurred by Landlord with respect to such contamination, together with an overhead and administration fee equal to 20% of such costs.
- (c) If Tenant is required by Environmental Law to keep any waste at the Project for more than three months, the waste will be stored in a manner and location which complies with all Environmental Law, at Tenant's expense.
- (d) Tenant will permit Landlord to perform an audit of Tenant's waste, its operations and the Premises as may be required by Landlord from time to time, at Tenant's cost.
- (e) Tenant will comply with any waste reduction work plan prepared by Landlord from time to time (if any), at Tenant's cost.
- (f) Tenant will comply with all reasonable requirements imposed by Landlord with respect to the implementation of a system for the storage, disposal, and separation of waste at the Project as contemplated by this Article 20.5.

##### 20.6 *Discharges of Contaminants*

- (a) Tenant will not authorize, cause or permit a Discharge of Contaminants except in accordance with Environmental Law.
- (b) Where a Discharge referred to in Article 20.6 (a) does occur, Tenant will immediately report the occurrence of the Discharge to all Authorities to whom notification is required under Environmental Law in the circumstances, and to Landlord. Tenant will then immediately clean up the Discharge and restore the natural environment affected by the Discharge to the satisfaction of Landlord and all Authorities, and will provide Landlord with a certificate from Tenant's duly qualified consulting engineer and/or the appropriate Authorities confirming such Authorities' satisfaction.
- (c) If Tenant fails or refused to promptly clean up the Discharge and to restore the natural environment affected by the Discharge, or if, in Landlord's opinion, Tenant is not competent to do so, Landlord:
- (i) may elect in writing to carry out the whole or any part of the clean up and restoration at Tenant's expense, and
  - (ii) will have the option, at its sole discretion, to terminate this Lease forthwith by notice in writing, and Landlord will not be liable for any damages of any kind however caused arising out of such termination.
- (d) Tenant will permit Landlord to perform an audit of Tenant's Discharges of Contaminants into the natural environment, at Tenant's cost.
- (e) Tenant will comply with a Discharge reduction work plan prepared by Landlord (if any).

##### 20.7 *Used Refrigerant*

- (a) No refrigerant may be vented to the atmosphere at any time. When it is necessary to remove refrigerants from equipment for servicing, or when equipment containing refrigerant is to be removed from service, Tenant will ensure that the refrigerants are recaptured into approved refrigerant recovery cylinders and drums.

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- (b) Tenant will be responsible for complying with all Environmental Law relating to the recapture and transportation of recaptured refrigerants.

**20.8 Orders of an Authority**

- (a) Tenant will fully comply with all orders of any Authority which may be directed to Tenant and which relates to the Premises or the Project, including orders to provide financial assurance, to perform studies, to improve pollution control, to remove waste, to conduct investigations or to prepare to perform an environmental cleanup of the Premises or the Project.
- (b) Should an order of an Authority be issued to Landlord, requiring Landlord to do anything in relation to an environmental problem caused by Tenant, Tenant will, upon receipt of written notice from Landlord, carry out the order at Tenant's expense.
- (c) If Tenant fails or refuses to promptly and fully carry out an order referred to in this Article 20.8, or if, in Landlord's opinion, Tenant is not competent to carry out the order, Landlord may elect in writing to carry out the whole or any part of the order at Tenant's expense.
- (d) If Tenant fails or refused to promptly and fully carry out an order referred to in this Article 20.8 and where it is reasonably necessary to perform a cleanup or to carry out an order in order to prevent further environmental problems, Landlord will have the right to prevent Tenant from obtaining access to the Premises for a reasonable period of time (taking into account the circumstances), but no such prevention from obtaining access will constitute an eviction or entitle Tenant to any abatement of Rent.
- (e) If Tenant fails or refuses to promptly and fully carry out an order referred to in this Article 20.8 Landlord will have the option, at its sole discretion, to terminate this Lease forthwith by notice in writing, and Landlord will not be liable for any damages of any kind however caused arising out of such termination.

**20.9 Vacant Possession** Upon the expiration of the Term or other termination of this Lease, Tenant will leave the Premises clean of Contaminants, Hazardous Waste and Toxic Substances and suitable for immediate reuse for any permissible commercial purpose. Tenant will be obliged to continue to pay Rent until it has removed from Premises and lawfully disposed of all Contaminants, Hazardous Waste and Toxic Substances.

**20.10 Inspection**

- (a) Landlord may, at any time, inspect the Premises and Tenant's records to determine whether Tenant is fully complying with all Environmental Law and its environmental obligations under this Lease. Landlord may also, at any time, inspect the Premises to evaluate the risk of Discharges referred to in Article 20.6.
- (b) Where Landlord reasonably considers it necessary, such inspection may be performed in whole or in part by experts, and may include sampling, monitoring, and other tests, all performed at Tenant's expense.
- (c) If Landlord's inspection discloses a breach of an Environmental Law, or a fact situation which could reasonably be anticipated to result in a breach of an Environmental Law, Landlord will have the right to take whatever steps are reasonably required to rectify such breach, or prevent such breach from occurring, as the case may be.

**20.11 Indemnification** Where Landlord has carried out an order referred to in Article 20.8, or has cleaned up or restored a Discharge referred to in Article 20.6, or has otherwise incurred any expense or suffered any damage relating to an environmental problem caused by Tenant, Tenant will indemnify Landlord for all costs incurred by Landlord with respect to any and all of the foregoing, together with an overhead and administration fee equal to 20% of the total expense and damage.

**20.12 No Merger** The provisions of this Article 20.0 will survive and continue to apply following the expiry or earlier termination of this Lease.

**20.13 Landlord's Warranty** The Landlord represents, warrants and covenants to the Tenant that no part of the Premises has been or will be used for the storage of, and does not and will not contain, any Hazardous Substance, other than in compliance with all Environmental Laws, and the Landlord will comply with all applicable Environmental Law in respect of its ownership, operation and management of the Premises.

**20.14 Landlord's Indemnity** The Landlord covenants and agrees that it shall be fully responsible for any and all environmental liabilities relating to the Premises that are caused by the Landlord or any person or party that it is responsible for and shall indemnify and save the Tenant harmless against any and all liabilities, claims, damages, penalties, fines, costs and all costs of remediation and cleanup costs arising in any manner whatsoever out of any environmental liabilities relating to the Premises and any breach by the Landlord of any provisions of Article 20.13 and 20.14 herein.

**ARTICLE 21.0 MISCELLANEOUS**

**21.1 Relationship of Parties** Nothing contained in this Lease will create any relationship between the parties to this Lease other than that of landlord and tenant, and it is acknowledged and agreed that Landlord does not in any way or for any purpose become a partner of Tenant in the conduct of its business, or a joint venture or a member of a joint or common enterprise with Tenant.

**21.2 Consent Not Unreasonably Withheld** Except as otherwise specifically provided herein, whenever consent or approval of Landlord or Tenant is required under the terms of this Lease, such consent or approval will not be unreasonably withheld or unduly delayed. Tenant's sole remedy if Landlord allegedly unreasonably withholds or delays consent or approval will be an action for specific performance, and Landlord will not be liable in any event for damages, whether foreseeable, contingent or otherwise. If either party withholds any consent or approval, such party will on written request deliver to the other party a written statement giving the reasons therefor.

**21.3 Name of Project** Landlord will have the right, after 30 days notice to Tenant, to change the name, number or designation of the Project or any part thereof, during the Term without liability to Tenant.

**21.4 Applicable Law and Interpretation** This Lease will be governed by and interpreted under the laws of the Province of Ontario and laws of Canada applicable therein, and its provisions will be interpreted as a whole according to their common meaning and not strictly for or against Landlord or Tenant. The words "Landlord" and "Tenant" will include the plural as well as the singular. If this Lease is executed by more than one party as Tenant, Tenant's obligations under this Lease will be joint and several obligations of all such executing parties. Time is of the essence of this Lease and each of its provisions. The captions of the Articles and Sections are included for convenience only, and will have no effect upon the interpretation of this Lease.

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**21.5 Entire Agreement** If there are any terms and conditions which at the date of execution of this Lease are additional or supplemental to those set out in this Lease and Exhibits A,B,C, and D, such terms and conditions are contained in Exhibit E (if any) attached hereto as part of this Lease. This Lease contains the entire agreement between the parties hereto with respect to the subject matter of this Lease and except as otherwise expressly set forth in this Lease, this Lease supersedes and revokes all previous negotiations, arrangements, letters of intent, offers to lease, lease proposals, brochures, agreements, representations, promises, warranties, understandings, and information conveyed, whether oral or in writing, between the parties hereto or their respective representatives or any other person purporting to represent Landlord or Tenant. Tenant acknowledges and agrees that it has not relied upon any statement, representation, agreement or warranty except such as are expressly set out in this Lease.

**21.6 Amendment or Modification** Unless otherwise specifically provided in this Lease, no amendment, modification, or supplement to this Lease will be valid or binding unless set out in writing and executed by the parties hereto in the same manner as the execution of this Lease.

**21.7 Construed Covenants and Severability** All of the provisions of this Lease are to be construed as covenants and agreements as through the words importing such covenants and agreements were used in each separate Article hereof. If any term, proviso, covenant or condition of this Lease or the application thereof to any person or circumstance is to any extent by a court of competent jurisdiction held or rendered invalid, void, unenforceable or illegal it or its application will be considered separate and severable from this Lease to such extent, and the remainder of this Lease or the application of such term, proviso, covenant or condition to persons or circumstances other than those with respect to which it is held invalid, void, unenforceable or illegal will not be affected thereby and will continue to be applicable and enforceable to the fullest extent permitted by law.

**21.8 No Implied Surrender or Waiver** No provisions of this Lease will be deemed to have been waived by Landlord unless such waiver is in writing signed by Landlord. Landlord's waiver of a breach of any term or condition of this Lease will not prevent a subsequent act, which would have originally constituted a breach, from having all the force and effect of any original breach. Landlord's receipt of Rent with knowledge of a breach by Tenant of any term or condition of this Lease will not be deemed a waiver or condonation of such breach. Landlord's failure to enforce against Tenant or any other tenant in the Project any of the Rules and Regulations made under Article 14.0 will not be deemed a waiver of such Rules and Regulations. No act or thing done by Landlord, its agents or employees during the Term will be deemed an acceptance of a surrender of the Premises, and no agreement to accept a surrender of the premises will be valid, unless in writing signed by Landlord. The delivery of keys to any of Landlord's agents or employees will not operate as a termination of this Lease or surrender of the Premises. No payment by Tenant, or receipt by Landlord, of a lesser amount than the Rent due under this Lease will be deemed to be other than on account of the earliest stipulated Rent, nor will any endorsement or statement on any cheque or any letter accompanying any cheque, or payment as Rent, be deemed an accord and satisfaction, and Landlord may accept such cheque or payment without prejudice to Landlord's right to recover the balance of such Rent or pursue any other remedy available to Landlord.

**21.9 Changes and Additions** Landlord will have the right from time to time during the Term to:

- (i) change the area, level, location, arrangement, destination or use of the Project or any part thereof;
- and
- (ii) construct additional buildings, structures or improvements on the Land and make alterations thereof, additions thereto, subtractions therefrom, or re-arrangements thereof, build additional storeys on any building forming a part of the Project, and construct additional buildings or facilities adjoining or proximate to the Project.

Notwithstanding anything contained in this Lease, it is understood and agreed that if the Common Areas are diminished or altered in any manner whatsoever as a result of the exercise by Landlord of its rights set out in this Article, Landlord is not subject to any liability nor is Tenant entitled to any compensation or diminution or abatement of Rent, nor is any alteration or diminution of the Common Areas deemed to constitute constructive or actual eviction, or a breach of any covenant for quiet enjoyment contained in this Lease. Landlord and Tenant further agree that the exercise by Landlord of its rights under this Article 21.9 will not relieve Tenant of Tenant's obligations under Article 5.3 of this Lease.

**21.10 Relocation** Tenant agrees to relocate to other premises within the Building in the event that Landlord, in good faith, requests Tenant to do so in order to facilitate Landlord's exercise of its rights under Article 21.9 of this Lease or as to accommodate leasing of premises in the Building as deemed necessary or desirable by the Landlord. Landlord in such event will indemnify Tenant, on a reasonable basis, for capital costs incurred by Tenant for fixtures and improvements as a result of such relocation.



**21.11 Additional Costs** Tenant agrees to pay to Landlord as Rent, upon written request therefor, any and all costs, including without limitation costs of additional security, cleaning and legal costs, incurred by Landlord as a result of picketing, demonstration or other activity within the Project which is initiated by members of any organization, including, without limitation, a trade union, and which is directed at Tenant, its contractors, subcontractors, suppliers or employees or at Tenant's operations in the Project.

**21.12 Force Majeure** If during the Term the Landlord is unable to perform any of the terms, obligations, or conditions contained in this Lease due to strikes, walkouts, civil commotion, warlike operations, governmental regulations or controls, acts of God, inability to procure materials or services, or otherwise by circumstances beyond the reasonable control of Landlord, then Landlord will be deemed not to be in default under the Lease for the period of such delay and the time for the performance of any such term, obligation or condition will be extended for the period of such delay provided at all times that, notwithstanding anything contained in this Lease to the contrary, nothing in this Force Majeure provision will relieve Tenant from payment of Rent as required in this Lease and insolvency or lack of funds will not relieve any party to this Lease from fulfillment of any obligation arising from any part of this Lease.

**21.13 Successors Bound** Except as otherwise specifically provided, the covenants, terms and conditions contained in this Lease will apply to and bind the heirs, successors, executors, administrators and permitted assigns of the parties hereto.

**21.14 Prohibition against Registration** Tenant will not register this Lease or any other instrument concerning this Lease against title to the Land or the Project.

**21.15 Notice of Lease** Notwithstanding Article 21.14, Tenant may register at its sole cost and expense (including, without limitation, payment of all registration fees, land transfer and similar taxes or charges, costs of plan preparation and registration

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and all legal fees and disbursements related to such registration) a notice, caveat or short form of this Lease (the "Registration Document") to give notice of Tenant's interest created by this Lease, provided and subject to the following:

- (a) the Registration Document will be prepared by Tenant at its sole cost in a form acceptable to Landlord, and same shall be approved in writing by Landlord prior to its registration;
- (b) the Registration Document will only disclose the names of the parties to this Lease, the Premises, and the Commencement Date and the expiry date of the Term, and any right of renewal. The Registration Document will not disclose any information concerning the rent or rental rates to be paid, nor any other financial provisions of this Lease;
- (c) the Registration Document will only indicate and be registered against title to that portion or those parcels of the Land or Project as Landlord may designate in its sole discretion. Further, in the event any portion of the Land ceases to form part of the Project, Tenant will, forth with upon request from Landlord, cause its registration to be discharged, vacated or otherwise removed from the title to such portion all at its own expense;
- (d) in the event that, in order to effect registration, the Registration Document must be executed by any party other than Landlord and Tenant, Landlord shall request such consent or execution of that party, but the sole cost of obtaining same shall be borne by Tenant; and Landlord shall not be liable to Tenant in the event that such consent or execution is not obtained;
- (e) Tenant will provide Landlord with a copy of the Registration Document and registration particulars thereof, once registration has been effected; and
- (f) upon the expiry or early termination of this Lease, Tenant will, at its sole expense, cause the Registration Document to be discharged, vacated or otherwise removed from title to the Land and Project and to provide proof of such action to Landlord, within thirty (30) days of such expiry or early termination.

21.16 **Limitation on Length of Term** This Lease is entered into subject to the express condition that it is to be effective to create any interest in land only if the provisions of any statute relating to the severance of land or interests in land by conveyance or otherwise (as it may from time to time be amended) are complied with. Landlord and Tenant agree, as a separate and distinct agreement, that if pursuant to any statute consent is requisite to the validity of this lease, either party may apply for such consent and until unconditional consent has been obtained, the Term of this Lease or any renewal thereof will not extend beyond the period permitted without consent pursuant to any such statute, with no further right on the part of Tenant to extend the term, notwithstanding any other provision of this Lease.

21.17 **Easements and Rights-of-Way** Tenant acknowledges and agrees that Landlord retains the right to grant or otherwise create and may in the future grant or otherwise create licence(s), easement(s), statutory right(s) of way and restrictive covenant(s) over, through, upon or otherwise affecting portions of the Common Areas. Tenant hereby consents to the granting or other creating of such licence(s), easement(s), statutory right(s) of way, consents, releases, waivers, discharges, priority agreements, postponement agreements, plans and any other documentation as may be reasonably required by Landlord, in registrable form or otherwise, for the purpose of granting, creating, amending or otherwise dealing with any such licence(s), easement(s), statutory right(s) of way or restrictive covenant(s).

21.18 **Severance of Land** In addition to and upon the same basis, *mutatis mutandis*, as set out in Article 21.9, Landlord will have the right from time to time to subdivide and to transfer, lease or otherwise dispose of any portion or portions of the Land in order to facilitate future development. Any such subdivision may be accomplished by any means Landlord may consider desirable and the description of the Land will be changed accordingly. Upon Landlord's request, Tenant will forthwith execute all consents, releases, waivers, discharges, priority agreements, postponement agreements, plans and any other documentation as may be reasonably required by Landlord, in registrable form or otherwise, for the purpose of carrying out any such subdivision, transfer, lease or other disposition.

21.19 **No Offer by Landlord** Landlord shall not be deemed to have made an offer to Tenant by preparing this Lease. No agreement respecting the Premises will arise or exist between the parties hereto except through the due execution of this Lease by both Tenant and Landlord. Upon execution and delivery by Tenant to Landlord, this Lease will be irrevocable by Tenant and open for acceptance by Landlord until 5:00 P.M. on the sixtieth (60<sup>th</sup>) day thereafter, and if not accepted by Landlord by then, may be withdrawn by Tenant by notice to Landlord at any time prior to its later acceptance by Landlord.

21.20 **Security Deposit** Landlord acknowledges receipt from the Tenant of the sum of \$31,753.00 payable to Landlord or its leasing agent to be held as security for the faithful performance by Tenant of all of Tenant's obligations under this lease. In the event a default occurs in the payment of Rent, Landlord shall have the right, without being obliged to exercise such right, to appropriate the Security Deposit, or such part thereof as is necessary to compensate Landlord for any amount then owed by Tenant, and to apply such Security Deposit to the payment of such amounts, the whole without prejudice to any of Landlord's other rights and remedies. Upon such appropriation, Tenant covenants to remit to Landlord within five (5) days of notice from Landlord, a sum equal to the amount of the Security Deposit so appropriated sufficient to restore the Security Deposit to the amount it would have been if no part of the Security Deposit had been so applied. If not in default at the expiry of the Term, Landlord will return the Security Deposit (or remainder thereof, as the case may be), without interest, to Tenant, its successor or permitted assign, as the case may be.

21.21 **Initial Rent Deposit** Landlord acknowledges receipt from the Tenant of the sum of \$31,753.00 payable to Landlord or its leasing agent to be applied to Rent first accruing due under this Lease.

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IN WITNESS WHEREOF the parties hereto have executed this indenture by their authorized officers in that behalf, or by Tenant's signature hereto if Tenant is not incorporated, as of the date first above written.

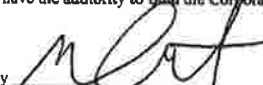
LANDLORD 9024 KEELE PARK PROPERTIES LTD.

by   
Authorized Signing Officer  
I have the authority to bind the Corporation.



TENANT CUSTOM COEX TECHNOLOGIES INC.

by   
Print Name: Authorized Signing Officer  
I have the authority to bind the Corporation

\_\_\_\_\_  
Witness to the signature  
of Tenant if not incorporated

by   
Authorized Signing Officer  
I have the authority to bind the Corporation

Tenant if a corporation must execute this Lease by signature of its duly authorized officer(s) under its corporate seal or if no corporate seal is affixed indicate the name(s) and capacity of such signing officers and if a partnership must execute the Lease by the signatures of the general partners under seal, and if an individual must execute the Lease by the individual's signature under seal. Except in the case of corporations all signatures must be witnessed.

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## EXHIBIT A



## SECTION 1.0 WORDS AND PHRASES

## 1.1 Definitions: In this Lease:

- (a) "Annual Rent" means the amount payable by Tenant to Landlord in respect of each year of the Term under Article 1.1.
- (b) "Article" means an article of this Lease;
- (c) "Architect" means the firm of professional architects or engineers as Landlord may, from time to time, engage for preparation of construction drawings for the Project or for general supervision of architectural and engineering aspects and operations of the Project and includes any consultant from time to time appointed by Landlord or the Architect whenever such consultant is acting within the scope of his appointment and speciality.
- (d) "Authority" means the federal, provincial, and municipal governments, the courts, administrative and quasi-judicial boards and tribunals and any other organizations or entities with the lawful authority to regulate, or having a power or right conferred at law or by or under a statute over Landlord, Tenant, the Premises or the Project, including the businesses carried on therein.
- (e) "Building" means those portions of the Project which are leased or designated for lease to tenants, and in which the Premises are located.
- (f) "Commencement Date" means the first day of the Term.
- (g) "Common Areas" means those portions of the Land and Project excluding the Rentable Components of the Project, which are from time to time provided to be used in common by Landlord, Tenant, and other tenants of the Project (or by the respective agents, employees, customers, sub lessees or licensees thereof), whether or not those areas are open to the general public, and are deemed to include any fixtures, chattels, systems, décor, signs, roofs, parking facilities, or landscaping contained in them or maintained or used in connection with them, and are deemed to include the city sidewalks adjacent to the Land, any access area to the Delivery Facilities, and any pedestrian walkway or vehicular access system or other facility in respect of which Landlord is from time to time subject to obligations in its capacity as owner or lessor of the Land or project, or both.
- (h) "Contaminant" means any solid, liquid, gas, odor, heat, sound, vibration, radiation or combination of any of them resulting directly or indirectly from human or industrial activities that may, if released into the environment, have an adverse effect on the natural environment or on people, property or the normal conduct of business.
- (i) "Delivery Facilities" means those portions of the Common Areas which are, from time to time, designated by Landlord as facilities to be used in common by Landlord, tenants of the Project, and others, for purposes of loading, unloading, delivery, dispatch and holding of merchandise, goods and materials entering or leaving the Project, and those portions of the Project giving vehicular access to the said facilities.
- (j) "Discharge" means any movement or radiation of a Contaminant into the indoor or outdoor air, onto or into the ground, into the surface water or ground water, or into the sewers or any watercourse, and includes a leak of any nature.
- (k) "Environmental Law" means the statutes, regulations, policies, directives, orders, approvals and other legal requirements of an Authority or of the common law which affect the Premises or Tenant's business, and which impose any obligations relating to the protection, conservation or restoration of the natural environment.
- (l) "Exhibit A" means the defined terms and expressions as used in this Lease as attached hereto as Exhibit A.
- (m) "Exhibit B" means the provisions relating to Occupancy Costs attached hereto as Exhibit B.
- (n) "Exhibit C" means the plan identifying generally the approximate location of the Premises in the Project as of the Commencement Date attached hereto as Exhibit C.
- (o) "Exhibit D" means the Rules and Regulations attached hereto as Exhibit D.
- (p) "Exhibit E" means the supplemental terms and conditions, if any, of this Lease as may be attached hereto as Exhibit E.
- (q) "Floor Area of Premises" notwithstanding anything provided elsewhere in this Lease means, the number of Square Feet of Space in the Premises, whether above or below grade as calculated from dimensioned drawings of the Architect to extend to: (i) the lease line at any storefront of the Premises as designated by Landlord to include both the exterior face of and any recessed portions of any storefront; (ii) the centre line of every wall or division separating the Premises from rented or rentable number of Square Feet of Space in the Premises: will be measured to include all interior space whether or not occupied by interior projections, stairways, shafts, ventilation spaces, columns, pipes, conduits or other physical features.
- (r) "Fiscal Year" means a twelve month period (all or part of which falls within the Term) from time to time determined by Landlord with the concurrence of the appropriate taxation authorities, at the end of which Landlord's books are balanced for auditing and/or taxation purposes;
- (s) "General Project Expense" means all costs, charges and expenses which are directly attributable to the operation, management, repair and maintenance of the Project or incurred to reduce Operating Costs but which are not attributable solely to the operation, management, repair and maintenance of the Common Areas or any Rentable Components of the Project.
- (t) "Hazardous Waste" means any hazardous waste, hazardous product, Contaminant, deleterious substance, special waste, liquid industrial waste, dangerous goods or substance which is controlled or regulated under Environmental Law. For ease of reference, this includes, but is not limited to,
- (a) any waste which is composed in whole or in part of substances which are:
- (i) corrosive,
  - (ii) ignitable,
  - (iii) pathological,
  - (iv) radioactive,
  - (v) reactive, or
  - (vi) toxic; and
- (b) liquid waste, whether or not from a commercial or industrial process, that cannot lawfully be disposed through the municipal sewers.
- (u) "HVAC Cost" means all the costs, charges and expenses in any Fiscal Year for the operation, repair, replacement and maintenance of the systems for heating, ventilating, and air conditioning, if any, in the Project as established by Landlord, from time to time, on a fair and reasonable basis which reflects load and hours of operation.
- (v) "Lease" means this lease, Exhibits A, B, C, D and E (if attached) to this Lease, and every properly executed instrument which by its terms amends, modifies or supplements this Lease.
- (w) "Land" means all of the lands constituting part of Block "E", Plan 9500, in the City of Vaughan municipally described as 9024 Keele Street, Toronto, Ontario.

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- (x) **"Lease year"** means a period of twelve calendar months except that the first Lease year of the Term will begin on the Commencement date and end of the last day of the calendar month in which the first anniversary of the day immediately preceding the Commencement date occurs and succeeding Lease Years will comprise successive periods of twelve calendar months (and the last Lease Year in the Term may contain less than twelve calendar months), but if Landlord deems it expedient, it may by written notice to Tenant specify an annual date upon which any Lease Year will terminate, in which event the appropriate adjustments will be made between the parties.
- (y) **"Occupancy Costs"** means amounts payable by Tenant to Landlord under Article 4.2.
- (z) **"Other Charges"** means amounts payable by Tenant to Landlord under Article 4.3.
- (aa) **"Premises"** means the premises containing 40,000 square feet, more or less, on the ground floor of the Building as generally indicated on Exhibit C, it being acknowledged that the purpose of the plan(s) attached as Exhibit C is to identify generally the approximate location of the Premises in the Project as of the Commencement Date, and each of Article 6.4 and Article 21.9 will prevail over anything shown on such plan(s).
- (bb) **"Prime Rate"** means the annual rate of interest announced from time to time by the Landlord's bank at its main branch in Toronto, Ontario, as a reference rate then in effect for determining interest rates on Canadian dollar commercial loans in Canada.
- (cc) **"Project"** means the Land and those developments and improvements from time to time constructed on the Land.
- (dd) **"Rent"** means the aggregate of all amounts payable by Tenant to Landlord under Articles 4.1, 4.2, 4.3, and all other amounts payable by Tenant to Landlord under this Lease.
- (ee) **"Rentable Components of the Project"** means all areas and spaces of the Project to the extent designated or intended from time to time by Landlord to be leased to tenants, whether leased or not, but excluding any parking areas and Delivery Facilities.
- (ff) **"Square Feet of Space in the Building"** means the sum of the total square feet of those portions of the Building which are leased or designated for lease to tenants, calculated on a similar basis as the number of Square Feet of Space in the Premises.
- (gg) **"Square Feet of Space in the Premises"** means the number of square feet set out in Article 1.1 (aa) of this Exhibit A unless otherwise determined in accordance with the provisions of this Lease.
- (hh) **"Taxes"** means the aggregate of all taxes, surtaxes, rates, charges (including local improvement charges and commercial concentration taxes), levies, assessments, licence fees, excise and other charges, or any other taxes, surtaxes, rates of charges levied, charged or assessed in lieu thereof, imposed by any competent authority upon or in respect of the Land, upon or in respect of all adjoining or neighboring lands from time to time owned or made available to Landlord and used in connection with the Project, and on such adjoining or neighboring lands, such taxes, surtaxes, rates, charges, levies and assessments being established by such competent authority based upon the project, in its various stages of development, assessed as a completed, fully occupied Project. Without limiting the generality of the foregoing, Taxes will include any tax imposed on the capital invested in the Land and the Project including, without limitation, Large Corporations Tax, Capital Tax, or any replacement thereof. Tax imposed on the capital invested in the Land and the Project will be determined on the basis of a calculation of the said tax based on the following considerations: i) as if the Project were the only property of Landlord/owner; and ii) based on a reasonable allocation of the capital that was required to acquire, and construct the Project, excluding any and all financing costs, including but not limited to, mortgage payments, carry costs and other financing or re-financing charges. Subject to the foregoing, in determining Taxes, any corporate income, profits, excess profits, and business tax imposed upon the income of Landlord and any other impost of a personal nature charged or levied against Landlord will be excluded, except to the extent that it is levied in lieu of taxes, rates, charges or assessments in respect of the Land or such adjoining or neighboring lands or developments and improvements on the Land and/or such adjoining or neighboring lands.
- (ii) **"Tax Cost"** means that portion of the Taxes accruing in respect of the calendar year in which the Fiscal Year begins. Tax Cost will be allocated by Landlord between Rentable Components of the Project and common Areas in each case on such basis as Landlord in its sole opinion determines equitable, having regard, among other things, to the various uses of the Rentable Components of the Project, the cost of construction and prevailing assessment principles.
- (jj) **"Term"** means the period of time set out in Article 3.1.
- (kk) **"Toxic Substances"** means any substance which is listed on the List of Toxic Substances prescribed under the Canadian Environmental Protection Act (as amended from time to time, or any replacement legislation), or is designated to be toxic or hazardous by an Authority.

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## EXHIBIT B

## SECTION 1. DETERMINATION OF OCCUPANCY COSTS

1.1 **Occupancy Costs** "Occupancy Costs" for any Fiscal Year means an amount equal to Operating Cost in respect of such Fiscal Year multiplied by the Square Feet of Space in the Premises. The Landlord estimates that the other cost and charges set out in this Lease during the first (12) months of the Term shall be approximately \$3.18 per square foot of the space of the Premises.

1.2 **Determination of Operating Cost** "Operating Cost" means an amount per square foot in respect of a Fiscal Year (calculated to the nearest cent) established in accordance with generally accepted accounting principles (as those principles may be further defined and refined by the Canadian Institute of Chartered Accountants and whether or not referred to by any other term) and confirmed in a certificate of Landlord, without duplication, and equal to the sum of the following costs, divided by the number of Square Feet of Space in the Building:

- (a) all costs, expenses and charges which are attributable to the insuring, operation, repair, maintenance of the Project including, without limiting the generality of the foregoing, Tax Cost, HVAC Cost, depreciation or amortization of or upon buildings or structures and permanent parts thereof, equipment and fixtures, interest calculated at the rate of two percent (2%) per annum in excess of the Prime Rate upon the undepreciated or unamortized portion of the cost and expense of the facilities and capital replacement of the buildings or structures and permanent parts thereof and the systems for heating, ventilating and air conditioning the Project, and repairs and replacement of the roofs and parking facilities of the Project, and
- (b) all expenses after the date any space in the Project was first occupied by any tenant and properly allocable to the Fiscal Year for any capital improvement or structural repair to the Project, or required by any change in the laws, rules, regulations, or orders of any Authority having jurisdiction, or incurred to reduce Operating Cost, which expenses will be amortized in accordance with generally accepted accounting principles, and interest calculated at the rate of two percent (2%) per annum in excess of the Prime Rate upon the unamortized portion of the total costs of the foregoing, and
- (c) General Project Expense in the Fiscal Year, and
- (d) A charge for off-site administration overhead equal to 15% of the total of the items set out in subsections 1.2 (a), (b) and (c) above including any good and services taxes, or any similar tax, thereon in the Fiscal Year.

Notwithstanding the foregoing, in the event that a separate assessment or assessments is or are issued in respect of the Premises and/or the Common Areas or in respect of Tenant's occupancy of the Premises, or both, then, if Landlord so elects, the portion of the Taxes in respect of the Premises and the Common Areas or in respect of Tenant's occupancy of the Premises, or both, will be excluded in determining Operating Cost but there will be added to Occupancy Costs an amount equal to the separate tax bills issued for the Premises and the Common Areas plus an administration fee equal to 15% of the Common Areas tax bills or, if no separate tax bills are so issued, an amount equal to the separate assessment or assessments issued in respect of the premises and the Common areas or in respect of Tenant's occupancy of the Premises, or both, multiplied by the applicable mill rate or rates plus an administration fee equal to 15% in respect of the Common Areas tax bill(s). The amount so added to occupancy Costs will be deemed to form a part thereof.

1.3 **Deduction for Contributions** In determining Operating Cost, there will be deducted from the total amounts set out in Section 1.2 amounts of any input tax credit received by Landlord on account of goods and services/harmonized taxes to the extent such taxes have been included in Section 1.2.

1.4 **Limitation on Operating Cost** In determining Operating Cost, the cost (if any) of the following will be excluded except as specifically provided in Section 1.2:

- (a) structural additions to the Project,
- (b) repair and replacement resulting from inferior or deficient workmanship, materials, or equipment in the initial construction of the Project for which Landlord is actually reimbursed,
- (c) interest on and capital retirement of debt,
- (d) repair and replacement for which Landlord is reimbursed by insurers, and
- (e) tenant improvements and leasing commissions.
- (f) The cost to the Landlord of debt service in connection with any Mortgage;
- (g) Taxes upon the income of the landlord


1.5 **When Services are Not Provided** Notwithstanding Section 1.2, when and if any service which is normally provided by Landlord to tenants of the Building:

- (a) is not provided by Landlord in the Premises as required under the specific terms of this Lease, in determining Occupancy Costs for Tenant the cost of the service (except as it relates to the Common Areas) will be excluded,
- (b) is not provided by Landlord in a significant portion of the Building, in determining Occupancy Costs for Tenant the cost of the service will be divided by the difference between the number of square feet in the Building and the number of square feet in the Building in which Landlord does not provide the service.

1.6 **Partial Fiscal Year** If the Term commences after the beginning of or terminates before the end of a Fiscal year, the amount of Occupancy Costs payable by Tenant for such Fiscal Year will be adjusted proportionately.

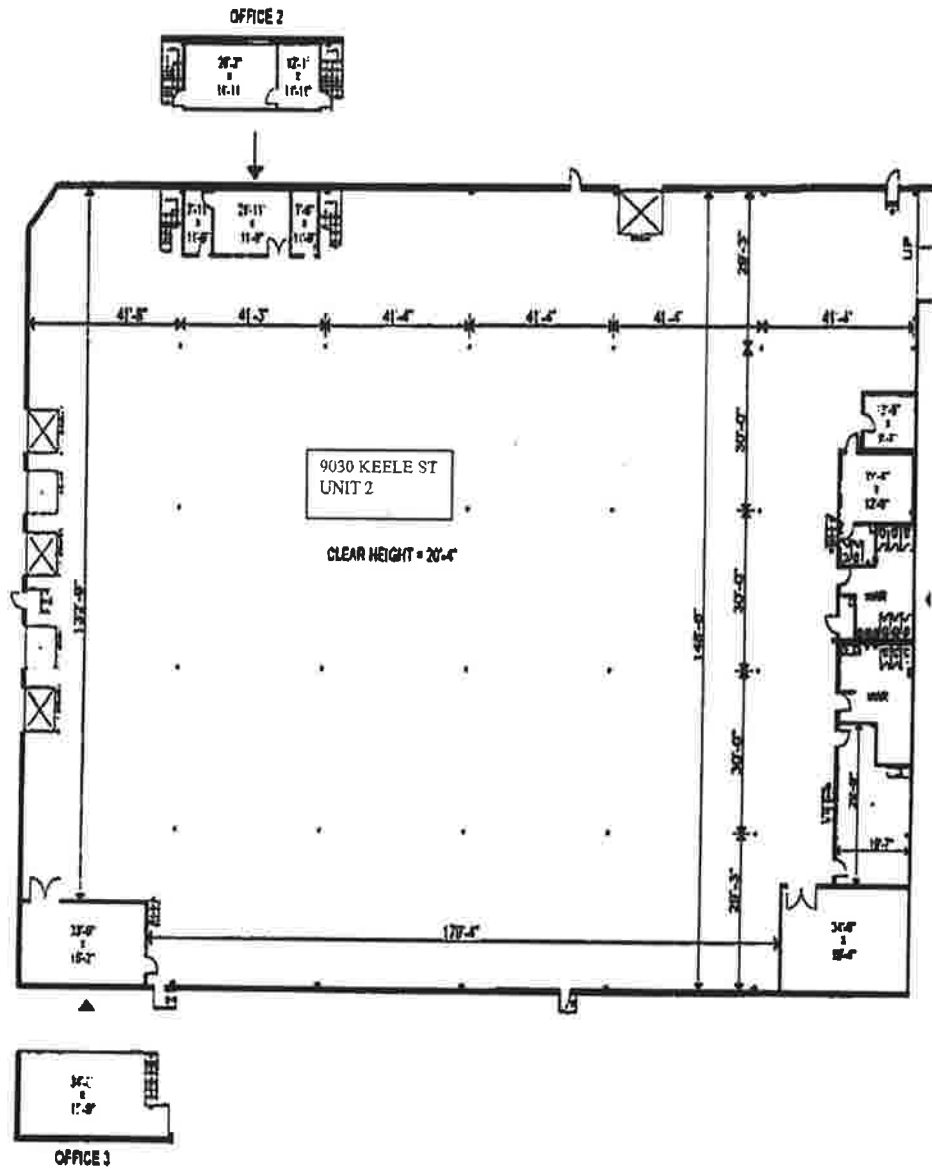
1.7 **Supply of Electricity** Notwithstanding Article 7.3 of this Lease, at Landlord's option, Landlord may, at any time or times during the Term, purchase in bulk from the utility supplier the aggregate electrical energy requirements of the Project or any portion thereof, in which event Landlord may arrange for the supply of electricity to the Premises for the general electrical purposes of Tenant. In such case, Tenant will pay to Landlord on a monthly basis, in advance, with annual adjustment at the end of each Fiscal Year, a charge for supplying electricity to the Premises as determined by Landlord on the basis of Tenant's consumption, provided that Tenant will pay no more for such electricity than if such electricity were supplied directly to Tenant by the utility supplier.



1.8 **Supply of Gas** Notwithstanding Article 7.3 of this Lease, at Landlord's option, Landlord may, at any time or times during the Term, purchase in bulk from the utility supplier the aggregate gas energy requirements of the Project or any portion thereof, in which event Landlord may arrange for the supply of gas to the Premises for the general heating purposes of Tenant. In such case, Tenant will pay to Landlord on a monthly basis, in advance, with annual adjustment at the end of each Fiscal Year, a charge for supplying gas to the Premises as determined by Landlord on the basis of Tenant's consumption, provided that Tenant will pay no more for such gas than if such gas were supplied directly to Tenant by the utility supplier.

Landlord's Initials   
Tenants Initials

**EXHIBIT "C" Page 1 of 1**

This schedule is attached to and forms part of this offer to lease between **9024 Keele Park Properties Ltd. (Landlord) and Custom Coex Technologies Inc. (Tenant)** for the premises, municipally know as 9030 Keele Street Unit 2, in the City of Toronto, Ontario.



Landlord's Initials   
Tenants Initials 



## EXHIBIT D

**SCHEDULE OF RULES AND REGULATIONS FORMING PART OF THIS LEASE**

The Tenant shall observe the following Rules and Regulations (as amended, modified or supplemented from time to time by the Landlord as provided in this Lease):

1. **Obstructions:** The sidewalks, entrances, elevators, stairways and corridors of the Building shall not be obstructed or used by the Tenant, his agents, servants, contractors, invitees or employees for any purpose other than access to and from the Premises.
2. **Window Coverings:** The floors, sky-lights and windows that reflect or admit light into passageways or into any place in the Building shall not be covered or obstructed by the Tenant, and no awnings shall be put over any window.
3. **Water Fixtures:** The toilets, sinks, drains, washrooms and other water apparatus shall not be used for any purpose other than those for which they were constructed, and no sweepings, rubbish, rags, ashes or other substances, such as chemicals, solvents, noxious liquids or pollutants shall be thrown therein, and any damage resulting to them from misuse shall be borne by the Tenant by whom or by whose employees, agents, servants, contractors or invitees the damage was caused.
4. **Proper Conduct:** The Tenant shall not perform any acts or carry on any activity which may damage the Premises or the Common Areas or be a nuisance to any other tenant.
5. **Animals:** No animals or birds shall be brought into the Building or kept on the Premises.
6. **Existing Finishes:** The Tenant shall not mark, drill into, bore or cut or in any way damage or deface the walls, ceilings or floors of the Premises. No wires, pipes or conduits shall be installed in the Premises without prior written approval of the Landlord. No broadloom or carpeting shall be affixed to the Premises by means of a non-soluble adhesive or similar products.
7. **Personal Use of Premises:** No one shall use the Premises for sleeping apartments or residential purposes, for the storage of personal effects or articles other than those required for business purposes, nor shall the Premises be used for any illegal purpose.
8. **Public Address:** The Tenant shall not use or permit the use of any objectionable advertising medium such as, without limitation, loudspeakers, public address systems, sound amplifiers, radio, broadcast or television apparatus within the building which is in any manner audible or visible outside the Premises.
9. **Security:** The Tenant must observe strict care not to allow windows to remain open so as to admit rain or snow, or so as to interfere with the heating of the Building. The Tenant neglecting this rule will be responsible for any damage caused to the Building, the property of other tenants, or to the property of the Landlord, by such carelessness. The Tenant, when closing the Premises, shall close all windows and lock all doors.
10. **Additional Locks:** The Tenant shall not without the express written consent of the Landlord, place any additional locks upon any doors of the Premises and shall not permit any duplicate keys to be made therefore, but shall use only additional keys obtained from the Landlord, at the expense of the Tenant, and shall surrender to the Landlord on the termination of the Lease all keys of the Premises.
11. **Hazardous Materials:** No inflammable oils or other inflammable, toxic, dangerous or explosive materials shall be kept or permitted to be kept in or on the Premises.
12. **Bicycles & Vehicles:** No bicycles or other vehicles shall be brought within the Premises or upon the Landlord's property, including any lane or courtyard, unless otherwise agreed in writing.
13. **Clear View:** Nothing shall be placed on the outside of windows or projections of the Premises. No air-conditioning equipment shall be placed at the windows of the Premises without the consent in writing of the Landlord.
14. **Heavy Articles:** The moving of all heavy equipment and office equipment or furniture shall occur only between 6:00 p.m. and 8:00 a.m. or any other time consented to by the Landlord and the persons employed to move the same in and out of the building must be acceptable to the Landlord. Safes and other heavy equipment shall be moved through the Premises and common areas only upon steel bearing plates.
15. **Access:** The Landlord reserves the right to restrict the use of the Building after 6:00 p.m.
16. **Solicitations:** Canvassing, soliciting and peddling in the Building is prohibited.
17. **Electrical:** The Tenant shall first obtain in writing the consent of the Landlord to any alteration or modification to the electrical system in the Premises and all such alterations and modifications shall be completed at the Tenant's expense by an electrical contractor acceptable to the Landlord.
18. **Decorate:** The Tenant shall first obtain in writing the Landlord consent prior to redecorating, repainting, to ensure color palette selection is acceptable.
19. **Refuses:** The Tenant shall first obtain in writing the consent of the Landlord to the placement by the Tenant of any garbage containers or receptacles outside the Premises or Building.
20. **Electronic and Like Equipment:** The Tenant shall not install or erect on or about the Premises television antennae, communications towers, satellite dishes or other such apparatus.
21. **Unplated Vehicles:** The Tenant will not permit the parking or placement of unplated vehicles and or parts within it's facility or parking areas, and will at the request of the Landlord provide a list of employee's vehicles.
22. **Return of Keys:** The Tenant shall at the end of the Term, promptly return to the Landlord all keys for the Building and Premises, which are in the Tenant's possession.
23. **Future Rules:** The Landlord shall have the right to make such other and further reasonable rules and regulations and to alter, amend or cancel all rules and regulations as in its judgement may from time to time be needed for the safety, care and cleanliness of the Building and for the preservation of good order therein and the same shall be kept and observed by the Tenant, his employees, agents, servants, contractors or invitees. The Landlord may from time to time waive any of such rules and regulations as applied to particular tenants and is not liable to the Tenant for breaches thereof by other tenants.

Landlord's Initials

Tenants Initials



**EXHIBIT E****SUPPLEMENTAL TERMS AND CONDITIONS****ALTERATIONS TO PREMISES BY TENANT**

Notwithstanding anything to the contrary herein, any alteration or addition to the building structure including but not limited to the Hvac, mechanical, electrical, plumbing, and data systems required by the tenant or its contractors, the Landlord shall be paid a fee equal to 15% of the cost of such work, to compensate the Landlord for administration. This clause is being inserted to ensure that structural integrity of the building and its operating systems and equipment remain. The ultimate responsibility shall still remain with the tenant and its contractors. The Landlord at the end of the term, may request at the Tenant's expense for such alterations to be returned to its original state.

**LANDLORD'S WORK**

Landlord warrants that at the Commencement Date or as soon thereafter as reasonably possible, it will:

- (a) inspect and repair if necessary all electrical, air-conditioning, heating, plumbing, lighting including outside lighting fixtures, shipping doors, windows, roof and roof membrane, mechanical and other equipment supplied with the Premises and warrants that all of the said equipment shall be in good working condition on the Commencement Date or as soon thereafter as reasonably possible;
- (b) provide proper entrance integrating stairs to access the office space; tenant shall provide a drawing and the work shall be mutually agreed by both parties;
- (c) install one female and one male washroom in the upstairs office;
- (d) paint walls and ceiling in the plant area;
- (e) repair and seal factory floors;
- (f) install an exterior concrete pad for location of silos (approx. 16' x 30')
- (g) install chain link fence for machine shop 32' x 14' x 14' high
- (h) install linoleum tiles throughout office areas including shipping offices;
- (i) install two (2) dog house openings in roof and ensure sprinklers are properly installed in the roof opening. Rough size of openings shall be 15 x 17;
- (j) install four (4) electrical outlets in lab area;
- (k) remove all washroom stalls in the down stairs ladies washroom, but leave the sink in place;
- (l) replace all lighting in warehouse with new high efficiency lighting

**SIGNAGE**

(a) Subject to the provisions of this Lease in this regard, the Landlord will permit the Tenant, at its sole cost and expense, to erect and maintain signage on the existing pylon, on the fascia of the Building in front of the main entrance to the Premises and above the shipping door at the rear of the Premises and from time to time to use portable signs installed on the grounds in front of the Land.

(b) In the event that the landlord provides and installs a Public Directory Board on the interior or exterior of the Building, the Tenant's name shall be placed on the said Board at Tenant's expense.

**PARKING**

If Landlord designates Tenant parking areas in the Project, Tenant will park its vehicles and will cause its employees to park their vehicles only in such designated parking areas. Tenant will furnish Landlord, upon request, with the current license numbers of all vehicles owned or used by Tenant or its employees and Tenant thereafter will notify Landlord of any changes in such numbers within five (5) days after the occurrence thereof. In the event of failure of Tenant or its employees to park their vehicles in such designated parking areas, Tenant will forthwith on demand pay to Landlord the sum of Twenty (\$20) Dollars per day per each car so parked. Landlord reserves the right to impose reasonable charges upon any person (including the general public) for the use of any parking facilities which may from time to time form a part of the Project.

**BASE RENT FREE PERIOD**

Notwithstanding any provision to the contrary, the Tenant shall have the period from August 1, 2015 to November 30, 2015 inclusive free of Net Rent, provided that it shall be responsible for all other costs and charges set out in this Lease and for all utilities consumed on the Premises and all other provisions of the Lease during such period.

**SNOW PLOWING AND CLEARING**

Notwithstanding Section 7.4 of the Lease, it is agreed that the Landlord shall provide snow plowing services for the common areas only. Provided that Tenant shall keep its dedicated parking areas and its access to overhead doors, together with all walkways and means of ingress and egress from the Premises clear of snow and ice at its own expense and responsibility.

**ASSUMPTION OF HVAC**

Notwithstanding Section 7.4 (c) of the Lease, it is agreed that the Landlord shall assume responsibility for HVAC Costs pertaining to the Premises, including all maintenance, repairs and replacements pertaining thereto, provided that all costs and expenses incurred by the Landlord attributable thereto shall be treated as and added to Occupancy Costs for the Premises and not attributed to any other tenant of the Project, but otherwise calculated and determined in the manner provided for in the Lease for Operating Costs.

**EXHAUST & MAKE UP AIR**

(a) Notwithstanding any provision to the contrary, the Tenant agrees to provide and install, at its own expense, an exhaust and makeup air system to ensure that no odours resulting from the Tenant's use of the premises interferes with the enjoyment of any other Tenant locate at the building. Said exhaust and make up air system is to comply with all requirements of the City of Toronto Building and Zoning By-laws and Regulations and is to be installed prior to the Tenant's occupancy of the premises and operating to the satisfaction of the Landlord.

(b) It is also understood and agreed by the Tenant that any openings to be installed in the roof or walls of the Premises and/or the Building by the Tenant will be done by the Landlord at the expense of the Tenant. This clause has been inserted to ensure that the structural integrity of the Building and roof is maintained.

Landlord's Initials

Tenants Initials

**EXHIBIT F**

**9824 Keele Park Properties Ltd. and Custom Coex Technologies Inc.**

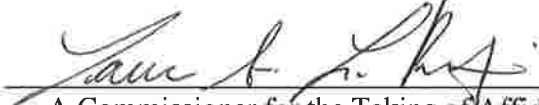
First Month Rent		\$13,333.33
First Month TMI		<u>\$10,600.00</u>
	Subtotal	\$23,933.33
	HST	<u>\$3,111.33</u>
	Total	<u>\$27,044.66</u>

Last Month Rent		\$17,500.00
Last Month TMI		<u>\$10,600.00</u>
	Subtotal	\$28,100.00
	HST	<u>\$3,653.00</u>
	Total	<u>\$31,753.00</u>

Security Deposit (equal to Last Month Rent + TMI + HST)		<b>\$31,753.00</b>
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Landlord's Initials   
 Tenants Initials AC

This is Exhibit "C" referred to in the  
affidavit of Kevin Watkinson sworn June 21<sup>st</sup>, 2020

  
A Commissioner for the Taking of Affidavits

CUSTOM CO-EX TECHNOLOGIES INC.  
 9030 Keele Street, Unit #2  
 Concord, Ontario  
 L4K 2N2

## SUBORDINATED CONVERTIBLE DEBENTURE ("Debenture")

Serial Number: CD - 1  
 Effective Date: September 17, 2018  
 Principal Sum: \$1,500,000.00

CUSTOM CO-EX TECHNOLOGIES INC. (hereinafter called the "Corporation"), for value received, acknowledges itself indebted to and hereby promises to pay to TRINITY PLASTIC PRODUCTS INC. (hereinafter called the "Holder") ~~on September 17, 2023 or on such earlier date as~~ the principal moneys hereby secured may become payable in accordance with the conditions annexed hereto, the principal sum of One Million, Five Hundred Thousand Dollars (\$1,500,000.00) in lawful money of Canada, at the Head Office of the Corporation, and to pay interest thereon from the date hereof at the rate of interest stipulated in the conditions below, calculated and payable in like money in arrears on the Maturity Date (as defined hereafter) and continuing until the said principal sum and all interest thereon is fully paid and satisfied; and should the Corporation at any time make default in the payment of any principal or interest, to pay interest on the amount in default at the same rate of interest per annum in like money at the same place and yearly on the same dates after default as well as before and after judgment until payment in full.

As security for the payment of the principal and interest and of all other moneys from time to time owing hereunder, the Corporation hereby mortgages and charges as and by way of a floating charge (subject to the exception as to leaseholds herein contained, subject to the conditions attached hereto and subject to any floating charge or other securities given or to be given to the Corporation's financiers, namely 1149610 Alberta Ltd., Royal Bank of Canada and Toronto Dominion Bank and subject to all financing statements filed against the Corporation under the *Personal Property Security Act* (Ontario) as of the date hereof) to and in favour of the Holder, its successors, and assigns, the undertaking of the Corporation and all of its property and assets, real and personal and immovable, tangible and intangible of every nature and kind wheresoever situate, for the time being both present and future (all herein called "the property" or the "Charged Property").

The mortgages and charges hereby made and created shall be and be deemed to be effective and to have effect whether or not the consideration hereby secured shall be received before or after or upon the date of the execution of this Debenture, on the terms and conditions set out herein:

1. This Debenture is issued to the registered Holder hereof to secure the principal sum of One Million, Five Hundred Thousand Dollars (\$1,500,000.00) maturing on September 17, 2023 (the

"Maturity Date"). This Debenture is secured against the property, assets and undertaking of the Corporation.

2. The Corporation shall be entitled at its option at any time before the Maturity Date to redeem the whole or any part of the outstanding principal amount under the Debenture on payment to the holder of (i) the principal amount to be redeemed and (ii) accrued and unpaid interest on the principal amount to be redeemed to the date of redemption. In case less than the whole of the outstanding principal amount of the Debenture is to be redeemed, the Corporation shall redeem the Debenture:

- (i) on a pro rata basis (to the nearest multiple of \$100) in accordance with the principal amount of the Debenture registered in the name of the Holder of the Debenture; or
- (ii) in such other manner as the board of directors of the Corporation determines.

The Corporation shall give the holder 10 days' notice of its intention to redeem the whole or any part of the outstanding principal amount under the Debenture stating the date of redemption and the amount of principal and interest to be paid on the date of redemption. Upon and contemporaneously with such redemption the Debenture to be redeemed shall be delivered to the Corporation for cancellation. When this Debenture is paid off or redeemed by the Corporation, it shall be automatically cancelled, of no further force and effect and shall not be re-issued, and the Holder shall have no rights whatsoever under or pursuant to Section 3 hereof. If the Debentures are called for redemption in part only, the Holder shall upon surrender of the Debenture for payment, be entitled to receive without expense to the Holder, one or more new Debentures for the unredeemed part of the Debenture so surrendered.

3. Conversion. At any time and from time to time after the date hereof until the Maturity Date, the Holder shall have the right to convert any or all of the indebtedness owing to it hereunder up to a maximum amount of \$1,000,000 (including for clarity, any accrued and unpaid interest unless otherwise paid by the Corporation to the Holder in immediately available funds pursuant to Section 4 hereof) (as of the date of election to so convert) into Common Shares of the Corporation up to a maximum of 100 Common Shares at a conversion rate equal to one common share for each \$10,000 of indebtedness hereunder so converted (the "Purchase Price") on the following terms and conditions:

- (i) Such conversion may be effected by the surrender of this Debenture at the office of the Corporation, accompanied by a written instrument of surrender signed by the Holder notifying the Corporation as to the exercise of the right of conversion and specifying the amount of indebtedness hereunder in respect of which the Debenture is converted and setting forth the name and address of the person in whose name(s) the shares issuable upon such conversion are to be registered, said date of delivery to be the Conversion Date.
- (ii) This Debenture may, at the Holder's option, be converted in whole at any time or from time to time in part as long as any amount remains outstanding hereunder.

- (iii) Within 30 days after the surrender of this Debenture for conversion, the Corporation shall issue to the Holder or its nominees(s), a certificate or certificates presenting the number of fully paid and non-assessable Common Shares into which all or any portion of the indebtedness hereunder has been converted and, in the event that any amounts remain outstanding hereunder after giving effect to such conversion, the Corporation shall issue a new debenture, in form identical to this Debenture, in principal amount equal to the amount of such unconverted indebtedness.
- (iv) No fractional share or scrip representing a fractional share shall be required to be issued upon the conversion of this Debenture. If the conversion of this Debenture would otherwise result in a fractional share, the Corporation shall, in lieu of issuing such fractional share, pay to the Holder an amount equal to the fair market value of the fractional share.
- (v) The conversion of this Debenture shall be deemed to have been made at the close of business on the Conversion Date, so that the Holder's rights in respect of the converted portion shall terminate at such time, and the person or persons entitled to receive the shares into which the whole or any part of this Debenture is converted shall be treated, as between the Corporation and such person or persons, as having become the holder or holders of record of such shares at such time.
- (vi) This Debenture and the charge and security interest created hereunder in favour of the Holder shall remain in full force and effect until the earlier of (i) the Corporation, its successors or assigns or any of them has made or caused to be made due irrevocable payment or performance in full of the principal amount and any accrued and unpaid interest, without any reduction or abatement, or (ii) the conversion in full of this Debenture into Common Shares. Upon the earlier of (i) such payment of the principal amount any accrued and unpaid interest, or (ii) the conversion in full of this Debenture into Common Shares, the Holder shall on request therefor by the Corporation surrender this Debenture to the Corporation.

So long as this Debenture is outstanding, the Corporation shall reserve and conditionally allot against the conversion rights conferred to the Holder by this Debenture a sufficient number of Common Shares (being 100 Common Shares for greater certainty) to enable this Debenture to be converted upon the basis provided for in this Section 3 subject to any adjustment contemplated below.

The number of Common Shares to be issued to the Holder hereunder will be adjusted proportionately in the event that the Corporation shall (i) subdivide or re-divide the outstanding and issued shares into a greater number of shares, (ii) reduce, combine or consolidate the outstanding and issued shares into a smaller number of shares, or (iii) issue shares or securities convertible into shares to the holders of all or substantially all of the outstanding and issued shares by way of a stock dividend. The Corporation shall not engage in any dilutive action contemplated in this Section 3 where such action would cause the Corporation to be in default of its obligations under this Section 3.

4. **Interest.** This Debenture shall bear interest at the rate of six percent (6%) per annum, calculated annually payable on the earlier of the Maturity Date; or the Conversion Date. Interest, to the extent payable hereunder, shall cease being calculated on the Principal Amount to be converted as of and from the Conversion Date. Accrued interest, if applicable, on the Principal Amount being converted at any given time, if any, shall be paid by the Corporation to the Holder in immediately available funds at the time of the delivery of the certificate(s) representing the Common Shares issued upon such conversion.

The principal amount hereof will be paid in like money at the head office of the Corporation or at such other place as may be designated in writing by the Holder against surrender of this Debenture and the execution and delivery by the registered Holder of all such documentation as may be necessary to release and discharge the floating charge hereof.

5. **Security.** Nothing herein shall hinder or prevent the Corporation, until the Security constituted by the Debenture becomes enforceable, from disposing of or dealing with the Charged Property in the ordinary course of business (including for wear and tear purposes) and for the purpose of carrying on the same, but subject to the terms and conditions contained herein.

The parties acknowledge their intention that the floating charge hereby granted shall, as to all of the Charged Property in which the Corporation presently has an interest, attach as of the date hereof, and as to after-acquired Charged Property as of the date that the Corporation acquires rights in each item of such undertaking property and assets. The Corporation and the Holder hereby acknowledge that: (i) value has been given; (ii) the Corporation has rights in the Charged Property (other than after-acquired property); and (iii) the security interest created hereunder is intended to attach when this Debenture is executed by the Corporation and delivered to the Holder and the Corporation and the Holder have not agreed to postpone the time of attachment of the security granted hereunder.

6. **General Covenants.** At all times, the Corporation covenants and agrees for so long as this Debenture is in force and any portion of the principal amount of this Debenture remains unpaid, unfulfilled and/or unsatisfied as follows:

- (i) To Maintain Corporate Existence and Security. The Corporation shall and shall cause each of its Subsidiaries to:
  - (a) maintain its corporate existence;
  - (b) diligently preserve all its rights, licences, powers, privileges, franchises and goodwill;
  - (c) observe and perform all of its obligations and comply in all material respects with all conditions under leases, licences and other agreements to which it is a party or upon or under which any of the Charged Property is held;
  - (d) carry on and conduct its business in a proper and efficient manner so as to preserve and protect the Charged Property and income therefrom;



- (e) keep proper books of account with correct entries of all transactions in relation to its business;
  - (f) immediately notify the Holder in writing of any proposed change of name or business name of the Corporation or a Subsidiary of the Corporation or of the Corporation's or any of its Subsidiaries' chief place of business;
  - (g) immediately notify the Holder in writing if any part of the Charged Property and the books of account and other records of the Corporation is located in a jurisdiction other than Ontario;
  - (h) immediately notify the Holder of any default (or event, condition or occurrence which with the giving of notice and/or the lapse of time would constitute a default) in connection with any indebtedness or guarantee;
  - (i) advise the Holder forthwith upon becoming aware of any Event of Default hereunder and deliver to the Holder upon request a certificate in form and substance satisfactory to the Holder signed by a senior officer certifying that no Event of Default has occurred or, if such is not the case, specifying all Events of Default and their nature and status; and
  - (j) execute and deliver such security, documents, instruments or agreements following the date hereof as may be necessary or desirable in the reasonable opinion of the Holder to carry out the provisions and intent of this Debenture.
- (ii) Inspection by the Holder. The Corporation shall allow any employees or authorized representatives, agents or designees of the Holder at all times upon reasonable written notice to the Corporation to enter the premises of the Corporation in order to inspect the Charged Property and to inspect the books and records of the Corporation and make extracts therefrom.
  - (iii) Reservation of Common Shares. The Corporation covenants with the Holder that it will at all times reserve and keep available out of its authorized share capital (if the number thereof is or becomes limited) and solely for the purpose of the issue upon conversion of this Debenture as provided in Section 2 such number of Common Shares as shall then be issuable upon the conversion of this Debenture.
  - (iv) Authorization of Common Shares. The Corporation shall ensure that the Common Shares issued upon conversion pursuant to this Debenture shall be duly authorized and issued as fully paid and non-assessable securities in the capital of the Corporation.

7. **Negative Covenants.** At all times, the Corporation hereby covenants and agrees for so long as this Debenture is in force and any portion of the principal amount of this Debenture remains unpaid, unfulfilled and/or unsatisfied as follows:

- (i) **Security Interests.** The Corporation shall give written notice to the Holder in advance of the granting by it of any mortgages, charges or security interest over any of the Charged Property not already in existence as of the date hereof;
- (ii) **Not to Sell.** The Corporation shall not, without the prior written consent of the Holder, which consent shall not be unreasonably withheld, remove, destroy, lease, transfer, assign, sell or otherwise dispose of any of the Charged Property other than in the ordinary course of business operations of the Corporation (including for wear and tear purposes);
- (iii) **Not to Make Certain Changes.** The Corporation shall not without the prior written consent of the Holder, which consent shall not be unreasonably withheld or delayed:
  - (a) allow, consent or acquiesce to any liquidation, winding-up, reorganization, continuation or dissolution, whether voluntary or involuntary, of the Corporation or any Subsidiary of the Corporation;
  - (b) make an assignment for the benefit of any creditors of the Corporation;
  - (c) sell, lease, exchange or otherwise dispose of or permit the disposal of all or substantially all of the assets of the Corporation, or sell, lease, exchange or otherwise dispose of any such assets out of the ordinary course of business operations of the Corporation; or
  - (d) create, acquire, dissolve, sell or otherwise dispose of any Subsidiary (except that a Subsidiary may be dissolved if it is not actively necessary to conduct the business of the Corporation).

8. **Events of Default.** The occurrence of any of the following events shall constitute an event of default under this Debenture (an "Event of Default"):

- (i) if default occurs in payment when due of any principal, interest or other amounts payable under this Debenture;
- (ii) if default occurs in performance of any other material covenant of the Corporation in favour of the Holder under this Debenture;
- (iii) if (i) the Corporation commits an act of bankruptcy or becomes insolvent within the meaning of any bankruptcy or insolvency legislation applicable to it or files an assignment in bankruptcy or (ii) a petition or other process for the bankruptcy of the Corporation is filed or instituted and remains undismissed or unstayed for a period of thirty (30) days or any of the relief sought in such proceeding (including the entry of an order for relief against it or the appointment of a receiver, trustee, custodian or other similar official for it or any substantial part of its property) shall occur;

- (iv) if any act, matter or thing is done toward, or any action or proceeding is launched or taken to terminate the corporate existence of the Corporation, whether by winding-up, surrender of charter or otherwise;
- (v) if the Corporation ceases to carry on its business or makes or proposes to make any sale of its assets in bulk or any sale of its assets out of the ordinary course of its business other than as permitted herein;
- (vi) if any proposal is made or any petition is filed by or against the Corporation under any law having for its purpose the extension of time for payment, composition or compromise of the liabilities of the Corporation or other reorganization or arrangement respecting its liabilities or if the Corporation gives notice of its intention to make or file any such proposal or petition including an application to any court to stay or suspend any proceedings of creditors pending the making or filing of any such proposal or petition and, if involuntary, any such proceeding or appointment is not contested by bona fide action on the part of the Corporation and is not dismissed by a court of competent jurisdiction within thirty (30) days of commencement thereof;
- (vii) if any receiver, administrator or manager, receiver-manager or interim receiver of the property, assets or undertaking of the Corporation or a substantial part thereof is appointed pursuant to the terms of any trust deed, trust indenture, debenture or similar instrument or by or under any judgment or order of any court;
- (viii) If any proceedings are taken to enforce any Encumbrance affecting any of the Charged Property or if a distress or any similar process be levied or enforced there against;
- (ix) if any judgment or order for the payment of money in excess of \$50,000 shall be rendered against the Corporation or any Subsidiary of the Corporation and either: (i) enforcement proceedings shall have been commenced by any creditor upon such judgment or order; or (ii) there shall be any period of ten (10) consecutive days during which a stay of enforcement of such judgment or order, by reason of a pending appeal or otherwise, shall not be in effect;
- (x) if any representation or warranty made by the Corporation herein or in any other instrument or in any other certificate, statement or report furnished in connection with or pursuant to this Debenture is found to be false or incorrect in any way so as to make it materially misleading when made or when deemed to have been made;
- (xi) if any event occurs with respect to any Subsidiary of the Corporation which, if a like event had occurred with respect to the Corporation, would have constituted an Event of Default; or

**8.1 Consequences of Default.** Upon the occurrence of any Event of Default, all Obligations and all monies secured hereby shall at the option of the Holder and by notice in writing to the Corporation become forthwith due and payable and all of the rights and remedies hereby conferred

in respect of the Charged Property shall become immediately enforceable and any and all additional and collateral security for payment of this Debenture shall become immediately enforceable.

8.2 Enforcement. Upon the happening of any Event of Default, the Holder may by instrument in writing declare that the security hereof has become enforceable and the Holder shall have the following rights and powers:

- (i) to enter into possession of all or any part of the Charged Property;
- (ii) to preserve and maintain the Charged Property and make such replacements thereof and additions thereto as it deems advisable;
- (iii) to collect any proceeds arising in respect of the Charged Property;
- (iv) to collect, realize upon or sell or otherwise deal with accounts;
- (v) to institute proceedings in any court of competent jurisdiction for the appointment of a Receiver of the Charged Property;
- (vi) to institute proceedings in any court of competent jurisdiction for sale or foreclosure of the Charged Property;
- (vii) to file proofs of claim and other documents to establish claims in any proceeding relating to the Corporation;
- (viii) to undertake any other remedy or proceeding authorized or permitted under the PPSA or otherwise by law or equity;
- (ix) to pay or otherwise satisfy in whole or in part any encumbrances which, in the Holder's opinion, rank in priority to the security hereof;
- (x) to appoint an agent or other representative for the collection of accounts receivable of the Corporation;
- (xi) after entry by its officers or agents or without entry, to sell, lease or otherwise dispose in any way whatsoever of all or any part of the Charged Property at such time or times and on such terms and conditions as the Holder in its absolute discretion may determine and without any notice to or concurrence of the Corporation except as may be required by applicable law; and
- (xii) by instrument in writing, to appoint any person or persons (whether an officer or officers of the Holder or not) as a Receiver (as defined herein to include a receiver and manager) of the Charged Property and to remove any Receiver so appointed and appoint another or others in its stead.

8.3 Disposition. Without limiting the generality of the foregoing in connection with the exercise of remedies under this Section 8, it shall be lawful for the Holder:

- (i) to make any sale, lease or other disposition of the Charged Property either for cash or upon credit or partly for one and partly for the other upon such conditions as to terms of payment as it in its absolute discretion may deem proper;
- (ii) to rescind or vary any contract for sale, lease or other disposition that the Holder may have entered into pursuant hereto and resell, release or redispense of the Charged Property with or under any of the powers conferred herein; and
- (iii) to stop, suspend or adjourn any sale, lease or other disposition from time to time and to hold the same adjourned without further notice.

8.4 Upon any such sale, lease or other disposition the Holder shall be accountable only for money actually received by it. The Corporation shall be accountable for any deficiency and the Holder shall be accountable for any surplus. The Holder may deliver to the purchaser or purchasers of the Charged Property or any part thereof good and sufficient conveyances or deeds for the same free and clear of any claim by the Corporation. The purchaser or lessee receiving any disposition of the Charged Property or any part thereof need not inquire whether default under this Debenture has actually occurred but may as to this and all other matters rely upon a statutory declaration of an officer of the Holder, which declaration shall be conclusive evidence as between the Corporation and any such purchaser or lessee, and the purchaser or lessee need not look to the application of the purchase money, rent or other consideration given upon such sale, lease or other disposition, which shall not be affected by any irregularity of any nature or kind relating to the crystallizing or enforcing of the security hereof or the taking of possession of the Charged Property or the sale, lease or other disposition thereof.

8.5 Powers of Receiver. Any Receiver appointed as aforesaid shall have the power without legal process:

- (i) to take possession of the Charged Property or any part thereof wherever the same may be found;
- (ii) to carry on the business of the Corporation or any part thereof in the name of the Corporation or of the Receiver; and
- (iii) to exercise on behalf of the Holder all of the rights and remedies herein granted to the Holder;

and without in any way limiting the foregoing the Receiver shall have all the powers of a receiver appointed by a court of competent jurisdiction. Any Receiver appointed by the Holder shall act as agent for the Holder for the purposes of taking possession of the Charged Property, but otherwise and for all other purposes (except as provided below), as agent for the Corporation. The Receiver may sell, lease, or otherwise dispose of Charged Property as agent for the Corporation or as agent for the Holder, as the Holder may determine in its discretion. The Corporation agrees to ratify and confirm all actions of the Receiver acting as agent for the Corporation, and to release and indemnify the Receiver in respect of all such actions. The Holder, in appointing or refraining from appointing any Receiver shall not incur liability to the Receiver, the Corporation or otherwise and shall not be responsible for any fraud, misconduct or negligence of such Receiver or for any loss resulting therefrom.

8.6 Application of Monies. Subject to the requirements of the PPSA, all monies actually received by the Holder or by the Receiver in enforcing the security of this Debenture shall be applied, subject to the proper claims of any other Person:

- (i) first, to pay or reimburse the Holder and any Receiver the reasonable costs, charges, expenses and advances payable by the Corporation in accordance herewith;
- (ii) second, in or toward the payment to the Holder of all other monies owing hereunder or Charged hereby in such order as the Holder in its sole discretion may determine; and
- (iii) third, any surplus shall be paid to the Corporation or its assigns or as a court of competent jurisdiction may direct.

8.7 Care and Custody of Charged Property. The Holder shall not be bound to collect, dispose of, realize, protect or enforce any of the Corporation's right, title and interest in and to the Charged Property or to institute proceedings for the purpose thereof and, without limiting the generality of the foregoing, the Holder shall not be required to take any steps necessary to preserve rights against prior parties in respect of any Charged Property.

8.8 Dealing with the Charged Property. The Holder shall not be obliged to exhaust its recourse against the Corporation or any other person or persons or against any other security it may hold in respect of the Obligations before realizing upon or otherwise dealing with the Charged Property in such manner as the Holder may consider desirable. The Holder may grant extensions or other indulgences, take and give up securities, accept compositions, grant releases and discharges and otherwise deal with the Corporation and with other parties, sureties or securities as the Holder may see fit without prejudice to the Obligations or the rights of the Holder in respect of the Charged Property. The Holder shall not be: (i) liable or accountable for any failure to collect, realize or obtain payment in respect of the Charged Property; (ii) bound to institute proceedings for the purpose of collecting, enforcing, realizing or obtaining payment of the Charged Property or for the purpose of preserving any rights of the Holder, the Corporation or any other parties in respect thereof; (iii) responsible for any loss occasioned by any sale or other dealing with the Charged Property or by the retention of or failure to sell or otherwise deal therewith; or (iv) bound to protect the Charged Property from depreciating in value or becoming worthless.

8.9 Standards of Sale. Without prejudice to the ability of the Holder to dispose of the Charged Property in any manner which is commercially reasonable, the Corporation acknowledges that a disposition of Charged Property by the Holder which takes place substantially in accordance with the following provisions shall be deemed to be commercially reasonable:

- (i) Charged Property may be disposed of in whole or in part;
- (ii) Charged Property may be disposed of by public auction, public tender or private contract, with or without advertising and without any other formality;
- (iii) any purchaser or lessee of such Charged Property may be a customer of the Holder;

- (iv) a disposition of Charged Property may be on such terms and conditions as to credit or otherwise as the Holder, in its sole discretion, may deem advantageous; and
- (v) the Holder may establish an upset or reserve bid or price in respect of Charged Property.

General

9. This Debenture shall not be amended, terminated or modified without the consent of the Corporation by Board of Director's resolution, and the prior consent of the Holder of this Debenture (such consent not to be unreasonably withheld or delayed), signified by instrument or instruments in writing.

10. The person in whose name this Debenture is registered shall be deemed and regarded as the owner and Holder hereof for all purposes. The payment to and receipt of any such Holder hereof, as the case may be, for any principal moneys or interest owing hereunder hereby secured shall be a good discharge to the Corporation for the same, and the Corporation shall not be bound to enter into the register notice of any trust or to enquire into the title of any such Holder or to recognize any trust or equity affecting the title hereof save as ordered by a court of competent jurisdiction, or as required by statute.

11. This Debenture shall not be sold, assigned, transferred, pledged, mortgaged, charged, made the subject of a security interest, hypothecated or otherwise disposed of, encumbered or dealt with, except with the written consent of the Corporation which consent shall not unreasonably be withheld.

12. Any notice to be given under the terms of this Convertible Debenture shall be made in writing and shall be delivered personally or sent by registered mail or facsimile or by e-mail transmission addressed as follows:

To the Corporation: Custom Co-Ex Technologies Inc.  
9030 Keele Street, Unit 2, Concord, ON L4K 2N2  
E-mail: [nchantiam@ccx1.ca](mailto:nchantiam@ccx1.ca)

With a copy to: Cassels Brock & Blackwell LLP  
Attention: Marc Mercier  
Suite 2100, Scotia Plaza, 40 King Street West, Toronto, ON M5H 3C2  
E-mail: [mmercier@casselsbrock.com](mailto:mmercier@casselsbrock.com)

To the Holder: Trinity Plastic Products Inc.  
5181 Everest Drive, Mississauga, ON L4W 2R2  
E-mail: [kevinw@instorecorp.com](mailto:kevinw@instorecorp.com)

or to such other address as the Vendor or Purchaser may hereafter from time to time designate in writing, and any notice or statement so given shall be held to be given as of the date of such personal delivery or five (5) days after such posting, or on the date of the facsimile transmission, or on the date following transmission by email as the case may be.

13. This Debenture shall be governed by and construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein.

14. The invalidity or unenforceability of any provision of the Debenture or any covenant herein contained shall not affect the validity or enforceability of any other provision or covenant hereof or herein contained and the Debenture shall be construed as if such invalid or unenforceable provision or covenant were omitted.

15. This Debenture and all its provisions shall enure to the benefit of the Holder and his legal and personal representatives, successors and permitted assigns and shall be binding upon the Corporation and its successors and permitted assigns.

IN WITNESS WHEREOF CUSTOM CO-EX TECHNOLOGIES INC. has caused this Debenture to be signed by its proper officers duly authorized in that behalf and has affixed its corporate seal hereto.

Dated effective as of the 17<sup>th</sup> day of September, 2018

CUSTOM CO-EX TECHNOLOGIES INC.


Per:



Noel Chantiam Jr.  
President



This is Exhibit "D" referred to in the  
affidavit of Kevin Watkinson sworn June 21<sup>st</sup>, 2020

  
A Commissioner for the Taking of Affidavits

**GENERAL SECURITY AGREEMENT**

**BETWEEN**

**TRINITY PLASTIC PRODUCTS INC.**

**and**

**CUSTOM CO-EX TECHNOLOGIES INC.**

**As of September 17, 2018**

## TABLE OF CONTENTS

<b>ARTICLE 1 INTERPRETATION .....</b>	<b>1</b>
1.01 Definitions .....	1
1.02 References to specific terms .....	5
1.03 Headings .....	5
1.04 Internal references .....	5
1.05 Number and gender .....	5
1.06 Calculation of time .....	5
1.07 Construction of terms .....	5
1.08 Schedules .....	6
<b>ARTICLE 2 GRANT OF SECURITY .....</b>	<b>6</b>
2.01 Creation of Security Interest .....	6
2.02 Attachment .....	6
2.03 Release of Collateral .....	6
2.04 Account Debtor .....	6
2.05 Leasehold interests .....	6
2.06 Contractual rights .....	7
2.07 Intellectual Property .....	7
2.08 Commingled goods .....	7
2.09 Release of Security Interest .....	7
<b>ARTICLE 3 DEBTOR'S COVENANTS .....</b>	<b>7</b>
3.01 Payment of Obligations .....	7
3.02 Care of Collateral .....	8
3.03 Liens .....	8
3.04 Proceeds held in trust .....	8
3.05 Accessions and fixtures .....	8
3.06 Guarantees, etc. ....	8
3.07 Insurance .....	8
3.08 Notice of change .....	9
3.09 Business activities .....	9
3.10 Corporate changes .....	10
3.11 Taxes and charges .....	10
3.12 Information .....	10
3.13 Documents .....	10
3.14 Inspection .....	10
3.15 Maintenance of Intellectual Property .....	10
3.16 Delivery of certain Collateral .....	11
3.17 Registration .....	11
3.18 General indemnity .....	11
3.19 Set-off, combination of accounts, and crossclaims .....	11
3.20 Limitations on Secured Party's rights and realization .....	12
<b>ARTICLE 4 DEBTOR'S RIGHTS .....</b>	<b>12</b>
4.01 Dealings with Collateral .....	12
4.02 Special provisions relating to securities .....	12
<b>ARTICLE 5 DEBTOR'S REPRESENTATIONS AND WARRANTIES .....</b>	<b>14</b>
5.01 Existence .....	14

5.02	Power and capacity .....	14
5.03	Authorization .....	15
5.04	Execution and delivery .....	15
5.05	Enforceability .....	15
5.06	No breach .....	15
5.07	No regulatory approvals required .....	15
5.08	Permits and other authorizations .....	16
5.09	Bankruptcy, etc. ....	16
5.10	Collateral unencumbered .....	16
5.11	Location of Debtor .....	16
5.12	Location of Collateral .....	16
5.13	List of Intellectual Property .....	16
5.14	Registration of Intellectual Property .....	16
5.15	Entitlement to use Intellectual Property .....	16
5.16	No litigation re Intellectual Property .....	16
<b>ARTICLE 6 RIGHTS AND REMEDIES .....</b>		<b>17</b>
6.01	Acceleration and enforcement .....	17
6.02	Floating charge .....	17
6.03	Power of entry .....	17
6.04	Power of sale .....	17
6.05	Carrying on business .....	18
6.06	Pay Liens .....	18
6.07	Dealing with Collateral .....	18
6.08	Powers re leases .....	19
6.09	Dealing with accounts .....	19
6.10	Collect rents .....	19
6.11	Dealing with securities .....	19
6.12	Dealing with Intellectual Property .....	20
6.13	File claims .....	20
6.14	Power of attorney .....	20
6.15	Retain services .....	20
6.16	Appointment of a Receiver .....	20
6.17	Effect of appointment of Receiver .....	21
6.18	Application of payments .....	21
6.19	Deficiency .....	21
6.20	Limitation of liability .....	21
6.21	Extensions of time .....	21
6.22	Secured Party or Receiver may perform .....	22
6.23	Validity of sale .....	22
6.24	No obligation to advance .....	22
<b>ARTICLE 7 GENERAL PROVISIONS .....</b>		<b>22</b>
7.01	Entire agreement .....	22
7.02	Further assurances .....	22
7.03	Amendment .....	22
7.04	Conflict of terms .....	23
7.05	Binding effect .....	23
7.06	Debtor's amalgamation .....	23

- iii -

7.07	Assignment .....	23
7.08	No partnership .....	23
7.09	No third party beneficiaries .....	23
7.10	Notice .....	23
7.11	Remedies cumulative .....	24
7.12	Security in addition .....	24
7.13	Non-merger .....	24
7.14	Severability .....	24
7.15	Waiver .....	24
7.16	Payment of costs .....	24
7.17	Governing law .....	25
7.18	Submission to jurisdiction .....	25
7.19	Judgment currency .....	25
7.20	Counterparts .....	25
7.21	Copy of agreement .....	25
7.22	Effective date .....	25

**GENERAL SECURITY AGREEMENT**

Dated as of September 17, 2018

BETWEEN:

**TRINITY PLASTIC PRODUCTS INC.**, an [Ontario] corporation (the "Secured Party")

and

**CUSTOM CO-EX TECHNOLOGIES INC.**, an Ontario corporation (the "Debtor")

**RECITALS:**

- A. The Debtor is now indebted or otherwise obligated to the Secured Party, including under a subordinated convertible debenture dated on or about the date hereof (as may be amended, supplemented, restated, replaced, or otherwise modified from time to time, the "Debenture").
- B. The Debtor has agreed, as a condition of the underlying financing contemplated by the Debenture, to enter into this agreement and grant security to the Secured Party.

The parties agree as follows:

**ARTICLE 1  
INTERPRETATION**

**1.01 Definitions**

Words and expressions defined in the PPSA and the STA are used in this agreement (capitalized or not) with the defined meanings assigned to them in those statutes, unless the context otherwise requires. For greater certainty, in this agreement each of the words "accessions," "account," "chattel paper," "consumer goods," "document of title," "equipment," "goods," "instruments," "intangible," "inventory," "investment property," "money," and "proceeds" has the same meaning as its defined meaning in the PPSA and each of the terms "certificated security," "entitlement holder," "financial asset," "securities account," "securities intermediary," "security," "security entitlement," and "uncertificated security" has the same meaning as its defined meaning in the STA. In this agreement, in addition to the terms defined above, the following definitions apply:

**"Account Debtor"** means a party obligated to pay under any account, chattel paper, or instrument constituting Collateral.

**"Collateral"** means, collectively, all of the Debtor's present and after-acquired personal property (including all accounts, chattel paper, Documents, documents of title, equipment, goods, instruments, intangibles, inventory, investment property, Licences, money, securities, security entitlements, undertaking, proceeds, and Replacements, together with the Debtor's interest in any of them) but excludes consumer goods and any reference in this agreement to Collateral will, unless the context otherwise requires, be deemed a reference to "Collateral or any part thereof."

- 2 -

**“Documents”** means all the Debtor’s books, accounts, invoices, letters, papers, security certificates, documents, and other records (including customer lists and records, subject, however, to privacy, confidentiality, and access rights of customers), in any form evidencing or relating to any part of the Collateral, together with all agreements, licences, and other rights and benefits relating to any of them.

**“Governmental Authority”** means (a) the government of Canada or any other nation, (b) any central bank, court, tribunal, arbitral body, regulatory body (including any stock exchange), commission (including any securities commission), board, bureau, agency, authority, or other entity exercising executive, legislative, judicial, taxing, regulatory, or administrative powers or functions of, or pertaining to, any of the foregoing, and (c) any political or other subdivision of any of the foregoing.

**“Indemnified Party”** has the meaning given to that term in section 3.18 (General indemnity).

**“Intellectual Property”** means all of the Debtor’s:

- (a) business and trade names, corporate names, brand names, and slogans,
- (b) inventions, patents, patent rights, patent applications (including all reissues, divisions, continuations, continuations-in-part, and extensions of any patent or patent application), unregistered industrial designs, applications for registration of individual designs, and registered designs.
- (c) registered copyrights and all registered and unregistered trade-marks (including the goodwill attaching to those trade-marks), registrations, and applications for trade-marks and copyrights,
- (d) rights and interests in and to processes, data, trade secrets, designs, know-how, processes, product formulae and information, manufacturing, engineering, and other drawings and manuals, technology, algorithms, blue prints, research and development reports, technical information, technical assistance, engineering data, design and engineering specifications, and similar materials recording or evidencing expertise or information,
- (e) other owned intellectual and industrial property rights throughout the world,
- (f) licences of the intellectual property listed in paragraphs (b) through (e) above,
- (g) all future income and proceeds from any of the intellectual property listed in paragraphs (b) through (e) above and the licences listed in paragraph (g) above, and
- (h) all rights to damages and profits by reason of the infringement of any of the intellectual property listed in paragraphs (b) through (f) above.

**“Licence”** means (a) any authorization from any Governmental Authority having jurisdiction relating to the Debtor or its businesses, undertaking, or properties, (b) any authorization from any Person granting any easement or licence relating to any real or immovable property, and (c) any Intellectual Property licence.

- 3 -

**"Lien"** means (a) any interest in property created by way of mortgage, pledge, charge, lien, assignment by way of security, hypothecation, security interest, conditional sale agreement, sale/lease back transaction, deposit arrangement, title retention, capital lease, or discount, factoring, or securitization arrangement on recourse terms, (b) any statutory deemed trust or lien, (c) any preference, priority, adverse claim, levy, execution, seizure, attachment, garnishment, or other encumbrance that binds property, (d) any right of set-off intended to secure the payment or performance of an obligation, and (e) any agreement to grant any of the rights or interests described in any of the preceding clauses.

**"Notice"** means any notice, request, direction, or other document that a party can or must make or give under this agreement.

**"Obligations"** means all of the Debtor's present and future liabilities, obligations, and indebtedness (including all principal, interest, fees, expenses, and other amounts), whether direct or indirect, contingent or absolute, joint or several, matured or unmatured, in any currency, and whether as principal debtor, guarantor, surety, or otherwise owing to the Secured Party including, without limitation, any and all indebtedness and liabilities arising under or in connection with the Debenture.

**"Permitted Liens"** means

- (a) statutory deemed trusts and Liens in connection with claims for unpaid wages, vacation pay, worker's compensation, unemployment insurance, pension plan contributions, employee or non-resident withholding tax source deductions, unremitted sales taxes, goods and services taxes, customs duties, or similar statutory obligations secured on any of the Debtor's undertaking and property, but only if the obligations secured by those deemed trusts and Liens are paid when due,
- (b) statutory liens for assessments or governmental charges or levies that are paid when due or, if overdue, the validity or amount of which is being contested in good faith by appropriate proceedings,
- (c) construction, mechanic's, carrier's, warehousemen's, storage, repairer's, and materialmen's liens, but only if the obligations secured by those liens are paid when due and no Lien has been registered against any Collateral or if a Lien has been registered, it is not being vigorously contested by the Debtor in good faith by appropriate proceedings and appropriate action has been taken to prevent any disposal of Collateral,
- (d) Liens created by the Security Interest,
- (e) Liens under other agreements granted in favour of the Secured Party,
- (f) any other Liens that may be approved in writing by the Secured Party, which shall include, for greater certainty, any and all Liens in favour of 1149610 Alberta Ltd., Royal Bank of Canada, Toronto-Dominion Bank and any other Lien in existence as of the date hereof under the PPSA, and



- 4 -

- (g) easements, encroachments, rights of way, servitudes, restrictive covenants, or other similar rights in land granted to or reserved by another Person, rights of way for sewers, electric lines, telegraph and telephone lines, or other similar purposes, or zoning or other restrictions as to the use of real properties, provided that they do not, in the aggregate, impair the use by the Debtor of any Collateral in the conduct of its business.

**"Person"** includes any individual, corporation, company, partnership, Governmental Authority, joint venture, association, trust, or any other entity.

**"PPSA"** means the *Personal Property Security Act* (Ontario).

**"Rate of Exchange"** means the noon spot rate of exchange for Canadian interbank transactions published by the Bank of Canada for the relevant date.

**"Receiver"** means any privately or court appointed receiver, manager, or receiver and manager for the Collateral or for any of the Debtor's business, undertaking, or property appointed by the Secured Party under this agreement or by a court on application by the Secured Party.

**"Recovery"** means any monies received or recovered by the Secured Party after the Security Interest has become enforceable, whether under any enforcement of the Security Interest, by any suit, action, proceeding, or settlement of any claim, or otherwise.

**"Related Rights"** means all of the Debtor's rights arising under, by reason of, or otherwise in connection with, any agreement, right, Licence, or permit (including the right to receive payments under any of them).

**"Replacements"** means all increases, additions, improvements, and accessions to, and all substitutions for and replacements of, any part of the Collateral in which the Debtor now or later has rights.

**"Security Interest"** means, collectively, the grants, mortgages, charges, pledges, transfers, assignments, and other security interests created under this agreement or any other Security.

**"STA"** means the *Securities Transfer Act, 2006* (Ontario).

**"Third Party Agreements"** means all leases (true or finance), Licences, and other agreements affecting any of the Debtor's rights, title, or interest in any of the Intellectual Property.

**"Transaction Documents"** means this agreement, the Debenture and each other agreement from time to time in effect between the Debtor and the Secured Party (including all Documents relating to any of them).

**"undertaking"** means all of the Debtor's present and future real and personal property, businesses, undertaking, and goodwill that are not accounts, chattel paper, Documents, documents of title, equipment, instruments, intangibles, inventory, money, or securities.

Capitalized terms used in this agreement and not otherwise defined have the meanings given to them in the Debenture.

**1.02 References to specific terms**

- (a) *Currency.* Unless specified otherwise, all dollar amounts expressed in this agreement refer to Canadian currency.
- (b) *"Including."* Where this agreement uses the word "including," it means "including without limitation," and where it uses the word "includes," it means "includes without limitation."
- (c) *"Knowledge."* Where any representation, warranty, or other statement in this agreement, or in any other document delivered under this agreement, is expressed by a party to be "to its knowledge," or is otherwise expressed to be limited in scope to facts or matters known to the party or of which the party is aware, it means (i) the current, actual knowledge of directors and officers of that party and (ii) the knowledge that would or should have come to the attention of any of them had they duly investigated the facts related to that statement and made reasonable inquiries of other individuals reasonably likely to have knowledge of facts related to that statement.
- (d) *Statutes, etc.* Unless specified otherwise, any reference in this agreement to a statute includes the regulations, rules, and policies made under that statute and any provision that amends, supplements, supersedes, or replaces that statute or those regulations, rules, or policies.

**1.03 Headings**

The headings used in this agreement and its division into articles, sections, schedules, exhibits, appendices, and other subdivisions do not affect its interpretation.

**1.04 Internal references**

References in this agreement to articles, sections, schedules, exhibits, appendices, and other subdivisions are to those parts of this agreement.

**1.05 Number and gender**

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

**1.06 Calculation of time**

In this agreement, a period of days begins on the first day after the event that began the period and ends at 5:00 p.m. Eastern Time on the last day of the period. If any period of time is to expire, or any action or event is to occur, on a day that is not a Business Day, the period expires, or the action or event is considered to occur, at 5:00 p.m. Eastern Time on the next Business Day.

**1.07 Construction of terms**

The parties have each participated in settling the terms of this agreement. Any rule of legal interpretation to the effect that any ambiguity is to be resolved against the drafting party will not apply in interpreting this agreement.

- 6 -

**1.08 Schedules**

The following are the schedules to this agreement:

Schedule A                      Location of Debtor and Collateral

**ARTICLE 2  
GRANT OF SECURITY****2.01 Creation of Security Interest**

As general and continuing security for the due payment, observance, and performance by the Debtor of all Obligations, the Debtor hereby grants to the Secured Party a Security Interest in the Collateral.

**2.02 Attachment**

The parties acknowledge that (a) the Debtor has rights in the Collateral, (b) the Secured Party has given value to the Debtor, (c) the parties have not agreed to postpone the time for attachment of the Security Interest, and (d) the Security Interest is intended to attach (i) as to Collateral in which the Debtor now has rights, when the Debtor executes this agreement and (ii) as to Collateral in which the Debtor subsequently acquires rights, when the Debtor first obtains those rights.

**2.03 Release of Collateral**

The Secured Party may, at its discretion and at any time, release from the Security Interest any of the Collateral or any other security or surety for the Obligations either with or without sufficient consideration for that Collateral without releasing any other part of the Collateral or any Person from this agreement.

**2.04 Account Debtor**

Upon the Security Interest becoming enforceable, the Secured Party may notify and direct any Account Debtor of the Debtor to make payment directly to the Secured Party. The Secured Party may, at its discretion, apply the amounts received from any Account Debtor of the Debtor and any proceeds in accordance with section 6.18 (Application of payments) or hold them as part of the Collateral.

**2.05 Leasehold Interests**

- (a) The last day of the term of any lease, sublease, or agreement to lease or sublease now held or subsequently acquired by the Debtor is excluded from the Security Interest and does not form part of the Collateral. However, upon the Security Interest becoming enforceable, the Debtor will stand possessed of that last day and hold it in trust for the Security Party and shall assign it as the Secured Party directs.
- (b) If any lease, sublease, or agreement to lease or sublease contains a term that provides, in effect, that it may not be assigned, sub-leased, charged, or made the subject of any Lien without the consent of the lessor, the application of the Security Interest to that agreement will be conditional upon obtaining that consent. The Debtor shall use reasonable efforts to obtain that consent as soon as reasonably practicable.

**2.06 Contractual rights**

- (a) To the extent that the creation of the Security Interest would constitute a breach, or cause the acceleration, of any agreement, right, Licence, or permit to which the Debtor is a party, the Security Interest will not attach to it. However, the Debtor shall hold such contractual rights in trust for the Secured Party and shall assign that agreement, right, Licence, or permit to the Secured Party immediately upon obtaining the consent of the other party.
- (b) The Security Interest will nonetheless immediately attach to any Related Rights if, to the extent that, and as at the time that attachment to the Related Rights is not illegal, is not enforceable against the Secured Party or other third parties generally, or would not result in an ineligible transfer or a material loss or expense to the Debtor. Upon the request of the Secured Party, the Debtor shall use reasonable efforts to obtain all required material approvals as soon as reasonably practicable.
- (c) To the extent permitted by law, the Debtor shall hold in trust for the Secured Party and, after an Event of Default occurs, provide the Secured Party with the benefits of, each agreement, right, Licence, or permit and enforce all Related Rights at the direction of and for the benefit of the Secured Party or at the direction of any other Person that the Secured Party may designate.

**2.07 Intellectual Property**

The Debtor grants the Security Interest in the Intellectual Property only as security. Before the Security Interest becomes enforceable under this agreement, the Secured Party will not be or be deemed to be the owner of any of the Intellectual Property. Further, the Secured Party will not be deemed to have assumed, or be deemed to be liable for, any covenant, agreement, or other obligation of the Debtor under any agreement, right, Licence, or permit relating to the Intellectual Property to which the Debtor is a party.

**2.08 Commingled goods**

If the Collateral subsequently becomes part of a product or mass to which the security interest of another secured party attaches, the Security Interest will extend to all accounts, Replacements, or proceeds arising from any dealing with such product or mass.

**2.09 Release of Security Interest**

Once the Debtor satisfies the Obligations in full, the Secured Party shall, within a reasonable time after it receives a written request from the Debtor, release the Security Interest and execute and deliver any releases and discharges that the Debtor may reasonably require. The Debtor shall pay all expenses incurred by the Secured Party in doing so.

**ARTICLE 3  
DEBTOR'S COVENANTS****3.01 Payment of Obligations**

The Debtor shall satisfy the Obligations when due.

### **3.02 Care of Collateral**

The Debtor shall keep the Collateral in good condition.

### **3.03 Liens**

The Debtor shall keep the Collateral free of all Liens, except for Permitted Liens. The Debtor shall defend the title of the Collateral against any Person. The Secured Party may, at any time, contest the validity, effect, perfection, or priority of any Lien. No Lien may rank in priority to or *pari passu* with the Security Interest, except as expressly provided for in the Debenture. Nothing in this agreement is intended to create any rights (including subordination rights or any release of Security Interest) in favour of any Person other than the Secured Party, any Receiver, and the other Indemnified Parties.

### **3.04 Proceeds held in trust**

From and after the first date on which the Secured Party exercises any remedies under ARTICLE 6 (Rights and remedies), the Debtor shall hold any accounts, dividends, distributions, interest, proceeds, and other income that it collects in respect of the Collateral as agent and in trust for the Secured Party separate and apart from all its other property. The Debtor shall pay any such amounts to the Secured Party immediately upon receipt.

### **3.05 Accessions and fixtures**

The Debtor shall prevent the Collateral from becoming (a) an accession to any personal property not subject to this agreement or (b) affixed to any real property unless the Security Interest ranks prior to the interests of another Person in the realty.

### **3.06 Guarantees, etc.**

Without the prior written consent of the Secured Party, the Debtor shall not lend money to, guarantee the debts or obligations of, or invest money in any Person not acting at arm's length with the Debtor, whether by way of a loan, acquisition of shares, acquisition of debt, or otherwise.

### **3.07 Insurance**

- (a) The Debtor shall obtain from financially responsible insurance companies and maintain
  - (i) public liability insurance,
  - (ii) all-risks property insurance for the Collateral on a replacement cost basis,
  - (iii) business interruption insurance, and
  - (iv) insurance for any other risks as the Secured Party may reasonably require.
- (b) All those policies of insurance will be in the amounts that the Secured Party may reasonably require, will include a standard mortgage clause approved by the Insurance Bureau of Canada, and will include a minimum of 30 days' notice of change or cancellation of the policy. The Debtor shall cause the interest of the Secured Party to be noted as first mortgagee, first loss payee, and an additional insured on those policies of insurance (except public liability insurance) and shall furnish the Secured Party with

certificates of insurance and certified copies of those policies. Upon request by the Secured Party, the Debtor shall execute and deliver to the Secured Party an assignment of all insurance proceeds arising under, by reason of, or otherwise in connection with, each policy of insurance maintained by the Debtor in whatever form as the Secured Party may reasonably require, duly authorized and consented to by the insurers and brokers. Immediately after any loss or damage occurs, the Debtor, at its own expense, shall provide the Secured Party with all necessary proofs and do all necessary acts to enable the Secured Party to obtain payment of the insurance monies. The Secured Party may, at its discretion, apply the insurance monies in reinstating the insured property, pay the insurance monies to the Debtor, apply the insurance monies in payment of the Obligations (whether due or not then due), or pay partly in one way and partly in another.

### **3.08 Notice of change**

- (a) The Debtor shall give Notice to the Secured Party
- (i) immediately of (A) any material uninsured loss of or damage to any Collateral or of any suit, action, or proceeding before any Governmental Authority that could materially adversely affect the Collateral or the Security Interest, (B) any material Intellectual Property in which the Debtor acquires rights, (C) any securities and security entitlements in which the Debtor acquires rights, or (D) any location at which Documents are situated or any event occurring that, after notice or lapse of time, would constitute an Event of Default,
  - (ii) at least 10 Business Days prior to (A) any change of name of the Debtor and (B) any change in or addition to the location of Collateral from those locations referred to in section 5.12 (Location of Collateral), and
  - (iii) at least 10 Business days prior to (A) the adoption of a French or combined English and French form of name, (B) any change in the jurisdiction where the Debtor is incorporated or continued or where the registered office or chief executive office of the Debtor is located, (C) any change in the jurisdiction where the chief executive officer or any director of the Debtor resides, or (D) any change in the chief executive officer or directors of the Debtor identifying the name and jurisdiction of residence of each new chief executive officer or director.
- (b) The Debtor hereby authorizes the Secured Party, as the Debtor's attorney under this agreement, to revise each schedule to reflect the information provided to the Secured Party under this section.

### **3.09 Business activities**

The Debtor shall preserve its rights, powers, Licences, privileges, franchises, and goodwill, shall comply with all applicable laws, rules, and regulations, and shall generally conduct its business in a proper and efficient manner so as to protect the Collateral, the Security Interest, and the businesses and the undertaking of the Debtor.

### **3.10 Corporate changes**

Without the prior written consent of the Secured Party and save and except in connection with the Equity Financing, the Debtor shall not (a) permit any direct or indirect change in the ownership interests or voting control of the Debtor, (b) permit all or a substantial portion of its businesses, undertaking, or properties to become the businesses, undertaking, or properties of any other Person, whether in one or a series of transactions, related or not, or (c) change its fiscal year end. If the Debtor is an artificial body, it may not amalgamate, merge, or enter into any business combination, in each case, if so doing would, in the Secured Party's opinion, adversely affect the businesses, undertaking, or properties of the Debtor or the validity, effect, perfection, or priority of the Security Interest in the Collateral.

### **3.11 Taxes and charges**

Except for those amounts and other charges the validity or amount of which the Debtor is contesting in good faith by appropriate proceedings, the Debtor shall promptly pay all amounts and other charges that could result in the creation of a Lien in connection with the Collateral.

### **3.12 Information**

The Debtor shall deliver to the Secured Party any information concerning the Collateral or the Debtor that the Secured Party may reasonably request (including aged lists of inventory and accounts and annual and monthly financial statements of the Debtor).

### **3.13 Documents**

The Debtor shall keep proper Documents and shall keep the Documents at the locations specified in Schedule A (Location of Debtor and Collateral).

### **3.14 Inspection**

The Debtor shall allow the Secured Party or its representatives (a) to have access at commercially reasonable times to all premises of the Debtor at which Collateral or Documents may be located, (b) to inspect the Collateral and all Documents, (c) to have temporary custody of, make copies of, and take extracts from any Documents, and (d) to verify the existence and state of the Collateral in any reasonable manner that the Secured Party may consider appropriate. The Secured Party shall keep confidential any information that the Secured Party obtains from that inspection, except as required by the Secured Party in exercising its rights under this agreement.

### **3.15 Maintenance of Intellectual Property**

The Debtor shall perform all covenants required under any Third Party Agreement (including promptly paying all required fees, royalties, and taxes) to maintain every item of Intellectual Property in full force and effect. The Debtor shall vigorously protect, preserve, and maintain all of the value of, and all of the right, title, and interest of the Debtor in, the Intellectual Property owned by the Debtor (including the prosecution and defence against any suits concerning the validity, infringement, enforceability, ownership, or other aspects affecting any of the Intellectual Property).

**3.16 Delivery of certain Collateral**

At the request of the Secured Party, the Debtor shall deliver to the Secured Party all items of Collateral that are chattel paper, instruments, or negotiable documents of title, endorsed to the Secured Party or in blank by an effective endorsement, as the Secured Party may reasonably request.

**3.17 Registration**

The Debtor shall make all necessary filings, registrations, and other recordations to protect the interest of the Secured Party in the Collateral (including all recordations in connection with patents, trade-marks, and copyrights forming part of the Intellectual Property). The Debtor shall cause its representatives to immediately register, file, and record this agreement, or notice of this agreement, on behalf of the Secured Party at all proper offices where, in the opinion of counsel to the Secured Party, registration, filing, or recordation may be necessary or advantageous to create, perfect, preserve, or protect the Security Interest in the Collateral and its priority. The Debtor shall subsequently cause its representatives to maintain all those registrations, filings, and recordations on behalf of the Secured Party in full force and effect (including by making timely payment of any renewal or maintenance fees).

**3.18 General indemnity**

- (a) The Debtor shall indemnify the Secured Party, any Receiver, and their respective representatives (each, an "Indemnified Party") in connection with all claims, losses, and expenses that an Indemnified Party may suffer or incur in connection with
  - (i) the exercise by the Secured Party or any Receiver of any of its rights under this agreement,
  - (ii) any breach by the Debtor of the representations or warranties of the Debtor contained in this agreement, or
  - (iii) any breach by the Debtor of, or any failure by the Debtor to observe or perform, any of the Obligations,
  - (iv) except that the Debtor will not be obliged to indemnify any Indemnified Party to the extent those claims, losses, and expenses are determined by a final judgment to have directly resulted from the wilful misconduct or gross negligence of the Indemnified Party.
- (b) The Secured Party will be constituted as the trustee of each Indemnified Party, other than itself, and shall hold and enforce each of the rights of the other Indemnified Parties under this section or their respective benefits.

**3.19 Set-off, combination of accounts, and crossclaims**

The Debtor shall satisfy the Obligations without regard to any equities between the Debtor and the Secured Party or any assignee of the Secured Party or any right of set-off. However, the Secured Party or any assignee of the Secured Party may set off or apply against, or combine with, the Obligations any indebtedness owing by the Secured Party or any assignee of the Secured Party to the Debtor, direct or indirect, extended or renewed, actual or contingent, mutual or not, at any time before, upon, or after



- 12 -

maturity, without demand upon or notice to anyone, and the terms of that indebtedness and Obligations will be changed to the extent necessary to permit and give effect to the set-off, application, and combination.

### **3.20 Limitations on Secured Party's rights and realization**

To the fullest extent permitted by applicable law, the Debtor shall waive all of the rights, benefits, conditions, warranties, and protections given by the provisions of any existing or future statute that imposes limitations upon the rights of a secured party or upon the methods of realization of Security Interest.

## **ARTICLE 4 DEBTOR'S RIGHTS**

### **4.01 Dealings with Collateral**

Except for Permitted Liens, the Debtor shall not sell, exchange, transfer, assign, or otherwise dispose of, grant a lien on, or deal in any way with the Collateral, or enter into any agreement or undertaking to do so, except that, until the first date on which the Secured Party exercises any remedies under ARTICLE 6 (Rights and remedies), the Debtor (a) may sell, dispose of, or deal with the Collateral on ordinary commercial terms, in the ordinary course of its business, and for the purpose of carrying on its business so that the purchaser of that Collateral takes title to that Collateral free of the Security Interest, except that (i) the Debtor shall not create, assume, or have outstanding any Lien on the Collateral other than Permitted Liens and (ii) all rights of the Debtor as vendor, consignor, or lessor and all resulting accounts or proceeds remain subject to the Security Interest and (b) shall deposit all accounts or proceeds collected when doing so into the account that it maintains with the Secured Party.

### **4.02 Special provisions relating to securities**

- (a) Until the Secured Party provides notice to the contrary, any certificates representing the securities may remain registered in the name of the Debtor. At any time upon request by the Secured Party, the Debtor shall cause any of the securities to be registered in the name of the Secured Party or its nominee; for that purpose, the Debtor hereby appoints the Secured Party as its irrevocable attorney, with full power of substitution, to cause any or all of the securities to be registered in the name of the Secured Party or its nominee.
- (b) Contemporaneously with the execution and delivery of this agreement (as to securities and securities entitlements in which the Debtor now has rights), and within five Business Days of the Debtor first having rights in securities and securities entitlements (as to securities and securities entitlements in which the Debtor subsequently acquires rights), the Debtor shall
  - (i) physically deliver to the Secured Party each certificated security that is in bearer form,
  - (ii) physically deliver to the Secured Party each certificated security that is in registered form and, as the Secured Party may direct and either (A) endorse the security certificate to the Secured Party or in blank by an effective endorsement

- 13 -

- or (B) register the security certificate in the name of the Secured Party or its nominee, in either case in form and substance satisfactory to the Secured Party and the transfer agent for those securities,
- (iii) cause the issuer of any uncertificated security to agree with the Secured Party that that issuer shall comply with the Secured Party's instructions without the further consent of the Debtor or any other entitlement holder, and
  - (iv) as the Secured Party directs, either (A) cause the Secured Party or its nominee to become the entitlement holder of each security entitlement (B) cause the securities intermediary to agree with the Secured Party that the securities intermediary shall comply with entitlement orders in relation to each security entitlement that are originated by the Secured Party without the further consent of the Debtor or any other entitlement holder, or (C) cause another Person that has control on behalf of the Secured Party, or having previously obtained control, to acknowledge that the Person has control on behalf of the Secured Party of any security entitlement in the manner contemplated by paragraphs (A) or (B) above; any security (including any security entitlement) held or controlled by the Secured Party under this paragraph will be held as Collateral under this agreement.
- (c) Subject to paragraph (d) below, all rights conferred by statute or otherwise upon a registered holder of securities will (i) with respect to any securities or security entitlement held directly by the Secured Party or its representatives, be exercised as the Debtor may direct, and (ii) with respect to any securities or security entitlement held directly by the Debtor or its representatives, be exercised by the Debtor.
- (d) Until the Secured Party enforces the Security Interest,
- (i) the Debtor may exercise all voting rights attached to, and give consents, waivers, and ratifications in connection with, the securities, except that the Debtor may not cast any vote, give any consent, waiver, or ratification, or take any action that would be prejudicial to the interests of the Secured Party or that would have the effect of either reducing the value of the securities as security for the Obligations or imposing any restriction on the transferability of any of the securities, and
  - (ii) without the prior written consent of the Secured Party, the Debtor may not exercise its voting rights attached to the securities in connection with the following matters relating to the issuer of the securities:
    - (A) the issuance of shares of any class in the capital stock of the issuer, or any subdivision or consolidation of any of those shares,
    - (B) any borrowing or guarantee of debt to be undertaken by the issuer,
    - (C) any investment to be made by the issuer outside the existing scope of its business,

- 14 -

- (D) any disposition by the issuer of assets outside the existing scope of its business,
  - (E) any disposition by the issuer of any securities of its affiliates or subsidiaries,
  - (F) any plan of reorganization, merger, dissolution, liquidation, winding-up, or other similar plan affecting the corporate structure or existence of the issuer, or
  - (G) any amendment or other change to the constating documents of the issuer.
- (e) Following the occurrence of an Event of Default or if the Security Interest otherwise becomes enforceable, all rights of the Debtor to vote and give consents, waivers, and ratifications in respect of the securities will immediately cease. In that event, the Secured Party and its representatives may, at the Secured Party's discretion (in the name of the Debtor or otherwise), exercise or cause to be exercised in respect of any of the securities any voting rights or rights to receive dividends, interest, principal, or other payments of money forming part of the securities and all other rights conferred on or exercisable by the bearer or holder thereof.
- (f) The Secured Party's responsibility in connection with the securities in its possession is limited to exercising the same degree of care that it gives its own valuable property at its offices where any of the securities are held. The Secured Party will not be bound under any circumstances to realize upon any of the securities, to allow any of the securities to be sold, to exercise any option or right attaching thereto, or to be responsible for any loss occasioned by any sale of the securities or by its retention or other refusal to sell them. The Secured Party is not obliged to collect or see to the payment of interest or dividends on the securities. The Debtor shall hold in trust all interest and dividends, if and when received, for the Secured Party and shall immediately pay those amounts to the Secured Party.

#### **ARTICLE 5 DEBTOR'S REPRESENTATIONS AND WARRANTIES**

The Debtor represents and warrants to the Secured Party as follows, acknowledging that the Secured Party is relying on these representations and warranties:

##### **5.01 Existence**

It is a corporation incorporated and existing under the laws of the jurisdiction of its incorporation.

##### **5.02 Power and capacity**

It has the corporate power and capacity to carry on business, to own properties and assets, to incur the Obligations and create the Security Interest, and to execute, deliver, and perform its obligations under this agreement.

**5.03 Authorization**

It has taken all necessary corporate action to authorize its execution and delivery of, and the performance of its obligations under, this agreement.

**5.04 Execution and delivery**

It has duly executed and delivered this agreement.

**5.05 Enforceability**

This agreement constitutes a legal, valid, and binding obligation, enforceable against it in accordance with its terms, subject to

- (a) bankruptcy, insolvency, reorganization, receivership, moratorium, arrangement, winding-up, and other laws of general application affecting the enforcement of creditors' rights generally, and
- (b) general equitable principles including the principle that the granting of equitable remedies, such as injunctive relief and specific performance, is at the court's discretion.

**5.06 No breach**

The execution, delivery, and performance of its obligations under this agreement (including the payment, observance, or performance of the Obligations and the granting of the Security Interest by the Debtor in favour of the Secured Party) do not and will not

- (a) breach or result in a default under
  - (i) its articles, by-laws, or any unanimous shareholders agreement,
  - (ii) any law, statute, rule, or regulation to which it is subject,
  - (iii) any judgment, order, or decree of any court, agency, tribunal, arbitrator, or other authority to which it is subject, or
  - (iv) any agreement to which it is a party or by which it is bound,
- (b) result in the creation of, or require the Debtor to create, any Lien against the Collateral in favour of any Person other than the Secured Party, or
- (c) result in or permit the acceleration of the maturity of any indebtedness or other obligation of the Debtor.

**5.07 No regulatory approvals required**

It is not required to obtain any action, approval, authorization, consent, or order of, or make any filing, registration, qualification, or recording with, any Governmental Authority or any other Person in connection with the execution or delivery of, or the performance of its obligations under, this agreement, the Debenture or any of the other Security.

- 16 -

#### **5.08 Permits and other authorizations**

It holds all necessary permits and other authorizations necessary to own, lease, and operate its properties and to conduct its business as it is now carried on.

#### **5.09 Bankruptcy, etc.**

No proceedings have been taken or authorized by it or, to its knowledge, by any other Person relating to its bankruptcy, insolvency, liquidation, dissolution, or winding up.

#### **5.10 Collateral unencumbered**

Except for Permitted Liens, the Debtor owns the Collateral free from any mortgage, lien, charge, encumbrance, pledge, security interest, or any other claim.

#### **5.11 Location of Debtor**

Schedule A (Location of Debtor and Collateral) lists the Debtor's registered office, chief executive office and places of business in which it is incorporated and in which its directors and chief executive officer are resident.

#### **5.12 Location of Collateral**

Schedule A (Location of Debtor and Collateral) lists the locations of the Collateral, except for (a) Collateral that is in transit to and from those locations in the ordinary course of business, (b) equipment that is with repairers for repair and return to the Debtor, (c) Collateral having an aggregate value that is not material, and (d) Collateral that has been disposed of in accordance with the terms of the other Transaction Documents.

#### **5.13 List of Intellectual Property**

All Intellectual Property owned or used by the Debtor in carrying on the Debtor's business or required to dispose of the Collateral subdivided in the following categories is: (a) owned by the Debtor, (b) licensed for use to the Debtor, or (c) licensed for use by the Debtor.

#### **5.14 Registration of Intellectual Property**

The Debtor has made all necessary filings, registrations, and recordations (including all relevant renewals) to protect all of its right, title, and interest in the Intellectual Property; all those filings, registrations, and recordations have been duly and properly made, are in full force and effect, and are not subject to dispute by any Governmental Authority. All Third Party Agreements are in good standing.

#### **5.15 Entitlement to use Intellectual Property**

The Debtor owns directly or is entitled to use by Licence or otherwise all Intellectual Property.

#### **5.16 No litigation re Intellectual Property**

No litigation is pending or threatened that contains allegations respecting the validity, enforceability, infringement, or ownership of any of the Intellectual Property (including any right, title, or interest of the Debtor in the Intellectual Property).

- 17 -

**ARTICLE 6  
RIGHTS AND REMEDIES**

Upon the occurrence of an Event of Default, or if the Security Interest otherwise becomes enforceable, the Secured Party may exercise any of the following rights or remedies:

**6.01 Acceleration and enforcement**

The Obligations will be accelerated and become immediately due and payable in full and the Security Interest will become immediately enforceable without the Secured Party having to take any further action.

**6.02 Floating charge**

Any floating charge will become a fixed charge and the Secured Party may register this agreement against the Debtor's lands.

**6.03 Power of entry**

The Secured Party may enter any premises owned, leased, or otherwise occupied by the Debtor or where any Collateral may be located to take possession of, dispose of, disable, or remove any Collateral by any method permitted by law. The Debtor shall grant to the Secured Party a licence to occupy any of the Debtor's premises for the purpose of storing any Collateral and shall, immediately upon demand, deliver to the Secured Party possession of any Collateral at the place specified by the Secured Party.

**6.04 Power of sale**

- (a) The Secured Party may sell, lease, consign, license, assign, or otherwise dispose of any Collateral by public auction, private tender, or private contract, with or without notice, advertising, or any other formality, all of which the Debtor hereby waives to the extent permitted by law. The Secured Party may establish the terms of disposition (including terms and conditions as to credit, upset, reserve bid, or price). The Secured Party will credit all payments made under those dispositions against the Obligations only as they are actually received. The Secured Party may buy in, rescind, or vary any contract for the disposition of Collateral and may dispose of any Collateral again without being answerable for any resulting loss. Any disposition may take place whether or not the Secured Party has taken possession of the Collateral. The exercise by the Secured Party of any power of sale does not preclude the Secured Party from any further exercise of its power of sale in accordance with this paragraph.
- (b) The Secured Party may approach a restricted number of potential purchasers to effect the sale of any Collateral constituting securities under paragraph (a) above. A sale under those circumstances may yield a lower price for Collateral than would otherwise be obtainable if that Collateral was registered and sold in the open market. The Debtor agrees that
  - (i) if the Secured Party sells Collateral at a private sale or sales, the Secured Party has the right to rely upon the advice and opinion of any Person who regularly deals in or evaluates securities of the type constituting the Collateral as to the best price obtainable in a commercially reasonable manner, and

- 18 -

- (ii) that reliance will be conclusive evidence that the Secured Party handled that sale in a commercially reasonable manner.

#### **6.05 Carrying on business**

The Secured Party may carry on, or concur in the carrying on of, all or any part of the businesses or undertaking of the Debtor and may, to the exclusion of all others (including the Debtor), enter upon, occupy, and use any of the premises, buildings, and plant of, occupied or used by the Debtor and may use all or any of those premises and the equipment and other Collateral located on those premises (including fixtures) for whatever time and purposes as the Secured Party sees fit, free of charge. The Secured Party will not be liable to the Debtor for any act, omission, or negligence in doing so or in connection with any rent, charges, costs, depreciation, or damages in connection with that action.

#### **6.06 Pay Liens**

The Secured Party may pay any liability owed to any actual or threatened Lien holder against any Collateral, and borrow money to maintain, preserve, or protect any Collateral or to carry on of the businesses or undertaking of the Debtor, and may charge and grant further security interests in any Collateral in priority to the Security Interest as security for the money so borrowed. Immediately upon demand by the Secured Party, the Debtor shall reimburse the Secured Party for all those payments and borrowings.

#### **6.07 Dealing with Collateral**

- (a) As soon as the Secured Party takes possession of any Collateral or appoints a Receiver over any Collateral, all rights of the Debtor in and to that Collateral will cease unless the Secured Party or any Receiver agrees in writing to specifically continue those rights.
- (b) The Secured Party may have, enjoy, and exercise all of the rights of and enjoyed by the Debtor in and to the Collateral or incidental, ancillary, attaching, or deriving from the ownership by the Debtor of the Collateral (including the right to (i) enter into agreements and grant licences over or relating to Collateral, (ii) demand, commence, continue, or defend any judicial or administrative proceedings for the purpose of protecting, seizing, collecting, realizing, or obtaining possession or payment of the Collateral, (iii) grant or agree to Liens and grant or reserve profits à prendre, easements, rights of ways, rights in the nature of easements, and licences over or relating to any part of the Collateral, and (iv) give valid receipts and discharges, and to compromise or give time for the payment or performance of all or any part of the accounts or any other obligation of any third party to the Debtor).
- (c) The Secured Party may take any actions to maintain, preserve, and protect the Collateral or otherwise deal with any Collateral in the manner, upon the terms, and at the times it deems advisable in its discretion without notice to the Debtor, except as otherwise required by applicable law (including payments on account of other security interests affecting the Collateral); provided that the Secured Party will not be required to take any of those actions or make any of those expenditures. Any of the amounts that the Secured Party pays (including legal, Receiver's, accounting, or other professional fees and expenses) will be added to the Obligations and will be secured by this agreement.

- 19 -

- (d) The Secured Party may accept the Collateral in satisfaction of the Obligations.
- (e) The Secured Party or any Receiver has no obligation to keep Collateral identifiable or to preserve rights against prior secured creditors in connection with any Collateral.

#### **6.08 Powers re leases**

The Secured Party may upon any sale by the Secured Party of any leasehold interest under this agreement for the purpose of vesting the one day residue of the term or its renewal in any purchase, by deed or writing appoint the purchaser or any other Person as a new trustee of the residue or renewal in place of the Debtor and may vest those rights in the new trustee so appointed free from any obligation in that Collateral.

#### **6.09 Dealing with accounts**

The Secured Party may collect, sell, or otherwise deal with accounts (including notifying any Person obligated to the Debtor in connection with an account, chattel paper, or an instrument to make payment to the Secured Party of all present and future amounts that are due).

#### **6.10 Collect rents**

The Secured Party may collect any rents, income, and profits received in connection with the business of the Debtor or the Collateral, without carrying on the business.

#### **6.11 Dealing with securities**

- (a) The Secured Party may exercise or cause to be exercised all voting rights, rights to receive dividends, interest, principal, or other payments of money attached to the securities (whether or not registered in the name of the Secured Party or its nominee), give or withhold all related consents, waivers, and ratifications, exercise any rights of conversion, exchange, subscription, or other rights, privileges, or options relating to any of the securities as if the Secured Party were the absolute owner (including the right to exchange, at its discretion, any of the securities upon the merger, consolidation, reorganization, recapitalization, or other readjustment of any issuer or upon the exercise by any issuer of any right, privilege, or option relating to any of the securities), and in doing so, to deposit or deliver any of the securities with or to any committee, depository, transfer agent, registrar, or other designated agency upon the terms and conditions it may determine.
- (b) The Secured Party may comply with any limitation or restriction in connection with any proposed sale or other disposition of the securities necessary to comply with applicable law or regulation or with any policy imposed by any stock exchange, securities commission, or other Governmental Authority. That compliance by the Secured Party will not result in the sale being considered or deemed not to have been made in a commercially reasonable manner, nor will the Secured Party be liable or accountable to the Debtor for any discount in the sale price of the securities that may be given because those securities are sold in compliance with any limitation or restriction.



- 20 -

#### **6.12 Dealing with Intellectual Property**

The Secured Party may register assignments of the Intellectual Property, and use, sell, assign, license, or sub-license any of the Intellectual Property.

#### **6.13 File claims**

The Secured Party may file proofs of claim and other documents in order to have the claims of the Secured Party lodged in any bankruptcy, winding-up, or other judicial proceeding relating to the Debtor or the Collateral.

#### **6.14 Power of attorney**

The Debtor shall appoint the Secured Party, acting by any officer, director, employee, agent, or representative for the time being of the Secured Party located at its address for notices in section 7.10 (Notice), to be its attorney with full power of substitution to do on the Debtor's behalf anything that the Debtor can lawfully do by an attorney (including to do, make, and execute all agreements, deeds, acts, matters, or things, with the right to use the name of the Debtor) that it deems necessary or expedient and to carry out its obligations under this agreement, to revise and schedule to this agreement and to complete any missing information in this agreement. This power of attorney, being granted by way of security and coupled with an interest, is irrevocable until the Obligations are paid in full.

#### **6.15 Retain services**

The Secured Party may retain the services of any lawyers, accountants, appraisers, and other agents, and consultants as the Secured Party deems necessary or desirable in connection with anything done or to be done by the Secured Party or with any of the rights of the Secured Party set out in this agreement and pay their commissions, fees, disbursements (which payments will constitute part of the Secured Party's disbursements reimbursable by the Debtor under this agreement). The Debtor shall immediately on demand reimburse the Secured Party for all those payments.

#### **6.16 Appointment of a Receiver**

- (a) The Secured Party may
  - (i) appoint, by instrument in writing, a Receiver for the Debtor, the Collateral, or both the Debtor and the Collateral, and no such Receiver need be appointed, need its appointment ratified, or need its actions in any way supervised, by a court,
  - (ii) appoint an officer or employee of the Secured Party as Receiver,
  - (iii) remove any Receiver and appoint another Receiver, or
  - (iv) apply, at any time, to any court of competent jurisdiction for the appointment of a Receiver or other official, who may have powers the same as, greater or lesser than, or otherwise different from, those capable of being granted to a Receiver appointed by the Secured Party under this agreement.

- 21 -

- (b) If two or more Receivers are appointed to act concurrently, they will act severally and not jointly and severally.

#### **6.17 Effect of appointment of Receiver**

Any Receiver will have the rights set out in this ARTICLE 6 (Rights and remedies). In exercising those rights, a Receiver will act as, and for all purposes will be deemed to be, the agent of the Debtor. However, the Secured Party will not be responsible for any act, omission, negligence, misconduct, or default of any Receiver.

#### **6.18 Application of payments**

The Secured Party, or any Receiver appointed by the Secured Party in the enforcement of the Security Interest, may hold all payments made in connection with the Obligations and all monies received as security for the Obligations (including each Recovery), or may apply those payments or monies in whatever manner they determine at their discretion. The Secured Party may at any time apply or change any application of those payments, monies, or Recoveries to any parts of the Obligations as the Secured Party may determine at its discretion. The Debtor will remain liable to the Secured Party for any deficiency. The Secured Party shall pay any surplus funds realized after the satisfaction of all Obligations in accordance with applicable law.

#### **6.19 Deficiency**

If the proceeds of the realization of any Collateral are insufficient to repay all Obligations, the Debtor shall immediately pay or cause to be paid the deficiency to the Secured Party.

#### **6.20 Limitation of liability**

Neither the Secured Party nor any Receiver will be liable for any negligence in accordance with any rent, charges, costs, depreciation, or damages in connection with any of its actions. Neither the Secured Party nor any Receiver will be liable or accountable to the Debtor for any failure to seize, collect, realize, dispose of, enforce, or otherwise deal with any Collateral, nor will any of them be bound to bring any action or proceeding for any of those purposes or to preserve any rights of any Person in any of the Collateral. Neither the Secured Party nor any Receiver will be liable or responsible for any claim, loss, and expense flowing from any failure resulting from any act, omission, negligence, misconduct, or default of the Secured Party, any Receiver, or any of their respective representatives or otherwise. If any Receiver or the Secured Party takes possession of any Collateral, neither the Secured Party nor any Receiver will have any liability as a mortgagee in possession of the Collateral or be accountable for anything except actual receipts. Further, the Secured Party will not be deemed to have assumed, or be deemed to be liable for, any covenant, agreement, or other obligation of the Debtor under any agreement, right, Licence, or permit to which the Debtor is a party.

#### **6.21 Extensions of time**

The Secured Party and any Receiver may grant renewals, extensions of time, and other indulgences, take and give up Liens, accept compositions, grant releases and discharges, perfect or fail to perfect any Liens, release any Collateral to third parties, and otherwise deal or fail to deal with the Collateral, other Liens, the Debtor, debtors of the Debtor, guarantors of the Debtor, sureties of the Debtor, and others as the Secured Party or such Receiver may see fit, all without prejudice to the Obligations and the rights of the Secured Party or any Receiver to hold and realize upon the Security Interest. However, no extension

- 22 -

of time, forbearance, indulgence, or other accommodation will operate as a waiver, alteration, or amendment of the Secured Party's rights or otherwise preclude the Secured Party from enforcing those rights and nothing in this agreement obligates the Secured Party to extend the time for payment or satisfaction of any of the Obligations.

#### **6.22 Secured Party or Receiver may perform**

If the Debtor fails to perform any Obligations, the Secured Party or any Receiver may perform those Obligations as attorney for the Debtor in accordance with section 6.14 (Power of attorney). The rights conferred on the Secured Party and any Receiver under this agreement are for the purpose of protecting the Security Interest in the Collateral and do not impose any obligation upon the Secured Party or any Receiver to exercise any of those rights. The Debtor will remain liable under each agreement to which it is party or by which it or any of its businesses, undertaking, and properties is bound and shall perform all of its obligations under each of those agreements; the Debtor will not be released from any of its obligations under any agreement by the exercise of any rights by the Secured Party or any Receiver.

#### **6.23 Validity of sale**

No Person dealing with the Secured Party, any Receiver, or any representative of the Secured Party or any Receiver has any obligation to enquire whether the Security has become enforceable, whether any right of the Secured Party or any Receiver has become exercisable, whether any Obligations remain outstanding, or otherwise as to the propriety or regularity of any dealing by the Secured Party or any Receiver with any Collateral or to see to the application of any money paid to the Secured Party or any Receiver. In the absence of fraud on the part of any Person, those dealings will be deemed to be within the rights conferred under this agreement and to be valid and effective accordingly.

#### **6.24 No obligation to advance**

Nothing in this agreement obligates the Secured Party to make any loan or accommodation to the Debtor or to extend the time for payment or satisfaction of any Obligation.

### **ARTICLE 7 GENERAL PROVISIONS**

#### **7.01 Entire agreement**

This agreement together with the other Transaction Documents constitutes the entire agreement between the parties relating to its subject matter. This agreement supersedes any previous agreements and discussions between the parties. There are no representations, covenants, or other terms other than those set forth in this agreement and the other Transaction Documents.

#### **7.02 Further assurances**

Each party, upon receipt of Notice by another party, shall sign (or cause to be signed) all further documents, do (or cause to be done) all further acts, and provide all reasonable assurances as may reasonably be necessary or desirable to give effect to the terms of this agreement.

#### **7.03 Amendment**

This agreement may only be amended by a written document signed by each of the parties.

**7.04 Conflict of terms**

If there is any inconsistency between the terms of this agreement and those in any schedule to this agreement, in any document entered into under this agreement, or under any of the other Transaction Documents, the terms of the Debenture will prevail. The parties shall take any necessary steps to conform the inconsistent terms to the terms of that agreement.

**7.05 Binding effect**

This agreement enures to the benefit of and binds the parties and their respective successors, and assigns.

**7.06 Debtor's amalgamation**

If the Debtor amalgamates with any other entity or entities, this agreement will continue in full force and effect and will be binding upon the amalgamated entity, and, for greater certainty

- (a) the Security Interest will (i) continue to secure all the Obligations, (ii) secure all obligations of each other amalgamating entity to the Secured Party, and (iii) secure all obligations of the amalgamated entity to the Secured Party arising after the amalgamation,
- (b) the Security Interest will (i) continue to attach to the Collateral, (ii) attach to the Collateral of each other amalgamating entity, and (iii) attach to the Collateral of the amalgamated entity after the amalgamation, and
- (c) all defined terms and other terms of this agreement will be deemed to have been amended to reflect the amalgamation, to the extent required by the context.

**7.07 Assignment**

The Secured Party may assign this agreement and the Obligations in whole or in part to any Person without Notice to or the consent of the Debtor. Without the prior written consent of the Secured Party, the Debtor may not assign this agreement.

**7.08 No partnership**

Nothing contained in this agreement will create a partnership, joint venture, principal-and-agent relationship, or any similar relationship between the parties.

**7.09 No third party beneficiaries**

This agreement does not confer any rights or remedies upon any Person other than the parties and their respective successors and assigns.

**7.10 Notice**

To be effective, a Notice must be delivered in accordance with the notice provisions in the Debenture.

**7.11 Remedies cumulative**

The rights, remedies, and powers provided in this agreement to a party are cumulative and in addition to, and are not exclusive of or in substitution for, any rights, remedies, and powers otherwise available to that party.

**7.12 Security in addition**

This agreement and the Security Interest are in addition to and not in substitution for any other Security now or later held by the Secured Party in connection with the Debtor, the Obligations, or the Collateral. The Security Interest does not replace or otherwise affect any existing or future Lien held by the Secured Party. No taking of any suit, action, or proceeding, judicial or extra-judicial, no refraining from doing so, and no dealing with any other security for any Obligations will release or affect (a) the Security Interest or (b) any of the other Liens held by the Secured Party for the payment or performance of the Obligations.

**7.13 Non-merger**

- (a) This agreement will not operate by way of a merger of the Obligations or of any guarantee, agreement, or other document or instrument by which the Obligations now, or at any time subsequently, may be represented or evidenced. Neither the taking of any judgment nor the exercise of any power of seizure or disposition will extinguish the liability of the Debtor to pay and perform the Obligations nor shall the acceptance of any payment or alternate security constitute or create any novation.
- (b) The rights, obligations, and representations and warranties, and covenants under this agreement, and under any other Transaction Document will not merge in any judgment.

**7.14 Severability**

The invalidity or unenforceability of any particular term of this agreement will not affect or limit the validity or enforceability of the remaining terms.

**7.15 Waiver**

No waiver of satisfaction of a condition or breach or non-performance of an obligation (including any Event of Default) under this agreement is effective unless it is in writing and signed by the party granting the waiver. No waiver under this section will be deemed to extend to a subsequent occurrence, whether or not that occurrence is the same or similar to the original occurrence that was waived nor will it affect the exercise of any other rights or remedies under this agreement. Any failure or delay in exercising any right or remedy will not constitute, or be deemed to constitute, a waiver of that right or remedy. No single or partial exercise of any right or remedy will preclude any other or further exercise of any right or remedy.

**7.16 Payment of costs**

The Debtor shall pay all costs (including legal fees) that it and the Secured Party incur in connection with the drafting and negotiation of the transactions contemplated by this agreement, and the execution and delivery of, and the perfection (including those incurred for registration costs of any financing statement

- 25 -

registered in connection with the Security Interest) and enforcement of the Secured Party's interest under, this agreement, which will be paid immediately upon demand and form part of the Obligations.

#### **7.17 Governing law**

The laws of Ontario and the laws of Canada applicable in that province, excluding any rule or principle of conflicts of law that may provide otherwise, govern this agreement.

#### **7.18 Submission to jurisdiction**

The parties irrevocably attorn to the jurisdiction of the courts of Ontario, which will have non-exclusive jurisdiction over any matter arising out of this agreement.

#### **7.19 Judgment currency**

- (a) If, for the purpose of obtaining or enforcing judgment against any party in any court in any jurisdiction, it becomes necessary to convert into a particular currency an amount due under this agreement or any other Transaction Document, the conversion will be made at the Rate of Exchange prevailing on the Business Day immediately preceding the date on which judgment is given.
- (b) If, as a result of a change in the Rate of Exchange between the date of judgment and the date of actual payment, the conversion results in the Secured Party receiving less than the amount payable to it, the Debtor shall pay the Secured Party any additional amount as may be necessary to ensure that the amount received is not less than the amount payable by the Debtor on the date of judgment.
- (c) Any additional amount due under this section will be due as a separate debt, gives rise to a separate cause of action, and will not be affected by judgment obtained for any other amount due under this agreement or any other Transaction Document.

#### **7.20 Counterparts**

This agreement may be signed in any number of counterparts, each of which is an original, and all of which taken together constitute one single document. Counterparts may be transmitted by fax or in electronically scanned form. Parties transmitting by fax or electronically shall also deliver the original counterpart to each other party, but failure to do so does not invalidate this agreement.

#### **7.21 Copy of agreement**

The Debtor acknowledges receipt of an executed copy of this agreement and copies of the verification statements relating to the financing statements or financing change statements filed by the Secured Party or its representatives under the PPSA and under the personal property security statutes of other provinces in connection with this agreement.

#### **7.22 Effective date**


This agreement is effective as of the date shown at the top of the first page, even if any signatures are made after that date.

This agreement has been executed by the parties.

**CUSTOM CO-EX TECHNOLOGIES INC.**

By:   
Noel Chantiam, Jr.  
President

**TRINITY PLASTIC PRODUCTS INC.**

By:   
Name: KEN WATSON  
Title: CEO

By: \_\_\_\_\_  
Name:  
Title:

**SCHEDULE A  
LOCATION OF DEBTOR AND COLLATERAL**

<b>Places of Business:</b>	9030 Keele Street, Unit #2 Concord, ON L4K 2N2
<b>Locations of Records:</b>	9030 Keele Street, Unit #2 Concord, ON L4K 2N2



or to such other address as the Vendor or Purchaser may hereafter from time to time designate in writing, and any notice or statement so given shall be held to be given as of the date of such personal delivery or five (5) days after such posting, or on the date of the facsimile transmission, or on the date following transmission by email as the case may be.

13. This Debenture shall be governed by and construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein.

14. The invalidity or unenforceability of any provision of the Debenture or any covenant herein contained shall not affect the validity or enforceability of any other provision or covenant hereof or herein contained and the Debenture shall be construed as if such invalid or unenforceable provision or covenant were omitted.

15. This Debenture and all its provisions shall enure to the benefit of the Holder and his legal and personal representatives, successors and permitted assigns and shall be binding upon the Corporation and its successors and permitted assigns.

IN WITNESS WHEREOF CUSTOM CO-EX TECHNOLOGIES INC. has caused this Debenture to be signed by its proper officers duly authorized in that behalf and has affixed its corporate seal hereto.

Dated effective as of the 17<sup>th</sup> day of September, 2018


CUSTOM CO-EX TECHNOLOGIES INC.

Per:



Noel Chantiam Jr.  
President

This is Exhibit "E" referred to in the  
affidavit of Kevin Watkinson sworn June 21<sup>st</sup>, 2020

  
A Commissioner for the Taking of Affidavits

MINISTRY OF CONSUMER AND BUSINESS SERVICES  
PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM  
ENQUIRY RESPONSE

THIS IS TO CERTIFY THAT A SEARCH HAS BEEN MADE IN THE RECORDS OF THE  
CENTRAL OFFICE OF THE PERSONAL PROPERTY SECURITY SYSTEM IN RESPECT  
OF THE FOLLOWING:

TYPE OF SEARCH: BUSINESS DEBTOR

CONDUCTED ON: CUSTOM CO-EX TECHNOLOGIES INC.

FILE CURRENCY: May 27, 2020

RESPONSE CONTAINS: APPROXIMATELY 3 FAMILIES and 4 PAGES.

THE SEARCH RESULTS MAY INDICATE THAT THERE ARE SOME REGISTRATIONS  
WHICH SET OUT A BUSINESS DEBTOR NAME WHICH IS SIMILAR TO THE NAME  
IN WHICH YOUR ENQUIRY WAS MADE. IF YOU DETERMINE THAT THERE ARE  
OTHER SIMILAR BUSINESS DEBTOR NAMES, YOU MAY REQUEST THAT  
ADDITIONAL ENQUIRIES BE MADE AGAINST THOSE NAMES.

THE ABOVE REPORT HAS BEEN CREATED BASED ON THE DATA PROVIDED BY  
THE PERSONAL PROPERTY REGISTRATION BRANCH, MINISTRY OF CONSUMER  
AND BUSINESS SERVICES, GOVERNMENT OF ONTARIO. NO LIABILITY IS  
UNDERTAKEN REGARDING ITS CORRECTNESS, COMPLETENESS, OR THE  
INTERPRETATION AND USE THAT ARE MADE OF IT.

MINISTRY OF CONSUMER AND BUSINESS SERVICES  
 PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM  
 ENQUIRY RESPONSE

TYPE OF SEARCH: BUSINESS DEBTOR

CONDUCTED ON: CUSTOM CO-EX TECHNOLOGIES INC.

FILE CURRENCY: May 27, 2020

1C FINANCING STATEMENT / CLAIM FOR LIEN

FAMILY : 1 OF 3 ENQUIRY PAGE : 1 OF 4

SEARCH : BD : CUSTOM CO-EX TECHNOLOGIES INC.

00 FILE NUMBER : 738924831 EXPIRY DATE : 03MAY 2023 STATUS :  
 01 CAUTION FILING : PAGE : 001 OF 2 MV SCHEDULE ATTACHED :  
 REG NUM : 20180503 0957 1793 0064 REG TYP: P PPSA REG PERIOD: 5  
 02 IND DOB : IND NAME:  
 03 BUS NAME: CUSTOM CO-EX TECHNOLOGIES INC.  
 OCN :  
 04 ADDRESS : 9030 KEELE STREET UNIT 2  
 CITY : CONCORD PROV: ON POSTAL CODE: L4K2N2  
 05 IND DOB : IND NAME:  
 06 BUS NAME:  
 OCN :  
 07 ADDRESS :  
 CITY : PROV: POSTAL CODE:

08 SECURED PARTY/LIEN CLAIMANT :  
 THE TORONTO-DOMINION BANK  
 09 ADDRESS : 2020 WINSTON PARK DRIVE, SUITE 301  
 CITY : OAKVILLE PROV: ON POSTAL CODE: L6H6X7  
 CONS. MV DATE OF OR NO FIXED  
 GOODS INVTRY. EQUIP ACCTS OTHER INCL AMOUNT MATURITY MAT DATE  
 10 X X  
 YEAR MAKE MODEL V.I.N.

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GENERAL COLLATERAL DESCRIPTION

13 THE GOODS DESCRIBED HEREIN, TOGETHER WITH ALL ATTACHMENTS  
 14 ACCESSORIES REPLACEMENTS SUBSTITUTIONS ADDITIONS AND IMPROVEMENTS  
 15 THERETO AND ALL PROCEEDS IN ANY FORM DERIVED DIRECTLY OR INDIRECTLY  
 16 AGENT: TD EQUIPMENT FINANCE CANADA, A DIVISION OF THE TORONTO-DOMINION BANK  
 17 ADDRESS : 2020 WINSTON PARK DRIVE, SUITE 301  
 CITY : OAKVILLE PROV: ON POSTAL CODE: L6H6X7

CONTINUED

\*\*\* FOR FURTHER INFORMATION, CONTACT THE SECURED PARTY. \*\*\*

MINISTRY OF CONSUMER AND BUSINESS SERVICES  
 PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM  
 ENQUIRY RESPONSE

TYPE OF SEARCH: BUSINESS DEBTOR

CONDUCTED ON: CUSTOM CO-EX TECHNOLOGIES INC.

FILE CURRENCY: May 27, 2020

1C FINANCING STATEMENT / CLAIM FOR LIEN

FAMILY : 1 OF 3 ENQUIRY PAGE : 2 OF 4

SEARCH : BD : CUSTOM CO-EX TECHNOLOGIES INC.

00 FILE NUMBER : 738924831 EXPIRY DATE : 03MAY 2023 STATUS :  
 01 CAUTION FILING : PAGE : 002 OF 2 MV SCHEDULE ATTACHED :  
 REG NUM : 20180503 0957 1793 0064 REG TYP: REG PERIOD:  
 02 IND DOB : IND NAME:  
 03 BUS NAME:  
 OCN :  
 04 ADDRESS :  
 CITY : PROV: POSTAL CODE;  
 05 IND DOB : IND NAME:  
 06 BUS NAME:  
 OCN :  
 07 ADDRESS :  
 CITY : PROV: POSTAL CODE:

08 SECURED PARTY/LIEN CLAIMANT :  
 TD EQUIPMENT FINANCE CANADA, A DIVISION OF THE TORONTO-DOMINION BANK  
 09 ADDRESS : 2020 WINSTON PARK DRIVE, SUITE 301  
 CITY : OAKVILLE PROV: ON POSTAL CODE: L6H6X7  
 CONS. MV DATE OF OR NO FIXED  
 GOODS INVTRY. EQUIP ACCTS OTHER INCL AMOUNT MATURITY MAT DATE  
 10  
 YEAR MAKE MODEL V.I.N.

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GENERAL COLLATERAL DESCRIPTION

13 FROM ANY SALE AND OR DEALINGS WITH THE COLLATERAL AND A RIGHT TO ANY  
 14 INSURANCE PAYMENT OR OTHER PAYMENT THAT INDEMNIFIES OR COMPENSATES  
 15 FOR LOSS OR DAMAGE TO THE COLLATERAL OR PROCEEDS OF THE COLLATERAL.

16 AGENT:

17 ADDRESS :

CITY : PROV: POSTAL CODE:

END OF FAMILY

\*\*\* FOR FURTHER INFORMATION, CONTACT THE SECURED PARTY. \*\*\*

MINISTRY OF CONSUMER AND BUSINESS SERVICES  
 PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM  
 ENQUIRY RESPONSE

TYPE OF SEARCH: BUSINESS DEBTOR

CONDUCTED ON: CUSTOM CO-EX TECHNOLOGIES INC.

FILE CURRENCY: May 27, 2020

1C FINANCING STATEMENT / CLAIM FOR LIEN

FAMILY ; 2 OF 3 ENQUIRY PAGE : 3 OF 4

SEARCH : BD : CUSTOM CO-EX TECHNOLOGIES INC.

00 FILE NUMBER : 743920155 EXPIRY DATE : 19SEP 2020 STATUS :  
 01 CAUTION FILING : PAGE : 001 OF 1 MV SCHEDULE ATTACHED :  
 REG NUM : 20180919 1716 1590 9071 REG TYP: P PPSA REG PERIOD: 2  
 02 IND DOB : IND NAME:  
 03 BUS NAME: CUSTOM CO-EX TECHNOLOGIES INC.  
 OCN :  
 04 ADDRESS : 9030 KELLE STREET, UNIT 2  
 CITY : CONCORD PROV: ON POSTAL CODE: L4K 2N2  
 05 IND DOB : IND NAME:  
 06 BUS NAME:  
 OCN :  
 07 ADDRESS :  
 CITY : PROV: POSTAL CODE:

08 SECURED PARTY/LIEN CLAIMANT :  
 1149610 ALBERTA LTD.  
 09 ADDRESS : 155 CROSSBOW PLACE, SUITE 317  
 CITY : CANMORE PROV: AB POSTAL CODE: T1W 3H6  
 CONS. MV DATE OF OR NO FIXED  
 GOODS INVTRY. EQUIP ACCTS OTHER INCL AMOUNT MATURITY MAT DATE  
 10 X X X X X  
 YEAR MAKE MODEL V.I.N.

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GENERAL COLLATERAL DESCRIPTION

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16 AGENT: CASSELS BROCK & BLACKWELL LLP (TALLIM/49703-2/AF)

17 ADDRESS : SUITE 2100, 40 KING STREET WEST

CITY : TORONTO PROV: ON POSTAL CODE: M5H 3C2

END OF FAMILY

\*\*\* FOR FURTHER INFORMATION, CONTACT THE SECURED PARTY. \*\*\*

MINISTRY OF CONSUMER AND BUSINESS SERVICES  
 PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM  
 ENQUIRY RESPONSE

TYPE OF SEARCH: BUSINESS DEBTOR

CONDUCTED ON: CUSTOM CO-EX TECHNOLOGIES INC.

FILE CURRENCY: May 27, 2020

1C FINANCING STATEMENT / CLAIM FOR LIEN

FAMILY : 3 OF 3 ENQUIRY PAGE : 4 OF 4

SEARCH : BD : CUSTOM CO-EX TECHNOLOGIES INC.

00 FILE NUMBER : 743920263 EXPIRY DATE : 19SEP 2024 STATUS :  
 01 CAUTION FILING : PAGE : 001 OF 1 MV SCHEDULE ATTACHED :  
 REG NUM : 20180919 1719 1590 9072 REG TYP: P PPSA REG PERIOD: 6  
 02 IND DOB : IND NAME:  
 03 BUS NAME: CUSTOM CO-EX TECHNOLOGIES INC.  
 OCN :  
 04 ADDRESS : 9030 KELLE STREET, UNIT 2  
 CITY : CONCORD PROV: ON POSTAL CODE: L4K 2N2  
 05 IND DOB : IND NAME:  
 06 BUS NAME:  
 OCN :  
 07 ADDRESS :  
 CITY : PROV: POSTAL CODE:

08 SECURED PARTY/LIEN CLAIMANT :  
 TRINITY PLASTIC PRODUCTS INC.  
 09 ADDRESS : 5181 EVEREST DRIVE  
 CITY : MISSISSAUGA PROV: ON POSTAL CODE: L4W 2R2  
 CONS. MV DATE OF OR NO FIXED  
 GOODS INVTRY. EQUIP ACCTS OTHER INCL AMOUNT MATURITY MAT DATE  
 10 X X X X X  
 YEAR MAKE MODEL V.I.N.

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GENERAL COLLATERAL DESCRIPTION

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16 AGENT: CASSELS BROCK & BLACKWELL LLP (TALLIM/49703-2/AF)


17 ADDRESS : SUITE 2100, 40 KING STREET WEST

CITY : TORONTO PROV: ON POSTAL CODE: M5H 3C2

LAST SCREEN

\*\*\* FOR FURTHER INFORMATION, CONTACT THE SECURED PARTY. \*\*\*

This is Exhibit "F" referred to in the  
affidavit of Kevin Watkinson sworn June 21<sup>st</sup>, 2020

  
A Commissioner for the Taking of Affidavits



# STEIN LAW OFFICE

Barristers and Solicitors

Andrew Stein, LL.B.  
Jonathan White, J.D.

Telephone: (416) 642-2020  
Facsimile: (416) 203-9456

January 31, 2020

Noel Chantiam  
Custom Co-Ex Technologies Inc.  
9030 Keele Street, Unit 2  
Concord ON L4K 2N2

Delivered: *Mail and email: nchantiam@ccx1.ca*

Dear Mr. Chantiam:

**RE: Letter of Demand of the Subordination Convertible Debenture and the General Security Agreement**

This demand letter shall serve as formal notice to you and **CUSTOM CO-EX TECHNOLOGIES INC.** (hereinafter the "Corporation") that the Corporation is in default of the Obligations under the terms of the Subordinated Convertible Debenture (the "Debenture") and the terms of the General Security Agreement (the "GSA").

On September 17, 2018 the ("Effective Date") the Corporation entered into the Debenture with **TRINITY PLASTICS PRODUCTS INC.** (hereinafter the "Holder) for the principal sum of One Million, Five Hundred Thousand Dollars (\$1,500,000.00) in lawful money of Canada and to pay interest at the rate of six percent (6%) per annum, calculated annually.

**Default of Debenture Covenants**

The Corporation is in default of its covenants under the Debenture and without limiting the generality of the foregoing including the following provisions:

- a. To maintain its corporate its existence pursuant to Section 6 (i) (a) of the Debenture;
- b. To observe and perform all of its obligations and comply in all material respects with all conditions to which it is a party pursuant to Section 6 (c);
- c. To carry on and conduct its business in a proper and efficient manner so as to preserve and protect the Charged Property and Income therefrom Section 6 (d);
- d. To execute and deliver such security, documents, instruments or agreements as may be necessary or desirable in the reasonable opinion to carry out the provisions and intent of this Debenture pursuant to Section 6 (j);
- e. The Corporation shall not, without the prior written consent of the Holder remove, transfer or otherwise dispose of any of the Charged Property other than in the ordinary course of business operations of the Corporation pursuant to Section 7 (ii); and

**ANDREW STEIN PROFESSIONAL CORPORATION**  
330 Bay Street, Suite 1400 ♦ Toronto, Ontario ♦ M5H 2S8  
astein@andrewsteinlaw.com ♦ www.andrewsteinlaw.com

- f. The representations made by the Corporation in any instrument or statement or report furnished in connection with or pursuant the Debenture shall not be false and incorrect as to make it materially misleading when made or when deemed to have been made pursuant to Section 8 (xi).

### **General Security Agreement Breach**

The Corporation is in breach of the terms and conditions of the GSA as follows:

- a. The Corporation failed to deliver information which was reasonably requested including the daily banking account information from its bank pursuant to Section 3.12.

### **Acts of Default**

On or about 10 days ago, the President and sole shareholder of the organization Noel Chantiam Jr. resigned from the Corporation or alternatively had threatened to resign, which has and which will materially affect the corporate existence of the Corporation.

In January, 2019, the Corporation had agreed with the Holder to provide daily disclosure and access to all its bank account information. Thereafter, the controller, Antonietta MacDonald, provided the Holder with this information on a daily basis. This was necessary for proper and efficient business procedures which were implemented by the Corporation pursuant to the execution of the Debenture and GSA.

On January 30, 2020, Noel Chantiam without notice or explanation changed the signing authority on all the Corporation's bank accounts and failed to provide an explanation to the Holder for changing such signing authority on its bank accounts without notice to the Holder.

On January 31, 2020, the Corporation failed to disclose to the Holder, despite written demand for same by the Holder, the current bank balances in the business accounts to Holder and failed to provide an explanation for changing the signing authority.

The Holder has reason to believe that the Corporation made representations in the May 2018 financial statements that were false and incorrect so as to make the financial statements materially misleading and the Holder relied on those financial statements at the time of making the investment.

### **Consequences of Default**

Pursuant to Section 8 of the Debenture and Section 6.01 of the GSA, the above defaults and/or breaches constitute events of default and as such, the Holder is hereby writing to declare, that as of today's date, the security of the principal amount of \$1,500,000.00 and interest amount of \$120,328.77 the total outstanding amount of \$1,620,328.77 is due to the Holder by the Corporation and the Holder shall have the rights and powers as stipulated in Section 8.2 of the Debenture.

Although the Agreement stipulates payment forthwith, as a gesture of good faith, the Holder will provide 10 days' notice to receive payment in full by no later than February 14, 2020. Should payment in full not be received by the due date, the Holder intends to proceed with all rights and remedies available to it without further notice to you. In the event that legal proceedings prove necessary, we further confirm that the Holder will be asserting and seeking the recovery of all of its related damage claims, including its claims for punitive, aggravated and exemplary damages given the history of matters. Further, under such

circumstances, recovery will also be sought of all of the Holder's legal costs on the highest available scale, and notice is also given of the Holder's claim to pre and post judgment interest.

Finally, we hereby confirm, that should legal proceedings follow, the Holder reserves its rights to bring in as party defendants to any proceedings initiated, any other companies that has an interest as referred to above, with such anticipated claims to seek relief in the nature of, *inter alia*, an accounting for the diversion of any business, revenues and shareholder loans.


Yours very truly,

A handwritten signature in black ink, appearing to read 'AS', with a small flourish above the second 'S'.

**ANDREW STEIN**

AS:sm

This is Exhibit "G" referred to in the  
affidavit of Kevin Watkinson sworn June 21<sup>st</sup>, 2020

  
A Commissioner for the Taking of Affidavits



REPLY TO: HARVEY G. CHAITON  
FILE NO.:  
DIRECT: 416-218-1129  
FAX: 416-218-1849  
EMAIL: harvey@chaitons.com

February 10, 2020

**VIA EMAIL**

Puneet S. Kohli  
Simmons Da Silva LLP  
201 County Court Boulevard, Suite 200  
Brampton, Ontario  
L6W 4L2

**Re: *Trinity Plastics Products Inc. ("Trinity") loan to Custom Co-Ex Technologies Inc. ("CCX")***

Dear Mr. Kohli,

We have been retained as insolvency counsel for the lender, Trinity, and take this opportunity to respond to your letter dated February 3, 2020.

My client denies the allegations made in your letter that Mr. Kevin Watkinson, CFO of Instore Group of Companies ("Mr. Watkinson") and/or any executive of Trinity has ever requested either formally or informally the resignation of Mr. Noel Chantiam Jr. ("Mr. Chantiam"). Trinity, as a creditor of the corporation, has no legal basis to compel the resignation of a director or officer of a company as it has no control over the operations and management of the business. In fact, on or about January 17, 2020, Mr. Chantiam verbally communicated that he was considering resigning from his position as President and Director of the corporation. On or about January 22, 2020, Mr. Chantiam clearly and unequivocally confirmed to Mr. Watkinson and others his intention to resign and transfer his shares to Trinity for nominal consideration. In response, Mr. Watkinson urged that Mr. Chantiam obtain legal advice with respect to these matters. Subsequently, Mr. Chantiam once again, clearly and unequivocally communicated to the upper management team of the corporation that he resigned as the President and Director of CCX.

The business operations of the company heavily relies on the sales abilities and customer relationships that both Mr. Frances Chantiam (Mr. Chantiam Sr.) and Mr. Chantiam have developed and sustained throughout the years. In the fall of November 2019, Mr. Chantiam Sr. unexpectedly announced his retirement effective December 31, 2019 leaving the future of the business in question. Since then, the corporation has focused on maintaining its customers while also working on a sales succession transition plan to Mr. Chantiam.

In regards to your allegations that the JLHD Promissory Note and Loan Agreement "does not exist", you have failed to provide any reasons to deny the existence of such debt. We wish to remind you and Mr. Chantiam, that the general ledger of CCX clearly reflects the existence of the loan agreement and additionally the signed financial statements dated May 31, 2019 clearly indicate a demand loan payable of the same amount.

In addition to the events of default mentioned in our client's previous letter to you, we note the following additional events of default committed by CCX:



1. The transfer of the CCX shares from Mr. Chantiam Sr. to Mr. Chantiam effecting a change in control without our client's prior knowledge or consent;
2. The breach of the Debt Service Coverage and Total Liabilities to Tangible Net Worth ratios contrary to the letter agreement dated September 17, 2018; and
3. The insolvency of the corporation as evidenced by the financial statements dated May 31, 2019.

On behalf of Trinity, we hereby confirm our client's demand for payment made on January 31, 2020. According to our client's records, the amount owing by CCX to Trinity as at January 31<sup>st</sup> is \$1,620,328.77 inclusive of interest, plus costs. Interest continues to accrue at the rate of 6% per annum. Unless the said amount of \$1,620,328.77 together with additional interest and costs is received by February 24, 2020, Trinity intends to exercise all rights and remedies available to it under its security, at law or in equity, without further demand upon or notice to you. Enclosed please find a copy of our client's Notice of Intention to Enforce Security which is served upon you pursuant to section 244(1) of the *Bankruptcy and Insolvency Act* (Canada).

As a good faith gesture, representatives of Trinity are prepared to meet with Mr. Chantiam and representatives of CCX, on a without prejudice basis, in a final attempt to negotiate amicable terms for a resolution of this matter. Failing reaching an amicable resolution by February 24, 2020, Trinity shall proceed as indicated above. This offer to negotiate, is not and shall not be deemed to be a waiver or withdrawal of the default, demand for payment or notice of intention to enforce security, which remain in full force and effect.

If there is anything to discuss, please do not hesitate to contact me.

Yours truly,  
CHAITONS LLP

A handwritten signature in cursive script, appearing to read "Harvey G. Chaiton".

Harvey G. Chaiton  
PARTNER

HGC/ad  
Encl.

cc: Trinity Plastics Products Inc.

**NOTICE OF INTENTION TO ENFORCE A SECURITY**  
**(given pursuant to section 244 of the *Bankruptcy and Insolvency Act*)**

To: **Custom Co-Ex Technologies Inc.**, an insolvent person

Take notice that:

1. **Trinity Plastics Products Inc.**, a secured creditor, intends to enforce its security on all of the present and after-acquired personal property of Custom Co-Ex Technologies Inc.
2. The security that is to be enforced includes a General Security Agreement dated September 17, 2018 and a Subordinated Convertible Debenture dated September 17, 2018 (collectively, the "**Security**").
3. The total amount of indebtedness secured by the Security as at the close of business on January 31, 2020 is \$1,620,328.77 inclusive of principal, interest and fees, plus costs.
4. The secured creditor will not have the right to enforce the Security until after the expiry of the 10-day period following the sending of this notice, unless the insolvent person consents to an earlier enforcement.

DATED at Toronto, this 10<sup>th</sup> day of February, 2020.

**TRINITY PLASTICS PRODUCTS INC.**,  
by its lawyers, Chaitons LLP



Per: \_\_\_\_\_  
Harvey Chaiton

This is Exhibit "H" referred to in the  
affidavit of Kevin Watkinson sworn June 21<sup>st</sup>, 2020

  
A Commissioner for the Taking of Affidavits



# STEIN LAW OFFICE

Barrister and Solicitor

---

Andrew Stein, LL.B.

Telephone: (416) 642-2020

Facsimile: (416) 203-9456

May 29, 2020

Warren S. Rapoport  
Black Sutherland LLP  
130 Adelaide Street West, Suite 3425  
P.O. Box 34  
Toronto, Ontario M5H 3P5

Via Email

Dear Mr. Rapoport:

**Re: Trinity Plastics Products Inc. (“Trinity”) loan to Custom Co-Ex Technologies Inc. (“CCX”)**

---

We make reference to the demand letter and notice of intention to enforce a security (given pursuant to section 244 of the *Bankruptcy and Insolvency Act*) dated February 10<sup>th</sup> 2020 sent by Harvey Chaiton attached hereto as Schedule “A” (hereinafter the “Demand Letter and Notice of Intention to Enforce a Security”). On behalf of Trinity, we hereby confirm that the discussions and correspondence between counsel and the parties, CCX and Trinity have been entirely without prejudice in an attempt to negotiate amicable terms for a resolution of the matter.

Since the date of the Demand Letter and Notice of Intention to Enforce a Security, Trinity has not waived any of its rights as a secured creditor. In the event that Trinity and CCX are unable to resolve the outstanding issues related to the acquisition of the CCX’s shares, this letter shall confirm Trinity’s intention to exercise all rights and remedies available to it under its security, at law or in equity, without further demand upon or notice to you.

Yours very truly,




**ANDREW STEIN**

AS:sm

ANDREW STEIN PROFESSIONAL CORPORATION  
330 Bay Street, Suite 1400 ♦ Toronto, Ontario ♦ M5H 2S8  
astein@andrewsteinlaw.com ♦ www.andrewsteinlaw.com

This is Exhibit "I" referred to in the  
affidavit of Kevin Watkinson sworn June 21<sup>st</sup>, 2020

  
A Commissioner for the Taking of Affidavits

# STEIN LAW OFFICE

Barrister and Solicitor

---

Andrew Stein, LL.B.

Telephone: (416) 642-2020

Facsimile: (416) 203-9456

June 16, 2020

Warren S. Rapoport  
 Black Sutherland LLP  
 130 Adelaide Street West, Suite 3425  
 P.O. Box 34  
 Toronto, Ontario M5H 3P5

Via Email

Dear Mr. Rapoport:

**RE: Demand of Payment to Trinity Plastics Products Inc. (“Trinity”) loan to Custom Co-Ex Technologies Inc. and Demand of Payment to JLHD Investments Inc. (“JLHD”) Pursuant to the Promissory Note**

---

This letter is further to the correspondence sent by Trinity and JLHD to Custom Co-Ex Technologies Inc. (“CCX”):

- (1) JLHD’s notice of CCX’s default on its promissory note and demand letter to CCX to pay promissory note and loan agreement dated January 31, 2020 attached hereto as Schedule “A”;
- (2) Trinity’s notice of CCX’s default on the Debenture Covenant and demand letter to CCX dated January 31, 2020 attached hereto as Schedule “B”;
- (3) The demand letter and notice of intention to enforce security (pursuant to section 244 of the *Bankruptcy and Insolvency Act*) dated February 10<sup>th</sup> 2020 sent by Harvey Chaiton, Chaitons LLP attached hereto as Schedule “C” (hereinafter the “Demand Letter and Notice of Intention to Enforce a Security”); and
- (4) The letter from Stein Law Office to you dated May 29, 2020 attached as Schedule “D” confirming, *inter alia*, that Trinity has not waived any of any of its rights as a secured creditor to demand payment or notice of intention to enforce security, which remains in full force and effect.

We confirm that the negotiations between Trinity and CCX regarding CCX’s loan defaults as set out in the above correspondence have now come to an end without a resolution.

Accordingly, we hereby demand payment by CCX to Trinity and JLHD on or before 5pm on June 18, 2020 (the “**Due Date**”) of the following outstanding loan amounts:

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 astein@andrewsteinlaw.com ♦ www.andrewsteinlaw.com

- a) The sum of \$1,655,095.89 in Canadian Dollars, inclusive of interest, plus costs to Trinity which sum continues to accrue interest at the rate of 6% per annum; and
- b) The sum of \$330,953.42 in United States Dollars inclusive of interest, plus cost to JLHD which sum continues to accrue at a rate of 5% per annum.

Please be advised that in the event that CCX fails to pay the above outstanding loan amounts by the said Due Date, Trinity and JLHD will proceed to exercise all rights and remedies available to it under its security (as applicable), at law or in equity without further demand upon or notice to you.

Govern yourself accordingly.

Yours very truly,



**ANDREW STEIN**

AS:sm

cc. MD  
KW

**SCHEDULE "A"**

# STEIN LAW OFFICE

Barristers and Solicitors

Andrew Stein, LL.B.  
Jonathan White, J.D.

Telephone: (416) 642-2020  
Facsimile: (416) 203-9456

January 31, 2020

Delivered: *Mail and email: nchantiam@ccxl.ca*

Noel Chantiam  
Custom Co-Ex Technologies Inc.  
9030 Keele Street, Unit 2  
Concord ON L4K 2N2

Dear Mr. Chantiam:

**RE: Demand Letter to Pay Promissory Note and Loan Agreement**

This demand letter shall serve as formal notice to Custom Co-Ex Technologies Inc. ("Custom") that it has defaulted on its obligations under the terms of the Promissory Note ("Note") and the Loan Agreement ("Loan"). On December 18, 2018 Custom and JLHD Investments Inc. ("JLHD.") entered into a Loan and Note for the principal amount of One Million One Hundred Thousand (\$1,100,000.00) United States Dollars (USD) bearing interest rate and fees as follows: 1. Draw Portion of five percent (5%) calculated daily on the Loan and is payable monthly in arrears based on the number of days in respect of which the Loan remains outstanding; 2. An Administrative Fee of Five Hundred (\$500) payable in annually. All monies payable in United States Dollars (USD). Custom made a payment of \$800,000.00. As of the date of this letter, the balance of the principal amount owing to JLHD is \$300,000.00.

As per the Loan and the Note, principal payments were due on a monthly basis as of the Drawdown date and JLHD has not been receiving payments as stipulated in the agreement. In accordance with the terms of the agreements, this constitutes an event of default under the Note and the Loan. A demand is hereby made for the balance of the principal amount, the administrative fee and the interest pursuant to the terms of the Note and the Loan.

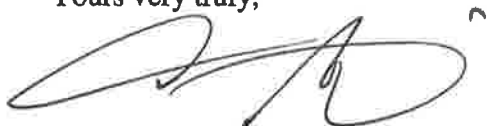
As of today's date, the demand for payment is hereby made by JLHD to Custom for the outstanding principal amount of \$300,000.00 plus interest payment of \$24,049.32 and \$500.00 representing the administrative fee. The total sum of \$324,549.32 (USD) is due and must be received by JLHD by certified funds on or before February 14, 2020.

If you fail to immediately comply with the demand for payment as stipulated in this letter, JLHD intends to proceed with litigation without further notice to you. In the event that legal proceedings prove necessary, we further confirm that JLHD will be asserting and seeking the recovery of all of its related damage claims, including its claim for punitive, aggravated and exemplary damages given the history of matters. Further, under such circumstances, recovery

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astein@andrewsteinlaw.com ♦ www.andrewsteinlaw.com

will also be sought of all of JLHD's legal costs on the highest available scale, and notice is also given of JLHD claim to pre and post judgment interest.

Yours very truly,

A handwritten signature in black ink, appearing to read 'AS', with a large, stylized flourish extending to the left.

**ANDREW STEIN**

AS:sm

**SCHEDULE "B"**



# STEIN LAW OFFICE

Barristers and Solicitors

Andrew Stein, LL.B.  
Jonathan White, J.D.

Telephone: (416) 642-2020  
Facsimile: (416) 203-9456

January 31, 2020

Noel Chantiam  
Custom Co-Ex Technologies Inc.  
9030 Keele Street, Unit 2  
Concord ON L4K 2N2

Delivered: *Mail and email: nchantiam@ccx1.ca*

Dear Mr. Chantiam:

**RE: Letter of Demand of the Subordination Convertible Debenture and the General Security Agreement**

This demand letter shall serve as formal notice to you and **CUSTOM CO-EX TECHNOLOGIES INC.** (hereinafter the "Corporation") that the Corporation is in default of the Obligations under the terms of the Subordinated Convertible Debenture (the "Debenture") and the terms of the General Security Agreement (the "GSA").

On September 17, 2018 the ("Effective Date") the Corporation entered into the Debenture with **TRINITY PLASTICS PRODUCTS INC.** (hereinafter the "Holder) for the principal sum of One Million, Five Hundred Thousand Dollars (\$1,500,000.00) in lawful money of Canada and to pay interest at the rate of six percent (6%) per annum, calculated annually.

**Default of Debenture Covenants**

The Corporation is in default of its covenants under the Debenture and without limiting the generality of the foregoing including the following provisions:

- a. To maintain its corporate its existence pursuant to Section 6 (i) (a) of the Debenture;
- b. To observe and perform all of its obligations and comply in all material respects with all conditions to which it is a party pursuant to Section 6 (c);
- c. To carry on and conduct its business in a proper and efficient manner so as to preserve and protect the Charged Property and Income therefrom Section 6 (d);
- d. To execute and deliver such security, documents, instruments or agreements as may be necessary or desirable in the reasonable opinion to carry out the provisions and intent of this Debenture pursuant to Section 6 (j);
- e. The Corporation shall not, without the prior written consent of the Holder remove, transfer or otherwise dispose of any of the Charged Property other than in the ordinary course of business operations of the Corporation pursuant to Section 7 (ii); and

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330 Bay Street, Suite 1400 ♦ Toronto, Ontario ♦ M5H 2S8  
astein@andrewsteinlaw.com ♦ www.andrewsteinlaw.com

- f. The representations made by the Corporation in any instrument or statement or report furnished in connection with or pursuant the Debenture shall not be false and incorrect as to make it materially misleading when made or when deemed to have been made pursuant to Section 8 (xi).

### **General Security Agreement Breach**

The Corporation is in breach of the terms and conditions of the GSA as follows:

- a. The Corporation failed to deliver information which was reasonably requested including the daily banking account information from its bank pursuant to Section 3.12.

### **Acts of Default**

On or about 10 days ago, the President and sole shareholder of the organization Noel Chantiam Jr. resigned from the Corporation or alternatively had threatened to resign, which has and which will materially affect the corporate existence of the Corporation.

In January, 2019, the Corporation had agreed with the Holder to provide daily disclosure and access to all its bank account information. Thereafter, the controller, Antonietta MacDonald, provided the Holder with this information on a daily basis. This was necessary for proper and efficient business procedures which were implemented by the Corporation pursuant to the execution of the Debenture and GSA.

On January 30, 2020, Noel Chantiam without notice or explanation changed the signing authority on all the Corporation's bank accounts and failed to provide an explanation to the Holder for changing such signing authority on its bank accounts without notice to the Holder.

On January 31, 2020, the Corporation failed to disclose to the Holder, despite written demand for same by the Holder, the current bank balances in the business accounts to Holder and failed to provide an explanation for changing the signing authority.

The Holder has reason to believe that the Corporation made representations in the May 2018 financial statements that were false and incorrect so as to make the financial statements materially misleading and the Holder relied on those financial statements at the time of making the investment.

### **Consequences of Default**

Pursuant to Section 8 of the Debenture and Section 6.01 of the GSA, the above defaults and/or breaches constitute events of default and as such, the Holder is hereby writing to declare, that as of today's date, the security of the principal amount of \$1,500,000.00 and interest amount of \$120,328.77 the total outstanding amount of \$1,620,328.77 is due to the Holder by the Corporation and the Holder shall have the rights and powers as stipulated in Section 8.2 of the Debenture.

Although the Agreement stipulates payment forthwith, as a gesture of good faith, the Holder will provide 10 days' notice to receive payment in full by no later than February 14, 2020. Should payment in full not be received by the due date, the Holder intends to proceed with all rights and remedies available to it without further notice to you. In the event that legal proceedings prove necessary, we further confirm that the Holder will be asserting and seeking the recovery of all of its related damage claims, including its claims for punitive, aggravated and exemplary damages given the history of matters. Further, under such

circumstances, recovery will also be sought of all of the Holder's legal costs on the highest available scale, and notice is also given of the Holder's claim to pre and post judgment interest.

Finally, we hereby confirm, that should legal proceedings follow, the Holder reserves its rights to bring in as party defendants to any proceedings initiated, any other companies that has an interest as referred to above, with such anticipated claims to seek relief in the nature of, *inter alia*, an accounting for the diversion of any business, revenues and shareholder loans.

Yours very truly,

A handwritten signature in black ink, appearing to read 'AS', with a small flourish above the 'S'.

**ANDREW STEIN**

AS:sm

**SCHEDULE "C"**



REPLY TO: HARVEY G. CHAITON  
FILE NO.:  
DIRECT: 416-218-1129  
FAX: 416-218-1849  
EMAIL: harvey@chaitons.com

February 10, 2020

**VIA EMAIL**

Puneet S. Kohli  
Simmons Da Silva LLP  
201 County Court Boulevard, Suite 200  
Brampton, Ontario  
L6W 4L2

**Re: *Trinity Plastics Products Inc. ("Trinity") loan to Custom Co-Ex Technologies Inc. ("CCX")***

Dear Mr. Kohli,

We have been retained as insolvency counsel for the lender, Trinity, and take this opportunity to respond to your letter dated February 3, 2020.

My client denies the allegations made in your letter that Mr. Kevin Watkinson, CFO of Instore Group of Companies ("Mr. Watkinson") and/or any executive of Trinity has ever requested either formally or informally the resignation of Mr. Noel Chantiam Jr. ("Mr. Chantiam"). Trinity, as a creditor of the corporation, has no legal basis to compel the resignation of a director or officer of a company as it has no control over the operations and management of the business. In fact, on or about January 17, 2020, Mr. Chantiam verbally communicated that he was considering resigning from his position as President and Director of the corporation. On or about January 22, 2020, Mr. Chantiam clearly and unequivocally confirmed to Mr. Watkinson and others his intention to resign and transfer his shares to Trinity for nominal consideration. In response, Mr. Watkinson urged that Mr. Chantiam obtain legal advice with respect to these matters. Subsequently, Mr. Chantiam once again, clearly and unequivocally communicated to the upper management team of the corporation that he resigned as the President and Director of CCX.

The business operations of the company heavily relies on the sales abilities and customer relationships that both Mr. Frances Chantiam (Mr. Chantiam Sr.) and Mr. Chantiam have developed and sustained throughout the years. In the fall of November 2019, Mr. Chantiam Sr. unexpectedly announced his retirement effective December 31, 2019 leaving the future of the business in question. Since then, the corporation has focused on maintaining its customers while also working on a sales succession transition plan to Mr. Chantiam.

In regards to your allegations that the JLHD Promissory Note and Loan Agreement "does not exist", you have failed to provide any reasons to deny the existence of such debt. We wish to remind you and Mr. Chantiam, that the general ledger of CCX clearly reflects the existence of the loan agreement and additionally the signed financial statements dated May 31, 2019 clearly indicate a demand loan payable of the same amount.

In addition to the events of default mentioned in our client's previous letter to you, we note the following additional events of default committed by CCX:



1. The transfer of the CCX shares from Mr. Chantiam Sr. to Mr. Chantiam effecting a change in control without our client's prior knowledge or consent;
2. The breach of the Debt Service Coverage and Total Liabilities to Tangible Net Worth ratios contrary to the letter agreement dated September 17, 2018; and
3. The insolvency of the corporation as evidenced by the financial statements dated May 31, 2019.

On behalf of Trinity, we hereby confirm our client's demand for payment made on January 31, 2020. According to our client's records, the amount owing by CCX to Trinity as at January 31<sup>st</sup> is \$1,620,328.77 inclusive of interest, plus costs. Interest continues to accrue at the rate of 6% per annum. Unless the said amount of \$1,620,328.77 together with additional interest and costs is received by February 24, 2020, Trinity intends to exercise all rights and remedies available to it under its security, at law or in equity, without further demand upon or notice to you. Enclosed please find a copy of our client's Notice of Intention to Enforce Security which is served upon you pursuant to section 244(1) of the *Bankruptcy and Insolvency Act* (Canada).

As a good faith gesture, representatives of Trinity are prepared to meet with Mr. Chantiam and representatives of CCX, on a without prejudice basis, in a final attempt to negotiate amicable terms for a resolution of this matter. Failing reaching an amicable resolution by February 24, 2020, Trinity shall proceed as indicated above. This offer to negotiate, is not and shall not be deemed to be a waiver or withdrawal of the default, demand for payment or notice of intention to enforce security, which remain in full force and effect.

If there is anything to discuss, please do not hesitate to contact me.

Yours truly,  
CHAITONS LLP

A handwritten signature in black ink, appearing to read "Harvey G. Chaiton". The signature is fluid and cursive.

Harvey G. Chaiton  
PARTNER

HGC/ad  
Encl.

cc: Trinity Plastics Products Inc.

**NOTICE OF INTENTION TO ENFORCE A SECURITY**  
**(given pursuant to section 244 of the *Bankruptcy and Insolvency Act*)**

To: **Custom Co-Ex Technologies Inc.**, an insolvent person

Take notice that:

1. **Trinity Plastics Products Inc.**, a secured creditor, intends to enforce its security on all of the present and after-acquired personal property of Custom Co-Ex Technologies Inc.
2. The security that is to be enforced includes a General Security Agreement dated September 17, 2018 and a Subordinated Convertible Debenture dated September 17, 2018 (collectively, the "**Security**").
3. The total amount of indebtedness secured by the Security as at the close of business on January 31, 2020 is \$1,620,328.77 inclusive of principal, interest and fees, plus costs.
4. The secured creditor will not have the right to enforce the Security until after the expiry of the 10-day period following the sending of this notice, unless the insolvent person consents to an earlier enforcement.

DATED at Toronto, this 10<sup>th</sup> day of February, 2020.

**TRINITY PLASTICS PRODUCTS INC.**,  
by its lawyers, Chaitons LLP



Per: \_\_\_\_\_  
Harvey Chaiton

**SCHEDULE "D"**



STEIN LAW OFFICE  
Barrister and Solicitor

---

Andrew Stein, LL.B.

Telephone: (416) 642-2020

Facsimile: (416) 203-9456

May 29, 2020

Warren S. Rapoport  
Black Sutherland LLP  
130 Adelaide Street West, Suite 3425  
P.O. Box 34  
Toronto, Ontario M5H 3P5

Via Email

Dear Mr. Rapoport:

**Re: Trinity Plastics Products Inc. (“Trinity”) loan to Custom Co-Ex Technologies Inc. (“CCX”)**

---

We make reference to the demand letter and notice of intention to enforce a security (given pursuant to section 244 of the *Bankruptcy and Insolvency Act*) dated February 10<sup>th</sup> 2020 sent by Harvey Chaiton attached hereto as Schedule “A” (hereinafter the “Demand Letter and Notice of Intention to Enforce a Security”). On behalf of Trinity, we hereby confirm that the discussions and correspondence between counsel and the parties, CCX and Trinity have been entirely without prejudice in an attempt to negotiate amicable terms for a resolution of the matter.

Since the date of the Demand Letter and Notice of Intention to Enforce a Security, Trinity has not waived any of its rights as a secured creditor. In the event that Trinity and CCX are unable to resolve the outstanding issues related to the acquisition of the CCX’s shares, this letter shall confirm Trinity’s intention to exercise all rights and remedies available to it under its security, at law or in equity, without further demand upon or notice to you.

Yours very truly,



**ANDREW STEIN**

AS:sm

TRINITY PLASTICS PRODUCTS INC.

-and-

CUSTOM CO-EX TECHNOLOGIES INC.

Applicant

Respondent

Court File No.

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)**

**PROCEEDING COMMENCED AT  
TORONTO**

**AFFIDAVIT OF KEVIN WATKINSON**

**CHAITONS LLP**

5000 Yonge Street, 10th Floor  
Toronto, Ontario M2N 7E9

**Harvey Chaiton** (LSO # 21592F)

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**Lawyers for the Applicant**

**TAB 3**

Court File No.

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

THE HONOURABLE MADAM

)

THURSDAY, THE 25<sup>th</sup>

JUSTICE CONWAY

)

DAY OF JUNE, 2020

)

**TRINITY PLASTICS PRODUCTS INC.**

Applicant

- and -

**CUSTOM CO-EX TECHNOLOGIES INC.**

Respondent

**ORDER  
(Appointing Receiver)**

**THIS APPLICATION** made by the Applicant, Trinity Plastics Products Inc. ("**Trinity**"), for an Order pursuant to section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the "**BIA**") and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended (the "**CJA**") appointing BDO Canada Limited as receiver and manager (in such capacities, the "**Receiver**") without security, of all of the assets, undertakings and properties of Custom Co-Ex Technologies Inc. (the "**Debtor**") acquired for, or used in relation to a business carried on by the Debtor, was heard this day by video-conference due to the COVID-19 crisis.

**ON READING** the affidavit of Kevin Watkinson sworn June 21, 2020 and the exhibits thereto and on hearing the submissions of counsel for Trinity, no one appearing for the Debtor although duly served as appears from the affidavit of service of Andrew Stein sworn June 22, 2020 and on reading the consent of BDO Canada Limited to act as the Receiver,

## **SERVICE**

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

## **APPOINTMENT**

2. **THIS COURT ORDERS** that pursuant to section 243(1) of the BIA and section 101 of the CJA, BDO Canada Limited is hereby appointed Receiver, without security, of all of the assets, undertakings and properties of the Debtor acquired for, or used in relation to a business carried on by the Debtor, including all proceeds thereof (the "**Property**").

## **RECEIVER'S POWERS**

3. **THIS COURT ORDERS** that the Receiver is hereby empowered and authorized, but not obligated, to act at once in respect of the Property and, without in any way limiting the generality of the foregoing, the Receiver is hereby expressly empowered and authorized to do any of the following where the Receiver considers it necessary or desirable:

- (a) to take possession of and exercise control over the Property and any and all proceeds, receipts and disbursements arising out of or from the Property;
- (b) to receive, preserve, and protect the Property, or any part or parts thereof, including, but not limited to, the changing of locks and security codes, the relocating of Property to safeguard it, the engaging of independent security personnel, the taking of physical inventories and the placement of such insurance coverage as may be necessary or desirable;
- (c) to manage, operate, and carry on the business of the Debtor, including the powers to enter into any agreements, incur any obligations in the ordinary course of business, cease to carry on all or any part of the business, or cease to perform any contracts of the Debtor;

- (d) to engage consultants, appraisers, agents, experts, auditors, accountants, managers, counsel and such other persons from time to time and on whatever basis, including on a temporary basis, to assist with the exercise of the Receiver's powers and duties, including without limitation those conferred by this Order;
- (e) to purchase or lease such machinery, equipment, inventories, supplies, premises or other assets to continue the business of the Debtor or any part or parts thereof;
- (f) to receive and collect all monies and accounts now owed or hereafter owing to the Debtor and to exercise all remedies of the Debtor in collecting such monies, including, without limitation, to enforce any security held by the Debtor;
- (g) to settle, extend or compromise any indebtedness owing to the Debtor;
- (h) to execute, assign, issue and endorse documents of whatever nature in respect of any of the Property, whether in the Receiver's name or in the name and on behalf of the Debtor, for any purpose pursuant to this Order;
- (i) to initiate, prosecute and continue the prosecution of any and all proceedings and to defend all proceedings now pending or hereafter instituted with respect to the Debtor, the Property or the Receiver, and to settle or compromise any such proceedings. The authority hereby conveyed shall extend to such appeals or applications for judicial review in respect of any order or judgment pronounced in any such proceeding;
- (j) to market any or all of the Property, including advertising and soliciting offers in respect of the Property or any part or parts thereof and negotiating such terms and conditions of sale as the Receiver in its discretion may deem appropriate;

- (k) to sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business as follows:
- (i) without the approval of this Court in respect of any transaction not exceeding \$250,000, provided that the aggregate consideration for all such transactions does not exceed \$1,000,000; and
  - (ii) with the approval of this Court in respect of any transaction in which the purchase price or the aggregate purchase price exceeds the applicable amount set out in the preceding clause;
- and in each such case notice under subsection 63(4) of the Ontario *Personal Property Security Act* shall not be required.
- (l) to apply for any vesting order or other orders necessary to convey the Property or any part or parts thereof to a purchaser or purchasers thereof, free and clear of any liens or encumbrances affecting such Property;
  - (m) to report to, meet with and discuss with such affected Persons (as defined below) as the Receiver deems appropriate on all matters relating to the Property and the receivership, and to share information, subject to such terms as to confidentiality as the Receiver deems advisable;
  - (n) to register a copy of this Order and any other Orders in respect of the Property against title to any of the Property;
  - (o) to apply for any permits, licences, approvals or permissions as may be required by any governmental authority and any renewals thereof for and on behalf of and, if thought desirable by the Receiver, in the name of the Debtor;
  - (p) to enter into agreements with any trustee in bankruptcy appointed in respect of the Debtor, including, without limiting the generality of the foregoing, the ability to enter into occupation agreements for any property owned or leased by the Debtor;

- (q) to exercise any shareholder, partnership, joint venture or other rights which the Debtor may have; and
- (r) to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations.

and in each case where the Receiver takes any such actions or steps, it shall be exclusively authorized and empowered to do so, to the exclusion of all other Persons (as defined below), including the Debtor, and without interference from any other Person.

#### **DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE RECEIVER**

4. **THIS COURT ORDERS** that (i) the Debtor, (ii) all of its current and former directors, officers, employees, agents, accountants, legal counsel and shareholders, and all other persons acting on its instructions or behalf, and (iii) all other individuals, firms, corporations, governmental bodies or agencies, or other entities having notice of this Order (all of the foregoing, collectively, being "**Persons**" and each being a "**Person**") shall forthwith advise the Receiver of the existence of any Property in such Person's possession or control, shall grant immediate and continued access to the Property to the Receiver, and shall deliver all such Property to the Receiver upon the Receiver's request.

5. **THIS COURT ORDERS** that all Persons shall forthwith advise the Receiver of the existence of any books, documents, securities, contracts, orders, corporate and accounting records, and any other papers, records and information of any kind related to the business or affairs of the Debtor, and any computer programs, computer tapes, computer disks, or other data storage media containing any such information (the foregoing, collectively, the "**Records**") in that Person's possession or control, and shall provide to the Receiver or permit the Receiver to make, retain and take away copies thereof and grant to the Receiver unfettered access to and use of accounting, computer, software and physical facilities relating thereto, provided however that nothing in this paragraph 5 or in paragraph 6 of this Order shall require the delivery of Records, or the granting of access to Records, which may not be disclosed or provided to the Receiver due to the privilege attaching to solicitor-client communication or due to statutory provisions prohibiting such disclosure.



6. **THIS COURT ORDERS** that if any Records are stored or otherwise contained on a computer or other electronic system of information storage, whether by independent service provider or otherwise, all Persons in possession or control of such Records shall forthwith give unfettered access to the Receiver for the purpose of allowing the Receiver to recover and fully copy all of the information contained therein whether by way of printing the information onto paper or making copies of computer disks or such other manner of retrieving and copying the information as the Receiver in its discretion deems expedient, and shall not alter, erase or destroy any Records without the prior written consent of the Receiver. Further, for the purposes of this paragraph, all Persons shall provide the Receiver with all such assistance in gaining immediate access to the information in the Records as the Receiver may in its discretion require including providing the Receiver with instructions on the use of any computer or other system and providing the Receiver with any and all access codes, account names and account numbers that may be required to gain access to the information.

7. **THIS COURT ORDERS** that the Receiver shall provide each of the relevant landlords with notice of the Receiver's intention to remove any fixtures from any leased premises at least seven (7) days prior to the date of the intended removal. The relevant landlord shall be entitled to have a representative present in the leased premises to observe such removal and, if the landlord disputes the Receiver'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 Receiver, or by further Order of this Court upon application by the Receiver on at least two (2) days notice to such landlord and any such secured creditors.

#### **NO PROCEEDINGS AGAINST THE RECEIVER**

8. **THIS COURT ORDERS** that no proceeding or enforcement process in any court or tribunal (each, a "**Proceeding**"), shall be commenced or continued against the Receiver except with the written consent of the Receiver or with leave of this Court.

#### **NO PROCEEDINGS AGAINST THE DEBTOR OR THE PROPERTY**

9. **THIS COURT ORDERS** that no Proceeding against or in respect of the Debtor or the Property shall be commenced or continued except with the written consent of the Receiver or

with leave of this Court and any and all Proceedings currently under way against or in respect of the Debtor or the Property are hereby stayed and suspended pending further Order of this Court.

#### **NO EXERCISE OF RIGHTS OR REMEDIES**

10. **THIS COURT ORDERS** that all rights and remedies against the Debtor, the Receiver, or affecting the Property, are hereby stayed and suspended except with the written consent of the Receiver or leave of this Court, provided however that this stay and suspension does not apply in respect of any "eligible financial contract" as defined in the BIA, and further provided that nothing in this paragraph shall (i) empower the Receiver or the Debtor to carry on any business which the Debtor is not lawfully entitled to carry on, (ii) exempt the Receiver or the Debtor from compliance with statutory or regulatory provisions relating to health, safety or the environment, (iii) prevent the filing of any registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien.

#### **NO INTERFERENCE WITH THE RECEIVER**

11. **THIS COURT ORDERS** that no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by the Debtor, without written consent of the Receiver or leave of this Court.

#### **CONTINUATION OF SERVICES**

12. **THIS COURT ORDERS** that all Persons having oral or written agreements with the Debtor or statutory or regulatory mandates for the supply of goods and/or services, including without limitation, all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation services, utility or other services to the Debtor are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the Receiver, and that the Receiver shall be entitled to the continued use of the Debtor's current telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the Receiver in accordance with normal payment practices of the Debtor or

such other practices as may be agreed upon by the supplier or service provider and the Receiver, or as may be ordered by this Court.

### **RECEIVER TO HOLD FUNDS**

13. **THIS COURT ORDERS** that all funds, monies, cheques, instruments, and other forms of payments received or collected by the Receiver from and after the making of this Order from any source whatsoever, including without limitation the sale of all or any of the Property and the collection of any accounts receivable in whole or in part, whether in existence on the date of this Order or hereafter coming into existence, shall be deposited into one or more new accounts to be opened by the Receiver (the "**Post Receivership Accounts**") and the monies standing to the credit of such Post Receivership Accounts from time to time, net of any disbursements provided for herein, shall be held by the Receiver to be paid in accordance with the terms of this Order or any further Order of this Court.

### **EMPLOYEES**

14. **THIS COURT ORDERS** that all employees of the Debtor shall remain the employees of the Debtor until such time as the Receiver, on the Debtor's behalf, may terminate the employment of such employees. The Receiver shall not be liable for any employee-related liabilities, including any successor employer liabilities as provided for in section 14.06(1.2) of the BIA, other than such amounts as the Receiver may specifically agree in writing to pay, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*.

### **PIPEDA**

15. **THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the Canada *Personal Information Protection and Electronic Documents Act*, the Receiver shall disclose personal information of identifiable individuals to prospective purchasers or bidders for the Property and to their advisors, but only to the extent desirable or required to negotiate and attempt to complete one or more sales of the Property (each, a "**Sale**"). Each prospective purchaser or bidder to whom such personal information is disclosed shall maintain and protect the privacy of such information and limit the use of such information to its evaluation of the Sale, and if it does not complete a Sale, shall return all such information to the Receiver, or in the alternative destroy all

such information. The purchaser of any Property shall be entitled to continue to use the personal information provided to it, and related to the Property purchased, in a manner which is in all material respects identical to the prior use of such information by the Debtor, and shall return all other personal information to the Receiver, or ensure that all other personal information is destroyed.

#### **LIMITATION ON ENVIRONMENTAL LIABILITIES**

16. **THIS COURT ORDERS** that nothing herein contained shall require the Receiver to occupy or to take control, care, charge, possession or management (separately and/or collectively, "**Possession**") of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the *Ontario Environmental Protection Act*, the *Ontario Water Resources Act*, or the *Ontario Occupational Health and Safety Act* and regulations thereunder (the "**Environmental Legislation**"), provided however that nothing herein shall exempt the Receiver from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Receiver shall not, as a result of this Order or anything done in pursuance of the Receiver'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.

#### **LIMITATION ON THE RECEIVER'S LIABILITY**

17. **THIS COURT ORDERS** that the Receiver shall incur no liability or obligation as a result of its appointment or the carrying out the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*. Nothing in this Order shall derogate from the protections afforded the Receiver by section 14.06 of the BIA or by any other applicable legislation.

## RECEIVER'S ACCOUNTS

18. **THIS COURT ORDERS** that the Receiver and counsel to the Receiver shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges unless otherwise ordered by the Court on the passing of accounts, and that the Receiver and counsel to the Receiver shall be entitled to and are hereby granted a charge (the "**Receiver's Charge**") on the Property, as security for such fees and disbursements, both before and after the making of this Order in respect of these proceedings, and that the Receiver's Charge shall form a first charge on the Property in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subject to sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

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

20. **THIS COURT ORDERS** that prior to the passing of its accounts, the Receiver shall be at liberty from time to time to apply reasonable amounts, out of the monies in its hands, against its fees and disbursements, including legal fees and disbursements, incurred at the standard rates and charges of the Receiver or its counsel, and such amounts shall constitute advances against its remuneration and disbursements when and as approved by this Court.

## FUNDING OF THE RECEIVERSHIP

21. **THIS COURT ORDERS** that the Receiver be at liberty and it is hereby empowered to borrow by way of a revolving credit or otherwise, such monies from time to time as it may consider necessary or desirable, provided that the outstanding principal amount does not exceed \$250,000 (or such greater amount as this Court may by further Order authorize) at any time, at such rate or rates of interest as it deems advisable for such period or periods of time as it may arrange, for the purpose of funding the exercise of the powers and duties conferred upon the Receiver by this Order, including interim expenditures. The whole of the Property shall be and is hereby charged by way of a fixed and specific charge (the "**Receiver's Borrowings Charge**") as security for the payment of the monies borrowed, together with interest and charges thereon, in priority to all security interests, trusts, liens, charges and encumbrances, statutory or

otherwise, in favour of any Person, but subordinate in priority to the Receiver's Charge and the charges as set out in sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

22. **THIS COURT ORDERS** that neither the Receiver's Borrowings Charge nor any other security granted by the Receiver in connection with its borrowings under this Order shall be enforced without leave of this Court.

23. **THIS COURT ORDERS** that the Receiver is at liberty and authorized to issue certificates substantially in the form annexed as **Schedule "A"** hereto (the "**Receiver's Certificates**") for any amount borrowed by it pursuant to this Order.

24. **THIS COURT ORDERS** that the monies from time to time borrowed by the Receiver pursuant to this Order or any further order of this Court and any and all Receiver's Certificates evidencing the same or any part thereof shall rank on a *pari passu* basis, unless otherwise agreed to by the holders of any prior issued Receiver's Certificates.

#### **SERVICE AND NOTICE**

25. **THIS COURT ORDERS** that the E-Service Protocol of the Commercial List (the "**Protocol**") is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Protocol (which can be found on the Commercial List website at <http://www.ontariocourts.ca/scj/practice/practice-directions/toronto/e-service-protocol/>) shall be valid and effective service. Subject to Rule 17.05 of the Rules of Civil Procedure (the "**Rules**") this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the Rules. Subject to Rule 3.01(d) of the Rules 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 '<https://www.bdo.ca/en-ca/extranets/CustomCoEx>'.

26. **THIS COURT ORDERS** that if the service or distribution of documents in accordance with the Protocol is not practicable, the Receiver is at liberty to serve or distribute this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or facsimile transmission to the Debtor's creditors or other interested parties at their respective addresses as

last shown on the records of the Debtor and that any such service or distribution by courier, personal delivery or facsimile transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

## **GENERAL**

27. **THIS COURT ORDERS** that the Receiver may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.

28. **THIS COURT ORDERS** that nothing in this Order shall prevent the Receiver from acting as a trustee in bankruptcy of the Debtor or as an officer of the Court in any other capacity.

29. **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 Receiver and its 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 Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.

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

31. **THIS COURT ORDERS** that the Applicant shall have its costs of this motion, up to and including entry and service of this Order, provided for by the terms of the Applicant's security or, if not so provided by the Applicant's security, then on a substantial indemnity basis to be paid by the Receiver from the Debtor's estate with such priority and at such time as this Court may determine.

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

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**SCHEDULE "A"**  
**RECEIVER CERTIFICATE**

CERTIFICATE NO. \_\_\_\_\_

AMOUNT \$ \_\_\_\_\_

1. THIS IS TO CERTIFY that BDO Canada Limited, the receiver (the "**Receiver**") of the assets, undertakings and properties Custom Co-Ex Technologies Inc. acquired for, or used in relation to a business carried on by the Debtor, including all proceeds thereof (collectively, the "**Property**") appointed by Order of the Ontario Superior Court of Justice (Commercial List) (the "**Court**") dated the 25<sup>th</sup> day of June, 2020 (the "**Order**") made in an action having Court file number \_\_-CL-\_\_\_\_\_, has received as such Receiver from the holder of this certificate (the "**Lender**") the principal sum of \$\_\_\_\_\_, being part of the total principal sum of \$\_\_\_\_\_ which the Receiver is authorized to borrow under and pursuant to the Order.

2. The principal sum evidenced by this certificate is payable on demand by the Lender with interest thereon calculated and compounded [daily][monthly not in advance on the \_\_\_\_\_ day of each month] after the date hereof at a notional rate per annum equal to the rate of \_\_\_\_\_ per cent above the prime commercial lending rate of Bank of \_\_\_\_\_ from time to time.

3. Such principal sum with interest thereon is, by the terms of the Order, together with the principal sums and interest thereon of all other certificates issued by the Receiver pursuant to the Order or to any further order of the Court, a charge upon the whole of the Property, in priority to the security interests of any other person, but subject to the priority of the charges set out in the Order and in the *Bankruptcy and Insolvency Act*, and the right of the Receiver to indemnify itself out of such Property in respect of its remuneration and expenses.

4. All sums payable in respect of principal and interest under this certificate are payable at the main office of the Lender at Toronto, Ontario.

5. Until all liability in respect of this certificate has been terminated, no certificates creating charges ranking or purporting to rank in priority to this certificate shall be issued by the Receiver to any person other than the holder of this certificate without the prior written consent of the holder of this certificate.

6. The charge securing this certificate shall operate so as to permit the Receiver to deal with the Property as authorized by the Order and as authorized by any further or other order of the Court.

7. The Receiver does not undertake, and it is not under any personal liability, to pay any sum in respect of which it may issue certificates under the terms of the Order.

DATED the \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

BDO CANADA LIMITED, solely in its capacity  
as Receiver of the Property, and not in its  
personal capacity

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

Name:

Title:

TRINITY PLASTICS PRODUCTS INC.  
Applicant

-and-

149  
CUSTOM CO-EX TECHNOLOGIES INC.  
Respondent

Court File No.

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)**

PROCEEDING COMMENCED AT  
TORONTO

**ORDER  
(Appointing a Receiver)**

**CHAITONS LLP**

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Toronto, Ontario M2N 7E9

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**Sanea Tanvir (LSO # 77838T)**

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E-mail: [harvey@chaitons.com](mailto:harvey@chaitons.com)

**Lawyers for the Applicant**

**TAB 4**

Revised: January 21, 2014  
~~s.243(1) BIA (National Receiver) and s. 101-  
 CJA (Ontario) Receiver~~

Court File No. \_\_\_\_\_

ONTARIO  
 SUPERIOR COURT OF JUSTICE  
 COMMERCIAL LIST

THE HONOURABLE \_\_\_\_\_MADAM ) ~~WEEKDAY~~THURSDAY, THE #25<sup>th</sup>  
 JUSTICE \_\_\_\_\_CONWAY ) DAY OF ~~MONTH~~JUNE, ~~20YR~~2020

~~PLAINTIFF~~<sup>1</sup>

~~Plaintiff~~

TRINITY PLASTICS PRODUCTS INC.

Applicant

- and -

~~DEFENDANT~~

~~Defendant~~

CUSTOM CO-EX TECHNOLOGIES INC.

Respondent

**ORDER**  
**(~~appointing~~Appointing Receiver)**

THIS ~~MOTION~~APPLICATION made by the ~~Plaintiff~~<sup>2</sup>Applicant, Trinity Plastics Products Inc. ("Trinity"), for an Order pursuant to section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the "BIA") and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended (the "CJA") appointing ~~[RECEIVER'S~~

<sup>1</sup>~~The Model Order Subcommittee notes that a receivership proceeding may be commenced by action or by application. This model order is drafted on the basis that the receivership proceeding is commenced by way of an action.~~

<sup>2</sup>~~Section 243(1) of the BIA provides that the Court may appoint a receiver "on application by a secured creditor".~~

*Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the "BIA") and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended (the "CJA") appointing ~~[RECEIVER'S NAME]~~BDO Canada Limited as receiver ~~[and manager]~~ (in such capacities, the "Receiver") without security, of all of the assets, undertakings and properties of ~~[DEBTOR'S NAME]~~Custom Co-Ex Technologies Inc. (the "Debtor") acquired for, or used in relation to a business carried on by the Debtor, was heard this day ~~at 330 University Avenue, Toronto, Ontario~~ by video-conference due to the COVID-19 crisis.

ON READING the affidavit of ~~[NAME]~~Kevin Watkinson sworn ~~[DATE]~~June 21, 2020 and the ~~Exhibits~~exhibits thereto and on hearing the submissions of counsel for ~~[NAMES]~~Trinity, no one appearing for ~~[NAME]~~the Debtor although duly served as appears from the affidavit of service of ~~[NAME]~~Andrew Stein sworn ~~[DATE]~~June 22, 2020 and on reading the consent of ~~[RECEIVER'S NAME]~~BDO Canada Limited to act as the Receiver,

## SERVICE

1. **THIS COURT ORDERS** that the time for service of the Notice of ~~Motion~~Application and the ~~Motion~~Application is hereby abridged and validated<sup>3</sup> so that this ~~motion~~application is properly returnable today and hereby dispenses with further service thereof.

## APPOINTMENT

2. **THIS COURT ORDERS** that pursuant to section 243(1) of the BIA and section 101 of the CJA, ~~[RECEIVER'S NAME]~~BDO Canada Limited is hereby appointed Receiver, without security, of all of the assets, undertakings and properties of the Debtor acquired for, or used in relation to a business carried on by the Debtor, including all proceeds thereof (the "Property").

## RECEIVER'S POWERS

3. **THIS COURT ORDERS** that the Receiver is hereby empowered and authorized, but not obligated, to act at once in respect of the Property and, without in any way limiting the generality

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<sup>3</sup> ~~If service is effected in a manner other than as authorized by the Ontario Rules of Civil Procedure, an order validating irregular service is required pursuant to Rule 16.08 of the Rules of Civil Procedure and may be granted in appropriate circumstances.~~

- (a) to take possession of and exercise control over the Property and any and all proceeds, receipts and disbursements arising out of or from the Property;
- (b) to receive, preserve, and protect the Property, or any part or parts thereof, including, but not limited to, the changing of locks and security codes, the relocating of Property to safeguard it, the engaging of independent security personnel, the taking of physical inventories and the placement of such insurance coverage as may be necessary or desirable;
- (c) to manage, operate, and carry on the business of the Debtor, including the powers to enter into any agreements, incur any obligations in the ordinary course of business, cease to carry on all or any part of the business, or cease to perform any contracts of the Debtor;
- (d) to engage consultants, appraisers, agents, experts, auditors, accountants, managers, counsel and such other persons from time to time and on whatever basis, including on a temporary basis, to assist with the exercise of the Receiver's powers and duties, including without limitation those conferred by this Order;
- (e) to purchase or lease such machinery, equipment, inventories, supplies, premises or other assets to continue the business of the Debtor or any part or parts thereof;
- (f) to receive and collect all monies and accounts now owed or hereafter owing to the Debtor and to exercise all remedies of the Debtor in collecting such monies, including, without limitation, to enforce any security held by the Debtor;
- (g) to settle, extend or compromise any indebtedness owing to the Debtor;

- (h) to execute, assign, issue and endorse documents of whatever nature in respect of any of the Property, whether in the Receiver's name or in the name and on behalf of the Debtor, for any purpose pursuant to this Order;
- (i) to initiate, prosecute and continue the prosecution of any and all proceedings and to defend all proceedings now pending or hereafter instituted with respect to the Debtor, the Property or the Receiver, and to settle or compromise any such proceedings.<sup>4</sup> The authority hereby conveyed shall extend to such appeals or applications for judicial review in respect of any order or judgment pronounced in any such proceeding;
- (j) to market any or all of the Property, including advertising and soliciting offers in respect of the Property or any part or parts thereof and negotiating such terms and conditions of sale as the Receiver in its discretion may deem appropriate;
- (k) to sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business, ~~as follows:~~
- (i) without the approval of this Court in respect of any transaction not exceeding \$~~\_\_\_\_\_~~250,000, provided that the aggregate consideration for all such transactions does not exceed \$~~\_\_\_\_\_~~1,000,000; and
  - (ii) with the approval of this Court in respect of any transaction in which the purchase price or the aggregate purchase price exceeds the applicable amount set out in the preceding clause;

and in each such case notice under subsection 63(4) of the Ontario *Personal Property Security Act*, ~~[or section 31 of the Ontario *Mortgages*~~

~~<sup>4</sup>This model order does not include specific authority permitting the Receiver to either file an assignment in bankruptcy on behalf of the Debtor, or to consent to the making of a bankruptcy order against the Debtor. A bankruptcy may have the effect of altering the priorities among creditors, and therefore the specific authority of the Court should be sought if the Receiver wishes to take one of these steps.~~



~~Act, as the case may be,]<sup>5</sup> shall not be required, and in each case the Ontario Bulk Sales Act shall not apply.~~

- (l) to apply for any vesting order or other orders necessary to convey the Property or any part or parts thereof to a purchaser or purchasers thereof, free and clear of any liens or encumbrances affecting such Property;
- (m) to report to, meet with and discuss with such affected Persons (as defined below) as the Receiver deems appropriate on all matters relating to the Property and the receivership, and to share information, subject to such terms as to confidentiality as the Receiver deems advisable;
- (n) to register a copy of this Order and any other Orders in respect of the Property against title to any of the Property;
- (o) to apply for any permits, licences, approvals or permissions as may be required by any governmental authority and any renewals thereof for and on behalf of and, if thought desirable by the Receiver, in the name of the Debtor;
- (p) to enter into agreements with any trustee in bankruptcy appointed in respect of the Debtor, including, without limiting the generality of the foregoing, the ability to enter into occupation agreements for any property owned or leased by the Debtor;
- (q) to exercise any shareholder, partnership, joint venture or other rights which the Debtor may have; and
- (r) to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations.

~~<sup>5</sup> If the Receiver will be dealing with assets in other provinces, consider adding references to applicable statutes in other provinces. If this is done, those statutes must be reviewed to ensure that the Receiver is exempt from or can be exempted from such notice periods, and further that the Ontario Court has the jurisdiction to grant such an exemption.~~

and in each case where the Receiver takes any such actions or steps, it shall be exclusively authorized and empowered to do so, to the exclusion of all other Persons (as defined below), including the Debtor, and without interference from any other Person.

#### **DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE RECEIVER**

4. **THIS COURT ORDERS** that (i) the Debtor, (ii) all of its current and former directors, officers, employees, agents, accountants, legal counsel and shareholders, and all other persons acting on its instructions or behalf, and (iii) all other individuals, firms, corporations, governmental bodies or agencies, or other entities having notice of this Order (all of the foregoing, collectively, being "**Persons**" and each being a "**Person**") shall forthwith advise the Receiver of the existence of any Property in such Person's possession or control, shall grant immediate and continued access to the Property to the Receiver, and shall deliver all such Property to the Receiver upon the Receiver's request.

5. **THIS COURT ORDERS** that all Persons shall forthwith advise the Receiver of the existence of any books, documents, securities, contracts, orders, corporate and accounting records, and any other papers, records and information of any kind related to the business or affairs of the Debtor, and any computer programs, computer tapes, computer disks, or other data storage media containing any such information (the foregoing, collectively, the "**Records**") in that Person's possession or control, and shall provide to the Receiver or permit the Receiver to make, retain and take away copies thereof and grant to the Receiver unfettered access to and use of accounting, computer, software and physical facilities relating thereto, provided however that nothing in this paragraph 5 or in paragraph 6 of this Order shall require the delivery of Records, or the granting of access to Records, which may not be disclosed or provided to the Receiver due to the privilege attaching to solicitor-client communication or due to statutory provisions prohibiting such disclosure.

6. **THIS COURT ORDERS** that if any Records are stored or otherwise contained on a computer or other electronic system of information storage, whether by independent service provider or otherwise, all Persons in possession or control of such Records shall forthwith give unfettered access to the Receiver for the purpose of allowing the Receiver to recover and fully copy all of the information contained therein whether by way of printing the information onto

paper or making copies of computer disks or such other manner of retrieving and copying the information as the Receiver in its discretion deems expedient, and shall not alter, erase or destroy any Records without the prior written consent of the Receiver. Further, for the purposes of this paragraph, all Persons shall provide the Receiver with all such assistance in gaining immediate access to the information in the Records as the Receiver may in its discretion require including providing the Receiver with instructions on the use of any computer or other system and providing the Receiver with any and all access codes, account names and account numbers that may be required to gain access to the information.

7. **THIS COURT ORDERS** that the Receiver shall provide each of the relevant landlords with notice of the Receiver's intention to remove any fixtures from any leased premises at least seven (7) days prior to the date of the intended removal. The relevant landlord shall be entitled to have a representative present in the leased premises to observe such removal and, if the landlord disputes the Receiver'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 Receiver, or by further Order of this Court upon application by the Receiver on at least two (2) days notice to such landlord and any such secured creditors.

#### **NO PROCEEDINGS AGAINST THE RECEIVER**

8. **THIS COURT ORDERS** that no proceeding or enforcement process in any court or tribunal (each, a "**Proceeding**"), shall be commenced or continued against the Receiver except with the written consent of the Receiver or with leave of this Court.

#### **NO PROCEEDINGS AGAINST THE DEBTOR OR THE PROPERTY**

9. **THIS COURT ORDERS** that no Proceeding against or in respect of the Debtor or the Property shall be commenced or continued except with the written consent of the Receiver or with leave of this Court and any and all Proceedings currently under way against or in respect of the Debtor or the Property are hereby stayed and suspended pending further Order of this Court.

**NO EXERCISE OF RIGHTS OR REMEDIES**

10. **THIS COURT ORDERS** that all rights and remedies against the Debtor, the Receiver, or affecting the Property, are hereby stayed and suspended except with the written consent of the Receiver or leave of this Court, provided however that this stay and suspension does not apply in respect of any "eligible financial contract" as defined in the BIA, and further provided that nothing in this paragraph shall (i) empower the Receiver or the Debtor to carry on any business which the Debtor is not lawfully entitled to carry on, (ii) exempt the Receiver or the Debtor from compliance with statutory or regulatory provisions relating to health, safety or the environment, (iii) prevent the filing of any registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien.

**NO INTERFERENCE WITH THE RECEIVER**

11. **THIS COURT ORDERS** that no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by the Debtor, without written consent of the Receiver or leave of this Court.

**CONTINUATION OF SERVICES**

12. **THIS COURT ORDERS** that all Persons having oral or written agreements with the Debtor or statutory or regulatory mandates for the supply of goods and/or services, including without limitation, all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation services, utility or other services to the Debtor are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the Receiver, and that the Receiver shall be entitled to the continued use of the Debtor's current telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the Receiver in accordance with normal payment practices of the Debtor or such other practices as may be agreed upon by the supplier or service provider and the Receiver, or as may be ordered by this Court.

### RECEIVER TO HOLD FUNDS

13. **THIS COURT ORDERS** that all funds, monies, cheques, instruments, and other forms of payments received or collected by the Receiver from and after the making of this Order from any source whatsoever, including without limitation the sale of all or any of the Property and the collection of any accounts receivable in whole or in part, whether in existence on the date of this Order or hereafter coming into existence, shall be deposited into one or more new accounts to be opened by the Receiver (the "**Post Receivership Accounts**") and the monies standing to the credit of such Post Receivership Accounts from time to time, net of any disbursements provided for herein, shall be held by the Receiver to be paid in accordance with the terms of this Order or any further Order of this Court.

### EMPLOYEES

14. **THIS COURT ORDERS** that all employees of the Debtor shall remain the employees of the Debtor until such time as the Receiver, on the Debtor's behalf, may terminate the employment of such employees. The Receiver shall not be liable for any employee-related liabilities, including any successor employer liabilities as provided for in section 14.06(1.2) of the BIA, other than such amounts as the Receiver may specifically agree in writing to pay, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*.

### PIPEDA

15. **THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the *Canada Personal Information Protection and Electronic Documents Act*, the Receiver shall disclose personal information of identifiable individuals to prospective purchasers or bidders for the Property and to their advisors, but only to the extent desirable or required to negotiate and attempt to complete one or more sales of the Property (each, a "**Sale**"). Each prospective purchaser or bidder to whom such personal information is disclosed shall maintain and protect the privacy of such information and limit the use of such information to its evaluation of the Sale, and if it does not complete a Sale, shall return all such information to the Receiver, or in the alternative destroy all such information. The purchaser of any Property shall be entitled to continue to use the personal information provided to it, and related to the Property purchased, in a manner which is in all

material respects identical to the prior use of such information by the Debtor, and shall return all other personal information to the Receiver, or ensure that all other personal information is destroyed.

#### **LIMITATION ON ENVIRONMENTAL LIABILITIES**

16. **THIS COURT ORDERS** that nothing herein contained shall require the Receiver to occupy or to take control, care, charge, possession or management (separately and/or collectively, "**Possession**") of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the *Ontario Environmental Protection Act*, the *Ontario Water Resources Act*, or the *Ontario Occupational Health and Safety Act* and regulations thereunder (the "**Environmental Legislation**"), provided however that nothing herein shall exempt the Receiver from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Receiver shall not, as a result of this Order or anything done in pursuance of the Receiver'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.

#### **LIMITATION ON THE RECEIVER'S LIABILITY**

17. **THIS COURT ORDERS** that the Receiver shall incur no liability or obligation as a result of its appointment or the carrying out the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*. Nothing in this Order shall derogate from the protections afforded the Receiver by section 14.06 of the BIA or by any other applicable legislation.

#### **RECEIVER'S ACCOUNTS**

18. **THIS COURT ORDERS** that the Receiver and counsel to the Receiver shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges unless otherwise ordered by the Court on the passing of accounts, and that the Receiver and counsel to

the Receiver shall be entitled to and are hereby granted a charge (the "**Receiver's Charge**") on the Property, as security for such fees and disbursements, both before and after the making of this Order in respect of these proceedings, and that the Receiver's Charge shall form a first charge on the Property in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subject to sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.<sup>6</sup>

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

20. **THIS COURT ORDERS** that prior to the passing of its accounts, the Receiver shall be at liberty from time to time to apply reasonable amounts, out of the monies in its hands, against its fees and disbursements, including legal fees and disbursements, incurred at the standard rates and charges of the Receiver or its counsel, and such amounts shall constitute advances against its remuneration and disbursements when and as approved by this Court.

#### **FUNDING OF THE RECEIVERSHIP**

21. **THIS COURT ORDERS** that the Receiver be at liberty and it is hereby empowered to borrow by way of a revolving credit or otherwise, such monies from time to time as it may consider necessary or desirable, provided that the outstanding principal amount does not exceed \$250,000 (or such greater amount as this Court may by further Order authorize) at any time, at such rate or rates of interest as it deems advisable for such period or periods of time as it may arrange, for the purpose of funding the exercise of the powers and duties conferred upon the Receiver by this Order, including interim expenditures. The whole of the Property shall be and is hereby charged by way of a fixed and specific charge (the "**Receiver's Borrowings Charge**") as security for the payment of the monies borrowed, together with interest and charges thereon, in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subordinate in priority to the Receiver's Charge and the charges as set out in sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

~~<sup>6</sup>Note that subsection 243(6) of the BIA provides that the Court may not make such an order "unless it is satisfied that the secured creditors who would be materially affected by the order were given reasonable notice and an opportunity to make representations".~~

22. **THIS COURT ORDERS** that neither the Receiver's Borrowings Charge nor any other security granted by the Receiver in connection with its borrowings under this Order shall be enforced without leave of this Court.

23. **THIS COURT ORDERS** that the Receiver is at liberty and authorized to issue certificates substantially in the form annexed as **Schedule "A"** hereto (the "**Receiver's Certificates**") for any amount borrowed by it pursuant to this Order.

24. **THIS COURT ORDERS** that the monies from time to time borrowed by the Receiver pursuant to this Order or any further order of this Court and any and all Receiver's Certificates evidencing the same or any part thereof shall rank on a *pari passu* basis, unless otherwise agreed to by the holders of any prior issued Receiver's Certificates.

#### **SERVICE AND NOTICE**

25. **THIS COURT ORDERS** that the E-Service Protocol of the Commercial List (the "**Protocol**") is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Protocol (which can be found on the Commercial List website at <http://www.ontariocourts.ca/scj/practice/practice-directions/toronto/e-service-protocol/>) shall be valid and effective service. Subject to Rule 17.05 [of the Rules of Civil Procedure \(the "Rules"\)](#) 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 '[@https://www.bdo.ca/en-ca/extranets/CustomCoEx](https://www.bdo.ca/en-ca/extranets/CustomCoEx)'.

26. **THIS COURT ORDERS** that if the service or distribution of documents in accordance with the Protocol is not practicable, the Receiver is at liberty to serve or distribute this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or facsimile transmission to the Debtor's creditors or other interested parties at their respective addresses as last shown on the records of the Debtor and that any such service or distribution by courier,



personal delivery or facsimile transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

## GENERAL

27. **THIS COURT ORDERS** that the Receiver may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.

28. **THIS COURT ORDERS** that nothing in this Order shall prevent the Receiver from acting as a trustee in bankruptcy of the Debtor or as an officer of the Court in any other capacity.

29. **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 Receiver and its 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 Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.

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

31. **THIS COURT ORDERS** that the **PlaintiffApplicant** shall have its costs of this motion, up to and including entry and service of this Order, provided for by the terms of the **PlaintiffApplicant**'s security or, if not so provided by the **PlaintiffApplicant**'s security, then on a substantial indemnity basis to be paid by the Receiver from the Debtor's estate with such priority and at such time as this Court may determine.

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

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**SCHEDULE "A"**  
**RECEIVER CERTIFICATE**

CERTIFICATE NO. \_\_\_\_\_

AMOUNT \$ \_\_\_\_\_

1. THIS IS TO CERTIFY that ~~[RECEIVER'S NAME]~~ BDO Canada Limited, the receiver (the "**Receiver**") of the assets, undertakings and properties ~~[DEBTOR'S NAME]~~ Custom Co-Ex Technologies Inc. acquired for, or used in relation to a business carried on by the Debtor, including all proceeds thereof (collectively, the "**Property**") appointed by Order of the Ontario Superior Court of Justice (Commercial List) (the "**Court**") dated the 25<sup>th</sup> day of June, ~~20~~ 2020 (the "**Order**") made in an action having Court file number -CL-, has received as such Receiver from the holder of this certificate (the "**Lender**") the principal sum of \$ \_\_\_\_\_, being part of the total principal sum of \$ \_\_\_\_\_ which the Receiver is authorized to borrow under and pursuant to the Order.

2. The principal sum evidenced by this certificate is payable on demand by the Lender with interest thereon calculated and compounded [daily][monthly not in advance on the \_\_\_\_\_ day of each month] after the date hereof at a notional rate per annum equal to the rate of \_\_\_\_\_ per cent above the prime commercial lending rate of Bank of \_\_\_\_\_ from time to time.

3. Such principal sum with interest thereon is, by the terms of the Order, together with the principal sums and interest thereon of all other certificates issued by the Receiver pursuant to the Order or to any further order of the Court, a charge upon the whole of the Property, in priority to the security interests of any other person, but subject to the priority of the charges set out in the Order and in the *Bankruptcy and Insolvency Act*, and the right of the Receiver to indemnify itself out of such Property in respect of its remuneration and expenses.

4. All sums payable in respect of principal and interest under this certificate are payable at the main office of the Lender at Toronto, Ontario.

5. Until all liability in respect of this certificate has been terminated, no certificates creating charges ranking or purporting to rank in priority to this certificate shall be issued by the Receiver

to any person other than the holder of this certificate without the prior written consent of the holder of this certificate.

6. The charge securing this certificate shall operate so as to permit the Receiver to deal with the Property as authorized by the Order and as authorized by any further or other order of the Court.

7. The Receiver does not undertake, and it is not under any personal liability, to pay any sum in respect of which it may issue certificates under the terms of the Order.

DATED the \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

~~[RECEIVER'S NAME]~~ BDO CANADA LIMITED, solely in its capacity as Receiver of the Property, and not in its personal capacity

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

Name:

Title:

TRINITY PLASTICS PRODUCTS INC.

Applicant

-and-

Court File No.

CUSTOM CO-EX TECHNOLOGIES INC.

Respondent

ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)

PROCEEDING COMMENCED AT  
TORONTO

ORDER  
(Appointing a Receiver)

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**CHAITONS LLP**

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**Lawyers for the Applicant**

Document comparison by Workshare Compare on Monday, June 22, 2020  
11:38:23 AM

Input:	
Document 1 ID	PowerDocs://DOCS/4803179/1
Description	DOCS-#4803179-v1-Receivership_Order
Document 2 ID	PowerDocs://DOCS/4803179/2
Description	DOCS-#4803179-v2-Receivership_Order
Rendering set	Standard

Legend:	
<a href="#">Insertion</a>	
<del>Deletion</del>	
<del>Moved from</del>	
<a href="#">Moved to</a>	
Style change	
Format change	
<del>Moved deletion</del>	
Inserted cell	
Deleted cell	
Moved cell	
Split/Merged cell	
Padding cell	

Statistics:	
	Count
Insertions	80
Deletions	73
Moved from	0
Moved to	0

**TAB 5**



Court File No.

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)**

B E T W E E N:

**TRINITY PLASTICS PRODUCTS INC.**

Applicant

- and -

**CUSTOM CO-EX TECHNOLOGIES INC.**

Respondent

**CONSENT**

BDO CANADA LIMITED hereby consents to being appointed as receiver over the property, assets and undertakings of the Respondent, substantially in accordance with the form of order attached hereto as **Schedule "A"**.

DATED this 22 day of June, 2020

**BDO CANADA LIMITED**

By:



---

Name: Josie Parisi

I have authority to bind the corporation

Court File No.

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

THE HONOURABLE MADAM

)

THURSDAY, THE 25<sup>th</sup>

JUSTICE CONWAY

)

DAY OF JUNE, 2020

)

**TRINITY PLASTICS PRODUCTS INC.**

Applicant

- and -

**CUSTOM CO-EX TECHNOLOGIES INC.**

Respondent

**ORDER  
(Appointing Receiver)**

**THIS APPLICATION** made by the Applicant, Trinity Plastics Products Inc. (“**Trinity**”), for an Order pursuant to section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the “**BIA**”) and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended (the “**CJA**”) appointing BDO Canada Limited as receiver and manager (in such capacities, the “**Receiver**”) without security, of all of the assets, undertakings and properties of Custom Co-Ex Technologies Inc. (the “**Debtor**”) acquired for, or used in relation to a business carried on by the Debtor, was heard this day by video-conference due to the COVID-19 crisis.

**ON READING** the affidavit of Kevin Watkinson sworn June 21, 2020 and the exhibits thereto and on hearing the submissions of counsel for Trinity, no one appearing for the Debtor although duly served as appears from the affidavit of service of Andrew Stein sworn June 22, 2020 and on reading the consent of BDO Canada Limited to act as the Receiver,

**SERVICE**

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

**APPOINTMENT**

2. **THIS COURT ORDERS** that pursuant to section 243(1) of the BIA and section 101 of the CJA, BDO Canada Limited is hereby appointed Receiver, without security, of all of the assets, undertakings and properties of the Debtor acquired for, or used in relation to a business carried on by the Debtor, including all proceeds thereof (the "**Property**").

**RECEIVER'S POWERS**

3. **THIS COURT ORDERS** that the Receiver is hereby empowered and authorized, but not obligated, to act at once in respect of the Property and, without in any way limiting the generality of the foregoing, the Receiver is hereby expressly empowered and authorized to do any of the following where the Receiver considers it necessary or desirable:

- (a) to take possession of and exercise control over the Property and any and all proceeds, receipts and disbursements arising out of or from the Property;
- (b) to receive, preserve, and protect the Property, or any part or parts thereof, including, but not limited to, the changing of locks and security codes, the relocating of Property to safeguard it, the engaging of independent security personnel, the taking of physical inventories and the placement of such insurance coverage as may be necessary or desirable;
- (c) to manage, operate, and carry on the business of the Debtor, including the powers to enter into any agreements, incur any obligations in the ordinary course of business, cease to carry on all or any part of the business, or cease to perform any contracts of the Debtor;

- (d) to engage consultants, appraisers, agents, experts, auditors, accountants, managers, counsel and such other persons from time to time and on whatever basis, including on a temporary basis, to assist with the exercise of the Receiver's powers and duties, including without limitation those conferred by this Order;
- (e) to purchase or lease such machinery, equipment, inventories, supplies, premises or other assets to continue the business of the Debtor or any part or parts thereof;
- (f) to receive and collect all monies and accounts now owed or hereafter owing to the Debtor and to exercise all remedies of the Debtor in collecting such monies, including, without limitation, to enforce any security held by the Debtor;
- (g) to settle, extend or compromise any indebtedness owing to the Debtor;
- (h) to execute, assign, issue and endorse documents of whatever nature in respect of any of the Property, whether in the Receiver's name or in the name and on behalf of the Debtor, for any purpose pursuant to this Order;
- (i) to initiate, prosecute and continue the prosecution of any and all proceedings and to defend all proceedings now pending or hereafter instituted with respect to the Debtor, the Property or the Receiver, and to settle or compromise any such proceedings. The authority hereby conveyed shall extend to such appeals or applications for judicial review in respect of any order or judgment pronounced in any such proceeding;
- (j) to market any or all of the Property, including advertising and soliciting offers in respect of the Property or any part or parts thereof and negotiating such terms and conditions of sale as the Receiver in its discretion may deem appropriate;

- (k) to sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business as follows:
- (i) without the approval of this Court in respect of any transaction not exceeding \$250,000, provided that the aggregate consideration for all such transactions does not exceed \$1,000,000; and
  - (ii) with the approval of this Court in respect of any transaction in which the purchase price or the aggregate purchase price exceeds the applicable amount set out in the preceding clause;
- and in each such case notice under subsection 63(4) of the Ontario *Personal Property Security Act* shall not be required.
- (l) to apply for any vesting order or other orders necessary to convey the Property or any part or parts thereof to a purchaser or purchasers thereof, free and clear of any liens or encumbrances affecting such Property;
  - (m) to report to, meet with and discuss with such affected Persons (as defined below) as the Receiver deems appropriate on all matters relating to the Property and the receivership, and to share information, subject to such terms as to confidentiality as the Receiver deems advisable;
  - (n) to register a copy of this Order and any other Orders in respect of the Property against title to any of the Property;
  - (o) to apply for any permits, licences, approvals or permissions as may be required by any governmental authority and any renewals thereof for and on behalf of and, if thought desirable by the Receiver, in the name of the Debtor;
  - (p) to enter into agreements with any trustee in bankruptcy appointed in respect of the Debtor, including, without limiting the generality of the foregoing, the ability to enter into occupation agreements for any property owned or leased by the Debtor;

- (q) to exercise any shareholder, partnership, joint venture or other rights which the Debtor may have; and
- (r) to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations.

and in each case where the Receiver takes any such actions or steps, it shall be exclusively authorized and empowered to do so, to the exclusion of all other Persons (as defined below), including the Debtor, and without interference from any other Person.

#### **DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE RECEIVER**

4. **THIS COURT ORDERS** that (i) the Debtor, (ii) all of its current and former directors, officers, employees, agents, accountants, legal counsel and shareholders, and all other persons acting on its instructions or behalf, and (iii) all other individuals, firms, corporations, governmental bodies or agencies, or other entities having notice of this Order (all of the foregoing, collectively, being "**Persons**" and each being a "**Person**") shall forthwith advise the Receiver of the existence of any Property in such Person's possession or control, shall grant immediate and continued access to the Property to the Receiver, and shall deliver all such Property to the Receiver upon the Receiver's request.

5. **THIS COURT ORDERS** that all Persons shall forthwith advise the Receiver of the existence of any books, documents, securities, contracts, orders, corporate and accounting records, and any other papers, records and information of any kind related to the business or affairs of the Debtor, and any computer programs, computer tapes, computer disks, or other data storage media containing any such information (the foregoing, collectively, the "**Records**") in that Person's possession or control, and shall provide to the Receiver or permit the Receiver to make, retain and take away copies thereof and grant to the Receiver unfettered access to and use of accounting, computer, software and physical facilities relating thereto, provided however that nothing in this paragraph 5 or in paragraph 6 of this Order shall require the delivery of Records, or the granting of access to Records, which may not be disclosed or provided to the Receiver due to the privilege attaching to solicitor-client communication or due to statutory provisions prohibiting such disclosure.

6. **THIS COURT ORDERS** that if any Records are stored or otherwise contained on a computer or other electronic system of information storage, whether by independent service provider or otherwise, all Persons in possession or control of such Records shall forthwith give unfettered access to the Receiver for the purpose of allowing the Receiver to recover and fully copy all of the information contained therein whether by way of printing the information onto paper or making copies of computer disks or such other manner of retrieving and copying the information as the Receiver in its discretion deems expedient, and shall not alter, erase or destroy any Records without the prior written consent of the Receiver. Further, for the purposes of this paragraph, all Persons shall provide the Receiver with all such assistance in gaining immediate access to the information in the Records as the Receiver may in its discretion require including providing the Receiver with instructions on the use of any computer or other system and providing the Receiver with any and all access codes, account names and account numbers that may be required to gain access to the information.

7. **THIS COURT ORDERS** that the Receiver shall provide each of the relevant landlords with notice of the Receiver's intention to remove any fixtures from any leased premises at least seven (7) days prior to the date of the intended removal. The relevant landlord shall be entitled to have a representative present in the leased premises to observe such removal and, if the landlord disputes the Receiver'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 Receiver, or by further Order of this Court upon application by the Receiver on at least two (2) days notice to such landlord and any such secured creditors.

#### **NO PROCEEDINGS AGAINST THE RECEIVER**

8. **THIS COURT ORDERS** that no proceeding or enforcement process in any court or tribunal (each, a "**Proceeding**"), shall be commenced or continued against the Receiver except with the written consent of the Receiver or with leave of this Court.

#### **NO PROCEEDINGS AGAINST THE DEBTOR OR THE PROPERTY**

9. **THIS COURT ORDERS** that no Proceeding against or in respect of the Debtor or the Property shall be commenced or continued except with the written consent of the Receiver or

with leave of this Court and any and all Proceedings currently under way against or in respect of the Debtor or the Property are hereby stayed and suspended pending further Order of this Court.

#### **NO EXERCISE OF RIGHTS OR REMEDIES**

10. **THIS COURT ORDERS** that all rights and remedies against the Debtor, the Receiver, or affecting the Property, are hereby stayed and suspended except with the written consent of the Receiver or leave of this Court, provided however that this stay and suspension does not apply in respect of any "eligible financial contract" as defined in the BIA, and further provided that nothing in this paragraph shall (i) empower the Receiver or the Debtor to carry on any business which the Debtor is not lawfully entitled to carry on, (ii) exempt the Receiver or the Debtor from compliance with statutory or regulatory provisions relating to health, safety or the environment, (iii) prevent the filing of any registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien.

#### **NO INTERFERENCE WITH THE RECEIVER**

11. **THIS COURT ORDERS** that no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by the Debtor, without written consent of the Receiver or leave of this Court.

#### **CONTINUATION OF SERVICES**

12. **THIS COURT ORDERS** that all Persons having oral or written agreements with the Debtor or statutory or regulatory mandates for the supply of goods and/or services, including without limitation, all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation services, utility or other services to the Debtor are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the Receiver, and that the Receiver shall be entitled to the continued use of the Debtor's current telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the Receiver in accordance with normal payment practices of the Debtor or



such other practices as may be agreed upon by the supplier or service provider and the Receiver, or as may be ordered by this Court.

### **RECEIVER TO HOLD FUNDS**

13. **THIS COURT ORDERS** that all funds, monies, cheques, instruments, and other forms of payments received or collected by the Receiver from and after the making of this Order from any source whatsoever, including without limitation the sale of all or any of the Property and the collection of any accounts receivable in whole or in part, whether in existence on the date of this Order or hereafter coming into existence, shall be deposited into one or more new accounts to be opened by the Receiver (the "**Post Receivership Accounts**") and the monies standing to the credit of such Post Receivership Accounts from time to time, net of any disbursements provided for herein, shall be held by the Receiver to be paid in accordance with the terms of this Order or any further Order of this Court.

### **EMPLOYEES**

14. **THIS COURT ORDERS** that all employees of the Debtor shall remain the employees of the Debtor until such time as the Receiver, on the Debtor's behalf, may terminate the employment of such employees. The Receiver shall not be liable for any employee-related liabilities, including any successor employer liabilities as provided for in section 14.06(1.2) of the BIA, other than such amounts as the Receiver may specifically agree in writing to pay, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*.

### **PIPEDA**

15. **THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the Canada *Personal Information Protection and Electronic Documents Act*, the Receiver shall disclose personal information of identifiable individuals to prospective purchasers or bidders for the Property and to their advisors, but only to the extent desirable or required to negotiate and attempt to complete one or more sales of the Property (each, a "**Sale**"). Each prospective purchaser or bidder to whom such personal information is disclosed shall maintain and protect the privacy of such information and limit the use of such information to its evaluation of the Sale, and if it does not complete a Sale, shall return all such information to the Receiver, or in the alternative destroy all

such information. The purchaser of any Property shall be entitled to continue to use the personal information provided to it, and related to the Property purchased, in a manner which is in all material respects identical to the prior use of such information by the Debtor, and shall return all other personal information to the Receiver, or ensure that all other personal information is destroyed.

#### **LIMITATION ON ENVIRONMENTAL LIABILITIES**

16. **THIS COURT ORDERS** that nothing herein contained shall require the Receiver to occupy or to take control, care, charge, possession or management (separately and/or collectively, "**Possession**") of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the *Ontario Environmental Protection Act*, the *Ontario Water Resources Act*, or the *Ontario Occupational Health and Safety Act* and regulations thereunder (the "**Environmental Legislation**"), provided however that nothing herein shall exempt the Receiver from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Receiver shall not, as a result of this Order or anything done in pursuance of the Receiver'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.

#### **LIMITATION ON THE RECEIVER'S LIABILITY**

17. **THIS COURT ORDERS** that the Receiver shall incur no liability or obligation as a result of its appointment or the carrying out the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*. Nothing in this Order shall derogate from the protections afforded the Receiver by section 14.06 of the BIA or by any other applicable legislation.

## RECEIVER'S ACCOUNTS

18. **THIS COURT ORDERS** that the Receiver and counsel to the Receiver shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges unless otherwise ordered by the Court on the passing of accounts, and that the Receiver and counsel to the Receiver shall be entitled to and are hereby granted a charge (the "**Receiver's Charge**") on the Property, as security for such fees and disbursements, both before and after the making of this Order in respect of these proceedings, and that the Receiver's Charge shall form a first charge on the Property in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subject to sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

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

20. **THIS COURT ORDERS** that prior to the passing of its accounts, the Receiver shall be at liberty from time to time to apply reasonable amounts, out of the monies in its hands, against its fees and disbursements, including legal fees and disbursements, incurred at the standard rates and charges of the Receiver or its counsel, and such amounts shall constitute advances against its remuneration and disbursements when and as approved by this Court.

## FUNDING OF THE RECEIVERSHIP

21. **THIS COURT ORDERS** that the Receiver be at liberty and it is hereby empowered to borrow by way of a revolving credit or otherwise, such monies from time to time as it may consider necessary or desirable, provided that the outstanding principal amount does not exceed \$250,000 (or such greater amount as this Court may by further Order authorize) at any time, at such rate or rates of interest as it deems advisable for such period or periods of time as it may arrange, for the purpose of funding the exercise of the powers and duties conferred upon the Receiver by this Order, including interim expenditures. The whole of the Property shall be and is hereby charged by way of a fixed and specific charge (the "**Receiver's Borrowings Charge**") as security for the payment of the monies borrowed, together with interest and charges thereon, in priority to all security interests, trusts, liens, charges and encumbrances, statutory or

otherwise, in favour of any Person, but subordinate in priority to the Receiver's Charge and the charges as set out in sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

22. **THIS COURT ORDERS** that neither the Receiver's Borrowings Charge nor any other security granted by the Receiver in connection with its borrowings under this Order shall be enforced without leave of this Court.

23. **THIS COURT ORDERS** that the Receiver is at liberty and authorized to issue certificates substantially in the form annexed as **Schedule "A"** hereto (the "**Receiver's Certificates**") for any amount borrowed by it pursuant to this Order.

24. **THIS COURT ORDERS** that the monies from time to time borrowed by the Receiver pursuant to this Order or any further order of this Court and any and all Receiver's Certificates evidencing the same or any part thereof shall rank on a *pari passu* basis, unless otherwise agreed to by the holders of any prior issued Receiver's Certificates.

#### **SERVICE AND NOTICE**

25. **THIS COURT ORDERS** that the E-Service Protocol of the Commercial List (the "**Protocol**") is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Protocol (which can be found on the Commercial List website at <http://www.ontariocourts.ca/scj/practice/practice-directions/toronto/e-service-protocol/>) shall be valid and effective service. Subject to Rule 17.05 of the Rules of Civil Procedure (the "**Rules**") this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the Rules. Subject to Rule 3.01(d) of the Rules 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 '<https://www.bdo.ca/en-ca/extranets/CustomCoEx>'.>.

26. **THIS COURT ORDERS** that if the service or distribution of documents in accordance with the Protocol is not practicable, the Receiver is at liberty to serve or distribute this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or facsimile transmission to the Debtor's creditors or other interested parties at their respective addresses as

last shown on the records of the Debtor and that any such service or distribution by courier, personal delivery or facsimile transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

## **GENERAL**

27. **THIS COURT ORDERS** that the Receiver may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.

28. **THIS COURT ORDERS** that nothing in this Order shall prevent the Receiver from acting as a trustee in bankruptcy of the Debtor or as an officer of the Court in any other capacity.

29. **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 Receiver and its 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 Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.

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

31. **THIS COURT ORDERS** that the Applicant shall have its costs of this motion, up to and including entry and service of this Order, provided for by the terms of the Applicant's security or, if not so provided by the Applicant's security, then on a substantial indemnity basis to be paid by the Receiver from the Debtor's estate with such priority and at such time as this Court may determine.

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

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**SCHEDULE "A"**  
**RECEIVER CERTIFICATE**

CERTIFICATE NO. \_\_\_\_\_

AMOUNT \$ \_\_\_\_\_

1. THIS IS TO CERTIFY that BDO Canada Limited, the receiver (the "**Receiver**") of the assets, undertakings and properties Custom Co-Ex Technologies Inc. acquired for, or used in relation to a business carried on by the Debtor, including all proceeds thereof (collectively, the "**Property**") appointed by Order of the Ontario Superior Court of Justice (Commercial List) (the "**Court**") dated the 25<sup>th</sup> day of June, 2020 (the "**Order**") made in an action having Court file number \_\_-CL-\_\_\_\_\_, has received as such Receiver from the holder of this certificate (the "**Lender**") the principal sum of \$\_\_\_\_\_, being part of the total principal sum of \$\_\_\_\_\_ which the Receiver is authorized to borrow under and pursuant to the Order.

2. The principal sum evidenced by this certificate is payable on demand by the Lender with interest thereon calculated and compounded [daily][monthly not in advance on the \_\_\_\_\_ day of each month] after the date hereof at a notional rate per annum equal to the rate of \_\_\_\_\_ per cent above the prime commercial lending rate of Bank of \_\_\_\_\_ from time to time.

3. Such principal sum with interest thereon is, by the terms of the Order, together with the principal sums and interest thereon of all other certificates issued by the Receiver pursuant to the Order or to any further order of the Court, a charge upon the whole of the Property, in priority to the security interests of any other person, but subject to the priority of the charges set out in the Order and in the *Bankruptcy and Insolvency Act*, and the right of the Receiver to indemnify itself out of such Property in respect of its remuneration and expenses.

4. All sums payable in respect of principal and interest under this certificate are payable at the main office of the Lender at Toronto, Ontario.

5. Until all liability in respect of this certificate has been terminated, no certificates creating charges ranking or purporting to rank in priority to this certificate shall be issued by the Receiver to any person other than the holder of this certificate without the prior written consent of the holder of this certificate.

6. The charge securing this certificate shall operate so as to permit the Receiver to deal with the Property as authorized by the Order and as authorized by any further or other order of the Court.

7. The Receiver does not undertake, and it is not under any personal liability, to pay any sum in respect of which it may issue certificates under the terms of the Order.

DATED the \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

BDO CANADA LIMITED, solely in its capacity  
as Receiver of the Property, and not in its  
personal capacity

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

Name:

Title:



TRINITY PLASTICS PRODUCTS INC.  
Applicant

-and-

185  
CUSTOM CO-EX TECHNOLOGIES INC.  
Respondent

Court File No.

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)**

PROCEEDING COMMENCED AT  
TORONTO

**ORDER  
(Appointing a Receiver)**

**CHAITONS LLP**

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**Lawyers for the Applicant**

Applicant

Respondent

Court File No.

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)**

PROCEEDING COMMENCED AT  
TORONTO

**CONSENT**

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**Lawyers for the Applicant**

TRINITY PLASTICS PRODUCTS INC.

-and-

CUSTOM CO-EX TECHNOLOGIES INC.

Applicant

Respondent

Court File No. CV-00642816-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)**

PROCEEDING COMMENCED AT  
TORONTO

**APPLICATION RECORD**

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**Lawyers for the Applicant**