

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

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

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF
COPPLEY APPAREL GROUP LIMITED**

MOTION RECORD

(RETURNABLE AUGUST 10, 2009)

August 7, 2009

GOWLING LAFLEUR HENDERSON LLP

Barristers & Solicitors
1 First Canadian Place, Suite 1600
100 King Street West
Toronto, Ontario M5X 1G5

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Tel: 905-540-2472
Fax: 905-523-2948

Solicitors for the Applicant,
Copley Apparel Group Limited

SERVICE LIST

Additions to Base Service List in these Proceedings:

(a) Parties Registered as Secured Against Property of Copley Apparel Group Limited

AND TO: CIT FINANCIAL LTD.
5035 SOUTH SERVICE ROAD
BURLINGTON, ON
L7R 4C8

AND TO: BMW CANADA INC.
920 Champlain Court
Whitby, ON
L1N 6K9

AND TO: DAIMLER CHRYSLER FINANCIAL SERVICES CANADA INC.
2425 Matheson Blvd E., 3rd Floor
Mississauga, ON
L4W 5N7

AND TO: CONGRESS FINANCIAL CORPORATION (CANADA)
141 Adelaide Street West, Suite 1500
Toronto, ON
M5H 3L9

(b) Governmental Authorities

**AND TO: MINISTRY OF REVENUE
REVENUE COLLECTIONS BRANCH**
55 Athol Street
Oshawa, Ontario L1H 8H5
Attention: N Simms
Tel: 1-905-433-4845

AND TO: THE WORKPLACE SAFETY AND INSURANCE BOARD
Head Office
200 Front Street West
Toronto, Ontario M5V 3J1

Tel: (416) 344 -1007/1-800-387-0080
Fax: (416) 344-4684

WSIB Collections Branch
P.O. Box 2099 Stn. LCD1
120 King Street West
Hamilton, ON L8N 4C5

Tel: 1-800-268-0929
Fax: 905-521-4203

AND TO: ONTARIO LABOUR RELATIONS BOARD
505 University Avenue, 2nd Floor
Toronto, Ontario M5G 2P1

Tel: (416) 326-7500
Fax: (416) 326-7531

**AND TO: CANADA REVENUE AGENCY – TORONTO CENTRE TAX
SERVICES OFFICE**
1 Front Street W.
Toronto, Ontario M5J 2X6

Tel: 1-800-959-5525
Fax: (416) 360-8908/ (416) 954-5169

AND TO: CANADA REVENUE AGENCY
Department of Justice
The Exchange Tower
130 King Street West
Toronto Regional Branch, First Canadian Place
Toronto, Ontario M5X 1K6

Diane Winters
Tel: 416.973.9241
Email: dwinters@justice.gc.ca

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TAB 1

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

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

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF
COPPLEY APPAREL GROUP LIMITED**

NOTICE OF MOTION

THE APPLICANT will make a motion to a Judge on Monday, August 10, 2009 at 10:00 a.m. or as soon after that time as the motion can be heard at 330 University Avenue, Toronto.

PROPOSED METHOD OF HEARING: The motion is to be heard orally.

THE MOTION IS FOR:

1. The applicant, Copley Apparel Group Limited ("**Copley**"), brings a motion for:
 - (a) an order substantially in the form attached hereto as **Schedule "A"**:
 - (i) approving the sale transaction (the "**Transaction**") contemplated by an agreement of purchase and sale made as of June 5, 2009 (as amended and assigned, the "**Canadian APA**") between the Applicant and Emerisque Brands UK Limited and SKNL North America B.V., as amended and assigned to HMX Canada

Acquisition Corp. (the "**Purchaser**") and Embu Investments Spółka Z Ograniczoną Odpowiedzialnością Branch In Luxembourg (the "**IP Purchaser**") as further amended by agreement dated August 4, 2009 (the "**Amended Canadian APA**");

- (ii) vesting:
 - (A) in the Purchaser all right, title and interest in and to the Canadian Acquired Assets (as defined in the Amended Canadian APA), other than the Canadian Acquired IP Assets (as defined in the amended and restated assignment agreement among the Purchasers dated August 4, 2009) assets; and
 - (B) in the IP Purchaser all right, title and interest in and to the Canadian Acquired IP Assets;
- (iii) authorizing and directing the Purchaser and the IP Purchaser (jointly, the "**Purchasers**") to pay the Adjusted Base Purchase Price (as defined in the Amended Canadian APA) to Wachovia Capital Finance Corporation (Canada) ("**Wachovia Canada**"); and
- (b) such further and other relief as counsel may advise and this Honourable Court may deem just.

THE GROUNDS FOR THE MOTION ARE:

2. by Order dated June 10, 2009 (the "**Initial CCAA Order**"), this Honourable Court declared that the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**") applies to Copley;

3. the Initial CCAA Order authorized Copley, with the assistance of and in consultation with the Monitor, to carry out and conduct the Canadian Bid Procedure;
4. by Order dated June 23, 2009, this Honourable Court approved the Amended Canadian Bid Procedure and authorized Copley, with the assistance of and in consultation with the Monitor, to carry out and conduct the Amended Canadian Bid Procedure;
5. Copley, with the assistance of and in consultation with the Monitor, carried out and conducted the Amended Canadian Bid Procedure;
6. there was only one other bid (the "**Other Bid**") for the Canadian Acquired Assets (in addition to the Canadian APA) received by the bid deadline of July 7th at 5:00 p.m.;
7. the Other Bid did not meet the standard to be considered a "Qualified Bid" and, as a result, there was no auction on July 9th;
8. there were 5 bids (the "**Royal Shirt Bids**") for the Royal Shirt business carried on at 40 Adesso Drive (the "**Royal Shirt Business**");
9. by Order dated July 13, 2009, this Honourable Court approved the Canadian APA;
10. the Purchaser and Copley required an extension of the closing date for the Canadian APA in order to amend certain terms thereof and to close the Transaction;
11. the Purchaser originally had agreed to acquire the Copley assets, excluding the Royal Shirt Business, for 72 cents on the dollar of the secured debt owed to Wachovia Canada;

12. due to the Purchaser's difficulties in obtaining financing, the parties have now agreed to complete the transaction with:
 - (a) the Purchasers paying 100% of the secured debt owed to Wachovia Canada;
 - (b) the Purchasers assuming certain liabilities to facilitate such payout; and
 - (c) the Purchaser acquiring the shirt inventory of the Royal Shirt Business;
13. the foregoing has resulted in the Purchasers and Copley entering into a Second Amending Agreement dated August 7, 2009;
14. the Amended Canadian APA is fair and reasonable in the circumstances, and is in the best interests of Copley and its stakeholders;
15. Copley is requesting an Order, among other things, approving the Amended Canadian APA and vesting:
 - (a) the Canadian Acquired Assets, other than the Canadian Acquired IP Assets, in the Purchaser; and
 - (b) the Canadian Acquired IP Assets in the IP Purchaser;
16. the Initial CCAA Order, the Order dated June 23, 2009, the Order dated July 8, 2009, the Orders dated July 13, 2009, the Order dated July 22, 2009 and the Order dated July 27, 2009;
17. the provisions of the CCAA;
18. Rules 2.03, 3.02 and 37 of the Rules of Civil Procedure; and

19. such further and other grounds as counsel may advise and this Honourable Court permit.

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

1. the affidavit of Richard Sexton sworn August 7, 2009;
2. the Fifth Report of the Monitor dated August 7, 2009; and
3. such further and other material as counsel may advise and this Honourable Court may permit.

August 7, 2009

GOWLING LAFLEUR HENDERSON LLP
Barristers & Solicitors
1 First Canadian Place, Suite 1600
100 King Street West
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Robert C. Dunford (LSUC #54819D)
Tel: 905-540-2472
Fax: 905-523-2948

Solicitors for the Applicant,
Copley Apparel Group Limited

Schedule "A"

Court File No. CV-09-8221-00CL

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

THE HONOURABLE •	)	MONDAY, THE 10TH
)	
JUSTICE •	)	DAY OF AUGUST, 2009

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

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF
COPPLEY APPAREL GROUP LIMITED**

**AMENDED AND RESTATED
APPROVAL AND VESTING ORDER**

THIS MOTION made by Copley Apparel Group Limited (the "**Applicant**") for an order approving the sale transaction (the "**Transaction**") contemplated by an agreement of purchase and sale made as of June 5, 2009 (as amended and assigned to date and as may be further amended or assigned in accordance herewith, the "**Canadian APA**") initially between the Applicant and Emerisque Brands UK Limited and SKNL North America B.V. (the "**Original Purchasers**") and vesting in the assignees of the Original Purchasers, HMX Canada Acquisition Corp. (the "**Purchaser**") and Embu Investments Spółka Z Ograniczoną Odpowiedzialnością Branch In Luxembourg (the "**IP Purchaser**"), all right, title and interest in and to the assets described in the Canadian APA (the "**Canadian Acquired Assets**"), was heard Monday, July 13, 2009 and this day at 330 University Avenue, Toronto, Ontario.

ON READING (a) the affidavit of Richard Sexton sworn July 10, 2009; (b) the affidavit of Richard Sexton sworn August 7, 2009; (c) the Second Report of BDO

Dunwoody Limited in its capacity as monitor of the Applicant (the "**Monitor**") dated July 10, 2009 (the "**Second Report**") and (d) the Fifth Report of the Monitor dated August 7, 2009; and on hearing the submissions of counsel for: (i) the Applicant, (ii) the Monitor, (iii) Wachovia Capital Finance Corporation (Central) and Wachovia Capital Finance Corporation (Canada), and (iv) the Original Purchasers, the Purchaser and the IP Purchaser (collectively, the "**Purchasers**"), no one else appearing,

SERVICE

1. **THIS COURT ORDERS AND DECLARES** that all parties requiring service of the Notice of Motion and the Motion Record in respect of this motion have been duly served, and that further service of such materials upon all interested parties be and is hereby dispensed with and the service of such materials be and is hereby validated in all respects.

APPROVAL AND VESTING

2. **THIS COURT ORDERS** that all capitalized terms used in this Order and not otherwise defined shall have the meanings given to them in the Canadian APA.
3. **THIS COURT ORDERS AND DECLARES** that the Transaction is hereby approved. The execution of the Canadian APA by the Applicant is hereby authorized and approved, and the Applicant is hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Transaction and for the conveyance of (a) the Canadian Acquired Assets, other than the Canadian Acquired IP Assets (as defined in the amended and restated assignment agreement among the Purchasers dated August 4, 2009), to the Purchaser, and (b) the Canadian Acquired IP Assets to the IP Purchaser, with any such non-material amendments to the terms of the Transaction and the Canadian APA

Agreement as the parties thereto may agree, subject to obtaining Monitor consent prior to making any such amendments.

4. **THIS COURT ORDERS AND DECLARES** that upon the delivery of a Monitor's certificate to the Purchasers substantially in the form attached as **Schedule "A"** hereto (the "**Monitor's Certificate**"), all of the Applicant's right, title and interest in and to:

(a) the Canadian Acquired Assets, other than the Canadian Acquired IP Assets, shall vest absolutely in the Purchaser, and

(b) the Canadian Acquired IP Assets shall vest absolutely in the IP Purchaser,

free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, or statutory or other liabilities whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the "**Claims**") including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Order of the Honourable Madam Justice Hoy dated June 10, 2009 (the "**Initial Order**"); (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario); and (iii) those Claims listed on **Schedule "B"** hereto (all of which are collectively referred to as the "**Encumbrances**") and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Canadian Acquired Assets are hereby expunged and discharged as against the Canadian Acquired Assets.

5. **THIS COURT ORDERS** that, for the purposes of determining the nature and priority of Claims but subject to the payment contemplated in paragraph 6 hereof, the net proceeds from the sale of the Canadian Acquired Assets shall stand in

the place and stead of the Canadian Acquired Assets, and that from and after the delivery of the Monitor's Certificate all Claims and Encumbrances shall attach to the net proceeds from the sale of the Canadian Acquired Assets with the same priority as they had with respect to the Canadian Acquired Assets immediately prior to the sale, as if the Canadian Acquired Assets had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale.

6. **THIS COURT ORDERS** that the Purchasers be and are hereby authorized and directed to pay the Adjusted Base Purchase Price to Wachovia Capital Finance Corporation (Canada) ("**Wachovia Canada**") upon the closing of the Transaction, which payment shall constitute an irrevocable and permanent reduction in the amount of the Applicant's indebtedness to Wachovia Canada.

7. **THIS COURT ORDERS** that, immediately prior to the closing of the Transaction, the Applicant be and is hereby authorized and directed to pay any and all cash or cash equivalents on hand (for greater certainty and subject to paragraph 8 of this Order, save and except for the funds in the amount of the Administration Charge and the Directors' Charge (as those terms are defined in the Initial Order) (the "**CCAA Priority Charge Advance**") being held by the Monitor under the terms of the Escrow Agreement dated June 15, 2009 among the Monitor and Wachovia Capital Finance Corporation (Central) and Wachovia Canada (the "**CCAA Priority Charge Escrow Agreement**")) to Wachovia Canada or as it may otherwise direct in writing, which payment shall constitute an irrevocable and permanent reduction in the amount of the Applicant's indebtedness to Wachovia Canada.

8. **THIS COURT ORDERS** that, in connection with the closing of the Transaction and notwithstanding the CCAA Priority Charge Escrow Agreement or the Forbearance Agreement, the Monitor be and is hereby authorized and directed to release from the CCAA Priority Charge Advance the following amounts on the following basis:

- (a) the amount equal to:
 - (i) \$2,300,000; less
 - (ii) the sum of the amounts set out in clauses (i) to (vii) under the heading "Eligible Amounts" on the DIP Balance Certificate;

to Wachovia Canada or as it may otherwise direct in writing, which payment shall constitute an irrevocable permanent reduction in the amount of Applicant's indebtedness to Wachovia Canada (with effect, for the purposes of the Canadian APA and the calculation of the Pre-Closing DIP Balance, as of the time immediately following the close of business on the date prior to the Closing Date);

- (b) from the balance remaining after payment of the amount in (a) above, to the Applicant or, if otherwise agreed between the Applicant and the Purchaser in the case of amounts referred to clause (ii) below, to the Purchaser, as and when needed to pay, and to be used solely to pay, the following amounts:

- (i) amounts secured by the Administration Charge and amounts payable to the DIP Lender's Canadian counsel, up to a maximum amount equal to the sum of amounts set out in clauses (i) and (ii) under the heading "Eligible Amounts" on the DIP Balance Certificate; and
- (ii) amounts secured by the Directors' Charge and other amounts that are Eligible Amounts (excluding amounts that are secured by the Administration Charge and amounts payable to the DIP Lender's Canadian counsel), up to a maximum amount equal to the sum of

amounts set out in clauses (iii) to (vii) under the heading "Eligible Amounts" on the DIP Balance Certificate; and

- (c) from the balance remaining after payment of the amounts in (a) and (b) above, being the Eligible Amount Overpayment, to the Purchaser on account of the Applicant's obligation pursuant to paragraph 9 below as soon as the calculation of the Eligible Amount Overpayment can be reasonably determined but not later than the conclusion of these proceedings;

and such amounts shall be released and paid as set forth above, free and clear of, and notwithstanding the respective priorities of, the Administration Charge, the DIP Lender's Charge, the Directors' Charge and the Overpayment Charge (as defined below).

- 9. **THIS COURT ORDERS** that, subject to paragraph 8 of this Order, the Applicant is authorized and directed to pay to the Purchaser the Eligible Amount Overpayment in accordance with the Canadian APA, and the Purchaser shall be entitled to the benefit of and is hereby granted a charge (the "**Overpayment Charge**") on the Property with effect as of the closing (including, without limitation, the remaining funds comprising the CCAA Priority Charge Advance) as security for the Applicant's obligation to pay the Eligible Amount Overpayment. The Overpayment Charge shall have priority over all other Encumbrances in favour of any other Person save and except for the Administration Charge, the DIP Lender's Charge and the Directors' Charge.
- 10. **THIS COURT ORDERS** that the Persons holding retainers in accordance with paragraph 28 of the Initial Order are authorized and directed to apply such retainers on account of their fees and disbursements in respect of the period prior to Closing and, without delay after Closing, pay any remaining retainer amount to the Purchaser.

11. **THIS COURT ORDERS** that the Applicant, with the consent of the Monitor, is authorized to pay amounts owing to landlords on account of rent arrears and other costs in connection with the assignment to the Purchaser of the Acquired Leased Real Property.
12. **THIS COURT ORDERS AND DIRECTS** the Monitor to file with the Court a copy of the Monitor's Certificate, forthwith after delivery thereof.
13. **THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the Canada *Personal Information Protection and Electronic Documents Act*, the Applicant is authorized and permitted to disclose and transfer to the Purchasers all human resources and payroll information in the Applicant's records pertaining to the Applicant's past and current employees. The Purchasers shall maintain and protect the privacy of such information and shall be entitled to use the personal information provided to it in a manner which is in all material respects identical to the prior use of such information by the Applicant.
14. **THIS COURT ORDERS** that the Applicant is authorized and directed to file articles of amendment or any other document that may be required in order to change the Applicant's name to its numbered corporation name and to cancel any business names used by the Applicant containing the word "Copley" without the requirement, if any, of obtaining directors' or shareholders' approval pursuant to any Federal or Provincial Legislation.
15. **THIS COURT ORDERS** that, notwithstanding:
 - (a) the pendency of these proceedings;

- (b) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) in respect of the Applicant and any bankruptcy order issued pursuant to any such applications; and
- (c) any assignment in bankruptcy made in respect of the Applicant;

the vesting of the Canadian Acquired Assets in the Purchaser and IP Purchaser, as applicable, the creation of the Overpayment Charge, the payments contemplated in paragraph 8 of this Order, and the payment of the Adjusted Base Purchase Price and the Eligible Amount Overpayment pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of the Applicant and shall not be void or voidable by creditors of the Applicant, nor shall it constitute nor be deemed to be a settlement, fraudulent preference, assignment, fraudulent conveyance or other reviewable transaction under the *Bankruptcy and Insolvency Act* (Canada) or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

16. **THIS COURT ORDERS AND DECLARES** that the Transaction is exempt from the application of the *Bulk Sales Act* (Ontario).
17. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada, the United States or elsewhere to give effect to this Order and to assist the Monitor 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 Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Monitor and its agents in carrying out the terms of this Order.

SEALING

18. **THIS COURT ORDERS** that Appendices "D", "F", "G" and "H" to the Second Report be and are hereby sealed and shall not form part of the public record until the filing of the Monitor's Certificate.
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Schedule "A"

Court File No. CV-09-8221-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)****IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,
R.S.C. 1985, c. C-36, AS AMENDED****AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF
COPPLEY APPAREL GROUP LIMITED****MONITOR'S CERTIFICATE****RECITALS**

A. Pursuant to an Order of the Honourable Madam Justice Hoy of the Ontario Superior Court of Justice (the "**Court**") dated June 10, 2009, BDO Dunwoody Limited. was appointed as the monitor (the "**Monitor**") of Copley Apparel Group Limited. ("**Copley**").

B. Pursuant to an Order of the Court dated August 1, 2009, the Court approved the agreement of purchase and sale made as of June 5, 2009 (as amended and assigned the "**Canadian APA**") initially between the Applicant and Emerisque Brands UK Limited and SKNL North America B.V. (the "**Original Purchasers**") and providing for the vesting in HMX Canada Acquisition Corp. (the "**Purchaser**") and Embu Investments Spółka Z Ograniczoną Odpowiedzialnością Branch In Luxembourg (the "**IP Purchaser**") all of Copley's right, title and interest in and to the Canadian Acquired Assets, which vesting is to be effective with respect to the Canadian Acquired Assets upon the delivery by the Monitor to the Purchasers of a certificate confirming (i) the payment by the Purchasers of the Purchase Price for the Canadian Acquired Assets; (ii) that the conditions to Closing as set out in the Canadian APA have been satisfied or waived in

accordance with the Canadian APA; and (iii) the Transaction has been completed to the satisfaction of the Monitor.

C. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Canadian APA.

THE MONITOR CERTIFIES the following:

1. The Purchasers have paid the Purchase Price for the Canadian Acquired Assets payable on the Closing Date pursuant to the Canadian APA;
2. The conditions to Closing as set out in the Canadian APA have been satisfied or waived in accordance with the Canadian APA; and
3. The Transaction has been completed to the satisfaction of the Monitor.
4. This Certificate was delivered by the Monitor at _____ [TIME] on _____ [DATE].

BDO Dunwoody Limited, in its capacity as Court-Appointed Monitor of Coppley Apparel Group Limited, and not in its personal capacity

Per: _____
Name:
Title:

Schedule "B"***Personal Property Security Act (Ontario)***

- (1) Reference File No.: 650670174
 Registration No.: 20081222 1136 1616 4297
 Registration Period: 4 years
 Secured Party: CIT Financial Ltd.
- (2) Reference File No.: 642128976
 Registration No.: 20080118 1451 1530 1701
 Registration Period: 2 years
 Secured Party: Chrysler Financial & DaimlerChrysler
 Financial Services Canada Inc.
- (3) Reference File No.: 637114626
 Registration No.: 20070710 1050 1529 0257
 Registration Period: 4 years
 Secured Party: BMW Canada Inc.
- (4) Reference File No.: 636732936
 Registration No.: 20070627 1044 1529 8391
 Registration Period: 4 years
 Secured Party: BMW Canada Inc.
- (5) Reference File No.: 621534807
 Registration No.: 20051222 1443 1616 7613
 Registration Period: 4 years
 Secured Party: CIT Financial Ltd.
- (6) Reference File No.: 886760928
 Registration No.: 20020828 1438 1590 3992
 as amended by 20040218 1447 1590 8272
 as amended by 20041210 1110 1590 1404
 as amended by 20070306 1942 1901 7567
 as amended by 20070307 1918 1901 7824
 Registration Period: 5 years (extended additional 5 years)
 Secured Party: Wachovia Capital Finance Corporation
 (Central)

- (7) Reference File No.: 886760937
 Registration No.: 20020828 1439 1590 3993
 as amended by 20041210 1109 1590 1403
 as amended by 20070306 1945 1901 7570
 as amended by 20070307 1920 1901 7825
 Registration Period: 5 years (extended additional 5 years)
 Secured Party: Wachovia Capital Finance Corporation
 (Central)
- (8) Reference File No.: 886760946
 Registration No.: 20020828 1439 1590 3994
 as amended by 20040218 1448 1590 8273
 as amended by 20041210 1110 1590 1405
 as amended by 20070306 1948 1901 7574
 as amended by 20070307 1922 1901 7826
 Registration Period: 5 years (extended additional 5 years)
 Secured Party: Wachovia Capital Finance Corporation
 (Central)
- (9) Reference File No.: 847041354
 Registration No.: 19981217 1709 3037 2762
 as amended by 20010710 1056 3037 5122
 as amended by 20020903 1109 1590 4160
 as amended by 20020903 1110 1590 4162
 as amended by 20040218 1448 1590 8274
 as amended by 20041210 1110 1590 1406
 as amended by 20070306 1940 1901 7564
 Registration Period: 5 years (extended additional 6 years)
 Secured Party: Wachovia Capital Finance Corporation
 (Central)

Personal Property Security Act (British Columbia)

- (1) Base Registration No.: 587395A
 Control No.: B4837275
 as amended by B5826734
 as amended by B6387512
 as amended by B7884929
 as amended by B7887737
 Registration Period: 5 years (extended additional 5 years)
 Secured Party: Wachovia Capital Finance Corporation
 (Central)

Trademarks

Security interests in favour of Congress Financial Corporation

Record Owner [Beneficial Owner]	Country	Trademark	Status	Reg. No. (App. No.)	Reg. Date (App. No.)	Expiration
Coppley Apparel Group Limited						
Coppley Apparel Group Limited (Canada corp.); 8/30/2002 Lien to Congress Financial Corporation recorded 10/10/2002 at R/F 2595/0679	United States	KEITHMOOR	Registered	2850658	6/8/2004	6/8/2014
Coppley, Noyes and Randall Limited, The (Canada corp.) [Coppley Apparel Group Limited] 8/30/2002 Lien to Congress Financial Corporation by Coppley Apparel Group Limited recorded 10/10/2002 at R/F 2595/0679	United States	MATTEO MAAS	Registered	2207406	12/1/1998	12/1/2008
Coppley Apparel Group Limited; 10/22/2002 lien to Congress Financial Corporation	Canada	ANA MAAS DESIGN	Registered	TMA493994	5/6/1998	5/6/2013
Coppley Apparel Group Limited; 10/22/2002 lien to Congress Financial Corporation	Canada	AVALON	Registered	TMA442008	4/21/1995	4/21/2010
Coppley Apparel Group Limited; 10/22/2002 lien to Congress Financial Corporation	Canada	BISCAYNE	Registered	TMA303135	5/24/2000	5/24/2015
Coppley Apparel Group Limited; 10/22/2002 lien to Congress Financial Corporation	Canada	BISCAYNE CAMBRIDGE; design	Registered	TMA305677	8/9/2000	8/9/2015
Coppley Apparel Group Limited; 10/22/2002 lien to Congress Financial Corporation	Canada	CAMBRIDGE	Registered	TMA298634	12/29/1984 12/28/1999 (renewed)	12/28/2014
Coppley Apparel Group Limited; 10/22/2002 lien to Congress Financial Corporation	Canada	CAMBRIDGE	Registered	TMA352711	3/3/1989 3/3/2004 (renewed)	3/3/2019
Coppley Apparel Group Limited; 10/22/2002 lien to Congress Financial Corporation	Canada	CAMBRIDGE & design	Registered	TMA298635	12/28/1999	12/28/2014
Coppley Apparel Group Limited; 10/22/2002 lien to Congress Financial Corporation	Canada	CAMBRIDGE design	Registered	TMA352713	3/3/1989	3/3/2019
Coppley Apparel Group Limited; 10/22/2002 lien to Congress Financial Corporation	Canada	CAMBRIDGE TRADITIONALLY FINE CLOTHES & DESIGN	Registered	TMA305676	8/9/1985 8/9/2000 (renewed)	8/9/2015
Coppley Apparel Group Limited; 10/22/2002 lien to Congress Financial Corporation	Canada	CAMBRIDGE TRADITIONALLY FINE CLOTHES & DESIGN	Registered	TMA352712	3/3/1989	3/3/2019
Coppley Apparel Group Limited;	Canada	CONNERY BY	Registered	TMA424519	3/4/1994	3/4/2009

Record Owner [Beneficial Owner]	Country	Trademark	Status	Reg. No. (App. No.)	Reg. Date (App. No.)	Expiration
10/22/2002 lien to Congress Financial Corporation		CAMBRIDGE & design				renewal not filed, grace period applies
Coppley Apparel Group Limited; 10/22/2002 lien to Congress Financial Corporation	Canada	COPPLEY APPAREL GROUP	Registered	TMA389834	11/8/1991	11/8/2021
Coppley Apparel Group Limited; 10/22/2002 lien to Congress Financial Corporation	Canada	COPPLEY APPAREL GROUP & design	Registered	TMA398612	5/29/1992 5/29/2007 (renewed)	5/29/2022
Coppley Apparel Group Limited; 10/22/2002 lien to Congress Financial Corporation	Canada	COUNTRY SQUIRE	Registered	UCA041009	4/12/1952 4/12/1997 (renewed)	4/12/2012
Coppley Apparel Group Limited; 10/22/2002 lien to Congress Financial Corporation	Canada	COUNTRY SQUIRE	Registered	TMA302405	5/3/1985 5/3/2000 (renewed)	5/3/2015
Coppley Apparel Group Limited; 10/22/2002 lien to Congress Financial Corporation	Canada	COUNTRY SQUIRE design	Registered	TMA315601	6/27/1986 6/27/2001 (renewed)	6/27/2016
Coppley Apparel Group Limited; 10/22/2002 lien to Congress Financial Corporation	Canada	COUNTRY SQUIRE G.T.O. design	Registered	TMA304203	7/5/1985 6/28/2000 (renewed)	6/28/2015
Coppley Apparel Group Limited; 10/22/2002 lien to Congress Financial Corporation	Canada	CS COUNTRY SQUIRE design	Registered	TMA312155	3/14/1986 3/14/2001 (renewed)	3/14/2016
Coppley Apparel Group Limited; 10/22/2002 lien to Congress Financial Corporation	Canada	DREAMWEAVE	Registered	TMA447694	9/15/1995	9/15/2010
Coppley Apparel Group Limited; 10/22/2002 lien to Congress Financial Corporation	Canada	EBBE	Registered	TMA298152	12/14/1984 12/14/1999 (renewed)	12/14/2014
Coppley Apparel Group Limited; 10/22/2002 lien to Congress Financial Corporation	Canada	EBBE DESIGNS	Registered	TMA297999	12/7/1984 12/7/1999 (renewed)	12/7/2014
Coppley Apparel Group Limited; 10/22/2002 lien to Congress Financial Corporation	Canada	EN ROUTE	Registered	TMA301075	3/22/1985 3/22/2000 (renewed)	3/22/2015
Coppley Apparel Group Limited; 10/22/2002 lien to Congress Financial Corporation	Canada	EN ROUTE CAMBRIDGE design	Registered	TMA301995	4/19/1985 4/19/2000 (renewed)	4/19/2015
Coppley Apparel Group Limited; 10/22/2002 lien to Congress Financial Corporation	Canada	FOR COTTON'S SAKE	Registered	TMA432640	9/2/1994	9/2/2009
Coppley Apparel Group Limited; 10/22/2002 lien to Congress Financial Corporation	Canada	G.T.O.	Registered	TMA304424	7/5/2000	7/5/2015
Coppley Apparel Group Limited; 10/22/2002 lien to Congress Financial Corporation	Canada	K & LION; design	Registered	TMA304413	7/5/1985	7/5/2015
Coppley Apparel Group Limited; 10/22/2002 lien to Congress Financial Corporation	Canada	KEITHMOOR	Registered	TMA312154	3/14/2001	3/14/2016

Record Owner [Beneficial Owner]	Country	Trademark	Status	Reg. No. (App. No.)	Reg. Date (App. No.)	Expiration
Financial Corporation						
Coppley Apparel Group Limited; 10/22/2002 lien to Congress Financial Corporation	Canada	KEITHMOOR & K & LION design	Registered	TMA317592	8/22/1986 8/22/2001 (renewed)	8/22/2016
Coppley Apparel Group Limited; 10/22/2002 lien to Congress Financial Corporation	Canada	KEITHMOOR SLACKS	Registered	TMA304414	7/5/1985 7/5/2000 (renewed)	7/5/2015
Coppley Apparel Group Limited; 10/22/2002 lien to Congress Financial Corporation	Canada	LADY NASH design	Registered	TMA398399	5/22/1992 5/22/2007 (renewed)	5/22/2022
Coppley Apparel Group Limited; 10/22/2002 lien to Congress Financial Corporation	Canada	LINEA 1936 & design	Registered	TMA399586	6/26/1992 6/27/2007 (renewed)	6/27/2022
Coppley Apparel Group Limited; 10/22/2002 lien to Congress Financial Corporation	Canada	MAN-FANCIFUL-MOUNTIE & design	Registered	TMA401891	8/28/1992 8/28/2007 (renewed)	8/28/2022
Coppley Apparel Group Limited; 10/22/2002 lien to Congress Financial Corporation	Canada	MATTEO MAAS	Registered	TMA418845	10/29/1993 10/29/2008 (renewed)	10/29/2023
Coppley Apparel Group Limited; 10/22/2002 lien to Congress Financial Corporation	Canada	NASH PANT	Registered	TMA422240	1/21/1994	1/21/2009
Coppley Apparel Group Limited; 10/22/2002 lien to Congress Financial Corporation	Canada	ONE POUND SUIT BY COPPLEY	Registered	TMA531228	8/15/2000	8/15/2015
Coppley Apparel Group Limited; 10/22/2002 lien to Congress Financial Corporation	Canada	PARKTOWN	Registered	UCA011524	10/27/1938 10/27/1998 (renewed)	10/27/2013
Coppley Apparel Group Limited; 10/22/2002 lien to Congress Financial Corporation	Canada	PRO	Registered	UCA046689	4/2/1947 4/2/2007 (renewed)	4/2/2022
Coppley Apparel Group Limited; 10/22/2002 lien to Congress Financial Corporation	Canada	PRO SLACK	Registered	UCA046690	4/2/1947 4/2/2007 (renewed)	4/2/2022
Coppley Apparel Group Limited; 10/22/2002 lien to Congress Financial Corporation	Canada	QUALITY STYLE SERVICE & Design	Registered	TMA184621	7/28/1972 7/28/2002 (renewed)	7/28/2017
Coppley Apparel Group Limited; 10/22/2002 lien to Congress Financial Corporation	Canada	ROYAL CANADIAN	Registered	TMA427712	5/27/1994	5/27/2009
Coppley Apparel Group Limited; 10/22/2002 lien to Congress Financial Corporation	Canada	THE FACSIMILE SIGNATURE OF WARREN K. COOK	Registered	UCA038736	12/28/1950 12/28/1995 (renewed)	12/28/2010
Coppley Apparel Group Limited; 10/22/2002 lien to Congress Financial Corporation	Canada	THE GOLF CLASSIC & design	Registered	TMA399729	7/3/1992 7/3/2007 (renewed)	7/3/2022
Coppley Apparel Group Limited; 10/22/2002 lien to Congress Financial Corporation	Canada	TRAVELAIRE	Registered	TMA303850	6/21/1985 6/21/2000 (renewed)	6/21/2015

Record Owner [Beneficial Owner]	Country	Trademark	Status	Reg. No. (App. No.)	Reg. Date (App. No.)	Expiration
Coppley Apparel Group Limited; 10/22/2002 lien to Congress Financial Corporation	Canada	BRETLINGER	Registered	TMA417,78 0	10/8/1993	
Coppley Apparel Group Limited; 10/22/2002 lien to Congress Financial Corporation	Canada	HARRIS & HOBB'S and Design	Registered	TMA370,45 0	7/6/1990	
Coppley Apparel Group Limited; 10/22/2002 lien to Congress Financial Corporation	Canada	BUSINESS CLASS BY COUNTRY SQUIRE	Registered	TMA368,05 2	4/20/1990	
Coppley Apparel Group Limited; 10/22/2002 lien to Congress Financial Corporation	Canada	BUSINESS CLASS BY COUNTRY SQUIRE	Registered	TMA368,05 1	4/20/1990	
Coppley Apparel Group Limited; 10/22/2002 lien to Congress Financial Corporation	Canada	CAMBRIDGE CLOTHES	Registered	TMDA019,1 59	12/6/1913	

**IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED
AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF COPPLEY APPAREL GROUP LIMITED**

**ONTARIO
SUPERIOR COURT OF JUSTICE
(Commercial List)**

(PROCEEDING COMMENCED AT TORONTO)

NOTICE OF MOTION
(returnable August 7, 2009)

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Solicitors for the Applicant,
Copley Apparel Group Limited

TAB 2

Court File No. CV-09-8221-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
(Commercial List)**

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

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR
ARRANGEMENT OF COPPLEY APPAREL GROUP LIMITED**

**AFFIDAVIT OF RICHARD SEXTON
(sworn August 7, 2009)**

**I, RICHARD SEXTON, of the City of Burlington in the Province of Ontario
MAKE OATH AND SAY:**

1. I am the Chief Financial Officer for Copley Apparel Group Limited ("**Copley**") and, as a result, I have personal knowledge of the matters herein deposed to save and except for where I refer to matters on the basis of information and belief in which case I identify the source of that information and verily believe it to be true.
2. I have previously sworn affidavits on June 10th (the "**June 10th Affidavit**"), June 23rd, July 7th, July 10th, July 22nd and July 30th (collectively, the "**Prior Affidavits**"). Defined terms herein shall have the same meaning as defined in the June 10th Affidavit, unless defined otherwise herein. Attached hereto and marked as **Exhibit "A"** are true copies of the Prior Affidavits, without exhibits. Attached hereto and marked as **Exhibit "B"** are true copies of the Initial CCAA Order, the Order dated June 23, 2009, the Order dated July 8, 2009, the Orders dated July 13, 2009, the Order dated July 22, 2009 and the Order dated July 27, 2009.

3. I swear this affidavit in support of a motion to:
 - a. approve the Amended Canadian APA (hereinafter defined) and vest:
 - i. the Canadian Acquired Assets (as defined in the Amended Canadian APA), other than the Canadian Acquired IP Assets (as defined in the amended and restated assignment agreement between the Purchasers dated August 4, 2009) in HMX Canada Acquisition Corp. (the "**Purchaser**"); and
 - ii. the Canadian Acquired IP Assets in Embu Investments Spółka Z Ograniczoną Odpowiedzialnością Branch In Luxembourg (the "**IP Purchaser**"); and
 - b. authorize and direct the Purchaser and the IP Purchaser (jointly, the "**Purchasers**") to pay the Adjusted Base Purchase Price (as defined in the Amended Canadian APA) to Wachovia Canada.

Attached hereto and marked as **Exhibit "C"** is a true copy of an agreement of purchase and sale made as of June 5, 2009 between the Applicant and Emerisque Brands UK Limited and SKNL North America B.V., as amended and assigned to the Purchasers, and as further amended by Second Amending Agreement dated August 7, 2009 (collectively, the "**Amended Canadian APA**").

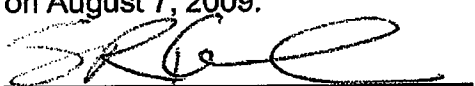
4. I repeat and rely on the statements in the Prior Affidavits in support of the within motion.
5. Copley supports the recommendations stated in the Fifth Report of the Monitor dated August 7, 2009 (the "**Fifth Report**").


Amended Canadian APA

- 6. Further to paragraph 7 of my affidavit sworn July 27, 2009, the Purchasers and Copley entered into the Second Amending Agreement dated August 7, 2009, resulting in the Amended Canadian APA.
- 7. The salient additional terms of the Amended Canadian APA are as follows:
 - a. the Purchasers are paying 100% of the secured debt owed to Wachovia Canada;
 - b. the Purchasers are assuming certain liabilities to facilitate the payout of Wachovia Canada; and
 - c. the Purchaser will acquire the shirt inventory of the business carried on at 40 Adesso Drive.

Approval of Amended Canadian APA

- 8. I believe the Amended Canadian APA is fair and reasonable in the circumstances and is in the best interests of Copley and its stakeholders for the reasons stated in paragraph 37 of the June 10th Affidavit and repeated in paragraph 9 of my affidavit sworn July 10, 2009.
- 9. I swear this affidavit for the purpose set out in paragraph 3 above, and for no other or improper purpose.

SWORN before me at the City of)
 Hamilton, in the Province of Ontario,)
 on August 7, 2009.)
)
 Name of Commissioner:)
 Commissioner for Taking Affidavits)



 RICHARD SEXTON

**This is ...Exhibit "A"... referred to in the
Affidavit of ...Richard Sexton...
sworn before me, this 7th day
of August, 2009**



A Commissioner for Taking Oaths

**ONTARIO
SUPERIOR COURT OF JUSTICE
(Commercial List)**

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

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR
ARRANGEMENT OF COPPLEY APPAREL GROUP LIMITED**

**AFFIDAVIT OF RICHARD SEXTON
(sworn June 10 2009)**

I, RICHARD SEXTON, of the City of Burlington in the Province of Ontario **MAKE OATH AND SAY:**

1. I am the Chief Financial Officer for Copley Apparel Group Limited ("Copley") and, as a result, I have personal knowledge of the matters herein deposed to save and except for where I refer to matters on the basis of information and belief in which case I identify the source of that information and verily believe it to be true.

2. I am swearing this affidavit in support of an application being brought by Copley to commence reorganization proceedings pursuant to the *Companies' Creditors Arrangement Act* (the "CCAA").

I. Qualification for Protection under the CCAA and Jurisdiction

3. Copley is currently unable to satisfy its obligations generally as they become due. Copley is, as a result, insolvent.

4. As set forth in the attached financial statements and as described below, Copley owes its creditors approximately \$11 million. Attached hereto and marked as **Exhibit "A"** is a true copy of the Anticipated Receipts and Disbursements cash flow

projection through July 17, 2009 (the "DIP Budget"). Attached and marked as **Exhibit "B"** are true copies of the unaudited financial statements for Copley as at April 25, 2009. Attached as **Exhibit "C"** are copies of all other financial statements produced in the past 12 months (unaudited).

II. Copley

5. Copley is a manufacturer and distributor of fine menswear throughout Canada and the United States.

6. What is now Copley was founded over 100 years ago in Hamilton Ontario under the name John Calder & Co. In 1883 John Calder & Co. was purchased by Messrs. Copley, Noyes, and Randall and they formed a new company, Copley, Noyes & Randall Ltd ("CNR"). In 1950 CNR was purchased by the Enkin family and from that time through the 1960's and 1970's the business enjoyed rapid and steady growth manufacturing quality menswear under American and European fashion brands under license for distribution in Canada and the United States.

7. The Enkin family grew the business to the point where in 1998 CNR employed approximately 600 people at 3 locations in downtown Hamilton; 56 York Boulevard, 107 McNab Street North, and 127-131 Hughson Street North, Hamilton.

8. In November 1998 Hartmarx Corporation, a corporation incorporated pursuant to the laws of the State of Delaware, purchased all the issued and outstanding shares in CNR through a wholly owned numbered company, 1315751 Ontario Inc. In December of that year 1315751 Ontario Inc. filed articles of amendment and changed its name to Copley Apparel Group Limited. At the same time CNR and Copley amalgamated.

9. In June 2000 Copley acquired the custom tailored men's shirt manufacturer Royal Shirt Company Limited ("Royal Shirt") based at 40 Adesso Drive, Concord Ontario. At the time of the purchase Royal Shirt employed approximately 75 people. In November 2004 Royal Shirt amalgamated with Copley.

III. Current Operations

10. Copley continues to operate from the 3 sites in downtown Hamilton and from the Royal Shirt site in Concord Ontario (the "Copley Facilities"). Copley leases these sites from the former owners or controlling shareholders of the respective companies.

11. Copley is a separate legal entity and stand alone business from Hartmarx Corporation (the "Parent") and is neither integrated with nor reliant upon the Parent. The only part of Copley's business that is integrated with the Parent is Copley's operating facility, which is part of the overall U.S. lending arrangement.

12. Copley remains one of the largest manufacturer and distributor of men's fine clothing in Canada and distributes across Canada and into the United States. It currently employs 96 salaried and 379 hourly employees across the four sites. 324 are employed at the York Boulevard site, 17 are employed at the McNab Street site, 77 are employed at the Hughson Street site and 57 are employed at the Concord site.

13. With the strong Canadian dollar as against the US dollar, and the impact of the current economic recession, high-end clothing manufacturers in Canada have experienced a particularly difficult time competing with manufacturers from other countries. The entire industry experienced a sudden drop in business from September 2008 to March 2009, and while there are some signs of improvement in the market, sales are still well below historic levels.

14. The Parent and certain of its subsidiaries (collectively with the Parent, "the U.S Sellers") have sought protection under Chapter 11 of Title II of the United States Code in the United States Bankruptcy Court for the Northern District of Illinois Eastern Division (the "US Court") and are presently seeking potential buyers of its business or shares, including the business or shares of Copley ("the US Case").

15. By Order dated June 2, 2009, the US Court approved a "stalking horse bid" for the purchase of most of the assets comprising the businesses of both the U.S. Sellers and Copley as set out in further detail below.

IV. Assets

16. Copley's assets consist of the Copley brand which is used on suits, sport coats, trousers, and shirts sold throughout North America. Copley's current financial statements (Exhibit B) also show receivables of approximately \$10 million, inventories of approximately \$8 million, and equipment less accumulated depreciation of slightly over \$2 million, and leases to the respective sites. Liquidation or sale values on these assets is unknown and has yet to be determined.

V. Creditors

A. Secured Creditors

17. Copley's secured creditors are listed on a search conducted under the *Personal Property Security Act* (Ontario) which is attached hereto as **Exhibit "D"**.

18. Copley's total secured debt is approximately \$9 million which is owing to Wachovia Capital Finance Corporation (Canada) ("Wachovia Canada").

B. Remittances

19. Copley is remitting PST and GST as and when due. Copley is current with all employee and other tax remittances. Copley is the employer under one defined benefit pension plan (the "Defined Benefit Pension") and in accordance with the terms of a collective agreement between Copley and the union, contributes a specified amount to a pension plan for which the union is responsible (the "Union Pension"). Copley has made all required contributions to the Union Pension. However, as a result of recent declines in financial markets, the value of the assets of the Defined Benefit Pension has declined and the plan is in deficit by approximately \$2 million. The most recent actuarial valuation on the Defined Benefit Pension shows a continuing solvency deficiency requiring special payments to fund past service obligations of

approximately \$30,000 per month (the "Special Payments") . Copley is current on all required Special Payments. The most recent actuarial valuation of the Defined Benefit Pension dated August 13, 2008 and valued as at December 31, 2007 is attached hereto as **Exhibit "E"**

C. Unsecured Creditors

20. As of April 25, 2009, Copley owed trade creditors approximately \$2.2 million. The amount owing to trade creditors fluctuates on a daily basis, as bills are paid and new raw materials ordered.

D. Unions

21. Copley has collective agreements with unionized employees involving the Workers United Ontario Council Local 210C – Hamilton, the Workers United Ontario Council Local 300 – Concord, and the International Union of Operating Engineers Local 772 – Engineers and mechanics Hamilton.

VI. Future Prospects

22. Copley has been a viable and profitable company. However, difficulties faced by the Parent company in the United States, and the current challenges facing manufacturers of fine clothing generally, has created a situation where Copley is not generating sufficient cash flow in the business to fund all of its current obligations beyond the next 3 to 4 weeks. It has exhausted its availability under its secured lending facility with Wachovia Canada, and the DIP financing facility (the US DIP) in the US Case (under which the current Canadian facility is operated) is in default, as described more fully below. Wachovia Canada has no current obligation to fund Copley under the Canadian facility. Copley needs protection from its creditors to allow Copley to be sold as a "going concern" to protect jobs and maintain the value of the business for the reasons set out in greater detail below.

VII. The Restructuring Process

23. As stated above, the U.S. Sellers have filed a voluntary petition for relief commencing the Chapter 11 cases under Chapter 11 in the United States.
24. The U.S. Sellers, Copley Apparel Group Limited, and Hartmarx have entered into an asset purchase agreement with Emerisque Brands U.K Limited, a company formed under the laws of England and Wales, ("Emerisque") and SKNL North America, B.V., a company incorporated under the laws of the Netherlands ("SKNL", collectively with Emerisque and any of their permitted designees, the "Purchasers") dated May 21, 2009, as amended by agreement dated June 1, 2009 (collectively the "US APA"). Attached hereto and marked as **Exhibit "F"** is a true copy of the US APA.
25. The US APA is a "stalking horse bid" in the US Case.
26. The US bid procedure was commenced prior to this CCAA application and is well advanced with one bidder. On June 2, 2009 the US Court approved a bid procedure as more particularly set out in the order of the US Court dated June 2, 2009, attached hereto as **Exhibit "G"** (the "US Bid Procedure Order").
27. Under the US Bid Procedure Order the Purchasers are the stalking horse bidder pursuant to the US APA.
28. Under the US Bid Procedure Order the relevant milestones in the US sale process are;
- i) On or before June 5, 2009 (the "Mailing Date") or as soon thereafter as possible, the U.S. Sellers shall provide notice of the sale by publication in newspapers or such other publications as the Debtor considers advisable.
 - ii) On or before the Mailing Date the U.S. Sellers (or their agent) shall serve notice of the sale hearing with all bid procedure documents to all potentially interested parties or affected parties as set out in the order.

- iii) Prior to the Mailing Date, the U.S. Sellers shall have served a cure notice to all parties to contracts to be assumed and assigned to the Purchasers or a successful bidder as defined in the order, and the parties to the assumed contracts shall have until June 19, 2009 to file any objections.
- iv) Any Potential Bidders must complete qualification requirements to become Qualified Bidders by no later than June 19, 2009.
- v) Notice of all Qualified Bidders shall be sent to non-Debtor parties to assumed or assigned contracts permitting objections to be made up until June 24, 2009 at 4pm.
- vi) The Bid Deadline is 5pm on June 22, 2009
- vii) In the event there is more than one Qualified Bid which the U.S. Sellers determine in consultation with the creditors committee, and after obtaining the agreement of the DIP Agent, will provide greater value to the estate than the US APA, the U.S. Sellers may conduct an auction on June 24, 2009 at 10am.
- viii) The Court shall hold a Sale Hearing on June 25, 2009 at 2:00pm to approve the successful bidder and confirm the results of the Auction, if any

29. The Purchasers under the US APA have sought to purchase the business of Copley other than the former Royal Shirt manufacturing facility in Concord Ontario. Under the terms of the US APA, the purchase price for the Parent's assets is set at 72 per cent of the amount of the outstanding secured debt owing to the US secured lending syndicate at the date of closing, and the purchase price for Copley's assets is set at 72 per cent of the amount outstanding to Copley's secured operating lender, Wachovia Canada, as at the date of closing. An affiliate of Wachovia Canada, Wachovia Capital Finance Corporation (Central), ("Wachovia Central") is the agent and a member of the US lending syndicate.

VIII. DIP Financing and the Canadian Forbearance Agreement

30. The Parent, its subsidiaries and Copley previously entered into a loan and security agreement with Wachovia Central as agent on behalf of a lending syndicate on August 30, 2002. The loan and security agreement provided for various credit facilities of up to \$200,000,000, including an operating loan from Wachovia Canada to Copley for up to \$10,000,000 U.S. (the "Canadian Loan Amount"). Copley granted Wachovia Canada a continuing security interest in its assets to cover the Canadian Loan Amount only.

31. Following the filing of the U.S. Case, the lending syndicate agreed to provide the Parent with debtor in possession financing under the US DIP. Pursuant to a ratification and amendment agreement dated January 23, 2009, the loan and security agreement was amended to provide the Parent with up to \$160,000,000 in DIP financing. The Canadian Loan Amount and the security granted by Copley was unchanged by these amendments, and is accordingly included therein. There are currently defaults under the ratification and amending agreement such that the US DIP is in default.

32. The terms of Copley's secured lending with Wachovia Canada does not include the use of lockbox facilities to direct receipts to Wachovia Canada. Therefore, absent enforcement of its security by Wachovia Canada, Copley has access to its cash receipts to fund its operations. Wachovia Canada and Wachovia Central have agreed to the terms of a forbearance agreement, a copy of which is attached as **Exhibit "H"** (the "Forbearance Agreement") in order to enable Copley to carry on business so as to participate in a sale process as described below. Subject to the terms of the Forbearance Agreement, Wachovia Canada has agreed that it will not take steps to exercise dominion over Copley's cash receipts despite its insolvency. Wachovia Canada has agreed to fund Copley's projected cash flow shortfall over the next six weeks as set out in the DIP Budget (Exhibit A). Copley agrees in the Forbearance Agreement to seek a court-ordered DIP charge in favour of Wachovia Canada in the

amount of its advances to Copley during these CCAA proceedings plus the amount of any decline in Copley's Working Capital during these proceedings.

33. In the absence of the advances under the Forbearance Agreement from Wachovia Canada to finance the costs and expenses associated with the CCAA proceedings and the working capital requirements of Copley during the CCAA proceedings in accordance with the 6 week cash flow projections (Exhibit A), Copley is not able to engage in any going concern sale process in respect of its assets.

34. The Parent and the Purchasers agreed, with the support of the US lending syndicate, and Wachovia Canada has agreed to support the business of Copley under the Forbearance Agreement, in view of the following requirements of the US APA:

i) the Canadian bid procedure under the CCAA procedure will mirror the US Bid Procedure and particularly that the auction date under any Canadian bid procedure occur prior to the U.S Auction Date; and

ii) the Canadian bid procedure will have the following relevant milestones;

a) Copley is to forthwith (i) engage one or more professional advisers to assist it with the conduct of the sale process; and (ii) commence the sale process by, among other things, notifying appropriate parties that may have an interest in purchasing the Acquired Assets, as defined therein, or a portion thereof and providing or being in a position to provide sufficient information to enable such parties to conduct appropriate due diligence;

b) if interested parties want to submit a competing offer, they will be required do so on or before June 21, 2009 (the "Bid Deadline") by way of a binding offer for the Acquired Assets or relevant portion thereof (an "Other Offer");

c) if at least one Other Offer is received by Copley prior to the Bid Deadline, and Copley believes in good faith that such Other Offer represents a better offer than the Canadian APA for the Acquired Assets (a "Competing Offer"), Copley shall so notify Purchasers by noon on the day following the Bid Deadline and must

conduct an auction in respect of the Acquired Assets on or before June 23, 2009, open only to Purchasers and each party that has submitted a Competing Offer (the "Auction"), in accordance with auction procedures to be agreed upon between Copley and the Purchasers.

(the "Canadian Bid Procedure")

IX. The Canadian APA and Bid Process

35. In light of the US APA and the terms of the Forbearance Agreement, Copley has entered into an asset purchase agreement with the Purchasers (the Canadian APA). It is contemplated that the Canadian APA be a "stalking horse bid" in the CCAA proceedings. Attached hereto as **Exhibit "I"** is a true copy of the Canadian APA.

36. Under the terms of the Canadian APA, Copley Apparel Group Limited agreed to commence these proceedings and to seek an order establishing the Canadian Bid Procedure.

37. The Canadian APA is in the best interests of Copley and its stakeholders for the following reasons:

- a) Copley cannot continue operate unless it continues to have access to its cash receipts and receives funding for its projected cash shortfall as is being provided under the terms of the Forbearance Agreement;
- b) given the business and financial challenges faced by the industry in general and Copley specifically, a sale to the Purchasers or a higher bidder under the Canadian APA represents the best option available to Copley and its stakeholders;
- c) it is expected that a substantial percentage of the workforce of Copley will continue to be employed;

- d) the Purchasers will continue to operate out of the Copley Facilities other than its location in Concord Ontario, which does not form part of the Acquired Assets and will be offered for sale separately;
- e) it has the support of Copley's senior lender.

38. If Copley is not granted CCAA protection and the approval of the Canadian Bid Procedure, Copley will be forced to shut down its operations and terminate all of its employees.

39. Copley cannot responsibly carry on business and continue to incur trade credit knowing that it is insolvent, and that its business and assets will either be sold or closed.

40. I verily believe that the Canadian Bid Procedure and the proposed Canadian sale process, though of short duration, is necessary because:

- i) the stalking horse bid establishes a going concern floor value;
- ii) they are the only available option to Copley to preserve the possibility of a going concern sale;
- iii) the existence of the pension deficit and the risk of successor employer liability, I am advised by counsel and believe that it is impractical to consider an operating receivership as an alternative to CCAA proceedings as a viable option;
- iv) they provide the opportunity to determine what is the best "going concern" offer.

41. The existence of the Canadian APA and the stability offered in a CCAA proceeding will better serve the need to provide Copley's customers with the confidence to continue to support Copley' business.

X. CCAA Proceedings

42. Proceedings under the CCAA will provide stability and ensure that Copley is able to carry on business in the ordinary course while the Canadian Bid Procedure is allowed to complete its course and a buyer is found for both the US and Canadian businesses. The goal is a "going concern" sale and CCAA proceedings are necessary if that goal is to be achieved.

XI. Unaffected Creditors

43. It is intended that the Monitor and its counsel, FTI Consulting Canada ULC as financial advisor to Copley, and Copley's counsel, Gowlings, will all be paid their fees and disbursements incurred prior to the date hereof in connection with these proceedings, and a provision to that effect is contained in the draft Initial Order.

44. Under the terms of the Forbearance Agreement, Wachovia Canada will be an unaffected creditor and Copley seeks a charge for its DIP advances and any diminution in its security during these proceedings.

XII. Urgency

45. Copley is making the within application at this time as it has now entered into the Canadian APA and it wishes to complete the Canadian Bid Procedure within the stipulated timeframe.


XIII. Monitor

46. BDO Dunwoody Limited has agreed to act as monitor of Copley. Attached as **Exhibit "J"** is a true copy of the consent of BDO Dunwoody Limited.

XIV. Corporate Authority

47. Copies of the following shareholder's resolutions are attached as Exhibits "K" – "M":

- a. Resolution authorizing Copley to enter into the Canadian APA (Exhibit "K");
- b. Resolution authorizing Copley to enter into the Forbearance Agreement (Exhibit "L");
- c. Resolution authorizing Copley to bring this proceeding under the CCAA (Exhibit "M");

SWORN before me at the City of)
 Toronto, in the Province of Ontario,)
 on, June 10, 2009.)
)
 Name of Commissioner: ROBERT C. DUMFORD)
 Commissioner for Taking Affidavits)



 RICHARD SEXTON

HAM_LAW 237283V

Court File No. CV-09-8221-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
(Commercial List)**

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

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR
ARRANGEMENT OF COPPLEY APPAREL GROUP LIMITED**

**AFFIDAVIT OF RICHARD SEXTON
(sworn June 23, 2009)**

**I, RICHARD SEXTON, of the City of Burlington in the Province of Ontario
MAKE OATH AND SAY:**

1. I am the Chief Financial Officer for Copley Apparel Group Limited ("**Copley**") and, as a result, I have personal knowledge of the matters herein deposed to save and except for where I refer to matters on the basis of information and belief in which case I identify the source of that information and verily believe it to be true.
2. I repeat and rely on the statements in my affidavit sworn on June 10, 2009 (the "**June 10th Affidavit**"). Defined terms herein shall have the same meaning as defined in the June 10th Affidavit, unless defined otherwise herein. Attached hereto and marked as **Exhibit "A"** is a true copy of the June 10th Affidavit, without exhibits.
3. I swear this affidavit in support of a motion to extend certain dates in the Canadian Bid Procedure attached as Schedule "A" to the Order dated June 10, 2009 (the "**Initial CCAA Order**"). Attached hereto and marked as **Exhibit "B"** is a true copy of the Initial CCAA Order.

Canadian Bid Procedure

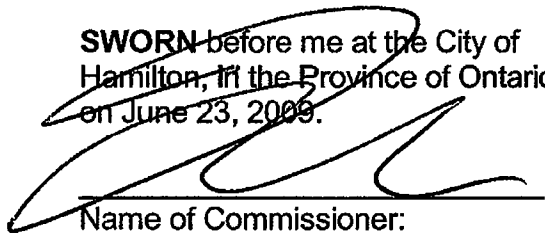
4. As stated in paragraphs 35 and 36 of the June 10th Affidavit, Copley entered into the Canadian APA pursuant to which Copley agreed to seek an order establishing the Canadian Bid Procedure.
5. In paragraph 45 of the Initial CCAA Order, this Honourable Court authorized Copley, with the assistance of and in consultation with the Monitor, to carry out and conduct the Canadian Bid Procedure, and not to deviate therefrom without further Order of the Court.
6. The milestones in the Canadian Bid Procedure are as follows:
 - a. Bid Deadline of June 21, 2009;
 - b. Auction on June 23, 2009; and
 - c. Sale Hearing on June 25, 2009.
7. Copley, with the assistance of and in consultation with the Monitor, has been carrying out and conducting the Canadian Bid Procedure.
8. On June 19, 2009, the Purchasers requested an extension of the Closing Date in the Canadian APA from July 3rd to July 20th and is agreeable to extending the milestones in the Canadian Bid Procedure as follows:
 - a. Bid Deadline to July 7, 2009;
 - b. Auction to July 9, 2009; and
 - c. Sale Hearing to July 13, 2009.
9. The Purchasers' request is acceptable to Copley, Wachovia Capital Finance Corporation (Central) and Wachovia Capital Finance Corporation (Canada) (jointly "**Wachovia**"). As a result, Copley extended the Bid Deadline to June 22nd as permitted by the Canadian Bid Procedure and

on June 19th the Monitor provided notice of such extension to potential bidders.

10. As a consequence of the Purchasers' request for an extension, amendments to the Canadian APA and the Forbearance Agreement have been executed by the requisite parties. Attached hereto and marked as **Exhibit "C"** is a true copy of these amendments.

11. I swear this affidavit for the purpose set out in paragraph 2 above, and for no other or improper purpose.

SWORN before me at the City of Hamilton, in the Province of Ontario, on June 23, 2009.



Name of Commissioner:

Commissioner for Taking Affidavits

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RICHARD SEXTON

Court File No. CV-09-8221-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
(Commercial List)**

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

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR
ARRANGEMENT OF COPPLEY APPAREL GROUP LIMITED**

**AFFIDAVIT OF RICHARD SEXTON
(sworn July 7, 2009)**

**I, RICHARD SEXTON, of the City of Burlington in the Province of Ontario
MAKE OATH AND SAY:**


1. I am the Chief Financial Officer for Copley Apparel Group Limited ("**Copley**") and, as a result, I have personal knowledge of the matters herein deposed to save and except for where I refer to matters on the basis of information and belief in which case I identify the source of that information and verily believe it to be true.
2. I have previously sworn affidavits on June 10, 2009 (the "**June 10th Affidavit**") and June 23, 2009 (the "**June 23rd Affidavit**"). Defined terms herein shall have the same meaning as defined in the June 10th Affidavit, unless defined otherwise herein. Attached hereto and marked as **Exhibit "A"** is a true copy of the June 10th Affidavit, without exhibits, and the June 23rd Affidavit, without exhibits.
3. I swear this affidavit in support of a motion to extend the stay of proceedings in the Order dated June 10, 2009 (the "**Initial CCAA Order**"). Attached hereto and marked as **Exhibit "B"** is a true copy of the Initial

CCAA Order. Attached hereto and marked as **Exhibit "C"** is a true copy of the Order dated June 23, 2009.

Extension of the Stay of Proceedings

- 4. Copley is requesting an Order extending the stay of proceedings to July 22, 2009 to allow for: (i) the Amended Canadian Bid Procedure to be completed, including the Sale Hearing scheduled for July 13, 2009; and (ii) the Plan of Arrangement to be finalized.
- 5. Copley continues to diligently and in good faith work towards finalizing its plan of arrangement.
- 6. I swear this affidavit for the purpose set out in paragraph 2 above, and for no other or improper purpose.


SWORN before me at the City of
 Hamilton, in the Province of Ontario,
 on July 7, 2009.



 Name of Commissioner:

Commissioner for Taking Affidavits

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 RICHARD SEXTON

Court File No. CV-09-8221-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
(Commercial List)**

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

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR
ARRANGEMENT OF COPPLEY APPAREL GROUP LIMITED**

**AFFIDAVIT OF RICHARD SEXTON
(sworn July 10, 2009)**

**I, RICHARD SEXTON, of the City of Burlington in the Province of Ontario
MAKE OATH AND SAY:**

1. I am the Chief Financial Officer for Copley Apparel Group Limited ("**Copley**") and, as a result, I have personal knowledge of the matters herein deposed to save and except for where I refer to matters on the basis of information and belief in which case I identify the source of that information and verily believe it to be true.
2. I have previously sworn affidavits on June 10th (the "**June 10th Affidavit**"), June 23rd and July 7th (collectively, the "**Prior Affidavits**"). Defined terms herein shall have the same meaning as defined in the June 10th Affidavit, unless defined otherwise herein. Attached hereto and marked as **Exhibit "A"** are true copies of the Prior Affidavits, without exhibits.
3. I swear this affidavit in support of a motion to:

- a. approve the Canadian APA as amended and assigned to HMX Canada Acquisition Corp. (the "**Purchaser**"), and vest the Canadian Acquired Assets (as defined in the Canadian APA) in the Purchaser;
- b. authorize and direct the Purchaser to pay the Adjusted Base Purchase Price (as defined in the Canadian APA) to Wachovia Canada;
- c. seal certain confidential documents to be appended to the First Report of the Monitor; and
- d. further extend the stay of proceedings in the Order dated June 10, 2009 (the "**Initial CCAA Order**") as extended by the Order dated July 8, 2009.

Attached hereto and marked as **Exhibit "B"** is a true copy of the Canadian APA, the amendment thereto and the assignment to the Purchaser. Attached hereto and marked as **Exhibit "C"** are true copies of the Initial CCAA Order, the Order dated June 23, 2009 and the Order dated July 8, 2009.

4. I repeat and rely on the statements in the Prior Affidavits in support of the within motion.
5. Copley supports the recommendations stated in the Second Report of the Monitor dated July 10, 2009 (the "**Second Report**").

Amended Canadian Bid Procedure

6. Copley, with the assistance of and in consultation with the Monitor, carried out and conducted the Amended Canadian Bid Procedure (as defined in the Order dated June 23, 2009).

7. As stated in the First Report of the Monitor dated July 9, 2009, there was only one other bid (the "**Other Bid**") for the Canadian Acquired Assets (in addition to the Canadian APA as amended) received by the bid deadline of July 7th at 5:00 p.m. The Other Bid did not meet the standard to be considered a "Qualified Bid" and, as a result, there was no auction on July 9th.
8. There were 6 bids for the Royal Shirt business carried on at 40 Adesso Drive (the "**Royal Shirt Bids**"). Copley, with the assistance of and in consultation with the Monitor and Wachovia, is assessing the Royal Shirt Bids in order to determine whether to accept one of these bids or pursue other alternatives.

Approval of the Canadian APA

9. I believe the Canadian APA, as amended and assigned, is fair and reasonable in the circumstances and, as stated in paragraph 37 of the June 10th Affidavit, is in the best interests of Copley and its stakeholders for the following reasons:
 - a. Copley cannot continue to operate unless it continues to have access to its cash receipts and receives funding for its projected cash shortfall as is being provided under the terms of the Forbearance Agreement;
 - b. given the business and financial challenges faced by the industry in general and Copley specifically, a sale to the Purchaser represents the best option available to Copley and its stakeholders;
 - c. it is expected that a significant percentage of the workforce of Copley will continue to be employed;

- d. the Purchaser will continue to operate out of the Copley Facilities, other than its location in Concord, Ontario; and
- e. it has the support of Copley's senior lender.

Extension of the Stay of Proceedings

- 10. Copley is requesting an Order extending the stay of proceedings to July 31, 2009 to allow for: (i) the closing of the Canadian APA; and (ii) the finalizing of a plan of arrangement.
- 11. Copley continues to diligently and in good faith work towards finalizing a plan of arrangement.
- 12. I swear this affidavit for the purpose set out in paragraph 3 above, and for no other or improper purpose.

SWORN before me at the City of
 Hamilton, in the Province of Ontario,
 on July 10, 2009.

 Name of Commissioner:

 Commissioner for Taking Affidavits

 RICHARD SEXTON

Court File No. CV-09-8221-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
(Commercial List)**

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

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR
ARRANGEMENT OF COPPLEY APPAREL GROUP LIMITED**

**AFFIDAVIT OF RICHARD SEXTON
(sworn July 27, 2009)**

**I, RICHARD SEXTON, of the City of Burlington in the Province of Ontario
MAKE OATH AND SAY:**

1. I am the Chief Financial Officer for Copley Apparel Group Limited ("Copley") and, as a result, I have personal knowledge of the matters herein deposed to save and except for where I refer to matters on the basis of information and belief in which case I identify the source of that information and verily believe it to be true.
2. I have previously sworn affidavits on June 10th (the "June 10th Affidavit"), June 23rd, July 7th, July 10th and July 22nd (collectively, the "Prior Affidavits"). Defined terms herein shall have the same meaning as defined in the June 10th Affidavit, unless defined otherwise herein. Attached hereto and marked as Exhibit "A" are true copies of the Prior Affidavits, without exhibits.
3. I swear this affidavit in support of a motion to further extend the stay of proceedings in the Order dated June 10, 2009 (the "Initial CCAA Order") as extended by the Order dated July 8, 2009 and further extended by the

- 2 -

Order dated July 13, 2009 and the Order dated July 27, 2009. Attached hereto and marked as **Exhibit "B"** are true copies of the Initial CCAA Order, the Order dated July 8, 2009, the Order dated July 13, 2009 and the Order dated July 20, 2009.

4. I repeat and rely on the statements in the Prior Affidavits in support of the within motion.
5. Copley supports the recommendations stated in the Fourth Report of the Monitor dated July 27, 2009 (the "**Fourth Report**").

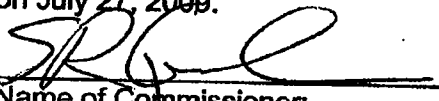
Canadian APA

6. The Purchaser and Copley require an extension of the closing date for the Canadian APA in order to amend certain terms thereof and to close the Transaction, which closing is now expected to occur in the last week of July or in the first week of August, 2009.
7. The Purchaser, Copley, Wachovia Capital Finance Corporation (Central) and Wachovia Capital Finance Corporation (Canada) (jointly "**Wachovia**") are negotiating the terms of an amendment to the Canadian APA.
8. In connection with the foregoing and subject to the terms of the forbearance agreement, Copley and Wachovia have executed an amendment to the forbearance agreement, whereby Wachovia has agreed to forbear from exercising its remedies against Copley until August 28, 2009 in order to accommodate the extension of the closing of the Canadian APA. Attached hereto and marked as **Exhibit "C"** is a true copy of the Second Amendment to the Forbearance Agreement.

Extension of the Stay of Proceedings

- 9. Copley is requesting an Order extending the stay of proceedings to August 28, 2009 to allow for the closing of the Canadian APA and the finalizing of a plan of arrangement.
- 10. Copley continues to diligently and in good faith work towards finalizing a plan of arrangement.
- 11. I swear this affidavit for the purpose set out in paragraph 3 above, and for no other or improper purpose.


SWORN before me at the City of
 Hamilton, in the Province of Ontario,
 on July 27, 2009.



 Name of Commissioner:

Commissioner for Taking Affidavits

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 RICHARD SEXTON

Court File No. CV-09-8221-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
(Commercial List)**

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

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR
ARRANGEMENT OF COPPLEY APPAREL GROUP LIMITED**

**AFFIDAVIT OF RICHARD SEXTON
(sworn July 22, 2009)**

**I, RICHARD SEXTON, of the City of Burlington in the Province of Ontario
MAKE OATH AND SAY:**

1. I am the Chief Financial Officer for Copley Apparel Group Limited ("**Copley**") and, as a result, I have personal knowledge of the matters herein deposed to save and except for where I refer to matters on the basis of information and belief in which case I identify the source of that information and verily believe it to be true.
2. I have previously sworn affidavits on June 10th (the "**June 10th Affidavit**"), June 23rd, July 7th and July 10th (collectively, the "**Prior Affidavits**"). Defined terms herein shall have the same meaning as defined in the June 10th Affidavit, unless defined otherwise herein. Attached hereto and marked as **Exhibit "A"** are true copies of the Prior Affidavits, without exhibits.
3. I swear this affidavit in support of a motion to further extend the stay of proceedings in the Order dated June 10, 2009 (the "**Initial CCAA Order**") as extended by the Order dated July 8, 2009 and further extended by the

Order dated July 13, 2009. Attached hereto and marked as **Exhibit "B"** are true copies of the Initial CCAA Order, the Order dated July 8, 2009 and the Orders dated July 13, 2009.

4. I repeat and rely on the statements in the Prior Affidavits in support of the within motion.
5. Copley supports the recommendations stated in the Third Report of the Monitor dated July 22, 2009 (the "**Third Report**").

Canadian APA

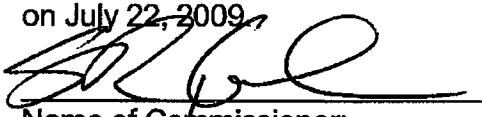
6. The Purchaser and Copley require an extension of the closing date for the Canadian APA in order to amend certain terms thereof and to close the Transaction.
7. The Purchaser, Copley, Wachovia Capital Finance Corporation (Central) and Wachovia Capital Finance Corporation (Canada) (jointly "**Wachovia**") are negotiating the terms of an amendment to the Canadian APA.
8. Copley and Wachovia are negotiating the terms of an amendment to the forbearance agreement to accommodate the extension of the closing of the Canadian APA.
9. Wachovia has agreed to forbear from exercising its remedies against Copley until July 27, 2009.

Royal Shirt Business

10. As stated in my affidavit sworn July 10, 2009, there were 6 bids for the Royal Shirt business carried on at 40 Adesso Drive (the "**Royal Shirt Bids**"). Copley, with the assistance of and in consultation with the Monitor and Wachovia, is seeking other going-concern alternatives to the Royal Shirt Bids.

Extension of the Stay of Proceedings

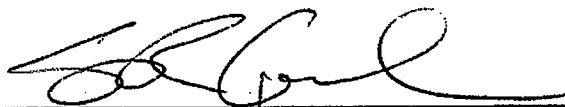
- 11. Copley is requesting an Order extending the stay of proceedings to July 27, 2009 to allow for: (i) the closing of the Canadian APA; (ii) negotiating the terms of an amendment to the forbearance agreement; and (iii) the finalizing of a plan of arrangement.
- 12. Copley continues to diligently and in good faith work towards finalizing a plan of arrangement.
- 13. I swear this affidavit for the purpose set out in paragraph 3 above, and for no other or improper purpose.

SWORN before me at the City of)
 Hamilton, in the Province of Ontario,)
 on July 22, 2009.)
)
 Name of Commissioner:)
 Commissioner for Taking Affidavits)



 RICHARD SEXTON

**This is ...Exhibit "B"... referred to in the
Affidavit of ... Richard Sexton...
sworn before me, this 7th day
of August, 2009**

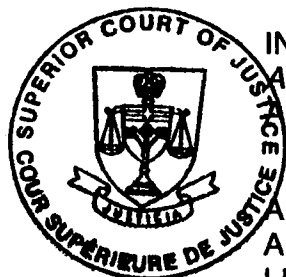


A Commissioner for Taking Oaths

Court File No. CV-09-8221-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE MADAM	)	WEDNESDAY, THE 10 th
)	
JUSTICE HOY	)	DAY OF JUNE, 2009



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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR
ARRANGEMENT OF COPPLEY APPAREL GROUP
LIMITED (the "Applicant")

**INITIAL ORDER
(June 10, 2009)**

THIS APPLICATION, made by the Applicant, pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**") for an order, *inter alia*, approving the Canadian Bid Procedure (attached hereto as **Schedule "A"**) was heard this day at 393 University Avenue, Toronto, Ontario.

ON READING the affidavit of Richard Sexton sworn June 10, 2009 (the "**Sexton Affidavit**") and the exhibits thereto and on hearing the submissions of counsel for Copley Apparel Group Limited, and Wachovia Capital Finance Corporation (Central) and Wachovia Capital Finance Corporation (Canada) (jointly "**Wachovia**") and on reading the consent of BDO Dunwoody Limited to act as the Monitor,

SERVICE

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

APPLICATION

2. **THIS COURT ORDERS AND DECLARES** that the Applicant is a company to which the CCAA applies.

PLAN OF ARRANGEMENT

3. **THIS COURT ORDERS** that the Applicant shall have the authority to file and may, subject to further order of this Court, file with this Court a plan of compromise or arrangement (hereinafter referred to as the "**Plan**") between, *inter alia*, the Applicant and one or more classes of its secured and/or unsecured creditors as it deems appropriate.

POSSESSION OF PROPERTY AND OPERATIONS

4. **THIS COURT ORDERS** that the Applicant shall remain in possession and control of its current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof (the "**Property**"). Subject to further Order of this Court, the Applicant shall continue to carry on business in a manner consistent with the preservation of its business (the "**Business**") and Property, including, for greater certainty, in a manner consistent with sections 5.1, 5.2, 5.3(d) and 5.9 of the Canadian APA (as defined in the Sexton Affidavit). The Applicant shall be authorized and empowered to continue to retain and employ the employees, consultants, agents, experts, accountants, counsel and such other persons (collectively "**Assistants**") currently retained or employed by it, with liberty to retain such further Assistants as it deems reasonably necessary or desirable in the ordinary course of business or for the carrying out of the terms of this Order.

5. **THIS COURT ORDERS** that the Applicant shall be entitled but not required to pay the following expenses whether incurred prior to or after this Order:

- (a) all outstanding and future wages, salaries, employee and pension benefits, vacation pay, bonuses and expenses payable on or after the date of this Order, in each case incurred in the ordinary course of business and consistent with existing compensation policies and arrangements; and
- (b) the fees and disbursements of any Assistants retained or employed by the Applicant in respect of these proceedings, at their standard rates and charges.

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

- (a) all expenses and capital expenditures reasonably necessary for the preservation of the Property or the Business including, without limitation, payments on account of insurance (including directors and officers insurance), maintenance and security services; and
- (b) payment for goods or services actually supplied to the Applicant following the date of this Order.

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

- (a) any statutory deemed trust amounts in favour of the Crown in right of Canada or of any Province thereof or any other taxation authority which are required to be deducted from employees' wages, including, without limitation, amounts in respect of (i) employment insurance, (ii) Canada Pension Plan, (iii) Quebec Pension Plan, and (iv) income taxes;

- (b) all goods and services or other applicable sales taxes (collectively, "**Sales Taxes**") required to be remitted by the Applicant in connection with the sale of goods and services by the Applicant, but only where such Sales Taxes are accrued or collected after the date of this Order, or where such Sales Taxes were accrued or collected prior to the date of this Order but not required to be remitted until on or after the date of this Order, and
- (c) any amount payable to the Crown in right of Canada or of any Province thereof or any political subdivision thereof or any other taxation authority in respect of municipal realty, municipal business or other taxes, assessments or levies of any nature or kind which are entitled at law to be paid in priority to claims of secured creditors and which are attributable to or in respect of the carrying on of the Business by the Applicant.

8. **THIS COURT ORDERS** that until such time as the Applicant delivers a notice in writing to repudiate a real property lease in accordance with paragraph 10(c) of this Order (a "**Notice of Repudiation**"), the Applicant shall pay all amounts constituting rent or payable as rent under real property leases (including, for greater certainty, common area maintenance charges, utilities and realty taxes and any other amounts payable to the landlord under the lease) or as otherwise may be negotiated between the Applicant and the landlord from time to time ("**Rent**"), for the period commencing from and including the date of this Order, twice-monthly in equal payments on the first and fifteenth day of each month, in advance (but not in arrears). On the date of the first of such payments, any arrears relating to the period commencing from and including the date of this Order shall also be paid. Upon delivery of a Notice of Repudiation, the Applicant shall pay all Rent due for the notice period stipulated in paragraph 10(c) of this Order, to the extent that Rent for such period has not already been paid.

9. **THIS COURT ORDERS** that, except as specifically permitted herein, the Applicant is hereby directed, until further Order of this Court: (a) to make no payments of principal, interest thereon or otherwise on account of amounts owing by the Applicant to any of its creditors as of this date; (b) to grant no security interests, trust, liens,

charges or encumbrances upon or in respect of any of its Property; and (c) to not grant credit or incur liabilities except in the ordinary course of the Business.

RESTRUCTURING

10. **THIS COURT ORDERS** that the Applicant shall, subject to such covenants as may be contained in the Definitive Documents (as hereinafter defined), have the right to:

- (a) permanently or temporarily cease, downsize or shut down any of its business or operations and to dispose of redundant or non-material assets not exceeding \$50,000 in any one transaction or series of related transactions, subject to paragraph 10(c), if applicable, and provided, however, that the Applicant shall not sell any of its Property (other than inventory in the ordinary course of business) generating proceeds in excess of \$50,000 in any one transaction or series of related transactions without the consent of Wachovia and the approval of this Court;
- (b) terminate the employment of such of its employees or temporarily lay off such of its employees as it deems appropriate on such terms as may be agreed upon between the Applicant and such employee, or failing such agreement, to deal with the consequences thereof in the Plan;
- (c) in accordance with paragraphs 11 and 12, vacate, abandon or quit the whole but not part of the leased premises and/or repudiate the real property lease and any ancillary agreements relating to the leased premises known municipally as 40 Adesso Drive, Concord, Ontario (the "**Concord Property**"), on not less than seven (7) days notice in writing to the landlord of the Concord Property (the "**Concord Landlord**") on or after June 23, 2009 on such terms as may be agreed upon between the Applicant and the Concord Landlord, or failing such agreement, to deal with the consequences thereof in the Plan;
- (d) repudiate such of its arrangements or agreements of any nature whatsoever, whether oral or written, as the Applicant deems appropriate on such terms as

may be agreed upon between the Applicant and such counter-parties, or failing such agreement, to deal with the consequences thereof in the Plan; and

- (e) pursue, in accordance with the Canadian Bidding Procedure (as hereinafter defined), all avenues of refinancing and offers for material parts of its Business or Property, in whole or in part, subject to prior approval of this Court being obtained before any material refinancing or any sale (except as permitted by subparagraph (a) above);

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

11. **THIS COURT ORDERS** that the Applicant shall provide the Concord Landlord with notice of the Applicant's intention to remove any fixtures from the Concord Property at least seven (7) days prior to the date of the intended removal. The Concord Landlord shall be entitled to have a representative present in the Concord Property to observe such removal and, if the Concord Landlord disputes the Applicant's entitlement to remove any such fixture under the provisions of the lease, such fixture shall remain on the Concord Property and shall be dealt with as agreed between any applicable secured creditors, the Concord Landlord and the Applicant, or by further Order of this Court upon application by the Applicant on at least two (2) days notice to the Concord Landlord and any such secured creditors. If the Applicant repudiates the lease governing the Concord Property in accordance with paragraph 10(c) of this Order, it shall not be required to pay Rent under such lease pending resolution of any such dispute (other than Rent payable for the notice period provided for in paragraph 10(c) of this Order), and the repudiation of the lease shall be without prejudice to the Applicant's claim to the fixtures in dispute.

12. **THIS COURT ORDERS** that if a Notice of Repudiation is delivered, then (a) during the notice period prior to the effective time of the repudiation, the Concord Landlord may show the Concord Property to prospective tenants during normal business hours, on giving the Applicant and the Monitor 24 hours' prior written notice, and (b) at the effective time of the repudiation, the Concord Landlord shall be entitled to

take possession of the Concord Property without waiver of or prejudice to any claims or rights the Concord Landlord may have against the Applicant in respect of such lease or the Concord Property and the Concord Landlord shall be entitled to notify the Applicant of the basis on which it is taking possession and to gain possession of and re-lease the Concord Property to any third party or parties on such terms as the Concord Landlord considers advisable, provided that nothing herein shall relieve the Concord Landlord of its obligation to mitigate any damages claimed in connection therewith.

NO PROCEEDINGS AGAINST THE APPLICANT OR THE PROPERTY

13. **THIS COURT ORDERS** that until and including July 8, 2009, or such later date as this Court may order (the "**Stay Period**"), no proceeding or enforcement process in any court or tribunal (each, a "**Proceeding**") shall be commenced or continued against or in respect of the Applicant or the Monitor, or affecting the Business or the Property, except, subject to the terms of the Forbearance Agreement (hereinafter defined) for any enforcement or proceeding initiated by Wachovia, or with the written consent of the Applicant and the Monitor, or with leave of this Court, and any and all Proceedings currently under way against or in respect of the Applicant or affecting the Business or the Property are hereby stayed and suspended pending further Order of this Court.

NO EXERCISE OF RIGHTS OR REMEDIES

14. **THIS COURT ORDERS** that during the Stay Period, all rights and remedies of any individual, firm, corporation, governmental body or agency, or any other entities (all of the foregoing, collectively being "**Persons**" and each being a "**Person**") other than: (i) Wachovia; and (ii) the Purchasers (as defined in the Sexton Affidavit) solely with respect to the exercise of rights under Article VII of the Canadian APA; against or in respect of the Applicant or the Monitor, or affecting the Business or the Property, are hereby stayed and suspended except with the written consent of the Applicant and the Monitor, or leave of this Court, provided that nothing in this Order shall (i) empower the Applicant to carry on any business which the Applicant is not lawfully entitled to carry on, (ii) exempt the Applicant 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 RIGHTS

15. **THIS COURT ORDERS** that during the Stay Period, no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by the Applicant, except with the written consent of the Applicant and the Monitor, or leave of this Court.

CONTINUATION OF SERVICES

16. **THIS COURT ORDERS** that during the Stay Period, all Persons having oral or written agreements with the Applicant 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 Business or the Applicant, 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 Applicant, and that the Applicant shall be entitled to the continued use of its current premises, telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the Applicant in accordance with normal payment practices of the Applicant or such other practices as may be agreed upon by the supplier or service provider and each of the Applicant and the Monitor, or as may be ordered by this Court.

NON-DEROGATION OF RIGHTS

17. **THIS COURT ORDERS** that, notwithstanding anything else contained herein, no creditor of the Applicant shall be under any obligation after the making of this Order to advance or re-advance any monies or otherwise extend any credit to the Applicant.

Nothing in this Order shall derogate from the rights conferred and obligations imposed by the CCAA.

PROCEEDINGS AGAINST DIRECTORS AND OFFICERS

18. **THIS COURT ORDERS** that during the Stay Period, and except as permitted by subsection 11.5(2) of the CCAA, no Proceeding may be commenced or continued against any of the former, current or future directors or officers of the Applicant with respect to any claim against the directors or officers that arose before the date hereof and that relates to any obligations of the Applicant whereby the directors or officers are alleged under any law to be liable in their capacity as directors or officers for the payment or performance of such obligations, until a compromise or arrangement in respect of the Applicant, if one is filed, is sanctioned by this Court or is refused by the creditors of the Applicant or this Court.

DIRECTORS' AND OFFICERS' INDEMNIFICATION AND CHARGE

19. **THIS COURT ORDERS** that the Applicant shall indemnify its directors and officers from all claims, costs, charges and expenses relating to the failure of the Applicants, after the date hereof, to make payments of the nature referred to in subparagraphs 5(a), 7(a), 7(b) and 7(c) of this Order which they sustain or incur by reason of or in relation to their respective capacities as directors and/or officers of the Applicants except to the extent that, with respect to any officer or director, such officer or director has actively participated in the breach of any related fiduciary duties or has been grossly negligent or guilty of wilful misconduct.

20. **THIS COURT ORDERS** that the directors and officers of the Applicant shall be entitled to the benefit of and are hereby granted a charge (the "**Directors' Charge**") on the Property, which charge shall not exceed an aggregate amount of \$1,300,000 as security for the indemnity provided in paragraph 19 of this Order. The Directors' Charge shall have the priority set out in paragraphs 39 and 41 herein.

21. **THIS COURT ORDERS** that, notwithstanding any language in any applicable insurance policy to the contrary, (a) no insurer shall be entitled to be subrogated to or

claim the benefit of the Directors' Charge, and (b) the Applicant's directors and officers shall only be entitled to the benefit of the Directors' Charge to the extent that they do not have coverage under any directors' and officers' insurance policy, or to the extent that such coverage is insufficient to pay amounts indemnified in accordance with paragraph 19 of this Order.

APPOINTMENT OF MONITOR

22. **THIS COURT ORDERS** that BDO Dunwoody Limited is hereby appointed pursuant to the CCAA as the Monitor, an officer of this Court, to monitor the Property and the Applicant's conduct of the Business with the powers and obligations set out in the CCAA or set forth herein and that the Applicant and its shareholders, officers, directors, and Assistants shall advise the Monitor of all material steps taken by the Applicant pursuant to this Order, and shall co-operate fully with the Monitor in the exercise of its powers and discharge of its obligations.

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

- (a) monitor the Applicant's receipts and disbursements;
- (b) report to this Court at such times and intervals as the Monitor may deem appropriate with respect to matters relating to the Property, the Business, and such other matters as may be relevant to the proceedings herein;
- (c) assist the Applicant, to the extent required by the Applicant, in its dissemination, to the DIP Lender (as hereinafter defined) and its counsel at such times as they require, financial and other information as agreed to between the Applicant and the DIP Lender which may be used in these proceedings including reporting on a basis to be agreed with the DIP Lender;
- (d) advise the Applicant in its preparation of the Applicant's cash flow statements and reporting required by the DIP Lender, which information shall be

reviewed with the Monitor and delivered to the DIP Lender and its counsel at such times as required by the DIP Lender;

- (e) advise the Applicant in its development of the Plan and any amendments to the Plan;
- (f) assist the Applicant, to the extent required by the Applicant, with the holding and administering of creditors' or shareholders' meetings for voting on the Plan;
- (g) have full and complete access to the books, records and management, employees and advisors of the Applicant and to the Business and the Property to the extent required to perform its duties arising under this Order;
- (h) be at liberty to engage independent legal counsel or such other persons as the Monitor deems necessary or advisable respecting the exercise of its powers and performance of its obligations under this Order;
- (i) consider, and if deemed advisable by the Monitor, prepare a report and assessment on the Plan;
- (j) to assist and consult with the Applicant in carrying out and conducting a sales process in accordance with the Canadian Bid Procedure; and
- (k) perform such other duties as are required by this Order or by this Court from time to time.

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

25. **THIS COURT ORDERS** that nothing herein contained shall require the Monitor to occupy or to take control, care, charge, possession or management (separately and/or

collectively, "**Possession**") of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the *Ontario Environmental Protection Act*, the *Ontario Water Resources Act*, or the *Ontario Occupational Health and Safety Act* and regulations thereunder (the "**Environmental Legislation**"), provided however that nothing herein shall exempt the Monitor from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Monitor shall not, as a result of this Order or anything done in pursuance of the Monitor's duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

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

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

28. **THIS COURT ORDERS** that the Monitor, counsel to the Monitor, counsel to the Applicant and FTI Consulting Canada ULC ("**FTI Consulting**"), the financial advisor to the Applicant, shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges, by the Applicant as part of the costs of these proceedings, including, for greater certainty, such fees and disbursements incurred in connection with the preparation of the within application. The Applicant is hereby authorized and directed to pay the accounts of the Monitor, counsel for the Monitor and counsel for the Applicant on a weekly basis and, in addition, the Applicant is hereby authorized to pay to the Monitor, counsel to the Monitor, counsel to the Applicant and FTI Consulting, retainers in the amounts of \$30,000, \$20,000, \$100,000 and \$75,000, respectively, to be held by them as security for payment of their respective fees and disbursements outstanding from time to time, provided, however, that such retainers paid to the counsel to the Applicant and FTI Consulting shall be repaid to the Applicant and/or applied against any outstanding fees and disbursements of counsel to the Applicant and FTI Consulting on or prior to July 3, 2009 or such later date as may be agreed to by Wachovia in writing.

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

30. **THIS COURT ORDERS** that the Monitor shall forthwith instruct its legal counsel to prepare an independent security opinion in respect of the validity and enforceability of the security held by Wachovia against the Applicant and shall report on such security opinion at a sale approval motion to be heard on or before July 3, 2009.

ADMINISTRATION CHARGE

31. **THIS COURT ORDERS** that the Monitor and its counsel, the Applicant's counsel and FTI Consulting shall be entitled to the benefit of and are hereby granted a charge (the "**Administration Charge**") on the Property, which charge shall not exceed an aggregate amount of \$1,000,000.00 on a non-revolving basis, as security for their

professional fees and disbursements incurred at the standard rates and charges of the Monitor and such counsel, both before and after the making of this Order in respect of these proceedings. The Administration Charge shall have the priority set out in paragraphs 39 and 41 hereof.

32. **THIS COURT ORDERS** that the Administration Charge in the aggregate amount of \$1,000,000.00 shall be a non-revolving amount and shall be the total amount of all of the professional fees and disbursements of the Monitor and its counsel, the Applicant's counsel and FTI Consulting that are entitled to the benefit of the Administration Charge. Notwithstanding the foregoing, from and after July 3, 2009 or such other date as may be agreed to by Wachovia in writing, the aggregate amount of the Administration Charge shall be reduced to \$200,000 and only the Monitor and its counsel shall be entitled to the benefit of this reduced Administration Charge as security for their professional fees and disbursements incurred at the standard rates and charges of the Monitor and its counsel from and after July 3, 2009 (or such other date as may be agreed to by Wachovia in writing) until the termination of these proceedings.

DIP FINANCING

33. **THIS COURT ORDERS** that, in addition to the amounts borrowed by the Applicant from Wachovia as at the date hereof, the Applicant is hereby authorized and empowered to obtain and borrow under a credit facility from Wachovia (the "**DIP Lender**") in order to finance the Applicant's working capital requirements and other general corporate purposes and capital expenditures, provided that additional borrowings under such credit facility after the date hereof shall not exceed \$6,000,000 unless permitted by further Order of this Court.

34. **THIS COURT ORDERS** that all advances by the DIP Lender after the date hereof shall be on the terms and subject to the conditions set forth in the forbearance agreement between Wachovia, the Applicant and certain other parties dated as of June 10, 2009 (the "**Forbearance Agreement**").

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

36. **THIS COURT ORDERS** that the DIP Lender shall be entitled to the benefit of and is hereby granted a charge (the "**DIP Lender's Charge**") on the Property, which charge shall not exceed the aggregate amount of: (i) advances by the DIP Lender under the Forbearance Agreement, including, for greater certainty, the funding of the Administration Charge and the Directors' Charge thereunder; and (ii) the value of all cash utilized or committed by the Applicant from and after the date hereof other than advances from the DIP Lender under the Forbearance Agreement pursuant to paragraphs 33 and 34 above. The DIP Lender's Charge shall have the priority set out in paragraphs 39 and 41 hereof.

37. **THIS COURT ORDERS** that, notwithstanding any other provision of this Order:
- (a) the DIP Lender may take such steps from time to time as it may deem necessary or appropriate to file, register, record or perfect the DIP Lender's Charge or any of the Definitive Documents;
 - (b) upon the occurrence of an event of default under the Definitive Documents (including, for greater certainty, a default or an Intervening Event under the Forbearance Agreement) or the DIP Lender's Charge, the DIP Lender, upon two (2) days notice to the Applicant and the Monitor, may exercise any and all of its rights and remedies against the Applicant or the Property under or pursuant to the Forbearance Agreement, Definitive Documents and the DIP

Lender's Charge, including without limitation, to cease making advances to the Applicant and set off and/or consolidate any amounts owing by the DIP Lender to the Applicant against the obligations of the Applicant to the DIP Lender under the Forbearance Agreement, the Definitive Documents or the DIP Lender's Charge, to make demand, accelerate payment and give other notices, or to apply to this Court for the appointment of a receiver, receiver and manager or interim receiver, or for a bankruptcy order against the Applicant and for the appointment of a trustee in bankruptcy of the Applicant, and upon the occurrence of an event of default under the terms of the Definitive Documents (including, for greater certainty, a default or an Intervening Event under the Forbearance Agreement), the DIP Lender shall be entitled to seize and retain proceeds from the sale of the Property and the cash flow of the Applicant to repay amounts owing to the DIP Lender in accordance with the Definitive Documents and the DIP Lender's Charge, but subject to the priorities as set out in paragraphs 39 and 41 of this Order; and

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

38. **THIS COURT ORDERS AND DECLARES** that Wachovia, both as pre-filing secured creditor and as the DIP Lender, as the case may be, shall be treated as unaffected in any plan of arrangement or compromise filed by the Applicant under the CCAA, or any proposal filed by the Applicant under the *Bankruptcy and Insolvency Act* of Canada (the "BIA"), with respect to any advances made at any time to the Applicant.

VALIDITY AND PRIORITY OF CHARGES CREATED BY THIS ORDER

39. **THIS COURT ORDERS** that the priorities of the Directors' Charge, the Administration Charge and the DIP Lender's Charge, as among them, shall be as follows:

First – Administration Charge (to the maximum non-revolving amount of \$1,000,000 up to July 3, 2009, or such other date as may be agreed to by Wachovia in writing and, thereafter, to the maximum amount of \$200,000);

Second – DIP Lender's Charge; and

Third – Directors' Charge (to the maximum amount of \$1,300,000).

40. **THIS COURT ORDERS** that the filing, registration or perfection of the Directors' Charge, the Administration Charge or the DIP Lender's Charge (collectively, the "**Charges**") shall not be required, and that the Charges shall be valid and enforceable for all purposes, including as against any right, title or interest filed, registered, recorded or perfected subsequent to the Charges coming into existence, notwithstanding any such failure to file, register, record or perfect.

41. **THIS COURT ORDERS** that each of the Directors' Charge, the Administration Charge and the DIP Lender's Charge (all as constituted, amended and defined herein) shall constitute a charge on the Property and such Charges shall rank in priority to all other security interests, trusts, liens, charges and encumbrances, statutory or otherwise (collectively, "**Encumbrances**") in favour of any Person.

42. **THIS COURT ORDERS** that the Monitor shall receive and hold funds in the amount of the Administration Charge and the Directors' Charge as provided for by the Forbearance Agreement and the terms of an escrow agreement to be entered into between Wachovia and the Monitor on terms satisfactory to such parties, and shall not release such funds without the consent of both the Applicant and Wachovia or by Order of the Court.

43. **THIS COURT ORDERS** that except as otherwise expressly provided for herein, or as may be approved by this Court, the Applicant shall not grant any Encumbrances over any Property that rank in priority to, or *pari passu* with, any of the Directors' Charge, the Administration Charge or the DIP Lender's Charge, unless the Applicant also obtains the prior written consent of the Monitor, the DIP Lender and the

beneficiaries of the Directors' Charge and the Administration Charge, or further Order of this Court.

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

- (a) neither the creation of the Charges nor the execution, delivery, perfection, registration or performance of the Forbearance Agreement or the Definitive Documents shall create or be deemed to constitute a breach by the Applicant of any Agreement to which it is a party;
- (b) none of the Chargees shall have any liability to any Person whatsoever as a result of any breach of any Agreement caused by or resulting from the Applicant entering into the Forbearance Agreement, the creation of the Charges, or the execution, delivery or performance of the Definitive Documents; and
- (c) the payments made by the Applicant pursuant to this Order, the Forbearance Agreement or the Definitive Documents, and the granting of the Charges, do not and will not constitute fraudulent preferences, fraudulent conveyances,

oppressive conduct, settlements or other challengeable, voidable or reviewable transactions under any applicable law.

CANADIAN BID PROCEDURE

45. **THIS COURT ORDERS** that the Applicant, with the assistance of and in consultation with the Monitor, is authorized to carry out and conduct the bidding procedures, as set forth in Schedule "A" hereto (the "**Canadian Bid Procedure**"), and to take such actions as are required to complete the Canadian Bid Procedure, and is not to deviate from the Canadian Bid Procedure without further Order of this Court.

46. **THIS COURT ORDERS** that following completion of the Canadian Bid Procedure, the Applicant shall return to this Court for approval of any sale.

SERVICE AND NOTICE

47. **THIS COURT ORDERS** that the Applicant shall, within ten (10) business days of the date of entry of this Order, send a copy of this Order to its known creditors, other than employees and creditors to which the Applicant owes less than \$2,500, at their addresses as they appear on the Applicant's records, and shall promptly send a copy of this Order (a) to all parties filing a Notice of Appearance in respect of this Application, and (b) to any other interested Person requesting a copy of this Order, and the Monitor is relieved of its obligation under Section 11(5) of the CCAA to provide similar notice, other than to supervise this process.

48. **THIS COURT ORDERS** that the Applicant and the Monitor be at liberty to serve 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 electronic transmission to the Applicant's creditors or other interested parties at their respective addresses as last shown on the records of the Applicant and that any such service or notice by courier, personal delivery or electronic 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.

49. **THIS COURT ORDERS** that the Applicant, the Monitor, and any party who has filed a Notice of Appearance may serve any court materials in these proceedings by e-mailing a PDF or other electronic copy of such materials to counsels' email addresses as recorded on the Service List from time to time, and the Monitor may post a copy of any or all such materials on its website at www.bdo.ca/copley.

GENERAL

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

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

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

53. **THIS COURT ORDERS** that each of the Applicant and the Monitor 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.

54. **THIS COURT ORDERS** that any interested party (including the Applicant and the Monitor) may apply to this Court to vary or amend this Order on not less than seven (7)

days notice to any other party or parties likely to be affected by the order sought or upon such other notice, if any, as this Court may order.

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

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SCHEDULE "A"

COPPLEY APPAREL GROUP LIMITED BIDDING PROCEDURES

Set forth below are the bidding procedures (the "**Bidding Procedures**") to be employed with respect to the proposed sale (the "Sale") of substantially all of the assets of Coppley Apparel Group Limited (the "Seller" or the the "**Applicant**"), an applicant in a proceeding commenced in the Superior Court of Justice (Commercial List) at Toronto (the "**Commercial List**") pursuant to the Companies' Creditors Arrangement Act, R.S.C. 1985, c. C-36, as amended (the "**CCAA**"). On June 10, 2009, the Seller executed that certain Asset Purchase Agreement (as amended from time to time in accordance with the terms thereof, the "**Agreement**") with Emerisque Brands UK Limited and SKNL North America, B.V. (collectively, the "**Purchasers**"). The transaction contemplated by the Agreement is subject to competitive bidding as set forth herein and approval by the Commercial List Court pursuant to the CCAA.

On June 10, 2009, the Applicant filed an Application Record pursuant to the CCAA for an Order, among other things, approving bidding procedures (the "**Bidding Procedures Order**"). The Bidding Procedures Order sets June 25, 2009 as the date when the Commercial List Court will conduct a hearing (the "**Sale Hearing**") for the approval of the Agreement or another transaction or series of transactions for the sale of all or substantially all of the Acquired Assets. All capitalized terms used but not otherwise defined in these Bidding Procedures have the meanings ascribed to them in the Agreement.

The Bidding Procedures set forth herein describe, among other things, the assets available for sale, the manner in which bidders and bids become Qualified Bidders and Qualified Bids (each as defined herein), respectively, the coordination of diligence efforts among bidders, the receipt and negotiation of bids received, the conduct of any subsequent Auction (as defined herein), the ultimate selection of the Successful Bidder(s) (as defined herein), and the Commercial List Court's approval thereof (collectively, the "**Bidding Process**"). The Applicant will consult with BDO Dunwoody Limited, in its capacity as Monitor (the "**Monitor**") and obtain the consent of Wachovia Capital Finance Corporation (Central) ("**Wachovia**") throughout the Bidding Process in accordance with the terms and conditions hereof. In the event that the Applicant and any party disagree as to the interpretation or application of these Bidding Procedures, the Commercial List Court will have jurisdiction to hear and resolve such dispute.

Assets To Be Sold

The assets proposed to be sold include substantially all of the assets of the Applicant (the "**Acquired Assets**"). Qualified Bidders may submit a bid for (i) all of the Acquired Assets or (ii) a portion of the Acquired Assets. To the extent that a Qualified Bidder desires to bid on less than all of the Acquired Assets, the Applicant suggests, but shall not require, that such bids be for one or more of the groups of assets set forth on **Appendix 1** attached hereto (each, an "**Asset Group**"). However, the Applicant may (i) provide priority diligence access to those Qualified Bidders bidding on less than all of the Acquired Assets who express interest in one or more of the identified Asset Groups as opposed to a portion thereof, and (ii) cease providing diligence access to such bidders for less than all of the Acquired Assets if, in the view of the Applicant (in

consultation with the Monitor and with the consent of Wachovia), the Applicant believes such bids for less than all of the Acquired Assets will not, when combined with other bids, result in a recovery to the Applicant's estate that is equal to or greater than the All Assets Minimum Bid Amount (as defined below). A bid for less than all of the Acquired Assets may be conditioned on the bidder(s) being the Successful Bidder(s) on all or a portion of the Asset Group(s) included in its bid. However, as set forth below, when valuing any bid for less than all of the Acquired Assets, the Applicant (in consultation with the Monitor and Wachovia) will take into account, among other things, whether the bid, when combined with other bids, equals or exceeds the All Assets Minimum Bid Amount.

"As Is, Where Is"

The sale of the Acquired Assets, or any portion thereof, will be on an "as is, where is" basis and without representations or warranties of any kind, nature, or description by the Applicant, its agents, or estate, except, with respect to the Purchasers, to the extent set forth in the Agreement and, with respect to a Successful Bidder, to the extent set forth in the relevant purchase agreement of such Successful Bidder approved by the Commercial List Court.

Free Of Any And All Claims And Interests

Except to the extent otherwise set forth in the relevant purchase agreement of such Successful Bidder or ordered by the Commercial List Court, all of the Applicant's right, title, and interest in and to the Acquired Assets, or any portion thereof, to be acquired will be sold free and clear of all pledges, liens, security interests, encumbrances, claims, charges, options, and interests on and/or against the Acquired Assets (collectively, the "**Claims and Interests**"), such Claims and Interests to attach to the net proceeds of the sale of such Acquired Assets subject to prior orders of the Commercial List Court.

Due Diligence

Subject to entering into a confidentiality agreement as may be required by the Applicant and the Monitor, the Applicant will allow a potential bidder (a "**Potential Bidder**") to commence due diligence with respect to the Acquired Assets as described below. The Applicant will afford each Potential Bidder due diligence access to the Acquired Assets. Due diligence access may include such management presentations as may be scheduled by the Applicant, access to data rooms, on site inspections, and such other matters which a Potential Bidder may reasonably request and as to which the Applicant, in their reasonable discretion, may agree. The Applicant will designate an employee or other representative to coordinate all reasonable requests for additional information and due diligence access from Potential Bidders. The Applicant may, in its discretion, coordinate diligence efforts such that multiple Potential Bidders, including but not limited to the Purchasers, have simultaneous access to due diligence materials and/or simultaneous attendance at management presentations or site inspections. Neither the Applicant nor any of its representatives will be obligated to furnish any information relating to Acquired Assets to any Person other than to Potential Bidders.

Bid Deadline

A Potential Bidder who desires to make a bid must deliver the Required Bid Documents (as defined herein) to: (i) Copley Apparel Group Limited, 56 York Blvd, Hamilton; (ii) the Monitor, BDO Dunwoody Limited, 123 Front Street West, Suite 1200, Toronto; (iii) the Applicant's counsel, Gowling Lafleur Henderson LLP, 100 King Street West, Suite 1600, Toronto; (iv) counsel to Wachovia, Goodmans LLP, 2400-250 Yonge Street, Toronto; and (v) counsel to the Monitor, Fasken Martineau, 66 Wellington Street West, Suite 4200, Toronto; so as to be received not later than 5:00 p.m. (prevailing Eastern time) on June 21, 2009 (the "**Bid Deadline**"). The Applicant shall serve a copy of all Required Bid Documents received by them to the Purchasers so as to be received by Purchasers' counsel on the Bid Deadline. The Applicant may extend (but is not obligated to do so) the Bid Deadline to a date no later than June 22, 2009 or to such later date as the Purchasers consent. If the Applicant extends the Bid Deadline, it will promptly notify all Potential Bidders of such extension. As soon as reasonably practicable following receipt of each Qualified Bid, the Applicant will deliver complete copies of all items and information enumerated in the section below entitled "**Bid Requirements**" to Wachovia..

Bid Requirements

All bids, other than a Concord Bid (hereinafter defined), must include the following documents (the "**Required Bid Documents**"):

- (a) a letter stating that the bidder's offer is irrevocable until the earlier of (i) two Business Days after the closing of the Sale of the applicable Acquired Assets and (ii) 45 days after the Sale Hearing;
- (b) an executed agreement in the form of the Agreement, including schedules (a "**Marked Agreement**") to show those amendments and modifications to such Agreement and schedules that the Potential Bidder proposes, including the purchase price;
- (c) in the alternative to (b) above, an executed agreement, including any schedules thereto (an "**Alternative Agreement**"), showing whether the bid is for: (i) all the Acquired Assets; or (ii) certain of the Acquired Assets having regard to appendix 1; and the purchase price in respect of same;
- (d) a good faith deposit (the "**Good Faith Deposit**") in the form of a certified bank check from a Canadian bank or by wire transfer (or other form acceptable to the Applicant in its sole discretion) payable to Copley Apparel Group Limited (or such other party as the Applicant may determine) in an amount equal to 5% of the proposed purchase price, which Good Faith Deposit the Applicant shall hold in a segregated escrow account; and
- (e) written evidence of a commitment for financing, or other evidence of ability to consummate the proposed transaction, that is satisfactory to the Applicant and the Monitor.

Qualified Bids

A bid will be considered only:

- (a) if the bid is not conditioned on obtaining financing or on the outcome of unperformed due diligence by the bidder;
- (b) if the bid proposes a transaction on terms and conditions (other than the amount of the consideration and the particular liabilities being assumed) that the Applicant determines, in its sole discretion in consultation with the Monitor and Wachovia, is not materially more burdensome or conditional than the terms of the Agreement;
- (c) with respect to a bid:
 - (i) for all, or substantially all, of the Acquired Assets, if the bid proposes a transaction that the Applicant determines in its sole discretion in consultation with the Monitor and after obtaining the agreement of Wachovia, has a value greater than or equal to the sum of the Purchase Price plus \$250,000 (collectively, the "**All Assets Minimum Bid Amount**"). For purposes of valuing the Purchase Price set forth in the Agreement, the Applicant estimates the value of the Assumed Liabilities to be not less than \$865,000; or
 - (ii) for less than substantially all of the Acquired Assets, if the bid proposes a transaction that, when valued in conjunction with the value that the Applicant determines it can obtain (whether through a combination of Qualified Bids or otherwise) for the Acquired Assets not included in such bid, the Applicant determines, in its sole discretion in consultation with the Monitor and after obtaining the agreement of Wachovia, has a value greater than or equal to the All Assets Minimum Bid Amount;
- (d) if the bid is not conditioned upon any bid protections, in the nature of a break-up fee, termination fee, expense reimbursement, or similar type of payment;
- (e) if the bid includes an acknowledgement and representation that the bidder: (i) has had an opportunity to conduct any and all due diligence regarding the Acquired Assets prior to making its offer, (ii) has relied solely upon its own independent review, investigation and/or inspection of any documents and/or the Acquired Assets in making its bid, and (iii) did not rely upon any written or oral statements, representations, promises, warranties or guaranties whatsoever, whether express, implied, by operation of law, or otherwise, regarding the Acquired Assets, or the completeness of any information provided in connection therewith or the Auction, except as expressly stated in the Marked Agreement or the Alternative Agreement;
- (f) if the bid includes a commitment to consummate the purchase of the applicable Acquired Assets (including the receipt of any required Governmental

Approvals) within not more than fifteen days after entry of an order by the Commercial List Court approving such purchase; and

(g) if the bid is received by the Bid Deadline;

unless the bid is for one or more of the Asset Groups identified as 6, 7 and 8 on **Appendix 1** (a "**Concord Bid**").

A bid received from a Qualified Bidder will constitute a "**Qualified Bid**" only if: (i) it includes all of the Required Bid Documents and meets all of the requirements in (a) to (g) above; or (ii) it is a Concord Bid. The Agreement will be deemed a Qualified Bid for all purposes in connection with the Bidding Process, the Auction, and the Sale. A bid will be valued based upon factors that include, but are not limited to, (i) the net value provided by such bid, (ii) whether it is a bid for all, or only a portion of, the Acquired Assets, (iii) if it is a bid for only a portion of the Acquired Assets, whether the bid, when combined with other bids, will exceed the All Assets Minimum Bid Amount, (iv) whether the bid contemplates the assumption and assignment of the Applicant's collective bargaining agreement with their labor unions or otherwise provides for the employment of members of such unions and (v) the likelihood and timing of consummating such transaction (collectively, the "**Bid Considerations**"). Each Qualified Bid other than that of the Purchasers is referred to as a "**Subsequent Bid**".

Auction

If the Applicant receives one or more Qualified Bids in respect of the assets subject to the Agreement, in addition to the Agreement, which the Applicant determines, in consultation with the Monitor and after obtaining the agreement of Wachovia, will provide greater value to the estate than the Agreement, the Applicant may conduct an auction (the "**Auction**") of the Acquired Assets, upon notice to all Qualified Bidders who have submitted Qualified Bids, at 10:00 a.m. (prevailing Eastern time) on June 23, 2009, at the offices of Gowling Lafleur Henderson LLP, Suite 1600, 100 King Street West, Toronto, Ontario or such later time or other place as the Applicant notifies all Qualified Bidders who have submitted Qualified Bids, but only with the consent of the Purchasers, in their sole discretion, in accordance with the following procedures:

- (a) Only the Applicant and its financial advisors, the Monitor, the Purchasers, any representative of Wachovia, and any Potential Bidder who has timely submitted a Qualified Bid will be entitled to attend the Auction, and only the Qualified Bidders will be entitled to make any subsequent Qualified Bids at the Auction.
- (b) By 5:00 p.m. on the Business Day prior to the Auction, each Qualified Bidder must inform the Applicant whether it intends to participate in the Auction. At the Auction, the Applicant will provide copies of the Qualified Bid or combination of Qualified Bids which the Applicant believes, subject to the terms hereof, is the highest or otherwise best offer(s) to all Qualified Bidders who have informed the Applicant of their intent to participate in the Auction.
- (c) All Qualified Bidders must be present for all Subsequent Bids with the

understanding that the true identity of each bidder must be fully disclosed to all other bidders and that all material terms of each Subsequent Bid must be fully disclosed to all other bidders throughout the entire Auction. The Purchasers shall be told who the other Qualified Bidders are prior to the Auction and shall have the right to bid at the Auction.

(d) The Applicant may employ and announce at the Auction additional procedural rules that are reasonable under the circumstances (e.g., the amount of time allotted to make Subsequent Bids) for conducting the Auction, provided that such rules are not inconsistent with these Bidding Procedures, the CCAA, or any order of the Commercial List Court entered in connection herewith.

(e) Bidding at the Auction will begin with the highest or otherwise best Qualified Bid or combination of Qualified Bids and continue in such minimum increments or other bid improvements as determined by the Applicant in consultation with the Monitor and DIP Lender. In the event that the Purchasers' Qualified Bid as evidenced in the Agreement is the highest and otherwise best Qualified Bid produced at the Auction, Wachovia will not seek to exercise to credit bid at the Auction.

Selection Of Successful Bid

At the conclusion of the Auction, or as soon thereafter as practicable, the Applicant, in consultation with the Monitor and after obtaining the agreement of Wachovia, will: (i) review each Qualified Bid on the basis of financial and contractual terms and the factors relevant to the sale process, including, but not limited to, those factors affecting the speed and certainty of consummating the sale, as well as the Bid Considerations; and (ii) identify the highest or otherwise best offer(s) for all of the Asset Groups or otherwise, received at the Auction (the "**Successful Bid(s)**", and the bidder(s) making such bid(s), the "**Successful Bidder(s)**").

The Applicant's presentation of any particular Qualified Bid or combination of Qualified Bids to the Commercial List Court for approval, other than Purchasers' Successful Bid at the direction of Wachovia, does not constitute the Applicant's acceptance of the bid or bids. The Applicant will be deemed to have accepted a bid only when the bid has been approved by the Commercial List Court at the Sale Hearing.

The Sale Hearing

The Sale Hearing will be held before the Commercial List Court on June 25, 2009 at 10:00 a.m. (prevailing Eastern time), but may be adjourned or rescheduled in the Applicant's sole discretion, subject to Commercial List Court approval, as necessary, without further notice, by an announcement of the adjourned date at the Sale Hearing so long as the deadlines set forth in the Agreement are not violated or with the consent of the Purchasers if the Purchasers are the Successful Bidder. At the Sale Hearing, the Applicant may seek approval of the Successful Bid and an alternate bid (the "Alternate Bid" and such bidder, the "**Alternate Bidder**"). Following approval of the sale to the Successful Bidder, if the Successful Bidder fails to consummate the sale, then the Alternate Bid will be deemed to be the Successful Bid and the Applicant will be authorized, but not directed, to effectuate a sale to the Alternate Bidder subject to the terms of the Alternate Bid without further order of the Commercial List Court. The Purchasers shall have

standing for all matters relating to and arising from the proposed Sale transaction, including standing at the Sale Hearing and enforcement of all orders entered by the Commercial List Court relating to these Bidding Procedures, the Bidding Procedures Order and the Sale Order.

Return Of Good Faith Deposits

Good Faith Deposits of all Qualified Bidders (except for the Successful Bidder) will be held in an interest-bearing escrow account and all Qualified Bids will remain open (notwithstanding Commercial List Court approval of a sale pursuant to the terms of one or more Successful Bids by one or more Qualified Bidders), until the earlier of: (i) two (2) Business Days after the closing of the Sale of the applicable Acquired Assets; and (ii) forty-five (45) days after the Sale Hearing (the "**Return Date**"). Notwithstanding the foregoing, the Good Faith Deposit, if any, submitted by the Successful Bidder, together with interest thereon, will be applied against the payment of the Purchase Price upon closing of the Sale to the Successful Bidder. If a Successful Bidder breaches its obligations under the Bidding Procedures Order or any agreement entered into with respect to its Successful Bid or fails to consummate a sale because of a breach or failure to perform on the part of such Successful Bidder, the Applicant will not have any obligation to return the Good Faith Deposit deposited by such Successful Bidder, and such Good Faith Deposit will irrevocably become property of the Applicant's estate. On the Return Date, the Applicant will return the Good Faith Deposits of all other Qualified Bidders, together with the accrued interest thereon. Notwithstanding the forgoing or anything else herein, the Purchasers' deposit obligations shall be governed by the terms of the Agreement.

Reservations Of Rights

The Applicant, after consultation with the Monitor and consistent with the requirements to obtain the consent of Wachovia set forth elsewhere in these Bidding Procedures: (i) may determine which Qualified Bid, if any, is the highest or otherwise best offer and (ii) may reject at any time any bid that is (a) inadequate or insufficient, (b) not in conformity with the requirements of the Bidding Procedures, or the terms and conditions of the Sale, or (c) contrary to the best interests of the Applicant, its estate, creditors, and other parties in interest as determined by the Applicant in its sole discretion. Notwithstanding the forgoing or anything else herein: (i) the Applicant may not impair or modify the Purchasers' rights and obligations under the Bidding Procedures Order; or (ii) in the event the Applicant elects to withdraw from the Auction the Acquired Assets, cancels the Auction, and/or rejects all Qualifying Bids, the Applicant shall nonetheless be obligated to request at the Sale Hearing that the Commercial List Court approve the Agreement with the Purchasers at the direction of Wachovia.

Appendix 1**Asset Groups**

1. Brands
2. Accounts receivable
3. Hamilton inventory
4. Hamilton plant & equipment
5. Hamilton leases
6. Concord inventory
7. Concord plant & equipment
8. Concord lease

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**IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED
AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF COPPLEY APPAREL GROUP LIMITED**

**ONTARIO
SUPERIOR COURT OF JUSTICE
(Commercial List)**

(PROCEEDING COMMENCED AT TORONTO)

**INITIAL ORDER
(June 10, 2009)**

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Hamilton, ON L8P 4Z5

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Robert C. Dunford (LSUC No. 54819D)
Tel: (905) 540-2472
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Solicitors for the Applicant,
Coppely Apparel Group Limited



Court File No. CV-09-8221-00CL

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

THE HONOURABLE MADAM	)	TUESDAY, THE 23 rd
)	
JUSTICE HOY	)	DAY OF JUNE, 2009

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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF COPPLEY APPAREL GROUP LIMITED

ORDER

THIS MOTION, made by the Applicant, pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**") for an order, *inter alia*, authorized the Amended Canadian Bid Procedure (attached hereto as **Schedule "A"**) was heard this day at 393 University Avenue, Toronto, Ontario.

ON READING the affidavit of Richard Sexton sworn June 23, 2009 (the "**Sexton Affidavit**") and the exhibits thereto and on hearing the submissions of counsel for: (i) Copley Apparel Group Limited, (ii) the Monitor, (iii) Wachovia Capital Finance Corporation (Central) and Wachovia Capital Finance Corporation (Canada), and (iv) Emerisque Brands UK Limited and SKNL North America B.V.,

SERVICE

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

AMENDED CANADIAN BID PROCEDURE

2. **THIS COURT ORDERS** that the amended bidding procedures, as set forth in Schedule "A" hereto (the "**Amended Canadian Bid Procedure**") is approved and the Applicant, with the assistance of and in consultation with the Monitor, is authorized and directed to carry out and conduct the Amended Canadian Bid Procedure and to take such actions as are required to complete the Amended Canadian Bid Procedure, and is not to deviate from the Amended Canadian Bid Procedure without further Order of this Court.



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ENTERED AT / INSCRIT A TORONTO
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LE / DANS LE REGISTRE NO.:

JUN 23 2009

PER / PAR:  Joanne Nicoara
Registrar, Superior Court of Justice

SCHEDULE "A"

COPPLEY APPAREL GROUP LIMITED AMENDED BIDDING PROCEDURES

Set forth below are the bidding procedures (the "**Bidding Procedures**") to be employed with respect to the proposed sale (the "Sale") of substantially all of the assets of Coppley Apparel Group Limited (the "**Seller**" or the the "**Applicant**"), an applicant in a proceeding commenced in the Superior Court of Justice (Commercial List) at Toronto (the "**Commercial List**") pursuant to the Companies' Creditors Arrangement Act, R.S.C. 1985, c. C-36, as amended (the "**CCAA**"). On June 10, 2009, the Seller executed that certain Asset Purchase Agreement (as amended from time to time in accordance with the terms thereof, the "**Agreement**") with Emerisque Brands UK Limited and SKNL North America, B.V. (collectively, the "**Purchasers**"). The transaction contemplated by the Agreement is subject to competitive bidding as set forth herein and approval by the Commercial List Court pursuant to the CCAA.

On June 10, 2009, the Applicant filed an Application Record pursuant to the CCAA for an Order, among other things, approving bidding procedures (the "**Bidding Procedures Order**"). The Bidding Procedures Order sets July 13, 2009 as the date when the Commercial List Court will conduct a hearing (the "**Sale Hearing**") for the approval of the Agreement or another transaction or series of transactions for the sale of all or substantially all of the Acquired Assets. All capitalized terms used but not otherwise defined in these Bidding Procedures have the meanings ascribed to them in the Agreement.

The Bidding Procedures set forth herein describe, among other things, the assets available for sale, the manner in which bidders and bids become Qualified Bidders and Qualified Bids (each as defined herein), respectively, the coordination of diligence efforts among bidders, the receipt and negotiation of bids received, the conduct of any subsequent Auction (as defined herein), the ultimate selection of the Successful Bidder(s) (as defined herein), and the Commercial List Court's approval thereof (collectively, the "**Bidding Process**"). The Applicant will consult with BDO Dunwoody Limited, in its capacity as Monitor (the "**Monitor**") and obtain the consent of Wachovia Capital Finance Corporation (Central) ("**Wachovia**") throughout the Bidding Process in accordance with the terms and conditions hereof. In the event that the Applicant and any party disagree as to the interpretation or application of these Bidding Procedures, the Commercial List Court will have jurisdiction to hear and resolve such dispute.

Assets To Be Sold

The assets proposed to be sold include substantially all of the assets of the Applicant (the "**Acquired Assets**"). Qualified Bidders may submit a bid for (i) all of the Acquired Assets or (ii) a portion of the Acquired Assets. To the extent that a Qualified Bidder desires to bid on less than all of the Acquired Assets, the Applicant suggests, but shall not require, that such bids be for one or more of the groups of assets set forth on **Appendix 1** attached hereto (each, an "**Asset Group**"). However, the Applicant may (i) provide priority diligence access to those Qualified Bidders bidding on less than all of the Acquired Assets who express interest in one or more of the identified Asset Groups as opposed to a portion thereof, and (ii) cease providing diligence access to such bidders for less than all of the Acquired Assets if, in the view of the Applicant (in

consultation with the Monitor and with the consent of Wachovia), the Applicant believes such bids for less than all of the Acquired Assets will not, when combined with other bids, result in a recovery to the Applicant's estate that is equal to or greater than the All Assets Minimum Bid Amount (as defined below). A bid for less than all of the Acquired Assets may be conditioned on the bidder(s) being the Successful Bidder(s) on all or a portion of the Asset Group(s) included in its bid. However, as set forth below, when valuing any bid for less than all of the Acquired Assets, the Applicant (in consultation with the Monitor and Wachovia) will take into account, among other things, whether the bid, when combined with other bids, equals or exceeds the All Assets Minimum Bid Amount.

"As Is, Where Is"

The sale of the Acquired Assets, or any portion thereof, will be on an "as is, where is" basis and without representations or warranties of any kind, nature, or description by the Applicant, its agents, or estate, except, with respect to the Purchasers, to the extent set forth in the Agreement and, with respect to a Successful Bidder, to the extent set forth in the relevant purchase agreement of such Successful Bidder approved by the Commercial List Court.

Free Of Any And All Claims And Interests

Except to the extent otherwise set forth in the relevant purchase agreement of such Successful Bidder or ordered by the Commercial List Court, all of the Applicant's right, title, and interest in and to the Acquired Assets, or any portion thereof, to be acquired will be sold free and clear of all pledges, liens, security interests, encumbrances, claims, charges, options, and interests on and/or against the Acquired Assets (collectively, the "**Claims and Interests**"), such Claims and Interests to attach to the net proceeds of the sale of such Acquired Assets subject to prior orders of the Commercial List Court.

Due Diligence

Subject to entering into a confidentiality agreement as may be required by the Applicant and the Monitor, the Applicant will allow a potential bidder (a "**Potential Bidder**") to commence due diligence with respect to the Acquired Assets as described below. The Applicant will afford each Potential Bidder due diligence access to the Acquired Assets. Due diligence access may include such management presentations as may be scheduled by the Applicant, access to data rooms, on site inspections, and such other matters which a Potential Bidder may reasonably request and as to which the Applicant, in their reasonable discretion, may agree. The Applicant will designate an employee or other representative to coordinate all reasonable requests for additional information and due diligence access from Potential Bidders. The Applicant may, in its discretion, coordinate diligence efforts such that multiple Potential Bidders, including but not limited to the Purchasers, have simultaneous access to due diligence materials and/or simultaneous attendance at management presentations or site inspections. Neither the Applicant nor any of its representatives will be obligated to furnish any information relating to Acquired Assets to any Person other than to Potential Bidders.

Bid Deadline

A Potential Bidder who desires to make a bid must deliver the Required Bid Documents (as defined herein) to: (i) Copley Apparel Group Limited, 56 York Blvd, Hamilton; (ii) the Monitor, BDO Dunwoody Limited, 123 Front Street West, Suite 1200, Toronto; (iii) the Applicant's counsel, Gowling Lafleur Henderson LLP, 100 King Street West, Suite 1600, Toronto; (iv) counsel to Wachovia, Goodmans LLP, 2400-250 Yonge Street, Toronto; and (v) counsel to the Monitor, Fasken Martineau, 66 Wellington Street West, Suite 4200, Toronto; so as to be received not later than 5:00 p.m. (prevailing Eastern time) on July 7, 2009 (the "**Bid Deadline**"). The Applicant shall serve a copy of all Required Bid Documents received by them to the Purchasers so as to be received by Purchasers' counsel on the Bid Deadline. The Applicant may extend (but is not obligated to do so) the Bid Deadline to a date no later than July 8, 2009 or to such later date as the Purchasers consent. If the Applicant extends the Bid Deadline, it will promptly notify all Potential Bidders of such extension. As soon as reasonably practicable following receipt of each Qualified Bid, the Applicant will deliver complete copies of all items and information enumerated in the section below entitled "**Bid Requirements**" to Wachovia..

Bid Requirements

All bids, other than a Concord Bid (hereinafter defined), must include the following documents (the "**Required Bid Documents**"):

- (a) a letter stating that the bidder's offer is irrevocable until the earlier of (i) two Business Days after the closing of the Sale of the applicable Acquired Assets and (ii) 45 days after the Sale Hearing;
- (b) an executed agreement in the form of the Agreement, including schedules (a "**Marked Agreement**") to show those amendments and modifications to such Agreement and schedules that the Potential Bidder proposes, including the purchase price;
- (c) in the alternative to (b) above, an executed agreement, including any schedules thereto (an "**Alternative Agreement**"), showing whether the bid is for: (i) all the Acquired Assets; or (ii) certain of the Acquired Assets having regard to appendix 1; and the purchase price in respect of same;
- (d) a good faith deposit (the "**Good Faith Deposit**") in the form of a certified bank check from a Canadian bank or by wire transfer (or other form acceptable to the Applicant in its sole discretion) payable to Copley Apparel Group Limited (or such other party as the Applicant may determine) in an amount equal to 5% of the proposed purchase price, which Good Faith Deposit the Applicant shall hold in a segregated escrow account; and
- (e) written evidence of a commitment for financing, or other evidence of ability to consummate the proposed transaction, that is satisfactory to the Applicant and the Monitor.

Qualified Bids

A bid will be considered only:

- (a) if the bid is not conditioned on obtaining financing or on the outcome of unperformed due diligence by the bidder;
- (b) if the bid proposes a transaction on terms and conditions (other than the amount of the consideration and the particular liabilities being assumed) that the Applicant determines, in its sole discretion in consultation with the Monitor and Wachovia, is not materially more burdensome or conditional than the terms of the Agreement;
- (c) with respect to a bid:
 - (i) for all, or substantially all, of the Acquired Assets, if the bid proposes a transaction that the Applicant determines in its sole discretion in consultation with the Monitor and after obtaining the agreement of Wachovia, has a value greater than or equal to the sum of the Purchase Price plus \$250,000 (collectively, the "**All Assets Minimum Bid Amount**"). For purposes of valuing the Purchase Price set forth in the Agreement, the Applicant estimates the value of the Assumed Liabilities to be not less than \$865,000; or
 - (ii) for less than substantially all of the Acquired Assets, if the bid proposes a transaction that, when valued in conjunction with the value that the Applicant determines it can obtain (whether through a combination of Qualified Bids or otherwise) for the Acquired Assets not included in such bid, the Applicant determines, in its sole discretion in consultation with the Monitor and after obtaining the agreement of Wachovia, has a value greater than or equal to the All Assets Minimum Bid Amount;
- (d) if the bid is not conditioned upon any bid protections, in the nature of a break-up fee, termination fee, expense reimbursement, or similar type of payment;
- (e) if the bid includes an acknowledgement and representation that the bidder: (i) has had an opportunity to conduct any and all due diligence regarding the Acquired Assets prior to making its offer, (ii) has relied solely upon its own independent review, investigation and/or inspection of any documents and/or the Acquired Assets in making its bid, and (iii) did not rely upon any written or oral statements, representations, promises, warranties or guaranties whatsoever, whether express, implied, by operation of law, or otherwise, regarding the Acquired Assets, or the completeness of any information provided in connection therewith or the Auction, except as expressly stated in the Marked Agreement or the Alternative Agreement;
- (f) if the bid includes a commitment to consummate the purchase of the applicable Acquired Assets (including the receipt of any required Governmental

Approvals) within not more than fifteen days after entry of an order by the Commercial List Court approving such purchase; and

(g) if the bid is received by the Bid Deadline;

unless the bid is for one or more of the Asset Groups identified as 6, 7 and 8 on **Appendix 1** (a "**Concord Bid**").

A bid received from a Qualified Bidder will constitute a "**Qualified Bid**" only if: (i) it includes all of the Required Bid Documents and meets all of the requirements in (a) to (g) above; or (ii) it is a Concord Bid. The Agreement will be deemed a Qualified Bid for all purposes in connection with the Bidding Process, the Auction, and the Sale. A bid will be valued based upon factors that include, but are not limited to, (i) the net value provided by such bid, (ii) whether it is a bid for all, or only a portion of, the Acquired Assets, (iii) if it is a bid for only a portion of the Acquired Assets, whether the bid, when combined with other bids, will exceed the All Assets Minimum Bid Amount, (iv) whether the bid contemplates the assumption and assignment of the Applicant's collective bargaining agreement with their labor unions or otherwise provides for the employment of members of such unions and (v) the likelihood and timing of consummating such transaction (collectively, the "**Bid Considerations**"). Each Qualified Bid other than that of the Purchasers is referred to as a "**Subsequent Bid**".

Auction

If the Applicant receives one or more Qualified Bids in respect of the assets subject to the Agreement, in addition to the Agreement, which the Applicant determines, in consultation with the Monitor and after obtaining the agreement of Wachovia, will provide greater value to the estate than the Agreement, the Applicant may conduct an auction (the "**Auction**") of the Acquired Assets, upon notice to all Qualified Bidders who have submitted Qualified Bids, at 10:00 a.m. (prevailing Eastern time) on July 9, 2009, at the offices of Gowling Lafleur Henderson LLP, Suite 1600, 100 King Street West, Toronto, Ontario or such later time or other place as the Applicant notifies all Qualified Bidders who have submitted Qualified Bids, but only with the consent of the Purchasers, in their sole discretion, in accordance with the following procedures:

- (a) Only the Applicant and its financial advisors, the Monitor, the Purchasers, any representative of Wachovia, and any Potential Bidder who has timely submitted a Qualified Bid will be entitled to attend the Auction, and only the Qualified Bidders will be entitled to make any subsequent Qualified Bids at the Auction.
- (b) By 5:00 p.m. on July 8, 2009, each Qualified Bidder must inform the Applicant whether it intends to participate in the Auction. At the Auction, the Applicant will provide copies of the Qualified Bid or combination of Qualified Bids which the Applicant believes, subject to the terms hereof, is the highest or otherwise best offer(s) to all Qualified Bidders who have informed the Applicant of their intent to participate in the Auction.
- (c) All Qualified Bidders must be present for all Subsequent Bids with the

understanding that the true identity of each bidder must be fully disclosed to all other bidders and that all material terms of each Subsequent Bid must be fully disclosed to all other bidders throughout the entire Auction. The Purchasers shall be told who the other Qualified Bidders are prior to the Auction and shall have the right to bid at the Auction.

(d) The Applicant may employ and announce at the Auction additional procedural rules that are reasonable under the circumstances (e.g., the amount of time allotted to make Subsequent Bids) for conducting the Auction, provided that such rules are not inconsistent with these Bidding Procedures, the CCAA, or any order of the Commercial List Court entered in connection herewith.

(e) Bidding at the Auction will begin with the highest or otherwise best Qualified Bid or combination of Qualified Bids and continue in such minimum increments or other bid improvements as determined by the Applicant in consultation with the Monitor and DIP Lender. In the event that the Purchasers' Qualified Bid as evidenced in the Agreement is the highest and otherwise best Qualified Bid produced at the Auction, Wachovia will not seek to exercise to credit bid at the Auction.

Selection Of Successful Bid

At the conclusion of the Auction, or as soon thereafter as practicable, the Applicant, in consultation with the Monitor and after obtaining the agreement of Wachovia, will: (i) review each Qualified Bid on the basis of financial and contractual terms and the factors relevant to the sale process, including, but not limited to, those factors affecting the speed and certainty of consummating the sale, as well as the Bid Considerations; and (ii) identify the highest or otherwise best offer(s) for all of the Asset Groups or otherwise, received at the Auction (the "**Successful Bid(s)**"), and the bidder(s) making such bid(s), the "**Successful Bidder(s)**").

The Applicant's presentation of any particular Qualified Bid or combination of Qualified Bids to the Commercial List Court for approval, other than Purchasers' Successful Bid at the direction of Wachovia, does not constitute the Applicant's acceptance of the bid or bids. The Applicant will be deemed to have accepted a bid only when the bid has been approved by the Commercial List Court at the Sale Hearing.

The Sale Hearing

The Sale Hearing will be held before the Commercial List Court on July 13, 2009 at 10:00 a.m. (prevailing Eastern time), but may be adjourned or rescheduled in the Applicant's sole discretion, subject to Commercial List Court approval, as necessary, without further notice, by an announcement of the adjourned date at the Sale Hearing so long as the deadlines set forth in the Agreement are not violated or with the consent of the Purchasers if the Purchasers are the Successful Bidder. At the Sale Hearing, the Applicant may seek approval of the Successful Bid and an alternate bid (the "**Alternate Bid**" and such bidder, the "**Alternate Bidder**"). Following approval of the sale to the Successful Bidder, if the Successful Bidder fails to consummate the sale, then the Alternate Bid will be deemed to be the Successful Bid and the Applicant will be authorized, but not directed, to effectuate a sale to the Alternate Bidder subject to the terms of the Alternate Bid without further order of the Commercial List Court. The Purchasers shall have

standing for all matters relating to and arising from the proposed Sale transaction, including standing at the Sale Hearing and enforcement of all orders entered by the Commercial List Court relating to these Bidding Procedures, the Bidding Procedures Order and the Sale Order.

Return Of Good Faith Deposits

Good Faith Deposits of all Qualified Bidders (except for the Successful Bidder) will be held in an interest-bearing escrow account and all Qualified Bids will remain open (notwithstanding Commercial List Court approval of a sale pursuant to the terms of one or more Successful Bids by one or more Qualified Bidders), until the earlier of: (i) two (2) Business Days after the closing of the Sale of the applicable Acquired Assets; and (ii) forty-five (45) days after the Sale Hearing (the "**Return Date**"). Notwithstanding the foregoing, the Good Faith Deposit, if any, submitted by the Successful Bidder, together with interest thereon, will be applied against the payment of the Purchase Price upon closing of the Sale to the Successful Bidder. If a Successful Bidder breaches its obligations under the Bidding Procedures Order or any agreement entered into with respect to its Successful Bid or fails to consummate a sale because of a breach or failure to perform on the part of such Successful Bidder, the Applicant will not have any obligation to return the Good Faith Deposit deposited by such Successful Bidder, and such Good Faith Deposit will irrevocably become property of the Applicant's estate. On the Return Date, the Applicant will return the Good Faith Deposits of all other Qualified Bidders, together with the accrued interest thereon. Notwithstanding the forgoing or anything else herein, the Purchasers' deposit obligations shall be governed by the terms of the Agreement.

Reservations Of Rights

The Applicant, after consultation with the Monitor and consistent with the requirements to obtain the consent of Wachovia set forth elsewhere in these Bidding Procedures: (i) may determine which Qualified Bid, if any, is the highest or otherwise best offer and (ii) may reject at any time any bid that is (a) inadequate or insufficient, (b) not in conformity with the requirements of the Bidding Procedures, or the terms and conditions of the Sale, or (c) contrary to the best interests of the Applicant, its estate, creditors, and other parties in interest as determined by the Applicant in its sole discretion. Notwithstanding the forgoing or anything else herein: (i) the Applicant may not impair or modify the Purchasers' rights and obligations under the Bidding Procedures Order; or (ii) in the event the Applicant elects to withdraw from the Auction the Acquired Assets, cancels the Auction, and/or rejects all Qualifying Bids, the Applicant shall nonetheless be obligated to request at the Sale Hearing that the Commercial List Court approve the Agreement with the Purchasers at the direction of Wachovia.

Appendix 1**Asset Groups**

1. Brands
2. Accounts receivable
3. Hamilton inventory
4. Hamilton plant & equipment
5. Hamilton leases
6. Concord inventory
7. Concord plant & equipment
8. Concord lease

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**IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED
AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF COPPLEY APPAREL GROUP LIMITED**

**ONTARIO
SUPERIOR COURT OF JUSTICE
(Commercial List)**

(PROCEEDING COMMENCED AT TORONTO)

**ORDER
(June 23, 2009)**

GOWLING LAFLEUR HENDERSON LLP

Barristers & Solicitors
1 First Canadian Place, Suite 1600
100 King Street West
Toronto, ON M5X 1G5

Heath P.L. Whiteley (LSUC No. 38528P)

Tel: (416) 862-4400

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Alan J. Butcher (LSUC No. 32168L)

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Robert C. Dunford (LSUC No. 54819D)

Tel: (905) 540-2472

Fax: (905) 523-2948

Solicitors for the Applicant,
Coppley Apparel Group Limited

Court File No. CV-09-8221-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

THE HONOURABLE MADAM	)	WEDNESDAY, THE 8 th
)	
JUSTICE PEPALL	)	DAY OF JULY, 2009



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

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR
ARRANGEMENT OF COPPLEY APPAREL GROUP LIMITED**

ORDER

THIS MOTION, made by the Applicant for an order extending the stay of proceedings was heard this day at 393 University Avenue, Toronto, Ontario.

ON READING the affidavit of Richard Sexton sworn July 7, 2009 (the "**Sexton Affidavit**") and the exhibits thereto and on hearing the submissions of counsel for: (i) Copley Apparel Group Limited, (ii) the Monitor, (iii) Wachovia Capital Finance Corporation (Central) and Wachovia Capital Finance Corporation (Canada), and (iv) Emerisque Brands UK Limited and SKNL North America B.V.,

SERVICE

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

EXTENSION OF STAY PERIOD

2. **THIS COURT ORDERS** that the Stay Period (as defined in paragraph 13 of the Order of the Honourable Madam Hoy dated June 10, 2009) be and the same is hereby extended to and including July 14, 2009.



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ENTERED AT / INSCRIT A TORONTO
ON / BOOK NO:
LE / DANS LE REGISTRE NO.:

JUL 06 2009

PER / PAR: 

**IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED
AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF COPPLEY APPAREL GROUP LIMITED**

**ONTARIO
SUPERIOR COURT OF JUSTICE
(Commercial List)**

(PROCEEDING COMMENCED AT TORONTO)

ORDER

GOWLING LAFLEUR HENDERSON LLP

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Solicitors for the Applicant,
Coppley Apparel Group Limited

Court File No. CV-09-8221-00CL

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

THE HONOURABLE MADAM	)	MONDAY, THE 13 th
)	
JUSTICE CONWAY	)	DAY OF JULY, 2009

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

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF
COPPLEY APPAREL GROUP LIMITED**



APPROVAL AND VESTING ORDER

THIS MOTION made by Copley Apparel Group Limited (the "**Applicant**") for an order approving the sale transaction (the "**Transaction**") contemplated by an agreement of purchase and sale made as of June 5, 2009 (as amended and assigned, the "**Canadian APA**") between the Applicant and Emerisque Brands UK Limited and SKNL North America B.V., as amended and assigned to HMX Canada Acquisition Corp. (the "**Purchaser**") and vesting in the Purchaser all right, title and interest in and to the assets described in the Sale Agreement (the "**Canadian Acquired Assets**"), was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the affidavit of Richard Sexton sworn July 10, 2009 and the Second Report of BDO Dunwoody Limited in its capacity as monitor of the Applicant (the "**Monitor**") dated July 10, 2009 (the "**Second Report**") and on hearing the submissions of counsel for: (i) the Applicant, (ii) the Monitor, (iii) Wachovia Capital Finance Corporation (Central) and Wachovia Capital Finance Corporation (Canada), and (iv) the Purchaser, no one else appearing,

orders that all of the Encumbrances affecting or relating to the Canadian Acquired Assets are hereby expunged and discharged as against the Canadian Acquired Assets.

4. **THIS COURT ORDERS** that, for the purposes of determining the nature and priority of Claims but subject to the payment contemplated in paragraph 5 hereof, the net proceeds from the sale of the Canadian Acquired Assets shall stand in the place and stead of the Canadian Acquired Assets, and that from and after the delivery of the Monitor's Certificate all Claims and Encumbrances shall attach to the net proceeds from the sale of the Canadian Acquired Assets with the same priority as they had with respect to the Canadian Acquired Assets immediately prior to the sale, as if the Canadian Acquired Assets had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale.

5. **THIS COURT ORDERS** that the Purchaser be and is hereby authorized and directed to pay the Adjusted Base Purchase Price (as defined in the Canadian APA) to Wachovia Capital Finance Corporation (Canada) ("**Wachovia Canada**") upon the closing of the Transaction, which payment shall constitute an irrevocable and permanent reduction in the amount of the Applicant's indebtedness to Wachovia Canada.

6. **THIS COURT ORDERS** that, ^{BAC} ~~forthwith upon~~ ^{immediately prior to} the closing of the Transaction, the Applicant be and is hereby authorized and directed to pay any and all cash or cash equivalents on hand (save and except for an amount to be estimated, reserved out and held by the Monitor for payment of liabilities which were incurred prior to closing but after the filing date) to Wachovia Canada or as it may otherwise direct in writing, which payment shall constitute an irrevocable and permanent reduction in the amount of the Applicant's indebtedness to Wachovia Canada.

by the Applicant and agreed to by Wachovia Canada, it be BAC

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

8. **THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the Canada *Personal Information Protection and Electronic Documents Act*, the Applicant is authorized and permitted to disclose and transfer to the Purchaser all human resources and payroll information in the Applicant's records pertaining to the Applicant's past and current employees. The Purchaser shall maintain and protect the privacy of such information and shall be entitled to use the personal information provided to it in a manner which is in all material respects identical to the prior use of such information by the Applicant.

9. **THIS COURT ORDERS** that the Applicant is authorized and directed to file articles of amendment or any other document that may be required in order to change the Applicant's name to its numbered corporation name and to cancel any business names used by the Applicant containing the word "Copley" without the requirement, if any, of obtaining directors' or shareholders' approval pursuant to any Federal or Provincial Legislation.

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

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

the vesting of the Canadian Acquired Assets in the Purchaser and the payment of the Adjusted Base Purchase Price pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of the Applicant and shall not be void or voidable by creditors of the Applicant, nor shall it constitute nor be deemed to be a settlement, fraudulent preference, assignment, fraudulent conveyance or other reviewable transaction under the *Bankruptcy and Insolvency Act* (Canada) or any other

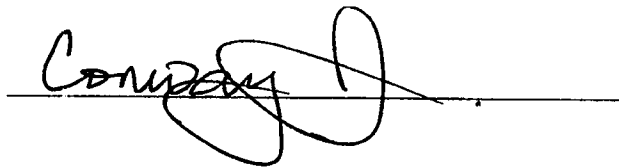
applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

11. **THIS COURT ORDERS AND DELCARES** that the Transaction is exempt from the application of the *Bulk Sales Act* (Ontario).

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

SEALING

13. **THIS COURT ORDERS** that Appendices "D", "F", "G" and "H" to the First Report be and are hereby sealed and shall not form part of the public record until the filing of the Monitor's Certificate.



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LE / DANS LE REGISTRE NO.:

JUL 13 2009

PER / PAR:



Schedule "A"

Court File No. CV-09-8221-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)****IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,
R.S.C. 1985, c. C-36, AS AMENDED****AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF
COPPLEY APPAREL GROUP LIMITED****MONITOR'S CERTIFICATE****RECITALS**

A. Pursuant to an Order of the Honourable Madam Justice Hoy of the Ontario Superior Court of Justice (the "**Court**") dated June 10, 2009, BDO Dunwoody Limited. was appointed as the monitor (the "**Monitor**") of Copley Apparel Group Limited. ("**Copley**").

B. Pursuant to an Order of the Court dated July 13, 2009, the Court approved the agreement of purchase and sale made as of June 5, 2009 (as amended and assigned, the "**Canadian APA**") between the Applicant and Emerisque Brands UK Limited and SKNL North America B.V., as amended and assigned to HMX Canada Acquisition Corp. (the "**Purchaser**") and provided for the vesting in the Purchaser, of Copley's right, title and interest in and to the Canadian Acquired Assets, which vesting is to be effective with respect to the Canadian Acquired Assets upon the delivery by the Monitor to the Purchaser of a certificate confirming (i) the payment by the Purchaser of the Purchase Price for the Canadian Acquired Assets; (ii) that the conditions to Closing as set out in the Canadian APA have been satisfied or waived in accordance with the Canadian APA; and (iii) the Transaction has been completed to the satisfaction of the Monitor.

C. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Canadian APA.

THE MONITOR CERTIFIES the following:

1. The Purchaser has paid the Purchase Price for the Canadian Acquired Assets payable on the Closing Date pursuant to the Canadian APA;
2. The conditions to Closing as set out in the Canadian APA have been satisfied or waived in accordance with the Canadian APA; and
3. The Transaction has been completed to the satisfaction of the Monitor.
4. This Certificate was delivered by the Monitor at _____ [TIME] on _____ [DATE].

**BDO Dunwoody Limited, in its capacity as
Court-Appointed Monitor of Copley
Apparel Group Limited, and not in its
personal capacity**

Per: _____
Name:
Title:

Schedule "B"

Personal Property Security Act (Ontario)

- | | |
|-----|--|
| (1) | Reference File No.: 650670174
Registration No.: 20081222 1136 1616 4297
Registration Period: 4 years
Secured Party: CIT Financial Ltd. |
| (2) | Reference File No.: 642128976
Registration No.: 20080118 1451 1530 1701
Registration Period: 2 years
Secured Party: Chrysler Financial & DaimlerChrysler
Financial Services Canada Inc. |
| (3) | Reference File No.: 637114626
Registration No.: 20070710 1050 1529 0257
Registration Period: 4 years
Secured Party: BMW Canada Inc. |
| (4) | Reference File No.: 636732936
Registration No.: 20070627 1044 1529 8391
Registration Period: 4 years
Secured Party: BMW Canada Inc. |
| (5) | Reference File No.: 621534807
Registration No.: 20051222 1443 1616 7613
Registration Period: 4 years
Secured Party: CIT Financial Ltd. |
| (6) | Reference File No.: 886760928
Registration No.: 20020828 1438 1590 3992
as amended by 20040218 1447 1590 8272
as amended by 20041210 1110 1590 1404
as amended by 20070306 1942 1901 7567
as amended by 20070307 1918 1901 7824
Registration Period: 5 years (extended additional 5 years)
Secured Party: Wachovia Capital Finance Corporation
(Central) |

- (7) Reference File No.: 886760937
 Registration No.: 20020828 1439 1590 3993
 as amended by 20041210 1109 1590 1403
 as amended by 20070306 1945 1901 7570
 as amended by 20070307 1920 1901 7825
 Registration Period: 5 years (extended additional 5 years)
 Secured Party: Wachovia Capital Finance Corporation
 (Central)
- (8) Reference File No.: 886760946
 Registration No.: 20020828 1439 1590 3994
 as amended by 20040218 1448 1590 8273
 as amended by 20041210 1110 1590 1405
 as amended by 20070306 1948 1901 7574
 as amended by 20070307 1922 1901 7826
 Registration Period: 5 years (extended additional 5 years)
 Secured Party: Wachovia Capital Finance Corporation
 (Central)
- (9) Reference File No.: 847041354
 Registration No.: 19981217 1709 3037 2762
 as amended by 20010710 1056 3037 5122
 as amended by 20020903 1109 1590 4160
 as amended by 20020903 1110 1590 4162
 as amended by 20040218 1448 1590 8274
 as amended by 20041210 1110 1590 1406
 as amended by 20070306 1940 1901 7564
 Registration Period: 5 years (extended additional 6 years)
 Secured Party: Wachovia Capital Finance Corporation
 (Central)

Personal Property Security Act (British Columbia)

- (1) Base Registration No.: 587395A
 Control No.: B4837275
 as amended by B5826734
 as amended by B6387512
 as amended by B7884929
 as amended by B7887737
 Registration Period: 5 years (extended additional 5 years)
 Secured Party: Wachovia Capital Finance Corporation
 (Central)

Trademarks

Security interests in favour of Congress Financial Corporation

Record Owner [Beneficial Owner]	Country	Trademark	Status	Reg. No. (App. No.)	Reg. Date (App. No.)	Expiration
Coppley Apparel Group Limited						
Coppley Apparel Group Limited (Canada corp.); 8/30/2002 Lien to Congress Financial Corporation recorded 10/10/2002 at R/F 2595/0679	United States	KEITHMOOR	Registered	2850658	6/8/2004	6/8/2014
Coppley, Noyes and Randall Limited, The (Canada corp.) [Coppley Apparel Group Limited] 8/30/2002 Lien to Congress Financial Corporation by Coppley Apparel Group Limited recorded 10/10/2002 at R/F 2595/0679	United States	MATTEO MAAS	Registered	2207406	12/1/1998	12/1/2008
Coppley Apparel Group Limited; 10/22/2002 lien to Congress Financial Corporation	Canada	ANA MAAS DESIGN	Registered	TMA493994	5/6/1998	5/6/2013
Coppley Apparel Group Limited; 10/22/2002 lien to Congress Financial Corporation	Canada	AVALON	Registered	TMA442008	4/21/1995	4/21/2010
Coppley Apparel Group Limited; 10/22/2002 lien to Congress Financial Corporation	Canada	BISCAYNE	Registered	TMA303135	5/24/2000	5/24/2015
Coppley Apparel Group Limited; 10/22/2002 lien to Congress Financial Corporation	Canada	BISCAYNE CAMBRIDGE; design	Registered	TMA305677	8/9/2000	8/9/2015
Coppley Apparel Group Limited; 10/22/2002 lien to Congress Financial Corporation	Canada	CAMBRIDGE	Registered	TMA298634	12/29/1984 12/28/1999 (renewed)	12/28/2014
Coppley Apparel Group Limited; 10/22/2002 lien to Congress Financial Corporation	Canada	CAMBRIDGE	Registered	TMA352711	3/3/1989 3/3/2004 (renewed)	3/3/2019
Coppley Apparel Group Limited; 10/22/2002 lien to Congress Financial Corporation	Canada	CAMBRIDGE & design	Registered	TMA298635	12/28/1999	12/28/2014
Coppley Apparel Group Limited; 10/22/2002 lien to Congress Financial Corporation	Canada	CAMBRIDGE design	Registered	TMA352713	3/3/1989	3/3/2019
Coppley Apparel Group Limited; 10/22/2002 lien to Congress Financial Corporation	Canada	CAMBRIDGE TRADITIONALLY FINE CLOTHES & DESIGN	Registered	TMA305676	8/9/1985 8/9/2000 (renewed)	8/9/2015
Coppley Apparel Group Limited; 10/22/2002 lien to Congress Financial Corporation	Canada	CAMBRIDGE TRADITIONALLY FINE CLOTHES & DESIGN	Registered	TMA352712	3/3/1989	3/3/2019
Coppley Apparel Group Limited;	Canada	CONNERY BY	Registered	TMA424519	3/4/1994	3/4/2009

Record Owner [Beneficial Owner]	Country	Trademark	Status	Reg. No. (App. No.)	Reg. Date (App. No.)	Expiration
10/22/2002 lien to Congress Financial Corporation		CAMBRIDGE & design				renewal not filed, grace period applies
Coppley Apparel Group Limited; 10/22/2002 lien to Congress Financial Corporation	Canada	COPPLEY APPAREL GROUP	Registered	TMA389834	11/8/1991	11/8/2021
Coppley Apparel Group Limited; 10/22/2002 lien to Congress Financial Corporation	Canada	COPPLEY APPAREL GROUP & design	Registered	TMA398612	5/29/1992 5/29/2007 (renewed)	5/29/2022
Coppley Apparel Group Limited; 10/22/2002 lien to Congress Financial Corporation	Canada	COUNTRY SQUIRE	Registered	UCA041009	4/12/1952 4/12/1997 (renewed)	4/12/2012
Coppley Apparel Group Limited; 10/22/2002 lien to Congress Financial Corporation	Canada	COUNTRY SQUIRE	Registered	TMA302405	5/3/1985 5/3/2000 (renewed)	5/3/2015
Coppley Apparel Group Limited; 10/22/2002 lien to Congress Financial Corporation	Canada	COUNTRY SQUIRE design	Registered	TMA315601	6/27/1986 6/27/2001 (renewed)	6/27/2016
Coppley Apparel Group Limited; 10/22/2002 lien to Congress Financial Corporation	Canada	COUNTRY SQUIRE G.T.O. design	Registered	TMA304203	7/5/1985 6/28/2000 (renewed)	6/28/2015
Coppley Apparel Group Limited; 10/22/2002 lien to Congress Financial Corporation	Canada	CS COUNTRY SQUIRE design	Registered	TMA312155	3/14/1986 3/14/2001 (renewed)	3/14/2016
Coppley Apparel Group Limited; 10/22/2002 lien to Congress Financial Corporation	Canada	DREAMWEAVE	Registered	TMA447694	9/15/1995	9/15/2010
Coppley Apparel Group Limited; 10/22/2002 lien to Congress Financial Corporation	Canada	EBBE	Registered	TMA298152	12/14/1984 12/14/1999 (renewed)	12/14/2014
Coppley Apparel Group Limited; 10/22/2002 lien to Congress Financial Corporation	Canada	EBBE DESIGNS	Registered	TMA297999	12/7/1984 12/7/1999 (renewed)	12/7/2014
Coppley Apparel Group Limited; 10/22/2002 lien to Congress Financial Corporation	Canada	EN ROUTE	Registered	TMA301075	3/22/1985 3/22/2000 (renewed)	3/22/2015
Coppley Apparel Group Limited; 10/22/2002 lien to Congress Financial Corporation	Canada	EN ROUTE CAMBRIDGE design	Registered	TMA301995	4/19/1985 4/19/2000 (renewed)	4/19/2015
Coppley Apparel Group Limited; 10/22/2002 lien to Congress Financial Corporation	Canada	FOR COTTON'S SAKE	Registered	TMA432640	9/2/1994	9/2/2009
Coppley Apparel Group Limited; 10/22/2002 lien to Congress Financial Corporation	Canada	G.T.O.	Registered	TMA304424	7/5/2000	7/5/2015
Coppley Apparel Group Limited; 10/22/2002 lien to Congress Financial Corporation	Canada	K & LION; design	Registered	TMA304413	7/5/1985	7/5/2015
Coppley Apparel Group Limited; 10/22/2002 lien to Congress Financial Corporation	Canada	KEITHMOOR	Registered	TMA312154	3/14/2001	3/14/2016

Record Owner [Beneficial Owner]	Country	Trademark	Status	Reg. No. (App. No.)	Reg. Date (App. No.)	Expiration
Financial Corporation						
Coppley Apparel Group Limited; 10/22/2002 lien to Congress Financial Corporation	Canada	KEITHMOOR & K & LION design	Registered	TMA317592	8/22/1986 8/22/2001 (renewed)	8/22/2016
Coppley Apparel Group Limited; 10/22/2002 lien to Congress Financial Corporation	Canada	KEITHMOOR SLACKS	Registered	TMA304414	7/5/1985 7/5/2000 (renewed)	7/5/2015
Coppley Apparel Group Limited; 10/22/2002 lien to Congress Financial Corporation	Canada	LADY NASH design	Registered	TMA398399	5/22/1992 5/22/2007 (renewed)	5/22/2022
Coppley Apparel Group Limited; 10/22/2002 lien to Congress Financial Corporation	Canada	LINEA 1936 & design	Registered	TMA399586	6/26/1992 6/27/2007 (renewed)	6/27/2022
Coppley Apparel Group Limited; 10/22/2002 lien to Congress Financial Corporation	Canada	MAN-FANCIFUL-MOUNTIE & design	Registered	TMA401891	8/28/1992 8/28/2007 (renewed)	8/28/2022
Coppley Apparel Group Limited; 10/22/2002 lien to Congress Financial Corporation	Canada	MATTEO MAAS	Registered	TMA418845	10/29/1993 10/29/2008 (renewed)	10/29/2023
Coppley Apparel Group Limited; 10/22/2002 lien to Congress Financial Corporation	Canada	NASH PANT	Registered	TMA422240	1/21/1994	1/21/2009
Coppley Apparel Group Limited; 10/22/2002 lien to Congress Financial Corporation	Canada	ONE POUND SUIT BY COPPLEY	Registered	TMA531228	8/15/2000	8/15/2015
Coppley Apparel Group Limited; 10/22/2002 lien to Congress Financial Corporation	Canada	PARKTOWN	Registered	UCA011524	10/27/1938 10/27/1998 (renewed)	10/27/2013
Coppley Apparel Group Limited; 10/22/2002 lien to Congress Financial Corporation	Canada	PRO	Registered	UCA046689	4/2/1947 4/2/2007 (renewed)	4/2/2022
Coppley Apparel Group Limited; 10/22/2002 lien to Congress Financial Corporation	Canada	PRO SLACK	Registered	UCA046690	4/2/1947 4/2/2007 (renewed)	4/2/2022
Coppley Apparel Group Limited; 10/22/2002 lien to Congress Financial Corporation	Canada	QUALITY STYLE SERVICE & Design	Registered	TMA184621	7/28/1972 7/28/2002 (renewed)	7/28/2017
Coppley Apparel Group Limited; 10/22/2002 lien to Congress Financial Corporation	Canada	ROYAL CANADIAN	Registered	TMA427712	5/27/1994	5/27/2009
Coppley Apparel Group Limited; 10/22/2002 lien to Congress Financial Corporation	Canada	THE FACSIMILE SIGNATURE OF WARREN K. COOK	Registered	UCA038736	12/28/1950 12/28/1995 (renewed)	12/28/2010
Coppley Apparel Group Limited; 10/22/2002 lien to Congress Financial Corporation	Canada	THE GOLF CLASSIC & design	Registered	TMA399729	7/3/1992 7/3/2007 (renewed)	7/3/2022
Coppley Apparel Group Limited; 10/22/2002 lien to Congress Financial Corporation	Canada	TRAVELAIRE	Registered	TMA303850	6/21/1985 6/21/2000 (renewed)	6/21/2015

Record Owner [Beneficial Owner]	Country	Trademark	Status	Reg. No. (App. No.)	Reg. Date (App. No.)	Expiration
Coppley Apparel Group Limited; 10/22/2002 lien to Congress Financial Corporation	Canada	BRETLINGER	Registered	TMA417,780	10/8/1993	
Coppley Apparel Group Limited; 10/22/2002 lien to Congress Financial Corporation	Canada	HARRIS & HOBB'S and Design	Registered	TMA370,450	7/6/1990	
Coppley Apparel Group Limited; 10/22/2002 lien to Congress Financial Corporation	Canada	BUSINESS CLASS BY COUNTRY SQUIRE	Registered	TMA368,052	4/20/1990	
Coppley Apparel Group Limited; 10/22/2002 lien to Congress Financial Corporation	Canada	BUSINESS CLASS BY COUNTRY SQUIRE	Registered	TMA368,051	4/20/1990	
Coppley Apparel Group Limited; 10/22/2002 lien to Congress Financial Corporation	Canada	CAMBRIDGE CLOTHES	Registered	TMDA019,159	12/6/1913	

**IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED
AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF COPPLEY APPAREL GROUP LIMITED**

**ONTARIO
SUPERIOR COURT OF JUSTICE
(Commercial List)**

(PROCEEDING COMMENCED AT TORONTO)

APPROVAL AND VESTING ORDER

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Solicitors for the Applicant,
Copley Apparel Group Limited

Court File No. CV-09-8221-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

THE HONOURABLE MADAM	)	MONDAY, THE 13 th
)	
JUSTICE CONWAY	)	DAY OF JULY, 2009

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



**AND IN THE MATTER OF A PLAN OF COMPROMISE OR
ARRANGEMENT OF COPPLEY APPAREL GROUP LIMITED**

ORDER

THIS MOTION, made by the Applicant for an order, among other things, extending the stay of proceedings was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the affidavit of Richard Sexton sworn July 10, 2009 (the "**Sexton Affidavit**") and the exhibits thereto, the Second Report of the Monitor dated July 10, 2009 (the "**Second Report**"), and on hearing the submissions of counsel for: (i) Copley Apparel Group Limited, (ii) the Monitor, (iii) Wachovia Capital Finance Corporation (Central) and Wachovia Capital Finance Corporation (Canada), and (iv) HMX Canada Acquisition Corp.,

SERVICE

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

APPROVAL OF MONITOR'S ACTIVITIES

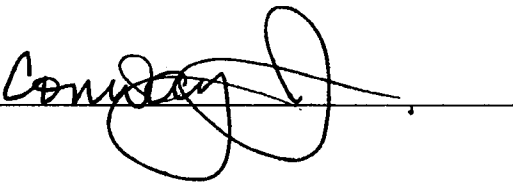
2. **THIS COURT ORDERS** that the Second Report and all of the activities of the Monitor referred to therein are approved.

APPROVAL OF FEES AND DISBURSEMENTS

3. **THIS COURT ORDERS** that the fees and disbursements of the Monitor and its legal counsel as set forth in the Second Report and in particular, the affidavit of Gary Cerrato sworn July 9, 2009 and the affidavit of Edmond Lamek sworn July 10, 2009, are hereby approved and allowed.

EXTENSION OF STAY PERIOD

4. **THIS COURT ORDERS** that the Stay Period (as defined in paragraph 13 of the Order of the Honourable Madam Hoy dated June 10, 2009) be and the same is hereby further extended to and including July 22, 2009.



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ENTERED AT / INSCRIT A TORONTO
ON / BOOK NO:
LE / DANS LE REGISTRE NO.:

JUL 13 2009

PER / PAR:



**IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED
AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF COPPLEY APPAREL GROUP LIMITED**

**ONTARIO
SUPERIOR COURT OF JUSTICE
(Commercial List)**

(PROCEEDING COMMENCED AT TORONTO)

APPROVAL AND VESTING ORDER

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Coppley Apparel Group Limited

Court File No. CV-09-8221-00CL

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

THE HONOURABLE	)	WEDNESDAY, THE 22 nd
)	
JUSTICE WILTON-SIEGEL	)	DAY OF JULY, 2009



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

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR
ARRANGEMENT OF COPPLEY APPAREL GROUP LIMITED**

ORDER

THIS MOTION, made by the Applicant for an order further extending the stay of proceedings was heard this day at 393 University Avenue, Toronto, Ontario.

ON READING the affidavit of Richard Sexton sworn July 22, 2009 (the "**Sexton Affidavit**") and the exhibits thereto, the Third Report of the Monitor dated July 22, 2009 and on hearing the submissions of counsel for: (i) Coppley Apparel Group Limited, (ii) the Monitor, (iii) Wachovia Capital Finance Corporation (Central) and Wachovia Capital Finance Corporation (Canada), and (iv) HMX Canada Acquisition Corp.,

SERVICE

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

EXTENSION OF STAY PERIOD

2. **THIS COURT ORDERS** that the Stay Period (as defined in paragraph 13 of the Order of the Honourable Madam Hoy dated June 10, 2009) be and the same is hereby further extended to and including July 27, 2009.



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ENTERED AT / INSCRIT À TORONTO
ON / BOOK NO:
LE / DANS LE REGISTRE NO.:

JUL 22 2009

PER / PAR: *sh*

**IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED
AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF COPPLEY APPAREL GROUP LIMITED**

**ONTARIO
SUPERIOR COURT OF JUSTICE
(Commercial List)**

(PROCEEDING COMMENCED AT TORONTO)

ORDER

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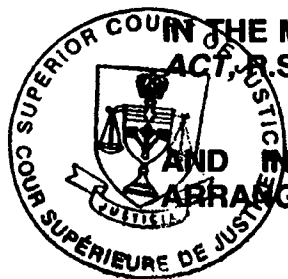
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Court File No. CV-09-8221-00CL

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

THE HONOURABLE	)	MONDAY, THE 27 th
)	
JUSTICE WILTON-SEIGEL	)	DAY OF JULY, 2009



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

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR
ARRANGEMENT OF COPPLEY APPAREL GROUP LIMITED**

ORDER

THIS MOTION, made by the Applicant for an order further extending the stay of proceedings was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the affidavit of Richard Sexton sworn July 27, 2009 (the "**Sexton Affidavit**") and the exhibits thereto, the Fourth Report of the Monitor dated July 27, 2009 and on hearing the submissions of counsel for: (i) Copley Apparel Group Limited, (ii) the Monitor, (iii) Wachovia Capital Finance Corporation (Central) and Wachovia Capital Finance Corporation (Canada), and (iv) HMX Canada Acquisition Corp.,

SERVICE

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

EXTENSION OF STAY PERIOD

2. **THIS COURT ORDERS** that the Stay Period (as defined in paragraph 13 of the Order of the Honourable Madam Hoy dated June 10, 2009) be and the same is hereby further extended to and including August 28, 2009.



Christina Irwin
Registrar, Superior Court of Justice

TOR_LAW 71732622

ENTERED AT / INSCRIT A TORONTO
ON / BOOK NO:
LE / DANS LE REGISTRE NO.:

JUL 27 2009

PER / PAR: 

**IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED
AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF COPPLEY APPAREL GROUP LIMITED**

**ONTARIO
SUPERIOR COURT OF JUSTICE
(Commercial List)**

(PROCEEDING COMMENCED AT TORONTO)

ORDER

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Solicitors for the Applicant,
Coppoley Apparel Group Limited

**This is ...Exhibit "C" ... referred to in the
Affidavit of ... Richard Sexton...
sworn before me, this 7th day
of August, 2009**



A Commissioner for Taking Oaths

Execution Version

ASSET PURCHASE AGREEMENT

by and between

COPPLEY APPAREL GROUP LIMITED

as Seller,

And

EMERISQUE BRANDS UK LIMITED and SKNL NORTH AMERICA, B.V.

as Purchasers

Dated as of June 5, 2009

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ASSET PURCHASE AGREEMENT

THIS ASSET PURCHASE AGREEMENT (the “Agreement”), dated as of June 5, 2009 (the “Effective Date”), is made by and between Copley Apparel Group Limited, an Ontario corporation (the “Seller”), Emerisque Brands UK Limited, a company formed under the laws of England and Wales (“Emerisque”) and SKNL North America, B.V., a company incorporated under the laws of The Netherlands (“SKNL”, collectively with Emerisque and any of their permitted designees, the “Purchasers”). Capitalized terms used herein and not otherwise defined shall have the meanings set forth in Article IX.

WHEREAS, on January 23, 2009, each of Hartmarx Corporation, a Delaware corporation (the “Parent”) and certain of its subsidiaries (collectively with the Parent, the “US Sellers”) filed a voluntary petition for relief commencing cases (the “Chapter 11 Cases”) under Chapter 11 of Title 11 of the United States Code in the United States Bankruptcy Court for the Northern District of Illinois Eastern Division;

WHEREAS, Seller and the US Sellers are collectively engaged in the business of designing, manufacturing, marketing, distributing and selling men’s and women’s apparel under the Brand Names, both owned and under license, through retail, department and specialty stores and directly to consumers through retail stores, catalogs and e-commerce websites (the portion of such business carried on by Seller, other than shirt manufacturing carried on by Seller at the Concord Premises (the “Concord Shirt Business”), being hereinafter referred to as the “Business”);

WHEREAS, pursuant to the asset purchase agreement dated as of May 21, 2009 by and among Seller, the US Sellers and Purchasers (the “Original APA”), Seller and US Sellers agreed to sell substantially all of their respective assets to Purchasers on the terms set out therein;

WHEREAS, the Original APA contemplated that Seller, the US Sellers and the Purchasers would enter into a further agreement regarding the process by which Seller would sell its assets to Purchasers and such parties would amend the Original APA in a manner consistent with such agreement;

WHEREAS, Seller, the US Sellers and Purchasers have reached such agreement and, as a result:

(a) Purchasers have agreed to purchase, and Seller has agreed to sell to Purchasers, the Canadian Acquired Assets, and Purchasers are willing to assume from Seller the Assumed Liabilities, upon the terms and conditions hereinafter set forth (the sale and purchase of the Canadian Acquired Assets and the assignment and assumption of the Assumed Liabilities are collectively referred to herein as the “Asset Purchase”); and

(b) Seller, the US Sellers and the Purchaser have, contemporaneously with the execution and delivery of this Agreement, entered into an agreement dated the date hereof amending and restating the Original APA (the “Amended APA”);

NOW, THEREFORE, in consideration of the foregoing and the respective representations, warranties, covenants, and agreements set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

ARTICLE I

PURCHASE AND SALE OF ASSETS

Section 1.1 Canadian Acquired Assets. On the terms and subject to the conditions set forth in this Agreement, including approval of the Canadian Court, at the Closing, Seller shall sell, assign, transfer, convey, and deliver to Purchasers, and Purchasers shall purchase, free and clear of all Encumbrances (other than Permitted Encumbrances) and accept from Seller, all right, title and interest of Seller in and to all rights, properties and assets of Seller (other than the Excluded Assets), of every kind and description, wherever located, whether real, personal or mixed, tangible or intangible, owned, leased, licensed, used or held for use in or relating to the Business (collectively, the "Canadian Acquired Assets"), including all right, title and interest of Seller in, to or under:

(a) all Accounts Receivable existing on the date hereof or arising in the ordinary course of the Business after the date hereof, except to the extent that any of the foregoing are collected, paid, satisfied or discharged on or prior to the Closing;

(b) all credits, claims for refunds, prepaid expenses, prepaid rent, and prepaid items relating to the Business, including such of the foregoing as are listed and described on Schedule 1.1(b);

(c) all Contracts, other than those excluded pursuant to the next to last paragraph of this Section 1.1, as the same may be supplemented pursuant to the next to last paragraph of this Section 1.1 (the "Assigned Contracts"), including:

(i) all of the Contracts between Seller and a customer relating to the Business (the "Customer Contracts"), including such of the foregoing as are listed or described on Schedule 1.1(c)(i) or that relate to the Business or arise in the ordinary course of the Business after the date hereof;

(ii) the Contracts between Seller and a vendor or other third party providing goods or services relating to the Business (the "Supplier Contracts"), including such of the foregoing as are listed or described on Schedule 1.1(c)(ii) or that relate to the Business and arise in the ordinary course of the Business after the date hereof;

(iii) the licenses, sublicenses or other Contracts to which Seller is a party or otherwise bound pursuant to which Seller has granted, been granted, has given, or has obtained any right to use any Intellectual Property that is material to the Business or is otherwise related to the Canadian Acquired Assets, including without limitation such of the foregoing as are listed or described on Schedule 1.1(c)(iii) (the "License Agreements"); and

(iv) all Material Contracts not otherwise covered by clauses (i)-(iii) above and the other Contracts and arrangements that are listed or described on Schedule 1.1(c)(iv).

(d) any rights, claims or causes of action of Seller against third parties arising out of events occurring prior to the Closing Date, including and, for the avoidance of doubt, arising out of events occurring prior to the date hereof and including any rights under or pursuant to any and all warranties, representations and guarantees made by suppliers, manufacturers and contractors relating to products sold, or services provided, to Seller, excluding only the rights, claims and causes of action that are identified as Excluded Assets in Section 1.2;

(e) all inventory, finished goods, goods in transit, works in process, samples, raw materials, packaging materials and other materials used or held for use in the operation of the Business or held by third parties, whether on consignment or not, including such of the foregoing as are listed or described on Schedule 1.1(e) (collectively, the "Inventory");

(f) all Leases of Leased Real Property used in the operation of the Business that are listed and described on Schedule 1.1(f), other than such Leases that are excluded pursuant to the next to last paragraph of this Section 1.1, as the same may be supplemented pursuant to the next to last paragraph of this Section 1.1 (such Leases, the "Assumed Leases" and the Leased Real Property subject thereto, the "Acquired Leased Real Property");

(g) all machinery, equipment, computers, furniture, furnishings, fixtures, office supplies, vehicles, tools, order entry devices and all other tangible personal property owned by Seller that are used in the operation of the Business and located on any Leased Real Property (collectively, the "Tangible Personal Property"), including such of the foregoing as are listed or described on Schedule 1.1(g);

(h) all Trademarks that are listed on Schedule 1.1(h), and each of the following used in connection with such Trademarks or products manufactured and sold under, or that are used in connection with, such Trademarks as of the Effective Date: all trade dress, logos, slogans, Domain Names, and other similar designations of source or origin, together with the goodwill symbolized by, and any registrations and applications for, the foregoing; Patents; Copyrights; know-how, Trade Secrets, and rights in proprietary processes, formulae, Customer Lists, and supplier lists; and all other Intellectual Property owned, used or licensed by or to Seller;

(i) all rights in the computer software programs and information technology systems listed or described on Schedule 1.1(i) (the "Software");

(j) all Permits issued to Seller by any Governmental Entity relating to the operation of the Business and any subsidies and remissions provided by any Government Entity to Seller with respect to the Business;

(k) the bank accounts and lockbox arrangements relating to the Business that are listed or described on Schedule 1.1(k) (excluding all rights or incidents of interest with respect to the cash or cash equivalents in such bank accounts or lock box arrangements on or before the Closing Date);

(l) all Documents except those (i) specifically excluded under Section 1.2(j) or (ii) relating to employees of Seller who are not Hired Employees;

(m) all of Seller's rights, to the extent they are transferable, to make claims, and to receive the proceeds of any such claims, (i) under property or casualty insurance policies maintained by or on behalf of Seller for any loss to an Acquired Asset occurring prior to Closing that is covered by such policies, and (ii) under liability insurance policies maintained by or on behalf of Seller with respect to any Assumed Liability;

(n) all goodwill associated with the Business or the Canadian Acquired Assets;

(o) all telephone and telephone facsimile numbers and other directory listings used in connection with the Business;

(p) all original artwork, prints, lithographs, etchings, oil paintings, watercolor drawings and other similar works of art located at any Leased Real Property;

(q) all rights of Seller under letters of credit or similar instruments issued by third parties naming the Seller as a beneficiary thereunder relating to the Canadian Acquired Assets; and

(r) all other or additional privileges, rights and interests associated with the Canadian Acquired Assets of every kind and description and wherever located that are used or intended for use in connection with, or that are necessary to the continued operation of, the Business as presently being operated.

Notwithstanding anything herein to the contrary, at any time prior to Closing, Purchasers shall be entitled in their sole discretion to remove any Contracts (other than the Assumed Leases) from the lists of Assigned Contracts by providing written notice thereof to Seller, and any Contracts or Leases so removed shall not constitute Canadian Acquired Assets at Closing. At any time prior to Closing, Purchasers shall be entitled in their sole discretion to request Seller to add to the lists of Assigned Contracts any Contracts of Seller by providing written notice thereof to Seller, and any Contracts so added shall constitute Canadian Acquired Assets; provided that Purchasers shall not be entitled to add to the list of Assigned Contracts any Contracts of Seller that, as of the date Purchasers provide written notice to Seller, (i) Seller terminated or that have expired pursuant to their terms, or (ii) that are set forth on Schedule 1.1(A). If Purchasers add any Contracts to the Assigned Contracts in accordance with the foregoing, then, at Purchasers' request, and subject to Section 1.5, Seller shall take such steps as are necessary to cause such Contracts to be assigned to Purchasers, including seeking any necessary Third Party Consents in accordance with Section 1.5.

At any time prior to three (3) Business Days prior to the deadline for the Auction pursuant to Section 5.7, Purchasers may, in their sole discretion by written notice to Seller, designate any of the Canadian Acquired Assets other than Assigned Contracts and Assumed Leases as additional Excluded Assets, which notice shall set forth in reasonable detail the Canadian Acquired Assets so designated. Purchasers acknowledge and agree that there shall be no reduction in the Purchase Price if they elect so to designate any Canadian Acquired Assets as Excluded Assets.

Section 1.2 Excluded Assets. Notwithstanding anything contained in this Agreement to the contrary, the following rights, properties and assets (collectively, the "Excluded Assets") will not be included in the Canadian Acquired Assets, and Seller shall retain all right, title and interest in, to and under the Excluded Assets:

- (a) all cash, cash equivalents, including cheques, commercial paper, treasury bills, certificates of deposit and other bank accounts, or marketable securities of Seller;
- (b) all of the Accounts Receivable that have been collected, paid, satisfied or discharged prior to the Closing;
- (c) all intercompany payables, liabilities and obligations (of any nature or kind, and whether based in common law or statute or arising under written contract or otherwise, known or unknown, fixed or contingent, accrued or unaccrued, liquidated or unliquidated, real or potential) owed or payable to Seller or any affiliate thereof or as to which Seller or any affiliate thereof is an obligor or is otherwise responsible or liable;
- (d) all of the Contracts that have terminated or expired prior to the Closing in the ordinary course of the Business;
- (e) all Contracts, and all of Seller's rights thereunder, that are not Assigned Contracts (the "Excluded Contracts");
- (f) the Lease in respect of the Concord Premises and all other Leases except the Assumed Leases, after giving effect to the terms set forth in the next to last paragraph of Section 1.1, and any letters of credit relating thereto;
- (g) any Inventory sold prior to the Closing in the ordinary course of the Business consistent with past practice and any Inventory located at the Leased Real Property (other than the Acquired Leased Real Property);
- (h) any Tangible Personal Property disposed of in the ordinary course of the Business consistent with past practice and any Tangible Personal Property located at the Leased Real Property (other than the Acquired Leased Real Property);
- (i) any right Seller has with respect to any deferred Tax assets or any refund for Taxes;
- (j) the company seal, minute books, charter documents, stock or equity record books and such other books and records as pertain to the organization, existence

or capitalization of Seller or any Affiliate thereof as well as any other Documents relating to Seller or any Affiliate thereof related primarily to an Excluded Asset or Excluded Liability;

(k) any right, property or asset that is listed or described on Schedule 1.2(k);

(l) any rights, claims or causes of action of Seller arising under this Agreement or the Ancillary Documents;

(m) all receivables, claims or causes of action related primarily to any Excluded Asset;

(n) all letters of credit related solely to any Excluded Asset;

(o) all rights under (i) insurance policies relating to claims for losses related primarily to any Excluded Asset or Excluded Liability or (ii) directors' and officers' insurance policies or similar fiduciary policies; and

(p) any asset of Seller that would constitute an Acquired Asset (if owned by Seller on the Closing Date) that is conveyed or otherwise disposed of during the period from the date hereof until the Closing Date as permitted by the terms of this Agreement.

Section 1.3 Assumed Liabilities. On the terms and subject to the conditions set forth in this Agreement, at the Closing, Purchasers shall execute and deliver to Seller the Assignment and Assumption Agreement pursuant to which Purchasers shall assume and agree to discharge, when due (in accordance with their respective terms and subject to the respective conditions thereof), only the following Liabilities (without duplication) (collectively the "Assumed Liabilities") and no others:

(a) all customer and consumer programs in the ordinary course of the Business, including gift certificates, customer deposits, store credits, product returns, promotional discounts and allowances;

(b) all Liabilities of Seller under each of the Assigned Contracts and the Assumed Leases arising after the Closing in respect of which the Canadian Court has approved the assignment of such Assigned Contract or Assumed Lease to Purchasers and, if required by the terms hereof or thereof, a Third Party Consent has been obtained;

(c) amounts incurred in the ordinary course of business after the date hereof consistent with past practice and in compliance with the Operating Budget pursuant to an Assigned Contract and that are current in nature (and not past due) and are owed to suppliers in respect of goods that would constitute Inventory that would be Canadian Acquired Assets but in respect of which title has not yet passed to Seller;

(d) accrued (to the extent not paid by Seller) and unused vacation pay to which the Hired Employees are entitled pursuant to the policies of Seller applicable to such Hired Employees immediately prior to the Closing Date; provided that during the period

between the date hereof and the Closing Date, Seller shall not modify or amend such policies with respect to the Hired Employees; and

- (e) the other liabilities and obligations described on Schedule 1.3(e).

Section 1.4 Excluded Liabilities. Notwithstanding any provision in this Agreement to the contrary, Purchasers shall not assume and shall not be obligated to assume or be obliged to discharge any Liability of Seller, and Seller shall be solely and exclusively liable with respect to all Liabilities of Seller, other than the Assumed Liabilities (collectively the “Excluded Liabilities”). For the avoidance of doubt, the Excluded Liabilities include the following:

(a) any Liability of Seller or its directors, officers, stockholders or agents (acting in such capacities), arising out of, or relating to, this Agreement or the transactions contemplated by this Agreement, whether incurred prior to, at or subsequent to the Closing Date, including all finder’s or broker’s fees and expenses and any and all fees and expenses of any representatives of Seller;

(b) other than as specifically set forth herein, any Liability relating to (x) events or conditions occurring or existing in connection with, or arising out of, the Business as operated prior to the Closing Date, (y) the ownership, possession, use, operation or sale or other disposition prior to the Closing Date of any Canadian Acquired Assets (or any other assets, properties, rights or interests associated, at any time prior to the Closing Date, with the Business) or (z) the Canadian Proceedings;

(c) except as set forth in Section 1.3(c), amounts owed to vendors and service providers in respect of goods and services arising in the ordinary course of the Business on or after the date hereof and existing as of or immediately prior to the Closing Date;

(d) except as set forth in Section 1.3(d), any Liability to any Person at any time employed by Seller or their predecessors-in-interest at any time or to any such Person’s spouse, children, other dependents or beneficiaries, with respect to any matters, incidents, events, exposures or circumstances occurring at any time during the period or periods of any such Person’s employment by Seller or their predecessors-in-interest, whenever such claims mature or are asserted, including (except as otherwise specifically set forth herein) all Liabilities arising (i) under any benefit plans, (ii) under any employment, wage and hour restriction, equal opportunity, discrimination, plant closing or immigration and naturalization laws, (iii) under any collective bargaining laws, agreements or arrangements or (iv) in connection with any workers’ compensation or any other employee health, accident, disability or safety claims;

(e) any Liability relating to the Canadian Acquired Assets based on events or conditions occurring or existing prior to the Closing Date and connected with, arising out of or relating to: (i) Hazardous Substances or Environmental Laws, (ii) claims relating to employee health and safety, including claims for injury, sickness, disease or death of any Person or (iii) compliance with any Legal Requirement relating to any of the foregoing;

(f) any pension, retirement, welfare, severance, change of control or deferred compensation Liability of Seller to its current or former employees which are accrued as of the Closing Date, whether or not under any Benefit Plan;

(g) except as provided in Section 8.4, any Liability for Taxes attributable to periods ending on or prior to the Closing Date;

(h) any Liability incurred by Seller or its directors, officers, stockholders, agents or employees (acting in such capacities) after the Closing Date;

(i) any Liability of Seller to any Person on account of any Action or Proceeding, to the extent such Action or Proceeding either exists as of Closing or relates to a period ending on or prior to the Closing Date; and

(j) any Liability relating to or arising out of the ownership or operation of an Excluded Asset.

Section 1.5 Assignment of Assigned Contracts and Assumed Leases. To the maximum extent permitted by applicable law and subject to the other provisions of this Section 1.5, Seller shall transfer and assign all Assigned Contracts, Permits and Assumed Leases to Purchasers as of the Closing Date or such other date as specified in the Sale Order or this Agreement, as applicable. Notwithstanding any other provision of this Agreement or in any Ancillary Document to the contrary, this Agreement shall not constitute an agreement to assign any Assigned Contract or Permit or any right thereunder if an attempted assignment without the consent of a third party, which consent has not been obtained prior to the Closing, would after giving effect to the Sale Order constitute a breach or in any way adversely affect the rights of Purchasers or Seller thereunder. If with respect to any Assigned Contract or Permit, such consent is not obtained prior to Closing, then such Assigned Contract or Permit shall not be transferred hereunder and, subject to Section 6.3(j), the Closing shall proceed with respect to the remaining Assigned Contracts and Permits without any reduction in the Purchase Price. In the case of Assigned Contracts or Permits (other than any such Assigned Contract or Permit for which a Third Party Consent is required and is listed on Schedule 6.3(j) or any bank accounts or lock box arrangements (i) that cannot be transferred or assigned effectively without a Third Party Consent, which consent has not been obtained prior to the Closing (after giving effect to the Sale Order), Seller shall, at Purchasers' sole expense, use its reasonable best efforts (subject to availability of personnel and funding) to cooperate with Purchasers in endeavoring to obtain such consent and, if any such consent is not obtained, Seller shall, following the Closing, at Purchasers' sole expense, use its reasonable best efforts (subject to availability of personnel and funding) to cooperate with Purchasers in all reasonable respects to provide to Purchasers the benefits thereof in some other manner, or (ii) that are otherwise not transferable or assignable shall, following the Closing, at Purchasers' sole expense, use its reasonable best efforts (subject to availability of personnel and funding) to cooperate with Purchasers to provide to Purchasers the benefits thereof in some other manner (including the exercise of the rights of Seller thereunder); provided that nothing in this Section 1.5 shall (x) require Seller or any Affiliate thereof to make any significant expenditure or incur any significant obligation on its own or on behalf of Purchasers or (y) prohibit Seller or any Affiliate thereof from ceasing operations or winding up its affairs following the Closing; provided, further, that nothing in this Section 1.5 shall require Purchasers

to reimburse Seller for any attorneys' fees and expenses incurred by Seller in complying with its obligations under this Section 1.5.

Section 1.6 Purchase Price. In consideration for the Canadian Acquired Assets, Purchasers shall, in addition to the assumption of the Assumed Liabilities, pay to the DIP Lender, at the Closing consideration equal to U.S.\$5,389,922 (the "Base Purchase Price") (representing 72% of the DIP Balance as of May 8, 2009). The Base Purchase Price will be subject to adjustment pursuant to Section 1.7 below (as so adjusted, the "Adjusted Base Purchase Price"). The "Purchase Price" shall consist of the sum of the aggregate value of the Assumed Liabilities and the Adjusted Base Purchase Price.

Section 1.7 Base Purchase Price Adjustment. (a) Immediately following the close of business on the day prior to the Closing Date, Seller shall deliver to Purchasers the DIP Balance Certificate. The Base Purchase Price will then be subject to adjustment immediately prior to the Closing based on the amount obtained by subtracting from the Base Purchase Price seventy-two percent (72%) of the sum of: (x) the Pre-Closing DIP Balance; and (y) the Eligible Amounts (the "Adjustment Amount") and:

(i) if the Adjustment Amount is a positive number, the Adjusted Base Purchase Price shall be the Base Purchase Price less the Adjustment Amount; and

(ii) if the Adjustment Amount is a negative number, the Adjusted Base Purchase Price shall be the Base Purchase Price plus the absolute value of the Adjustment Amount.

(b) The Adjusted Base Purchase Price shall be paid in cash to the DIP Lender except to the extent of the face value of letters of credit included therein that are assumed or replaced by Purchasers at Closing.

Section 1.8 Allocation of Purchase Price for Tax Purposes. Within sixty (60) days after the Closing, Purchasers shall deliver to Seller for Seller's review and approval allocation schedule(s) (the "Allocation Schedule(s)") allocating the Purchase Price, including the Assumed Liabilities that are liabilities for federal and provincial income Tax purposes, among the Canadian Acquired Assets. The Allocation Schedule(s) shall be reasonable and shall be prepared in accordance with applicable Canadian law. Seller agrees that, following its approval of the Allocation Schedule(s), such approval not to be unreasonably withheld, Seller shall use its reasonable best efforts (subject to availability of personnel and funding) to sign the Allocation Schedule(s) and return an executed copy thereof to Purchasers, it being understood and agreed that on or before the twentieth (20th) Business Day following its receipt of the Allocation Schedule(s) from Purchasers as herein provided, Seller shall use its reasonable best efforts (subject to availability of personnel and funding) to either deliver an executed copy thereof to Purchasers or, in the event that Seller shall have objections to all or any portion of the Allocation Schedule(s), Seller shall use its reasonable best efforts (subject to availability of personnel and funding) to deliver to Purchasers a written objection to such Allocation Schedule(s), which written objection shall set forth in reasonable detail the basis for the objection of Seller thereto. In the event that Seller shall deliver a written objection to the

Allocation Schedule(s), Seller shall use its reasonable best efforts (subject to availability of personnel and funding) to work in good faith with Purchasers to resolve any and all objections set forth therein, and upon the resolution of all such objections, Seller and Purchasers shall execute and deliver a signed copy of such agreed upon Allocation Schedule(s). Purchasers and Seller will each file all Tax Returns, in accordance with the Allocation Schedule(s) that are agreed upon by the Seller and the Purchasers pursuant to the terms of this Section 1.8. Purchasers, on the one hand, and Seller, on the other hand, each agrees to provide the other promptly with any other information required to complete any such Tax Returns.

Section 1.9 Tax Elections.

(a) Seller and Purchasers will on or before Closing jointly prepare and execute an election, in the prescribed form and containing the prescribed information, to have subsection 167(1.1) of the *Excise Tax Act* (Canada) apply to the sale and purchase of the Canadian Acquired Assets hereunder so that no tax is payable in respect of such sale and purchase under Part IX of the *Excise Tax Act* (Canada). Purchasers will file such election with the Minister of National Revenue within the time prescribed by the *Excise Tax Act* (Canada). Seller and Purchasers will make any required elections under corresponding provincial or territorial law and the foregoing provisions will apply *mutatis mutandis* in respect thereof.

(b) Seller and Purchasers acknowledge that a portion of the Canadian Acquired Assets transferred by Seller pursuant to this Agreement and having a value equal to the amount elected under subsection 20(24) of the *Income Tax Act* (Canada) is being transferred to Purchasers in consideration for Purchasers assuming prepaid obligations of Seller to deliver goods or provide services in the future. Seller and Purchasers will prepare, execute and file, on a timely basis and using any prescribed form, a joint election under subsection 20(24) of the *Income Tax Act* (Canada) as to such assumption hereunder, and prepare their respective Tax Returns in a manner consistent with such joint election. The elected amount will be determined by Purchasers, acting reasonably. Seller and Purchasers will make any required elections under corresponding provincial or territorial law and the foregoing provisions will apply *mutatis mutandis* in respect thereof.

(c) Seller and Purchasers will execute and file, on a timely basis and in prescribed form, a joint election under section 22 of the *Income Tax Act* (Canada) as to the sale of the Accounts Receivable to be purchased under this Agreement, and prepare their respective tax returns in a manner consistent with such joint election. For purposes of such joint election, the elected amount in respect of the Accounts Receivable will be determined by Purchasers consistent with the Purchase Price allocation as set forth in or determined pursuant to Section 1.8 with respect to the Accounts Receivable.

ARTICLE II

THE CLOSING

Section 2.1 Closing. The closing of the transactions contemplated by this Agreement (the "Closing") shall take place at the offices of Gowling Lafleur Henderson LLP, 1 First Canadian Place, 100 King Street West, Suite 1600, Toronto, Ontario M5X 1G5 at 10:00

a.m. local time on the later of (i) the same day as the conditions set forth in Article VI shall have been satisfied or waived and (ii) at such other time, date and place as shall be fixed by agreement among the Seller and the Purchasers (the date of the Closing being herein referred to as the "Closing Date"). For financial, accounting, Tax and economic purposes, including risk of loss, and for all other purposes under this Agreement, upon the occurrence of the Closing, the Closing shall be deemed to have occurred at 12:01 a.m. (Toronto time) on the Closing Date.

Section 2.2 Deliveries at Closing.

(a) At the Closing, Seller shall deliver to Purchasers, or with respect to clause (iii) below, shall make available to Purchasers at their then present location:

(i) one or more Bills of Sale, including a transfer of all Intellectual Property owned by Seller and included in the Canadian Acquired Assets but that is not covered in the instruments of assignment identified in Section 2.2(a)(ii), the Assignment and Assumption Agreement, the Assignment and Assumption of Assumed Leases, and each other Ancillary Document to which Seller is a party, duly executed by the Seller;

(ii) instruments of assignment of the Patents (the "Assignment of Patents"), Trademarks (the "Assignment of Trademarks"), Copyrights (the "Assignment of Copyrights") and Domain Names (the "Assignment of Domain Names"), if any, that are owned by Seller and included in the Canadian Acquired Assets, if any, duly executed by Seller, in form for recordation with the appropriate Governmental Entity, substantially in the form of Exhibits E, F, G and H, respectively;

(iii) all material artwork, sketches, designs, drawings and copyrighted materials (registered and unregistered) that are included in the Canadian Acquired Assets, including all existing archives thereof, in the form maintained by Seller and all existing hard copies of the foregoing, in each case as in Seller's possession;

(iv) keys for the Acquired Leased Real Property, the combinations for any safes located on the Acquired Leased Real Property, and the access codes for any electronic security systems located on the Acquired Leased Real Property;

(v) a certified copy of the Sale Order;

(vi) copies of all Third Party Consents;

(vii) the officer's certificates required to be delivered pursuant to Sections 6.3(a), (b), (e) and (k);

(viii) a closing statement, duly executed by Seller, setting forth customary real property matters;

(ix) all other previously undelivered certificates and other documents required to be delivered by Seller to Purchasers at or prior to the Closing Date in connection with the Asset Purchase; and

(x) such other bills of sale, deeds, endorsements, assignments and other good and sufficient instruments of conveyance and transfer, and any other documents and writings (either executed counterparts or otherwise) required or reasonably requested by Purchasers to vest in Purchasers all the right, title and interest of Seller in, to or under any or all the Canadian Acquired Assets, each in form and substance reasonably satisfactory to Purchasers.

(b) At the Closing, Purchasers shall deliver to the DIP Lender the cash portion of the Adjusted Base Purchase Price by wire transfer in immediately available funds to an account or accounts designated by Seller and further shall deliver to Seller:

(i) the Assignment and Assumption Agreement, the Assignment and Assumption of Assumed Leases and each other Ancillary Document to which Purchasers are party, duly executed, by Purchasers;

(ii) the officer's certificates required to be delivered pursuant to Sections 6.2(a) and (b);

(iii) a closing statement, duly executed by Purchasers, setting forth customary real property matters;

(iv) all other previously undelivered certificates and other documents required to be delivered by Purchasers to Seller at or prior to the Closing Date in connection with the Asset Purchase; and

(v) any other documents, instruments and writings (either executed counterparts or otherwise) required or reasonably requested by Seller to be delivered by Purchasers pursuant to this Agreement for Seller to transfer and assign the Canadian Acquired Assets to Purchasers and for Purchasers to assume the Assumed Liabilities, each in form and substance reasonably satisfactory to Seller and Purchasers.

ARTICLE III

REPRESENTATIONS AND WARRANTIES OF SELLER

As an inducement to Purchasers to enter into this Agreement and to consummate the transactions contemplated hereby, Seller represents and warrants to Purchasers and agrees as follows:

Section 3.1 Organization. Seller is an entity duly organized validly existing and in good standing under the laws of the jurisdiction of its incorporation and has full corporate power and authority to own, lease and operate and use the Canadian Acquired Assets and to carry on the Business as now conducted. Seller is duly qualified or licensed to do business as a

foreign corporation and is in good standing in each jurisdiction in which the nature of the business conducted by it makes such qualification or licensing necessary, except where the failure to be so duly qualified, licensed and in good standing would not have a Material Adverse Effect. Seller has heretofore made available to Purchasers a complete and correct copy of the organizational documents of Seller, as currently in effect. Except as set forth in Schedule 3.1, Seller does not, directly or indirectly, own, of record or beneficially, any outstanding voting securities, membership interests or other equity interests in any Person.

Section 3.2 Authority of Seller. Seller has full power and authority to execute, deliver and perform its obligations under this Agreement and each of the Ancillary Documents to which Seller is a party. The execution, delivery and performance of this Agreement and such Ancillary Documents by Seller has been duly authorized and approved by Seller's board of directors (or similar governing body) and does not require any authorization or consent of the Seller's shareholders that has not been obtained. This Agreement has been duly authorized, executed and delivered by Seller and (assuming this Agreement constitutes a valid and binding obligation of Purchasers), is the legal, valid and binding obligation of Seller enforceable in accordance with its terms, and each of the Ancillary Documents to which Seller is a party has been duly authorized by Seller and upon execution and delivery by Seller, will be a legal, valid and binding obligation of Seller enforceable in accordance with its terms.

Section 3.3 Consents and Approvals. No consent, approval, or authorization of, or declaration, filing or registration with, any Governmental Entity is required to be made or obtained by the Seller in connection with the execution, delivery and performance of this Agreement and the consummation of the Asset Purchase, except for (a) the Sale Order, (b) Required Consents and the Third Party Consents set forth on Schedule 3.3 and (c) consents, approvals, authorizations, declarations, filings or registrations, which, if not obtained, would not, individually or in the aggregate, have a Material Adverse Effect.

Section 3.4 No Violations. Subject to receipt of the Required Consents and the Third Party Consents, and after giving effect to the Sale Order, neither the execution and delivery of this Agreement or any of the Ancillary Documents by Seller or the consummation by Seller of any of the transactions contemplated hereby or thereby nor compliance with or fulfillment of the terms, conditions and provisions hereof or thereof by Seller will conflict with, result in a breach of the terms, conditions or provisions of, or constitute a default or an event of default, or permit the acceleration of any Liability or obligation, under (1) any charter (or similar governing instrument) or by-laws (or similar governing document) of Seller, (2) any Permits, (3) any Order to which Seller is bound or any Acquired Asset is subject, (4) any Legal Requirement affecting Seller or the Canadian Acquired Assets, or (5) any Contract to which Seller is a party or otherwise bound, except in the case of clauses (2), (3), (4), and (5) immediately above, for such conflicts, breaches, defaults, events of default or accelerations that would not reasonably be expected to have a Material Adverse Effect.

Section 3.5 Books and Records. The books, records and accounts of Seller maintained with respect to the Business accurately and fairly reflect, in all material respects and in reasonable detail, the transactions and the assets and liabilities of Seller with respect to the Business. No Seller has engaged in any transactions with respect to the Business, maintained any bank account for the Business or used any of the funds of Seller in the conduct of the Business

except for transactions, bank accounts and funds which have been and are reflected in the books and records of Seller, maintained in all material respects in the ordinary course of the Business.

Section 3.6 Compliance with Laws; Permits.

(a) Seller is in compliance with all Legal Requirements applicable to its respective operations and the Business, except as would not reasonably be expected to have a Material Adverse Effect.

(b) Seller currently has all material Permits required for the operation of the Business as presently conducted and, subject to the effects of the commencement of the Canadian Proceedings at the applicable time, all such Permits are in full force and effect in all material respects. Seller is not in default or violation (and no event has occurred which, with notice or the lapse of time or both, would constitute a default or violation) of any Permit to which it is a party, except where such default or violation would not reasonably be expected to have a Material Adverse Effect.

(c) The representations and warranties set forth in this Section 3.6 shall not be applicable to (i) Intellectual Property, which is covered by Section 3.12(d), (ii) Environmental Laws and Environmental Permits, which are covered by Section 3.13(c), or (iii) Legal Requirements applicable to the Leased Real Property or to employment matters, which are covered by Sections 3.13(a)(iii) and 3.14, respectively.

Section 3.7 Title to Canadian Acquired Assets. Immediately prior to the Closing, Seller will have and, upon delivery to Purchasers on the Closing Date of the instruments of transfer contemplated by Section 2.2, and subject to the terms of the Sale Order, Seller will thereby transfer to Purchasers good title to, or, in the case of property leased by or licensed to Seller, a valid leasehold or licensed interest in, all other tangible Canadian Acquired Assets, free and clear of all Encumbrances, except (a) as set forth on Schedule 3.7, (b) for the Assumed Liabilities and (c) for Permitted Encumbrances.

Section 3.8 Absence of Certain Developments. Except as set forth on Schedule 3.8, from December 1, 2008 to the Effective Date:

(a) Seller has conducted the Business in the ordinary course of the Business;

(b) there have not occurred any facts, conditions, changes, violations, inaccuracies, circumstances, effects or events that have constituted, or which would be reasonably likely to result in, individually or in the aggregate, a Material Adverse Effect; and

(c) Seller has not taken any action described in Section 5.1.

Section 3.9 No Undisclosed Liabilities. Except as set forth on Schedule 3.9 Seller has no liabilities, obligations, claims or losses (whether liquidated or unliquidated, secured or unsecured, absolute, accrued, contingent or otherwise) required to be set forth on a balance sheet of such Seller, other than those (i) set forth in or reflected in Parent's balance sheet dated November 30, 2007 and included in Parent SEC Documents, (ii) incurred in the ordinary course

of the Business or as required by applicable Legal Requirement since December 1, 2007 or (iii) which, individually or in the aggregate, do not or would not have a Material Adverse Effect.

Section 3.10 Brokers. Except for BDO Dunwoody Limited, whose fees, commissions and expenses, if any, are the sole responsibility of Seller, no person is entitled to any brokerage, financial advisory, finder's or similar fee or commission payable by Seller in connection with the transactions contemplated by this Agreement based upon arrangements made by or on behalf of Seller.

Section 3.11 Litigation

(a) Except as set forth on Schedule 3.11, there are no Proceedings pending or, to Seller's Knowledge, threatened against Seller or to which Seller is otherwise a party, by or before any Governmental Entity which would reasonably be expected to have a Material Adverse Effect. Except as set forth on Schedule 3.11, Seller is not subject to any Order of any Governmental Entity which would reasonably be expected to have a Material Adverse Effect.

Section 3.12 Intellectual Property.

(a) Schedule 3.12(a) sets forth a true, correct and complete list, in all material respects, of all Canadian and foreign (i) issued Patents and pending applications for Patents; (ii) registered Trademarks and pending applications for Trademarks; (iii) registered Copyrights and pending applications for Copyrights; and (iv) all Domain Names, in each case which is owned by Seller and which is material to the Business. Except as set forth on Schedule 3.12(a), Seller is the sole record owner of all of the Intellectual Property set forth on Schedule 3.12(a), and all such Intellectual Property is subsisting and, to Seller's Knowledge, valid and enforceable. Subject to Section 1.5, Seller will transfer to Purchasers, all of its right, title and interest in and to all Intellectual Property owned by Seller, and all of its right and interest in all Intellectual Property licensed to Seller, in each case to the extent included in the Canadian Acquired Assets.

(b) Schedule 1.1(c)(iii) sets forth a true, correct and complete list, in all material respects, of all License Agreements, including any and all amendments and modifications thereto, and Seller has provided copies of all such License Agreements to Purchasers. Except as otherwise disclosed in Schedule 1.1(c)(iii), each License Agreement is in full force and effect and is a valid and binding obligation of Seller and, to Seller's Knowledge, the other parties thereto, enforceable in accordance with its terms and conditions, except as such enforceability may be limited by bankruptcy, insolvency or other similar laws affecting the enforcement of creditors' rights generally. Upon entry of the Sale Order, (x) the Seller will not be in breach or default of its obligations under any License Agreement, (y) no condition exists that with notice or lapse of time or both would constitute a default by Seller under any of the License Agreements, and (z) to Seller's Knowledge, no other party to any of the License Agreements is in breach or default thereunder, except in the case of clauses (x), (y), and (z) for any breaches or defaults that would not reasonably be expected to have a Material Adverse Effect.

(c) To Seller's Knowledge, except as would not reasonably be expected to have a Material Adverse Effect, Seller owns, or has a valid right to use, free and clear of all Encumbrances (other than Permitted Encumbrances and any Encumbrances arising pursuant to the terms of a License), all Intellectual Property necessary to conduct the Business.

(d) Except as disclosed on Schedule 3.12(d), and except as would not reasonably be expected to have a Material Adverse Effect, (i) the conduct of the Business by Seller (including the products currently sold by Seller) as currently conducted does not infringe, misappropriate or otherwise violate any Person's intellectual property rights, and there has been no such claim or Action asserted or threatened in writing and that has not been resolved in the past four (4) years against Seller, or to Seller's Knowledge, any other Person, and (ii) to Seller's Knowledge, no Person (including any current or former officer, director, employee or contractor of Seller), is infringing, misappropriating or otherwise violating any Intellectual Property owned by Seller, or to which Seller has any exclusive license, in the conduct of the Business, and no such claims or Actions have been asserted or threatened in writing and that have not been resolved against any Person by Seller, or, to Seller's Knowledge, any other Person, in the past four (4) years.

(e) Other than such disclosure as may be reasonably required for the proper administration of the Canadian Sale Process, Seller has taken commercially reasonable measures to protect the confidentiality of its Trade Secrets.

Section 3.13 Real Property.

(a) Seller is not the owner of any real property as of the Effective Date. Schedule 3.13(a) contains a true and complete list, in all material respects, of all leases or other occupancy agreements (collectively, "Leases") of real property leased by Seller in connection with the Business as of the Effective Date (the "Leased Real Property"). Seller has provided true, complete and correct copies of the Leases to Purchasers for each Assumed Lease, including any amendments thereto. The Seller has not leased, subleased, licensed or given any right of occupancy in respect of any of the Acquired Leased Real Property.

(i) Seller has received all Permits that are necessary in connection with Seller's occupancy or leasing of the Acquired Leased Real Property and the present use of the Acquired Leased Real Property by Seller does not violate the Permits applicable thereto, except where the failure to receive, or violation of, a Permit would not reasonably be expected to have a Material Adverse Effect.

(ii) Seller has not received written notice of, nor to Seller's Knowledge is there any threatened (A) condemnation, eminent domain, expropriation or similar proceeding affecting the Acquired Leased Real Property, (B) proceeding to change the zoning classification of any portion of the Acquired Leased Real Property or (C) imposition of any special assessments for public betterments affecting the Acquired Leased Real Property, which in each of clauses (A), (B) and (C) would reasonably be expected to have a Material Adverse Effect.

(iii) the Acquired Leased Real Property used by Seller, and the present uses of the Acquired Leased Real Property by Seller, are in compliance with, and Seller has received no written notice that it is in default under or in violation of, any building, zoning, land use, public health, public safety, sewage, water, sanitation or other comparable Legal Requirement except for such noncompliance, default or violation that would not reasonably be expected to have a Material Adverse Effect.

(iv) Except as otherwise disclosed in Schedule 3.13(a)(iv)(1), each Assumed Lease is in full force and effect and is a valid and binding obligation of Seller and, to the Knowledge of Seller, the other parties thereto, in accordance with its terms and, except as otherwise disclosed in Schedule 3.13(a)(iv)(2), the Seller is not in default thereunder.

(b) Immediately prior to the Closing, Seller will have good and valid leasehold interests in the Acquired Leased Real Property, free and clear of all Encumbrances, except Permitted Encumbrances.

(c) Except as set forth in Schedule 3.13(c) or as would not reasonably be expected to have a Material Adverse Effect:

(i) Seller has all Environmental Permits necessary for the lawful operation of the Business as currently conducted.

(ii) The current operations of the Business comply with, and are not subject to any Order that is not generally applicable to Persons engaged in a business similar to the Business with respect to, all applicable Environmental Laws.

(iii) Seller has not received written notice (1) alleging that the activities of the Business are in violation of any Environmental Laws, (2) of the institution or threat of any claim or Proceeding against, or investigation of, Seller by any Governmental Entity or third party related to Hazardous Substances or Environmental Law, or (3) of the investigation, remediation or removal of Hazardous Substances at, on, under or from the Acquired Leased Real Property.

(iv) There has been no Release of any Hazardous Substances at, on, under or from any of the Acquired Leased Real Property, and to Seller's Knowledge, none of such properties has been used by any Person as a (A) landfill or (B) storage, treatment or disposal site for any type of waste as defined in applicable Environmental Laws.

(v) To Seller's Knowledge, there are no claims or Proceedings by any employee pending or, to threatened, against Sellers that are premised on the exposure to asbestos or asbestos-containing material in any of the Acquired Leased Real Property.

(vi) To Seller's Knowledge, the storage tanks, if any, that presently exist on, at or under any of the Acquired Leased Real Property are currently operated and maintained in all material respects in accordance with all Environmental Laws and none of them is Releasing any Hazardous Substance.

(vii) No Encumbrance (other than a Permitted Encumbrance) has been imposed or asserted on any Acquired Leased Real Property used by Seller by any Governmental Entity in connection with any Environmental Law.

(viii) Seller has made available or provided Purchasers with copies of the most recent versions of the material documents, records and information in Seller's possession concerning the condition of the Environment at any of the Acquired Leased Real Property, whether generated by Seller or others, including environmental audits and environmental site assessments.

Section 3.14 Employee Benefit Matters.

(a) Schedule 3.14(a) sets forth, as of the date of this Agreement, a true and complete list of every benefit plan, program, agreement or arrangement (whether written or unwritten) maintained, contributed to, or provided by the Seller or any Affiliate or Subsidiary thereof for the benefit of any of its employees or dependent or independent contractors of the Seller employed or retained in connection with the Business or their respective dependants or beneficiaries (the "Benefit Plans") including all bonus, deferred compensation, incentive compensation, share purchase, share option, stock appreciation, phantom stock, savings, profit sharing, severance or termination pay, health or other medical, life, disability or other insurance (whether insured or self-insured), supplementary unemployment benefit, pension, retirement and supplementary retirement plans, programs, agreements and arrangements except for any statutory plans to which the Seller is obliged to contribute or comply including the Canada/Québec Pension Plan, or plans administered pursuant to applicable federal or provincial health, worker's compensation and employment insurance legislation. Each Benefit Plan is and has been, operated and administered in all material respects in accordance with its terms and applicable law. Seller has provided Purchasers with copies of the most recent actuarial valuation for each Benefit Plan, other than a multi-employer pension plan subject to the funding requirements of pension standards legislation.

(b) The Seller has delivered to the Purchaser true, complete and up-to-date copies of all material Benefit Plans and all amendments thereto together with all summary descriptions of the Benefit Plans provided to past or present participants therein. No fact, condition or circumstance exists that would materially affect the information contained in the documents provided pursuant to Section 3.14(b) and, in particular, no promises or commitments have been made by the Seller to amend any Benefit Plan. Except as disclosed on Schedule 3.14(b), all of the Benefit Plans are duly registered where required by applicable law (including registration with the relevant tax authorities where such registration is required to qualify for tax exemption or other beneficial tax status) and have always been administered in compliance with their terms and all applicable law. All employer and employee obligations in respect of the Benefit Plans, including payments, contributions and premiums required under

applicable law and their terms have been satisfied and there are no outstanding defaults or violations in respect thereof. Except as disclosed in Schedule 3.14(b), all of the Benefit Plans are fully funded in accordance with their terms and all applicable law and generally accepted actuarial principles and practices.

(c) No Benefit Plan contains any term or provision or is subject to any law that would prohibit the transactions contemplated in this Agreement. Schedule 3.14(c) lists each Benefit Plan under which the consummation of the transactions contemplated hereby could, either alone or in combination with another event (i) entitle any current or former employee, director or officer of Seller or any Affiliate to severance pay or any other material payment, or (ii) accelerate the time of payment or vesting, or increase materially the amount of compensation due any current or former employee, agent, consultant, adviser, director or officer of Seller or any Affiliate.

(d) Except as set forth on Schedule 3.14(d), no Benefit Plan provides any medical, disability or life insurance benefits to any employees of the Business after termination of employment.

(e) All material levies, assessments or penalties made against Seller pursuant to all applicable workers compensation legislation as of the date hereof have been paid by Seller, and Seller have not been reassessed under any such legislation.

(f) There are no pending or, to Seller's Knowledge, threatened claims by or on behalf of any Benefit Plan, by any employee or beneficiary covered under any such Benefit Plan, or otherwise involving any Benefit Plan (other than routine claims for benefits) that could reasonably be expected to result in the imposition of any Liability upon Purchasers. No order has been made or notice given pursuant to any applicable law requiring (or proposing to require) the Seller to take (or refrain from taking) any action in respect of any Benefit Plan, and no event has occurred and no condition or circumstance exists that has resulted or, to the Seller's Knowledge could reasonably result in any Benefit Plan (i) being ordered or required to be terminated or wound-up in whole or in part, (ii) have its registration under any applicable law refused or revoked, (iii) being placed under the administration of any trustee or any regulatory authority or (iv) being required to pay any material taxes or penalties under any applicable law.

(g) The obligations of the Seller to any of the Benefit Plans that are multi-employer plans are restricted to providing information and making contributions and are set out completely and accurately in the collective bargaining agreements listed in Schedule 3.15(c).

Section 3.15 Labour Matters.

(a) Except as would not reasonably be expected to have a Material Adverse Effect (i) Seller is in compliance with all applicable laws respecting employment and employment practices, terms and conditions of employment and wages and hours, (ii) all wages and other amounts paid to employees have been properly reported, (iii) all required wage and employment Taxes have been withheld and remitted to the relevant Taxing authority, and (iv) all persons classified by Seller as independent contractors do satisfy and have satisfied the requirements of law to be so classified, and Sellers have fully and accurately reported their compensation to all applicable Government Entities when required to do so and have withheld and remitted any required backup withholding amounts.

(b) Except as disclosed on Schedule 3.15(b), there are no unfair labour practice charges or other employee-related complaints or claims against Seller pending or, to Seller's Knowledge, threatened before any Governmental Entity by or concerning the employees, independent contractors or consultants of Seller (including claims for compensation, bonus payments or other payments allegedly due under employment agreements), in each case that if decided adversely would reasonably be expected to have a Material Adverse Effect. Except as disclosed on Schedule 3.15(b), Seller have not been notified by any Governmental Entity in writing of any alleged violation by Seller of applicable law that remains unresolved respecting employment, employment practices or terms and conditions of employment.

(c) Except as set forth on Schedule 3.15(c), Seller is not (i) party to any labour or collective bargaining agreement (the "Collective Bargaining Agreements"), (ii) currently negotiating any such agreement or (iii) obligated to negotiate any such agreement. As related to the Canadian Acquired Assets (x) no labour organization or group of Seller's employees has made a pending demand to Seller for recognition or certification, (y) to Seller's Knowledge, there are no existing organization drives with respect to the employees of Seller and (z) there are and have been no representation or certification proceedings, or petitions seeking a representation proceeding, with any labour relations tribunal or authority, nor have any such demands, proceedings or petitions been brought or were, to Seller's Knowledge, threatened to be brought, within the past three (3) years.

(d) There are no organized strikes, slowdowns or work stoppages pending or, to Seller's Knowledge, threatened with respect to Seller's employees, nor has any such organized strike, slowdown or work stoppage occurred or, to Seller's Knowledge, been threatened within three (3) years prior to the date hereof.

Section 3.16 Contracts. Seller is not party to any Contract that is a material purchase contract or purchase commitment of the Business for a quantity or amount in excess of the normal, ordinary, usual and current requirements for the operation of the Business. Schedule 3.16 lists all Material Contracts entered into as of the date of this Agreement, including all amendments and modifications thereto, and Seller has provided copies of all Material Contracts to Purchasers.

Section 3.17 Validity of Assigned Contracts. Except as set forth on Schedule 3.17, each Assigned Contract is in full force and effect and is a valid and binding obligation of

Seller and, to Seller's Knowledge, the other parties thereto, in accordance with the terms and conditions, except as such enforceability may be limited by bankruptcy, insolvency or other similar laws affecting the enforcement of creditors' rights generally. Upon the entry of the Sale Order and obtaining any required Third Party Consent, (i) Seller will not be in breach or default of its obligations under any Assigned Contract, (ii) no condition exists that with notice or lapse of time or both would constitute a default or event of default by Seller under any Assigned Contract and (iii) to Seller's Knowledge, no other party to any of the Assigned Contract is in breach or default thereunder, except in the case of clauses (i), (ii) and (iii) for any breaches or defaults that would not reasonably be expected to have a Material Adverse Effect.

Section 3.18 Customers and Suppliers. Schedule 3.18 sets forth a true, complete and correct list of Seller's ten (10) largest customers and twenty (20) largest vendors for the fiscal year ended November 30, 2008. Except as set forth on Schedule 3.18, as of the date hereof, Seller has not received any written indication, or other valid notice in accordance with the terms of the applicable contract, from any supplier listed on Schedule 3.18 to the effect that such supplier will stop, or materially decrease the rate of or materially increase the prices for, supplying materials, products or services to the Business. Except as set forth on Schedule 3.18, as of the date hereof, Seller has not received any written indication from any customer listed on Schedule 3.18 to the effect that such customer will stop, or materially decrease the rate of, buying materials, products or services from the Business or that such customer seeks a materially different pricing structure for such materials, products or service.

Section 3.19 Accounts Receivable. All Accounts Receivable have arisen in the ordinary course of the Business, and represent or will represent, legal, valid, binding and enforceable obligations to Seller, subject to applicable contra and offsets arising in the ordinary course of business or that would not reasonably be expected to have a Material Adverse Effect.

Section 3.20 Equipment. All of the fixtures and other improvements to the Leased Real Property and all of the Tangible Personal Property other than Inventory included in the Canadian Acquired Assets are in good working order and repair (ordinary wear and tear excepted), except to the extent as would not reasonably be expected to have a Material Adverse Effect.

Section 3.21 Inventory. All Inventory consists of items of quantity and quality historically useable or saleable in the ordinary course of business, except for items of obsolete and slow-moving material and materials which are below standard quality that are not material to the financial condition or operation of the Business taken as a whole. Inventory on hand as of the date hereof was purchased in the ordinary course of the Business.

Section 3.22 Affiliate Transactions. Except as disclosed on Schedule 3.22, no controlled Affiliate of Seller (other than a US Seller) (a) is a competitor, creditor, debtor, customer (other than for personal use), distributor, supplier or vendor of Seller, (b) is a party to any material Contract with Seller, (c) has any material Action against Seller, or (d) has a loan for borrowed money outstanding from Seller.

Section 3.23 Competition Act and Investment Canada Act. The value of the Canadian Acquired Assets in Canada, calculated in the manner prescribed by the *Investment*

Canada Act, is less than \$312 million and the business of the Seller is not a cultural business (as such term is defined in the *Investment Canada Act*). The Seller is a WTO investor within the meaning of the *Investment Canada Act*. The aggregate value of the Canadian Acquired Assets and the annual gross revenues from sales in and from Canada generated from the Canadian Acquired Assets do not exceed, in either case, \$70 million as determined pursuant to subsection 110 of the *Competition Act* (Canada) and the regulations thereto.

Section 3.24 Unaudited Financial Statements. Seller has delivered to Purchasers its unaudited unconsolidated financial statements as of and for the periods ended on November 30, 2008 and February 28, 2009 (the "Unaudited Financial Statements"). Except as set forth on Schedule 3.24, the Unaudited Financial Statements were prepared in accordance with GAAP (except as indicated in the notes thereto) and fairly present in all material respects (subject to normal, recurring audit adjustments) the financial position of Seller as at the dates thereof and the results of its operations and cash flows for the periods then ended.

Section 3.25 Residency. Seller is not a non-resident of Canada within the meaning of the *Income Tax Act* (Canada).

Section 3.26 Excise Tax Act.

(a) Seller represents that the Canadian Acquired Assets constitute all or substantially all of the assets that can reasonably be regarded as being necessary for Purchasers to be capable of carrying on the Business within the meaning of the *Excise Tax Act* (Canada).

(b) Seller is registered for purposes of Part IX of the *Excise Tax Act* (Canada) and its goods and services tax ("GST") registration number is R105205421.

Section 3.27 No Other Representations or Warranties. EXCEPT AS SPECIFICALLY AND EXPRESSLY SET FORTH IN THIS ARTICLE III, (I) SELLER MAKES NO REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, AT LAW OR IN EQUITY, RELATING TO THE CANADIAN ACQUIRED ASSETS, THE ASSUMED LIABILITIES OR THE BUSINESS, INCLUDING, WITHOUT LIMITATION, ANY REPRESENTATION OR WARRANTY AS TO VALUE, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR FOR ORDINARY PURPOSES, OR ANY OTHER MATTER, (II) SELLER MAKES NO, AND HEREBY DISCLAIMS ANY, OTHER REPRESENTATION OR WARRANTY REGARDING THE CANADIAN ACQUIRED ASSETS, THE ASSUMED LIABILITIES OR THE BUSINESS AND (III) THE CANADIAN ACQUIRED ASSETS, THE ASSUMED LIABILITIES AND THE BUSINESS BEING TRANSFERRED TO THE PURCHASERS ARE CONVEYED ON AN "AS IS, WHERE IS" BASIS AS OF THE CLOSING, AND PURCHASERS SHALL RELY UPON THEIR OWN EXAMINATION THEREOF. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, SELLERS MAKE NO REPRESENTATION OR WARRANTY REGARDING ANY ASSETS OTHER THAN THE CANADIAN ACQUIRED ASSETS OR ANY LIABILITIES OTHER THAN THE ASSUMED LIABILITIES OR ANY BUSINESS OTHER THAN THE BUSINESS, AND NONE SHALL BE IMPLIED AT LAW OR IN EQUITY.

ARTICLE IV

REPRESENTATIONS AND WARRANTIES OF PURCHASERS

Purchasers represent and warrant to Seller as follows:

Section 4.1 Organization. Each Purchaser is duly organized, validly existing and in good standing under the laws of its jurisdiction of incorporation and has the requisite power and authority and all necessary governmental approvals to own, lease and operate its properties and to carry on its business as it is now being conducted.

Section 4.2 Authority Relative to this Agreement. Each Purchaser has the corporate power and authority to enter into this Agreement and to carry out its obligations hereunder. The execution, delivery and performance of this Agreement by Purchasers and the consummation by Purchasers of the transactions contemplated hereby have been duly authorized by all requisite corporate actions. This Agreement has been duly and validly executed and delivered by the Purchaser and (assuming this Agreement constitutes a valid and binding obligation of Seller) constitutes a valid and binding agreement of Purchasers, enforceable against Purchasers in accordance with its terms, and each Ancillary Document to which Purchasers are a party has been duly authorized by Purchasers and upon execution and delivery by Purchasers will be a valid and binding obligation of Purchasers enforceable against Purchasers in accordance with its terms subject to applicable bankruptcy, reorganization, insolvency, moratorium and other laws affecting creditors' rights generally from time to time in effect and to general equitable principles.

Section 4.3 Consents and Approvals. No consent, approval, or authorization of, or declaration, filing or registration with, any Governmental Entity is required to be made or obtained by any Purchaser in connection with the execution, delivery and performance of this Agreement and the consummation of the Asset Purchase, except for (a) the Sale Order, as a condition of Closing in favour of the Purchaser, and (b) Required Consents set forth on Schedule 4.3.

Section 4.4 No Violations Subject to receipt of the Required Consents, and after giving effect to the Sale Order, neither the execution and delivery of this Agreement or any Ancillary Documents to which Purchasers are a party or the consummation by Purchasers of any of the transactions contemplated hereby or thereby nor compliance with or fulfillment of the terms, conditions, and provisions hereof and thereof by Purchasers will conflict with, result in a breach of the terms, conditions or provisions of, or constitute a default, or an event of default under (1) either Purchaser's certificate or articles of incorporation (or other governing documents), (2) any Order to which either Purchaser is a party or by which it is bound, (3) any Legal Requirement affecting either Purchaser or (4) any material Contract to which any Purchaser is a party or otherwise bound.

Section 4.5 Brokers. Except for William Blair & Company, L.L.C., whose fees, commissions and expenses are the sole responsibility of Purchasers, except as otherwise provided herein as part of the Expense Reimbursement obligation of Seller, no person is entitled to any brokerage, financial advisory, finder's or similar fee or commission payable by Purchasers

in connection with the transactions contemplated by this Agreement based upon arrangements made by or on behalf of Purchasers.

Section 4.6 Financing.

(a) On the Closing Date, Purchasers will have sufficient funds available to deliver the cash portion of the Adjusted Base Purchase Price to Seller and consummate the transactions contemplated by this Agreement, including the timely satisfaction of the Assumed Liabilities.

(b) Purchasers have advised Seller that Purchasers have received (i) a commitment letter (the "Debt Commitment Letter"), relating to the provision of a senior credit facility (the "Debt Financing") for the purpose of funding the transactions contemplated by this Agreement, and (ii) an equity commitment letter (the "Equity Commitment Letter" and together with the Debt Commitment Letter, the "Financing Commitment Letters"), pursuant to which and subject to the terms and conditions thereof the investor named therein has committed to invest the amount set forth therein (the "Equity Financing" and together with the Debt Financing, the "Financing"). The respective commitments contained in the Financing Commitment Letters have not been withdrawn, modified or rescinded in any respect prior to the Effective Date. As of the Effective Date, each of the Financing Commitment Letters is in full force and effect. There are no conditions precedent (including pursuant to any "flex" provisions) related to the Financing, other than as expressly set forth in the Financing Commitment Letters. Subject to the terms and conditions of the Financing Commitment Letters, the aggregate proceeds to be disbursed pursuant to the agreements contemplated by the Financing Commitment Letters will be sufficient for Purchasers to pay the cash portion of the Adjusted Base Purchase Price and to pay all related fees and expenses pursuant hereto and the Ancillary Documents. As of the Effective Date, no event has occurred which would constitute a breach or default (or an event which with notice or lapse of time or both would constitute a default), in each case, on the part of Purchasers under the Financing Commitment Letters or any other party to the Financing Commitment Letters, and Purchasers do not have any reason to believe that any of the conditions to the Financing will not be satisfied or that the Financing will not be available to Purchasers on the Closing Date. Purchasers have fully paid all commitment fees or other fees required to be paid prior to the Effective Date pursuant to the Financing Commitment Letters. Purchasers will provide copies of the Financing Commitment Letters to Seller within two (2) days of the written request of Seller following approval of the Bid Procedures by the Canadian Court.

Section 4.7 Solvency. Immediately after giving effect to the transactions contemplated by this Agreement and the Ancillary Documents (including the Financing, the payment of the Adjusted Base Purchase Price, and the payment of all related fees and expenses), (i) Purchasers and their subsidiaries will not have incurred debts beyond their ability to pay such debts as they mature or become due, (ii) the then present fair saleable value of the assets of Purchasers and their subsidiaries will exceed the amount that will be required to pay their existing debts (including the probable amount of all contingent liabilities) as such debts become absolute and matured, (iii) the assets of Purchasers and their subsidiaries at a fair valuation will exceed their debts (including the probable amount of all contingent liabilities) and (iv) Purchasers will not have unreasonably small capital to carry on their business as proposed to be

conducted following the Closing Date. No transfer of property is being made and no obligation is being incurred in connection with the transactions contemplated hereby, in either case, with the intent to hinder, delay or defraud either present or future creditors of Purchasers.

Section 4.8 Investment Canada Act. The Purchasers are WTO Investors within the meaning of the *Investment Canada Act*.

ARTICLE V

COVENANTS

Section 5.1 Conduct of Business by Seller Pending the Closing. From the Effective Date through the Closing:

(a) except (x) as expressly provided in this Agreement, including in connection with the Auction, (y) as set forth on Schedule 5.1 or (z) with the prior express written approval of Purchasers, Seller shall not:

(i) enter into any Contract for or relating to the Business that cannot be assigned to Purchasers or a permitted assignee of Purchasers or a permitted assignee of Purchasers under Section 8.8;

(ii) make, or become obligated to make, any capital expenditure with respect to the Business or enter into any Contract for the purchase of real property;

(iii) move any Inventory or Tangible Personal Property from any Acquired Leased Real Property to the Concord Premises;

(iv) assign any Assumed Lease or sublease all or any part of the Acquired Leased Real Property;

(v) other than the sale of Inventory in the ordinary course of the Business consistent with past practice, sell, lease (as lessor), license, transfer or otherwise dispose of (including any transfer from the Business to any Affiliates of Seller (other than a US Seller)), or mortgage or pledge, or voluntarily impose or suffer to be imposed, any Encumbrance on (other than Assumed Liabilities and Permitted Encumbrances), any of the Canadian Acquired Assets;

(vi) other than as expressly permitted in the Operating Budget (and until such time as the Operating Budget is adopted, only in the ordinary course of business consistent with past practice), purchase any assets;

(vii) cancel or settle any material debts owed to or material claims held by the Business (including the settlement of any claims or litigation where the amount in controversy exceeds \$25,000) other than the compromise of Accounts Receivable in the ordinary course of the Business consistent with past practice;

- (viii) enter into, or agree to enter into, any sale-leaseback transactions;
- (ix) accelerate or delay collection of any Accounts Receivable generated by the Business in advance of or beyond their regular due dates;
- (x) delay or accelerate payment of any account payable or other liability of the Business beyond or in advance of its due date, except as expressly permitted in the Operating Budget;
- (xi) subject to the terms and conditions of this Agreement, fail to maintain in all material respects the Canadian Acquired Assets in their present condition, reasonable wear and tear excepted;
- (xii) institute any new, or increase (including any increase in coverage) any existing, profit-sharing, bonus, incentive, deferred compensation, severance, insurance, pension, retirement, medical, hospital, disability, welfare or other employee benefit plan with respect to directors, officers or employees of Seller;
- (xiii) change the compensation (including salary, bonus or incentive compensation) of the directors, officers or employees of, or independent contractors or consultants to, Seller;
- (xiv) enter into any collective bargaining, employment, deferred compensation, severance, consulting, independent contractor, nondisclosure, non-competition or similar agreement (or amend any such agreement) to which Seller is a party or involving any of its directors, officers or employees in his or her capacity as a director, officer or employee of Seller, except in the case of non-disclosure agreements entered into in the ordinary course of the Business consistent with past practice or in connection with the Auction;
- (xv) make or rescind any material election that would be binding on Purchasers in relation to Taxes;
- (xvi) declare, set aside, make or pay any dividend or other distribution in respect of the capital stock, membership interests or other equity interests of Seller, or repurchase, redeem or otherwise acquire any outstanding shares of the capital stock, membership interests or other securities of, or other ownership interests in, Seller;
- (xvii) issue any shares of capital stock or other securities (debt or equity or convertible or exchangeable securities) of Seller;

(xviii) grant or exercise options, warrants, calls or other rights to purchase or otherwise acquire shares of the capital stock or other securities of Seller;

(xix) except under the DIP Financing, incur any indebtedness for borrowed money (excluding any borrowings from US Sellers), enter into any material guarantee, indemnity or other agreement to secure any obligation of a third party or voluntarily create any Encumbrance (other than Permitted Encumbrances) for the benefit of a third party over any of the Canadian Acquired Assets, except as expressly permitted in the Operating Budget;

(xx) make any payment, or otherwise remit any monies, to any Affiliate of Seller (other than a US Seller in the ordinary course of the Business consistent with past practice) for any purpose whatsoever other than (A) in connection with the employment of any such Person, (B) to any director for services rendered in accordance with policies of Seller in effect on the Effective Date or (C) in accordance with the terms of any Contract or Benefit Plan that is in effect on the Effective Date;

(xxi) change any accounting policy or practice except in the ordinary course of the Business or as required by GAAP;

(xxii) amend the certificate of incorporation or by-laws or comparable organization documents of Seller in any material respect;

(xxiii) (A) modify, reject, repudiate or terminate any Material Contract (other than Excluded Contracts) or Assumed Lease, or (B) enter into or modify any Contract containing material penalties which would be payable as a result of, and upon the consummation of, the transaction contemplated by this Agreement;

(xxiv) except in the ordinary course of the Business consistent with past practice, grant or acquire, agree to grant to or acquire from any Person any material Intellectual Property, or, except in the ordinary course of the Business consistent with past practice, disclose or agree to disclose to any Person, other than representatives of Purchasers, any material Trade Secret; in each case to the extent included in the Canadian Acquired Assets; or

(xxv) enter into any agreement or commitment to take any action prohibited by this Section 5.1.

(b) If at any time prior to or after Closing Purchasers or Seller discover any Encumbrance (other than a Permitted Encumbrance) on any Acquired Asset held by a Person who did not receive notice of the sale transactions contemplated herein pursuant to the Canadian Proceedings and which Encumbrance (other than a Permitted Encumbrance) would continue with respect to the Acquired Asset after giving effect to the Sale Order, then Seller shall, at Seller's sole expense, promptly take all action necessary to remove such Encumbrance(s) or to cause such Encumbrance(s) to no longer be effective after the Closing.

Following the Closing, Seller shall cooperate with Purchasers to obtain the release of any and all Encumbrances that have been released or discharged from the Canadian Acquired Assets pursuant to the Sale Order.

(c) Seller shall adhere to and operate the Business strictly in accordance with the Operating Budget. Subject to the preceding sentence, Seller shall maintain the Canadian Acquired Assets and operate and carry on the Business only in the ordinary course consistent with past practice, except as otherwise expressly provided in this Agreement. Consistent with the foregoing, Seller shall take all actions reasonably necessary to be able to adequately service Seller's fall/winter 2009 order book on a timely basis. Also consistent with the foregoing and to the extent permitted or required in the Canadian Proceedings, Seller shall use commercially reasonable efforts to continue operating the Business as a going concern, including in accordance with the terms of the DIP Financing, and to maintain the business organization of the Business intact and to preserve the goodwill of the manufacturers, suppliers, contractors, licensors, employees, customers, distributors and others having business relations with the Business.

Section 5.2 Access and Information.

(a) Subject to any Bidding Procedures Order and applicable law, Seller shall, upon reasonable prior notice, afford Purchasers' authorized Representatives reasonable access during normal business hours to the offices, properties, key employees, outside accountants, agreements and other documentation and financial records (including computer files, retrieval programs and similar documentation) with respect to the Business, the Canadian Acquired Assets, and the Assumed Liabilities to the extent Purchasers reasonably deem necessary, and shall permit Purchasers and their authorized Representatives to make copies of such materials. Seller shall furnish to Purchasers or their authorized Representatives such additional information concerning the Canadian Acquired Assets, the Business and the Assumed Liabilities as shall be reasonably requested by Purchasers or their authorized Representatives, including all such information as shall be reasonably necessary to enable Purchasers or their authorized Representatives to (i) verify the accuracy of Seller's representations and warranties contained in this Agreement, (ii) verify that Seller has complied with the covenants contained in this Agreement and (iii) determine whether the conditions set forth in Article VI have been satisfied. Seller shall use commercially reasonable efforts to cause their outside accountants and outside counsel to cooperate with Purchasers in their investigation. It is acknowledged and understood that no investigation by Purchasers or other information received by Purchasers shall operate as a waiver or otherwise affect any representation, warranty or other agreement given or made by Seller in this Agreement. Notwithstanding anything herein to the contrary, no such investigation or examination shall be permitted to the extent that it would require Seller to disclose information subject to attorney-client privilege, provided Seller advises Purchasers of the specific assertion of such privilege.

(b) As requested by Purchasers from time to time, Seller shall use commercially reasonable efforts to cooperate with Purchasers in connection with Purchasers' contacting suppliers and customers of the Business; provided, however, Purchasers shall not contact any such suppliers and customers of the Business without obtaining the prior consent of Seller (such consent not to be unreasonably withheld or delayed).

Section 5.3 Approvals and Consents; Cooperation; Notification.

(a) Seller will reasonably cooperate with Purchasers to secure, before the Closing Date, all Third Party Consents, provided that neither Seller nor Purchasers shall have any obligation to offer or pay any consideration in order to obtain any such consents, approvals or waivers; and provided, further, that Purchasers shall not be required to waive any of the conditions to Closing set forth in Article VI.

(b) During the period prior to the Closing Date, Seller and Purchasers shall act diligently and reasonably, and shall cooperate with each other, to do or cause to be done, all things necessary, proper or advisable consistent with applicable Legal Requirements to cause the conditions precedent to the Closing to be satisfied and to cause the Closing to occur, including to secure any consents and approvals of any Governmental Entity required to be obtained by them, in order to assign or transfer any Permits to Purchasers, to permit the consummation of the transactions contemplated by this Agreement, or to otherwise satisfy the conditions set forth in Article VI, in each case as necessary to the extent such consents are not provided for or satisfied by the Sale Order; provided, however, Seller shall not make any agreement or understanding affecting the Canadian Acquired Assets or the Business (excluding the Excluded Assets or Excluded Liabilities) as a condition of obtaining any such consents or approvals except with the prior written consent of Purchasers. Purchasers shall act diligently and reasonably to cooperate with Seller, to the extent commercially reasonable, to obtain the consents and approvals contemplated by this Section 5.3; provided, however, Purchasers shall not be required to waive any of the conditions to Closing set forth in Article VI.

(c) Seller and Purchasers (i) shall promptly inform each other of any communication from any Governmental Entity concerning this Agreement, the transactions contemplated hereby, and any filing, notification or request for approval and (ii) shall permit the other Party to review in advance any proposed written communication or information submitted to any such Governmental Entity in response thereto. In addition, none of the Parties shall agree to participate in any meeting with any Governmental Entity in respect of any filings, investigations or other inquiry with respect to this Agreement or the transactions contemplated hereby, unless such Party consults with the other Parties in advance and, to the extent permitted by any such Governmental Entity, given the other Parties the opportunity to attend and participate thereat, in each case to the maximum extent practicable. Subject to any restrictions under applicable laws, rules or regulations, each Party shall furnish the other with copies of all correspondence, filings and communications (and memoranda setting forth the substance thereof) between it and its Affiliates and their respective Representatives on the one hand, and the Governmental Entity or members of its staff on the other hand, with respect to this Agreement, the transactions contemplated hereby (excluding documents and communications which are subject to pre-existing confidentiality agreements or to the attorney-client privilege or work product doctrine) or any such filing, notification or request for approval. Each Party shall also furnish the other Party with such necessary information and assistance as such other Party and its Affiliates may reasonably request in connection with their preparation of necessary filings, registration or submission of information to the Governmental Entity in connection with this Agreement, the transactions contemplated hereby and any such filing, notification or request for approval. Seller and Purchasers shall prosecute all required requests

for approval with all necessary diligence and otherwise use their respective commercially reasonable efforts to obtain the grant thereof by an Order as soon as possible.

(d) Seller shall promptly notify Purchasers, and Purchasers shall promptly notify Seller, of any event, condition or circumstance of which the Seller or Purchaser, as applicable, becomes aware after the Effective Date and prior to the Closing Date that would constitute a violation or breach of this Agreement (or a breach of any representation or warranty contained in this Agreement). During the period prior to the Closing Date, Seller will promptly advise Purchasers in writing of any written notice, or to Seller's Knowledge other communication, from any Person alleging that the consent of such Person is or may be required in connection with the transactions contemplated by this Agreement. It is acknowledged and understood that no notice given pursuant to this Section 5.3(d) shall have any effect on the representations, warranties, covenants or agreements contained in this Agreement for purposes of determining satisfaction of the conditions contained herein.

Section 5.4 Confidentiality. Subject to any requirements imposed by the Canadian Court in the Canadian Proceedings or as otherwise required by applicable law, from and after the Closing: (a) Seller shall, and shall cause its Affiliates to, hold in confidence all confidential and proprietary information (including Trade Secrets, Customer Lists, marketing plans, proposed plans, developments, concepts, designs and pricing information), whether stored in writing, electronically or graphics, or learned orally, visually, or through inspection, of Seller relating to the Business or the Canadian Acquired Assets; (b) in the event Sellers or an Affiliate thereof shall be legally compelled to disclose any such information, Seller shall provide Purchasers with prompt written notice of such requirements so that Purchasers may seek a protective order or other remedy; and (c) in the event that such protective order or other remedy is not obtained, Seller and their Affiliates shall furnish only such information as is legally required to be provided.

Section 5.5 Further Assurances. In addition to the provisions of this Agreement, from time to time after the Closing Date, Seller and Purchasers shall use reasonable best efforts to execute and deliver such other instruments of conveyance, transfer or assumption, as the case may be, and take such other action as may be reasonably requested to implement more effectively the conveyance and transfer of the Canadian Acquired Assets to Purchasers and the assumption of the Assumed Liabilities by Purchasers; provided that nothing in this Section 5.5 shall (x) require the Seller or any affiliate thereof to make any significant expenditure or incur any significant obligation on its own or on behalf of Purchasers not otherwise contemplated herein or (y) prohibit the Seller or any affiliate thereof from ceasing operations or winding up its affairs following the Closing.

Section 5.6 Canadian Sale Process. Seller and Purchasers acknowledge that, in accordance with Section 6.1, this Agreement and the sale of the Acquired Assets are subject to the approval of the Canadian Court in the Canadian Proceedings pursuant to the Sale Order. Seller and Purchasers acknowledge that to obtain such approval, Seller must demonstrate that it has conducted a reasonable and fair sale process in the circumstances to obtain the highest or otherwise best offer for the Acquired Assets. Seller has proposed and has agreed to conduct, and Purchasers have agreed to, a process for seeking offers for the Acquired Assets (such process including a Bidding Procedures Order in form and content satisfactory to the Purchasers in their

reasonable discretion, the “Canadian Sale Process”) in accordance with the Bidding Procedures Order in the Canadian Proceedings that will provide that, among other things, any interested parties (other than the Purchasers) who wish to submit a competing offer must do so on or before June 21, 2009 by way of a binding offer for the Acquired Assets or relevant portion thereof and any auction in respect of the Acquired Assets must be held on or before June 23, 2009 (the “Auction”).

Section 5.7 Canadian Proceedings and Sale Order.

(a) Seller shall bring an application to commence the Canadian Proceedings pursuant to the Initial Order on or before June 10, 2009.

(b) Seller shall bring a motion to obtain the Bidding Procedures Order returnable on or before June 10, 2009.

(c) Subject to Purchasers being the successful bidder under the Canadian Sale Process and the Bidding Procedures Order, Seller shall obtain the Sale Order on or before June 25, 2009. Purchasers agree that they will take such actions as are reasonably requested by Seller to assist in obtaining the Sale Order.

(d) In the event an appeal is taken or a stay pending appeal is requested from the Initial Order, the Bidding Procedures Order or the Sale Order, Seller shall promptly notify Purchasers of such appeal or stay request and shall promptly provide to Purchasers a copy of the related notice of appeal or order of stay. Seller shall also provide Purchasers with written notice of any motion or application filed in connection with any appeal from either of such orders. If an appeal or a stay of pending appeal is taken with respect to the Initial Order, the Bidding Procedures Order or the Sale Order, Seller shall use its best efforts to cause the timely opposing and dismissing of such appeal or stay pending appeal and to cause such order to become a Final Order.

(e) From and after the Effective Date, and after the Auction (if one is held) to the extent Purchasers are the successful bidder at the Auction, Seller shall not take any action that is intended to result in, or fail to take any action the intent of which failure to act would result in, the reversal, voiding, modification or staying of the Initial Order, the Bidding Procedures Order or the Sale Order. In addition, provided that Purchasers are the successful bidder at the Auction (if one is held), following completion of the Auction contemplated hereby if applicable, Seller shall not, and shall cause its respective representatives and affiliates not to, initiate contact with, solicit or encourage submission of any inquiries, proposals or offers by, any Person (other than Purchasers and their authorized agents and Representatives) in connection with any sale or other disposition of the Acquired Assets, except as may be approved by the Canadian Court as part of the Bidding Procedures Order. In addition, subject to any Order of the Canadian Court to the contrary, Seller shall not after completion of the Auction contemplated herein respond to any inquiries or offers to purchase all or any part of the Acquired Assets or perform any other acts related thereto, including supplying information relating to the Business and the assets of Seller to prospective buyers.

(f) From and after the date of this Agreement, Seller shall provide Purchasers, on reasonable notice in the circumstances in advance of filing with the Canadian Court, a draft of any applications, motions, orders, notices or other pleadings that Seller proposes to file with the Canadian Court in the Canadian Proceedings including in respect of the motions for the Initial Order, the Bidding Procedures Order and the Sale Order. Seller shall cooperate with Purchasers and consider in good faith the views and any changes or revisions requested by Purchasers with respect to all such filings. Nothing contained herein shall be deemed to affect or alter the requirement that the form and substance of the Initial Order, the Bidding Procedures Order and the Sale Order shall be in form and substance acceptable to Purchasers in their sole discretion.

Section 5.8 Bidding Procedures. Purchasers agree and acknowledge that Seller and their representatives and affiliates are and may continue soliciting inquiries, proposals or offers for the Acquired Assets in connection with any Alternative Transaction, subject to and in accordance with Section 5.7 and the Bidding Procedures Order.

Section 5.9 Insurance. Until the Closing, Seller shall use commercially reasonable efforts to maintain (including necessary renewals thereof) insurance policies against risk and liabilities to the extent and in the manner and at the levels maintained by Seller as of the Effective Date with respect to the Business and the Canadian Acquired Assets.

Section 5.10 Letters of Credit. On the Closing Date, Purchasers shall, with respect to each letter of credit described on Schedule 5.10 (the “Existing Letters of Credit”), use commercially reasonable efforts to either (a) cause replacement letters of credit to be issued to the beneficiaries of such Existing Letter of Credit, obtain the originals of such Existing Letter of Credit from the beneficiary thereof to return to Wachovia Capital Finance Corporation (Canada) (“Wachovia”) and deliver to Wachovia each such Existing Letter of Credit or (b) provide arrangements satisfactory to the entity that issued such Existing Letter of Credit in the form of cash collateral, back-up letters of credit or other credit support, in each case in a manner consented to by Wachovia such that Wachovia will deliver to Sellers on the Closing Date an unconditional release of all of the obligations of Sellers with respect to such Existing Letter of Credit.

Section 5.11 Employee/Labour Matters.

(a) Not later than five (5) Business Days prior to the Closing, Purchasers shall provide Schedule 5.11(a) to Seller, setting forth on such schedule the names of the employees then employed by Sellers who are not employed pursuant to a collective agreement but are employed in connection with the Canadian Acquired Assets as of the Effective Date that Purchasers intend to hire (collectively, the “Offered Employees”). Seller agrees that all Hired Employees shall be terminated from employment with Seller on or before the Closing Date and, to the extent permissible by law, the rights and benefits of such Hired Employees under Benefit Plans shall be determined and calculated based on such termination. All employees of Seller employed pursuant to a collective agreement in connection with the Canadian Acquired Assets as of the Effective Date, shall have their employment continued with the Purchasers in accordance with applicable law (collectively, the “Represented Employees”).

(b) None of the Benefit Plans shall be transferred to or assumed by Purchasers or any of Purchasers' Affiliates, nor shall any Benefit Plans follow the sale of the Canadian Acquired Assets to Purchasers. None of Purchasers or any of their Affiliates shall assume any liability or responsibility under any of the Benefit Plans.

(c) Seller shall take such actions, if any, as may be necessary to notify such Hired Employees of the rights to which they are entitled under Seller' Benefit Plans upon termination of employment with Seller.

(d) Subject to applicable Canadian and Ontario privacy laws, Seller shall provide Purchasers all information relating to each Hired Employee as Purchasers may reasonably require in connection with their employment or engagement of such individuals, including initial employment dates, termination dates, reemployment dates, hours of service, compensation and Tax withholding history, to the extent permitted by applicable law.

(e) All Represented Employees shall be employed based on the terms and conditions contained in the applicable collective agreement as of the Closing Date. Seller is aware that Purchasers intend to renegotiate the applicable collective agreement prior to the Closing Date and shall provide all reasonable assistance to Purchasers to facilitate such negotiations.

(f) At least 7 days prior to the Closing Date, but effective as of the day following the Closing Date and subject to Closing occurring, Purchasers shall offer employment to the Offered Employees on such terms and conditions as Purchasers and the Offered Employees shall agree to prior to the Closing Date. Purchasers shall have no other liabilities with respect to the Offered Employees except as specifically set forth herein.

(g) All periods of service with Seller by the Hired Employees shall be recognized by Purchasers solely for purposes of eligibility to participate in Purchasers' health, welfare and registered pension plans that are offered to the Hired Employees to the extent permitted by any carriers insuring such plans; provided, however, that such recognition of service shall not result in duplication of benefits for any Hired Employee. Provided applicable plan fiscal periods match and the Purchaser receives evidence satisfactory to itself or its carriers, as applicable, Purchasers shall also recognize, or cause Purchasers' benefit plans to recognize, all out of pocket expenses and deductibles paid or incurred by the Hired Employees prior to the Closing Date in the current plan fiscal period for purposes of Purchasers' health benefit plans to the extent permitted by any carriers insuring such plans.

(h) No Seller shall (i) offer employment for any period on or after the Closing Date to any employee or agent of the Business regarding whom Purchasers make offers of employment or continued employment in accordance with the terms set forth herein or (ii) otherwise attempt to persuade any such employee or agent to terminate his or her relationship with the Business.

Section 5.12 Access to Records After Closing.

(a) Except as provided in Section 8.4(c), for a period of seven (7) years after the Closing Date, Seller and its Representatives shall have reasonable access to all

of the books and records of the Business transferred to Purchasers hereunder to the extent that such access may reasonably be required by Seller in connection with matters relating to or affected by the operations of the Business prior to the Closing Date or are otherwise required by Seller in connection with the completion of the Canadian Proceedings and the wind-down of its estate. Such access shall be afforded by Purchasers upon receipt of reasonable advance notice and during normal business hours. Seller shall be solely responsible for any costs or expenses incurred by its pursuant to the preceding sentences of this Section 5.12(a).

(b) Except as provided in Section 8.4(c), for a period of three (3) years after Closing Date, Purchasers and their Representatives shall have reasonable access to all of the books and records of the Business that Seller may retain after the Closing Date. Such access shall be afforded by Seller upon receipt of reasonable advance notice and during normal business hours. Purchasers shall be solely responsible for any costs and expenses incurred by them pursuant to this Section 5.12(b). If Seller shall desire to dispose of or destroy any of such books and records prior to the expiration of such three-year period, Seller shall, prior to such disposition, give Purchasers a reasonable opportunity, at Purchasers' expense, to segregate and remove such books and records as Purchasers may select.

Section 5.13 Collection of Receivables; Cash Forwarding.

(a) If, after the Closing Date, Seller shall receive payment from any account debtor with respect to any Accounts Receivable included in the Canadian Acquired Assets, including through the deposit and/or clearance of any post-dated cheques received by Seller at any time, whether before, on or after the Closing Date, Seller shall use its reasonable best efforts (subject to availability of personnel and funding) to promptly thereafter deliver such funds and assets to Purchasers and take all steps necessary to vest title to such funds and/or assets in Purchasers. Seller shall use its reasonable best efforts (subject to availability of personnel and funding) to provide Purchasers a monthly statement on the fifteenth (15th) day of each month setting forth in reasonable detail the Accounts Receivable so received by Seller. Seller hereby designates Purchasers and their respective officers as Seller's true and lawful attorney-in-fact, with full power of substitution, to execute and endorse for the benefit of Purchasers all cheques, notes or other documents received by Seller in payment of or in substitution or exchange for any of the Canadian Acquired Assets. Seller hereby acknowledges and agrees that (i) the power of attorney set forth in the preceding sentences in favour of Purchasers is coupled with an interest, and further agrees to execute and deliver to Purchasers from time to time any documents or other instruments reasonably requested by Purchasers to evidence such power of attorney and (ii) any such Accounts Receivable shall be deemed to be held in trust for Purchasers and shall not be property of Seller's estate.

(b) With respect to any cash or cash equivalents in the bank accounts and lockbox arrangements described on Schedule 1.1(k) as of the Closing that were not transferred, swept or otherwise returned by or on behalf of Seller, Purchasers shall transfer such amounts by wire transfer in immediate available funds to an account or accounts designated by Sellers as soon as practicable (and in any event no later than three (3) Business Days after such funds are available for transfer under the policies and procedures of the financial institution holding such funds.

Section 5.14 Observance of Policies Regarding Personally Identifiable Information. With respect to the Canadian Acquired Assets only, Purchasers shall honor and observe any and all policies of Seller in effect on the date hereof prohibiting the transfer of personally identifiable information about individuals consistent with the requirements of PIPEDA.

Section 5.15 Corporate Name Change. Seller shall, after the Closing, refrain from using and displaying any of the names, Trademarks and service marks that are included in the Canadian Acquired Assets, and in accordance with such requirement, by no later than thirty (30) Business Days after the Closing, Seller shall legally change its corporate, business and domain names to a name that is not confusingly similar to any such names, Trademarks and service marks. Further, under no circumstance shall Seller after the Closing use the Trademarks or Domain Names included in the Canadian Acquired Assets or other indicia confusingly similar to the Trademarks or the Domain Names included in the Canadian Acquired Assets, Copyrights included in the Canadian Acquired Assets, or any work substantially similar to the Copyrights included in the Canadian Acquired Assets, as a source identifier in connection with any Seller product, service or corporate, business or domain name. Nothing in this Section 5.15 shall preclude any uses of Trademarks or Copyrights included in the Canadian Acquired Assets by Seller that are not prohibited by Legal Requirements, including uses that would not cause confusion, mistake or deception as to the origin of a good or services, and references to Trademarks or Copyrights in historical, tax and similar records.

Section 5.16 Financing.

(a) (i) Purchasers shall use their commercially reasonable efforts to take, or cause to be taken, all actions and to do, or cause to be done, all things necessary, proper or advisable to consummate and obtain the Financing on the terms and conditions described in the Financing Commitment Letters (or on revised terms no less favorable in any material respect to Purchasers (as determined in the reasonable judgment of Purchasers)) which terms do not contain any provisions which would reasonably be expected to prevent, materially delay or materially impede the consummation of the Financing or the transactions contemplated by this Agreement, including using commercially reasonable efforts to (A) maintain in effect the Financing Commitment Letters, (B) satisfy on a timely basis all conditions applicable to Purchasers obtaining the Debt Financing that are within their control, (C) negotiate definitive agreements with respect thereto on the terms and conditions contained in the Financing Commitment Letters (including any “flex” provisions) and (D) consummate the Financing at or prior to the Closing.

(ii) Purchasers shall give Seller or Parent prompt written notice of any material breach by any party of any of the Financing Commitment Letters of which Purchasers becomes aware or any termination of any of the Financing Commitment Letters. Purchasers shall keep Seller or Parent informed on a reasonably current basis in reasonable detail of the status of its efforts to arrange and consummate the Financing.

(b) Prior to the Closing, Seller shall provide to Purchasers all cooperation reasonably requested by Purchasers that is necessary or reasonably required in connection with the Financing; provided that notwithstanding anything in this Agreement to the

contrary, until the Closing occurs, Seller shall not (i) be required to pay any commitment or other similar fee, (ii) have any liability or obligation under any loan agreement or any related document or any other agreement or document related to the Financing or (iii) be required to incur any other liability in connection with the Financing contemplated by the Financing Commitment Letters.

Section 5.17 Consents. From and after the Effective Date, Purchasers shall use reasonable best efforts to assist Seller in connection with securing the consent, if necessary, of any lender, lienholder, or other third party that possesses any lien, mortgage, deed of trust, security interest, or other similar encumbrance on or in any of the Tangible Personal Property. Notwithstanding anything to the contrary herein, any and all of the fees, costs, and expenses of securing a consent set forth in the preceding sentence, including the payment of any transfer, conveyance, assignment, or similar fee, charge, or premium and the payment of attorney fees of the party from whom consent is being sought, shall be the sole responsibility of Purchasers and payable at Closing or when due and payable; provided, however, that Purchasers shall not be responsible under this Section 5.17 for any of Seller's costs and expenses, including attorney fees.

Section 5.18 Adoption of Operating Budget. The Operating Budget shall be prepared by Seller and approved by the DIP Lender no later than the commencement of the Canadian Proceedings or such later date as Seller and Purchasers shall agree.

Section 5.19 Schedules and Exhibits. The Parties acknowledge that the Schedules and Exhibits to this Agreement that are to be delivered as of the Effective Date have not been completed as of the Effective Date. Within six (6) days after the Effective Date, Seller shall deliver to Purchasers all of the Schedules and Exhibits to this Agreement (other than Schedules 4.3 and 6.3(j) and Exhibits B, D, E, F, G and H). Similarly, within six (6) days after the Effective Date, Purchasers shall deliver to Sellers Schedules 4.3 and 6.3(j) and Exhibits B, D, E, F, G and H. After delivery of the Schedules and Exhibits, the Parties shall work diligently and in good faith to complete, and agree upon, the Schedules and Exhibits no later than ten (10) days after the Effective Date. The Schedules and Exhibits agreed pursuant to this Section 5.19 shall be deemed, for all purposes of this Agreement, to have been delivered as of the Effective Date (including for purposes of Article III and Article IV).

ARTICLE VI

CONDITIONS PRECEDENT

Section 6.1 Conditions Precedent to Obligation of Seller and Purchasers. The respective obligations of each Party to effect the transactions contemplated by this Agreement shall be subject to the satisfaction of the following conditions:

- (a) the Sale Order shall have been entered and such order will not have been stayed, varied, set aside or appealed and no motion seeking any such relief will have been granted or be pending as of the time of Closing;

(b) all requisite authorizations or consents from Governmental Entities or waiting periods following governmental filings identified or described on Schedule 6.1(b) shall have obtained or expired; and

(c) no Governmental Entity shall have enacted, issued, promulgated or entered any Order that is in effect and has the effect of making illegal or otherwise prohibiting the consummation of the transactions contemplated by this Agreement that has not been withdrawn or terminated.

Section 6.2 Conditions Precedent to Obligation of Seller. The obligation of Sellers to effect the transactions contemplated by this Agreement shall be subject to the satisfaction or waiver at or prior to the Closing Date of the following additional conditions:

(a) the representations and warranties of Purchasers contained in this Agreement that are (i) qualified as to materiality or material adverse effect will be accurate in all respects or (ii) not so qualified will be accurate in all material respects, in each case at and as of the Effective Date and at and as of the Closing Date as if made at and as of such dates, except that any such representations or warranties which expressly relate to an earlier date need only have been accurate as of such date, and Seller shall have received a certificate of Purchasers to such effect signed by a duly authorized officer thereof;

(b) each covenant and obligation that Purchasers are required to perform or to comply with pursuant to this Agreement at or prior to the Closing shall have been duly performed and complied with in all material respects (except that those covenants and obligations which are qualified as to material, materiality or similar expressions, or are subject to the same or similar type exceptions, shall have been performed and complied with in all respects) , and Seller shall have received a certificate of Purchasers to such effect signed by a duly authorized officer thereof; and

(c) each of the deliveries required to be made pursuant to Section 2.2(b) shall have been so delivered.

Any condition specified in this Section 6.2 may be waived by Seller; provided that no such waiver shall be effective against Seller unless it is set forth in a writing executed by Seller.

Section 6.3 Conditions Precedent to Obligation of Purchasers. The obligation of Purchasers to effect the transactions contemplated by this Agreement shall be subject to the satisfaction or waiver at or prior to the Closing Date of the following additional conditions:

(a) the representations and warranties of Seller contained in this Agreement shall be true and correct in all respects (without giving effect to any materiality or Material Adverse Effect qualifications contained therein) at and as of the Effective Date and at and as of the Closing Date, as if made at and as of such dates (except to the extent in either case that any such representations or warranties speak as of another date, in which case such representations and warranties shall be true and correct in all respects (without giving effect to any materiality or Material Adverse Effect qualifications contained therein) at and as of the date specified therein), except where the failure of such representations and warranties to be true and correct, would not, individually or in the aggregate, reasonably be expected to have a

Material Adverse Effect, and Purchasers shall have received a certificate of Seller to such effect signed by a duly authorized officer thereof;

(b) each covenant and obligation that Seller is required to perform or to comply with pursuant to this Agreement at or prior to the Closing shall have been duly performed and complied with in all material respects (except that those covenants and obligations which are qualified as to material, materiality or similar expressions, or are subject to the same or similar type exceptions, shall have been performed and complied with in all respects), and Purchasers shall have received a certificate of Seller to such effect signed by a duly authorized officer thereof;

(c) since the Effective Date, there shall not have occurred any facts, conditions, changes, or developments constituting, or which would be reasonably likely to result in, individually or in the aggregate, a Material Adverse Effect;

(d) the Canadian Proceedings shall have been commenced in respect of Seller;

(e) Seller shall not have received a notice of default under the DIP Financing (excluding any such notices that have been waived or withdrawn prior to Closing) from, or otherwise have been declared to be in default under the DIP Financing by, the DIP Lender (including by or through their agent or other applicable representatives) and/or the DIP Financing shall not have been terminated, and Purchasers shall have received a certificate of Seller to such effect signed by a duly authorized officer thereof;

(f) Purchasers shall have received at or prior to the Closing a docket report identifying the particulars for all active and revivable applications and registrations for Seller owned Intellectual Property included in the Canadian Acquired Assets including, but not limited to, the name of the Intellectual Property (e.g., trademark, title of copyright), country, application and registration numbers, filing dates, registration grant dates, and next maintenance and renewal deadlines;

(g) Purchasers shall have received at or prior to the Closing complete copies (in all material respects) of or access to all files in Seller's possession and/or control related to Seller owned Intellectual Property included in the Canadian Acquired Assets that will be reasonably necessary for Purchasers to maintain, defend and enforce such Intellectual Property including, but not limited to: Trademark and Patent search reports, any written legal opinions or analysis (formal or informal) regarding the availability of any Intellectual Property for use and registration, and potential risk of infringement of third party rights; all documents filed with or received from a government or administrative agency or court in connection with an application, registration, or maintenance, enforcement or defense of an application or registration, and all assignment agreements; and any specimen showing current use of each Trademark;

(h) each of the deliveries required to be made pursuant to Section 2.2(a) shall have been so delivered;

(i) the “Acquired Assets” (as defined in the Amended APA) shall have been conveyed to Purchasers free and clear of all encumbrances other than specified permitted encumbrances as set out in the Amended APA and all other transactions contemplated by the Amended APA shall have closed in accordance with the terms thereof;

(j) if required after giving effect to the Sale Order, all Third Party Consents identified on Schedule 6.3(j) shall have been obtained; and

(k) Seller shall have paid all payroll obligations to Hired Employees and shall have remitted all amounts in respect of all applicable source deductions in respect of Hired Employees to the extent that such amounts have become due and payable on or prior to Closing in the normal course. For greater certainty, this condition shall not apply to any such payroll obligations and source deductions which become, or would become, due and payable on the first regular pay date(s) for such Hired Employees immediately following Closing, unless the aggregate of such amounts exceeds the US dollar equivalent of \$500,000 Canadian dollars based on the noon rate of exchange for conversion of Canadian dollars into US dollars as published by the Bank of Canada on the first date on which such rate is published immediately prior to Closing, in which case this condition of Closing shall apply. Seller shall provide Purchasers with a certificate signed by a duly authorized officer of Seller attesting to the foregoing.

Any condition specified in this Section 6.3 may be waived by Purchasers; provided that no such waiver shall be effective against Purchasers unless it is set forth in a writing executed by Purchasers.

ARTICLE VII

TERMINATION, AMENDMENT, AND WAIVER

Section 7.1 Termination Events. Anything contained in this Agreement to the contrary notwithstanding, this Agreement may be terminated at any time prior to the Closing Date:

(a) by mutual written consent of Seller and Purchasers;

(b) by Purchasers if Seller has not complied with any of the terms or deadlines in respect of the Canadian Sale Process or the Canadian Proceedings set out in Sections 5.6 and 5.7 or if the Order commencing the Canadian Proceedings or any Order establishing bidding procedures in the Canadian Proceedings is not an Initial Order or Bidding Procedures Order; provided, however, that Purchasers shall only be permitted to terminate this Agreement pursuant to this Section 7.1(b) if they are not then themselves in material breach of any of their representations, warranties, covenants or agreements contained herein or in any Bidding Procedures Order;

(c) by Purchasers if (i) the Auction, if required, has not concluded on or before June 23, 2009 or (ii) the Sale Order has not been entered by the Canadian Court and has not become a Final Order by June 25, 2009; provided, however, that Purchasers shall only be permitted to terminate this Agreement pursuant to this Section 7.1(c) if they are not then

themselves in material breach of any of their representations, warranties, covenants or agreements contained herein or in any Bidding Procedures Order;

(d) by Purchasers or Seller if the Closing Date has not occurred on or before July 7, 2009; and provided further that Purchasers or Seller, as applicable, shall only be permitted to terminate this Agreement pursuant to this Section 7.1(d) if Purchasers, in the event of a termination by Purchasers, or Seller, in the event of a termination by Seller, is/are not then themselves in material breach of any of their respective representations, warranties, covenants or agreements contained herein;

(e) by either Party if a Governmental Entity issues a ruling or Order prohibiting the transactions contemplated hereby, which ruling or Order is final and non-appealable;

(f) by Purchasers in the event of any breach by Seller of any of Seller's agreements, covenants, representations or warranties contained herein or in any Bidding Procedures Order or the Sale Order, provided (i) such breach would result in the failure of a condition set forth in Section 6.3(a) or 6.3(b) to be satisfied and (ii) such condition would not be capable of being satisfied prior to the date specified in Section 7.1(d) hereof; provided, however, that Purchasers (i) are not themselves in material breach of any of their agreements, covenants, representations or warranties contained herein or in any Bidding Procedures Order or the Sale Order, (ii) they notify Seller in writing (a "Termination Notice") of their intention to exercise their rights under this Section 7.1(f) and (iii) they specify in such Termination Notice the agreement, covenant, representation or warranty contained herein or in any Bidding Procedures Order or the Sale Order of which Seller is allegedly in breach;

(g) by Seller in the event of any breach by Purchasers of any of Purchasers' agreements, covenants, representations or warranties contained herein or in any Bidding Procedures Order or the Sale Order, provided (i) such breach would result in the failure of a condition set forth in Section 6.2(a) or 6.2(b) to be satisfied and (ii) such condition would not be capable of being satisfied prior to the date specified in Section 7.1(d) hereof; provided, however, that Seller (i) is not itself in material breach of any of its agreements, covenants, representations or warranties contained herein or in any Bidding Procedures Order or the Sale Order, (ii) it sends Purchasers a Termination Notice of its intention to exercise its rights under this Section 7.1(g) and (iii) it specifies in such Termination Notice the agreement, covenant, representation or warranty contained herein or in any Bidding Procedures Order or the Sale Order of which Purchasers are allegedly in breach;

(h) by Purchasers, upon the occurrence of an Alternative Transaction;

(i) by Purchasers, if Seller withdraws its motion seeking approval of the transactions contemplated by this Agreement with the prior written consent of the DIP Lender, or announces or files with the Canadian Court any stand-alone plan of arrangement or liquidation prior to the Closing Date with the prior written consent of the DIP Lender;

(j) by Seller, in the event that as a result of the marketing process an Alternative Transaction is offered in accordance with the Bidding Procedures Order for the sale,

transfer, liquidation or other disposition of all or any portion of the Canadian Acquired Assets, the facilitation of which would generate a greater amount of proceeds of realization (taking into account assumed liabilities) (the “Alternative Transaction Value”) that provides or would provide a greater recovery for the Seller’s creditors; provided that:

(i) if the Alternative Transaction Value is equal to or less than the total indebtedness of Seller to the DIP Lender, Seller must obtain written consent in form and substance satisfactory to the DIP Lender acting reasonably; and

(ii) if the Alternative Transaction Value is more than the total indebtedness of Seller to the DIP Lender and the Alternative Transaction is not conditional, Seller shall not be required to obtain the written consent of the DIP Lender;

(k) by Seller, if all of the conditions set forth in Sections 6.1 and 6.3 have been satisfied (other than those conditions that by their terms are to be satisfied at the Closing but which conditions would be satisfied if the Closing Date were the date of such termination) and Purchasers have failed to consummate the transaction contemplated hereby on or prior to July 2, 2009.

Section 7.2 Effect of Termination

(a) In the event of termination of this Agreement by either Party, except as otherwise provided in this Section 7.2, all rights and obligations of the Parties under this Agreement shall terminate without any liability of any Party to any other Party; provided, however, that nothing herein shall relieve any party from liability for fraud or intentional breach of this Agreement prior to such termination or abandonment of the transactions contemplated by this Agreement. The provisions of Sections 5.4, 7.2 and Article VIII shall expressly survive the expiration or termination of this Agreement.

(b) In no event shall Purchasers be liable to Seller or any of its Affiliates, nor shall Seller or its Affiliates be liable to Purchasers or any of its Affiliates, for special, punitive, incidental, indirect, exemplary or consequential damages of any nature whatsoever arising out of or in connection with this Agreement, notwithstanding the fault, strict liability, breach of contract or negligence, whether sole, joint or concurrent, active or passive, of the beneficiary of this limitation or whether asserted in contract, in warranty, in tort, by statute or otherwise. Any such claim, right or cause of action for any damages that are special, punitive, incidental, indirect, exemplary, or consequential damages is hereby fully waived, released and forever discharged.

ARTICLE VIII

GENERAL PROVISIONS

Section 8.1 Survival of Representations, Warranties, and Agreements. No representations or warranties in this Agreement or in any instrument delivered pursuant to this Agreement shall survive beyond the Closing Date.

Section 8.2 Confidentiality. Each Party agrees that it will treat in confidence all documents, materials and other information that it shall have obtained regarding the other Party during the course of the negotiations leading to the consummation of the transactions contemplated hereby (whether obtained before or after the date of this Agreement), the investigation provided for herein and the preparation of this Agreement and other related documents. Such documents, materials and information shall not be disclosed or communicated to any third Person (other than, in the case of Purchasers, to their counsel, accountants, financial advisors and potential lenders, and in the case of Seller, to its counsel, accountants and financial advisors). No Party shall use any confidential information referred to in the second immediately preceding sentence in any manner whatsoever except solely for the purpose of evaluating the proposed purchase and sale of the Canadian Acquired Assets and the enforcement of its rights hereunder and under the Ancillary Documents; provided, however, that after the Closing, (i) Purchasers may use or disclose any confidential information that is otherwise reasonably related to the Business or the Canadian Acquired Assets for purposes of the conduct of the Business, and (ii) Seller shall not use or disclose any confidential information that is reasonably related to the Business or the Canadian Acquired Assets for any purposes. The obligation of each Party to treat such documents, materials and other information in confidence shall not apply to any information that (i) is or becomes available to such Party from a source other than such Party, (ii) is or becomes available to the public other than as a result of disclosure by such Party or its agents, (iii) is required to be disclosed under applicable law or judicial process, including the Canadian Proceedings, but only to the extent it must be disclosed, or (iv) such Party reasonably deems necessary to disclose to obtain any of the consents or approvals contemplated hereby.

Section 8.3 Public Announcements. Unless otherwise required by applicable law or by obligations of Seller or Purchasers or their respective Affiliates pursuant to any listing agreement with or rules of any securities exchange, Seller and Purchasers shall consult with each other before issuing any other press release or otherwise making any public statement with respect to this Agreement, the transactions contemplated hereby or the activities and operations of the other and shall not issue any such release or make any such statement without the prior written consent of the other (such consent not to be unreasonably withheld or delayed). For greater certainty, the foregoing restrictions shall not apply to actions required to be carried out by Seller in connection with the proper conduct of the Bidding Procedures.

Section 8.4 Taxes; Assumed Lease Payments; Security Deposits; Title Costs.

(a) Except for Taxes that constitute Assumed Liabilities or as provided in this Section 8.4, Seller shall be liable for all Taxes (whether assessed or unassessed) applicable to the Business and the Canadian Acquired Assets, in each case attributable to periods (or portions thereof) ending on or prior to the Closing Date. Without limiting the obligations of Purchasers contained elsewhere in this Agreement, including in respect of the Assumed Liabilities, Purchasers shall be liable for and shall pay, and pursuant to Section 8.4(d) shall reimburse the applicable Seller for, all Taxes (whether assessed or unassessed) applicable to the Business, the Canadian Acquired Assets and the Assumed Liabilities, in each case attributable to periods (or portions thereof) beginning after the Closing Date. For purposes of this paragraph (a), any period beginning before and ending after the Closing Date shall be treated as two partial periods, one ending on the Closing Date and the other beginning on the

day after the Closing Date. Taxes imposed on a period basis (such as property Taxes) shall be allocated on a daily basis.

(b) Notwithstanding anything to the contrary herein, any sales Tax, use Tax, real property transfer Tax, documentary stamp Tax, excise Tax, intangible Tax or similar tax attributable to the sale or transfer of the Canadian Acquired Assets and not exempted under the Sale Order ("Transfer Taxes") shall be borne by Purchasers. Seller and Purchasers shall use reasonable efforts and cooperate in good faith to exempt or minimize the sale and transfer of the Canadian Acquired Assets from any such Transfer Taxes and Purchasers shall provide purchase exemption certificates for any of the Canadian Acquired Assets that qualify for exemption from any Transfer Taxes. Purchasers shall prepare and file all necessary Tax Returns or other documents with respect to all such Transfer Taxes; provided, however, that in the event any such Tax Return requires execution by Seller, Purchasers shall prepare and deliver to Seller a copy of such Tax Return at least ten days before the due date thereof, and, provided that such Tax Return is consistent with allocations approved by Seller pursuant to Section 1.8 heretofore, Seller shall promptly execute such Tax Return and deliver it to Purchasers, which shall cause it to be filed in a timely manner.

(c) Sellers and Purchasers shall promptly provide each other with any reasonably requested information for purposes of determining any Tax liability in respect of any Acquired Asset, and shall otherwise make available to each other all information, records, or documents relating to liabilities for Taxes in respect of the Canadian Acquired Assets. Sellers and Purchasers shall preserve all such information, records and documents until the expiration of any statute of limitations or extensions thereof. Seller shall promptly provide copies of all Canadian tax forms with respect to employees and independent contractors.

(d) Seller or Purchasers, as the case may be, shall promptly and in any event within 30 days of receipt of notice thereof, provide reimbursement for any Tax paid by one Party all or a portion of which is the responsibility of the other Party in accordance with the terms of this Section 8.4. Within a reasonable time prior to the payment of any such Tax, the Party paying such Tax shall give notice to the other Party of the Tax payable and each Party's respective liability therefor, although failure to do so will not relieve the other Party from its liability hereunder.

(e) Notwithstanding any other provision of this Agreement, in the event of an examination or audit of any position taken on a Tax Return, Purchasers shall have the right to control any and all such examinations or audits, including appeals, where Purchasers would, pursuant to this Agreement, be liable for additional Taxes that could be imposed as a result of such proceeding. Seller shall be kept informed of the status of any such proceeding, and Purchasers shall not agree to any settlement that would require payment from Seller without the written consent of Seller (such consent not to be unreasonably withheld or delayed). Sellers shall cooperate fully in all matters relating to any such examination or audit or other Tax proceeding (including according access to all records pertaining thereto), and will execute and file any and all consents, powers of attorney and other documents as shall be reasonably necessary in connection therewith.

(f) Subject to the Sale Order containing an exemption from the application of the *Bulk Sales Act* (Ontario) and any other similar law of another jurisdiction applicable in respect of the Canadian Acquired Assets, Purchasers and Seller hereby waive compliance with all “bulk sales,” “bulk transfer” and similar laws that may be applicable with respect to the sale and transfer of any or all of the Canadian Acquired Assets to Purchasers. Subject to the terms of the Sale Order expressly providing that the Canadian Acquired Assets will be conveyed to Purchasers free and clear of all Encumbrances and free and clear of all liabilities other than Assumed Liabilities, Seller shall provide the clearance certificates issued under Section 6 of the *Retail Sales Tax Act* (Ontario) and any other relevant provincial legislation covering the period up to the Closing Date.

(g) All monetary obligations of Seller under the Assumed Leases, including the payment of any rent, tax charges, escalation, additional rent, utilities, common area maintenance charges, and any other amounts required to be paid by Seller under the Assumed Leases (based upon the most recent ascertainable bills if current bills and/or information are not available) (the “Assumed Lease Payments”) (i) which relate to periods prior to the Closing Date shall be the responsibility of Seller and (ii) which relate to the periods from and after the Closing Date shall be the responsibility of Purchasers. Notwithstanding anything to the contrary herein, Seller and Purchasers shall prorate the Assumed Lease Payments at the Closing and the Adjusted Base Purchase Price shall be adjusted to provide Seller with a credit for all monetary obligations of Seller under the Assumed Leases that have been paid in advance and which relate to periods from and after the Closing Date and to provide Purchasers a credit for all monetary obligations under the Assumed Leases that have not been paid and which relate to periods prior to the Closing Date. All such prorations in connection with the Assumed Leases as of the Closing Date shall be final. At Closing, Seller shall have the right to net any amounts owed by Seller with respect to the foregoing against the Adjusted Purchase Price.

(h) On the Closing Date and with respect to each Assumed Lease, Purchasers shall (i) deliver a security deposit, in a form and on the terms that are permitted under such Assumed Lease or otherwise acceptable to the landlord thereto, to the landlord under such Assumed Lease as a replacement for any security deposit that has previously been provided by Seller in connection with such Assumed Lease and (ii) provide evidence reasonably satisfactory to Seller that such obligation has been satisfied; provided, however, that in the event that Seller have previously provided the landlord under an Assumed Lease with a security deposit in the form of a cash payment, then in lieu of Purchasers providing a replacement security deposit, Seller shall, notwithstanding anything to the contrary herein, receive a credit for the full amount of such security deposit as an adjustment to the Purchase Price.

Section 8.5 Notices. All notices, claims, demands, and other communications hereunder shall be in writing and shall be deemed given upon (a) confirmation of receipt of a facsimile transmission, (b) confirmed delivery by a standard overnight carrier or when delivered by hand, or (c) the expiration of five (5) Business Days after the day when mailed by registered or certified mail (postage prepaid, return receipt requested), addressed to the respective parties at the following addresses (or such other address for a party as shall be specified by like notice):

(a) If to Purchasers, to

Emerisque Brands UK Limited
53 Davies Street
London W1K5JH
England
Facsimile: (011) 44 20 7152 6348
Attention: Ajay Khaitan, Chief Executive Officer

and

SKNL North America, B.V.
Oudegracht 202
Alkmaar 1811 CR
The Netherlands
Facsimile: (011) 91 22 2493 1685
Attention: Anil Channa

with copies to

Steptoe & Johnson LLP
750 Seventh Avenue
New York, New York 10019
Facsimile: (212) 506-3950
Attention: Michael J.W. Rennock, Esq.

and

McCarthy Tétrault LLP
Toronto Dominion Bank Tower
Suite 5300, P.O. Box 48
Toronto, Ontario M5K 1E6
Facsimile: (416) 868-0673
Attention: Jamey Gage
David Judson

(b) If to Seller, to

Coppley Apparel Group Limited
56 York Boulevard
PO Box 2024
Hamilton, Ontario L8N 3S6
Facsimile: (905) 777-2194
Attention: Richard Sexton

with copies to

Hartmarx Corporation.
101 North Wacker Drive
Chicago, Illinois 60606
Facsimile: (312) 357-5321
Attention: General Counsel

and

Skadden, Arps, Slate, Meagher & Flom LLP
333 West Wacker Drive
Chicago, Illinois 60606
Facsimile: (312) 407-0411
Attention: L. Byron Vance III, Esq.
George Panagakis, Esq.

and

Gowling Lafleur Henderson LLP
1 First Canadian Place
Suite 1600
100 King Street West
Toronto, Ontario M5X 1G5
Facsimile: (416) 862-7661
Attention: David Cohen

and

BDO Dunwoody Limited
Financial Recovery Services
123 Front Street West
Suite 1200
Toronto, Ontario M5J 2M2
Facsimile: (416) 369-3112
Attention: Blair Davidson

and

Fasken Martineau
66 Wellington Street West
Suite 4200
Toronto- Dominion Bank Tower
Toronto, Ontario M5K 1N9
Facsimile: (416) 364-7813
Attention: Edmond Lamek

Section 8.6 Descriptive Headings; Interpretative Provisions. The headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement. The words “hereof”, “herein” and “hereunder” and words of like import used in this Agreement shall refer to this Agreement as a whole and not to any particular provision of this Agreement. References to Articles, Sections, Exhibits and Schedules are to Articles, Sections, Exhibits and Schedules of this Agreement unless otherwise specified. All Exhibits and Schedules annexed hereto or referred to herein are hereby incorporated in and made a part of this Agreement as if set forth in full herein. Any capitalized terms used in any Exhibit or Schedule but not otherwise defined therein, shall have the meaning as defined in this Agreement. Any singular term in this Agreement shall be deemed to include the plural, and any plural term the singular. Whenever the words “include”, “includes” or “including” are used in this Agreement, they shall be deemed to be followed by the words “without limitation”, whether or not they are in fact followed by those words or words of like import. “Writing”, “written” and comparable terms refer to printing, typing and other means of reproducing words (including electronic media) in a visible form. References to any person include the successors and permitted assigns of that person. References from or through any date mean, unless otherwise specified, from and including or through and including, respectively.

Section 8.7 No Strict Construction. Sellers and Purchasers participated jointly in the negotiation and drafting of this Agreement, and, in the event an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as jointly drafted by Sellers and Purchasers, and no presumption or burden of proof shall arise favoring or disfavoring any party hereto by virtue of the authorship of any provision of this Agreement. Without limitation as to the foregoing, no rule of strict construction construing ambiguities against the draftsman shall be applied against any person with respect to this Agreement.

Section 8.8 Successors and Assigns.

(a) Except as expressly permitted in this Agreement, the rights and obligations of the Parties under this Agreement shall not be assignable by such Parties without the written consent of the other Parties hereto, except that:

(i) all or any portion of the right of Purchasers or either of them hereunder may be assigned prior to the Closing, without the consent of Seller, to one or more Affiliates of either or both Purchasers; provided that (A) the assignee shall assume in writing all of such Purchaser’s obligations to Seller hereunder, (B) such Purchaser shall not be released from any of its obligations hereunder by reason of such assignment and (C) such assignment shall not delay or otherwise impede in any respect the timing for the consummation of the transactions contemplated hereby; and

(ii) Seller may assign all of its rights hereunder to a receiver appointed in respect of Seller pursuant to the Canadian Proceedings for the purpose of having the receiver complete the Asset Purchase and other transactions contemplated hereby in the place of Seller, provided that (A) such receiver, Seller and Purchasers shall have entered into an assignment and assumption agreement in form and substance satisfactory to each of them, on

customary terms for a transaction of this nature as it relates to the limited scope of the representations, warranties and covenants of such receiver, (B) Seller shall not be released from any of its obligations hereunder by reason of such assignment and (C) such assignment shall not delay or otherwise impede in any respect the timing for the consummation of the transactions contemplated hereby.

(b) This Agreement shall be binding upon and inure to the benefit of the Parties and their successors and permitted assigns. The successors and permitted assigns hereunder shall include any permitted assignee as well as the successors in interest to such permitted assignee (whether by merger, consolidation, liquidation (including successive mergers, consolidations or liquidations) or otherwise). Nothing in this Agreement, expressed or implied, is intended or shall be construed to confer upon any Person other than the parties and successors and assigns permitted by this Section 8.8 any right, remedy or claim under or by reason of this Agreement.

Section 8.9 Entire Agreement. This Agreement (including the Ancillary Documents, Exhibits, Schedules and the other documents and instruments referred to herein) constitutes the entire agreement and supersedes all other prior agreements and understandings, both written and oral, among the parties or any of them, with respect to the subject matter hereof, including, without limitation, any transaction between or among the parties hereto.

Section 8.10 Governing Law, Attornment. This Agreement is governed by and will be construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein. For the purpose of all legal proceedings this Agreement will be deemed to have been performed in the Province of Ontario and the courts of the Province of Ontario will have jurisdiction to entertain any action arising under this Agreement. Seller and Purchasers each attorn to the jurisdiction of the courts of the Province of Ontario.

Section 8.11 Expenses. Except as otherwise expressly provided herein, whether or not the transactions contemplated by this Agreement are consummated, all costs and expenses incurred in connection with this Agreement and the transactions contemplated thereby shall be paid by the Party incurring such expenses.

Section 8.12 Amendment. This Agreement may not be amended except by an instrument in writing signed on behalf of all the Parties hereto.

Section 8.13 Waiver. Any term or provision of this Agreement may be waived, or the time for its performance may be extended, by the party or parties entitled to the benefit thereof. Any such waiver shall be validly and sufficiently authorized for the purposes of this Agreement if, as to any party, it is authorized in writing by an authorized representative of such party. Except as otherwise provided herein, the failure of any party hereto to enforce at any time any provision of this Agreement shall not be construed to be a waiver of such provision, nor in any way to affect the validity of this Agreement or any part hereof or the right of any party thereafter to enforce each and every such provision. No waiver of any breach of this Agreement shall be held to constitute a waiver of any other or subsequent breach.

Section 8.14 Counterparts; Effectiveness. This Agreement may be executed in two or more counterparts, each of which shall be deemed to be an original but all of which shall constitute one and the same agreement. This Agreement shall become effective when each party hereto shall have received counterparts thereof signed by all the other parties hereto.

Section 8.15 Severability; Validity; Parties in Interest. Wherever possible, each provision hereof shall be interpreted in such manner as to be effective and valid under applicable law, but in case any one or more of the provisions contained herein shall, for any reason, be held to be invalid, illegal or unenforceable in any respect, such provision shall be ineffective to the extent, but only to the extent, of such invalidity, illegality or unenforceability without invalidating the remainder of such invalid, illegal or unenforceable provision or provisions or any other provisions hereof, unless such a construction would be unreasonable. Nothing in this Agreement, express or implied, is intended to confer upon any person not a party to this Agreement any rights or remedies of any nature whatsoever under or by reason of this Agreement.

ARTICLE IX

DEFINITIONS

As used herein, the terms below shall have the following meanings:

“*Accounts Receivable*” means, with respect to Seller, all accounts receivable and other rights to payment from customers of Seller and the full benefit of all security for such accounts receivable or rights to payment, including those consisting of all accounts receivable in respect of goods shipped or products sold or services rendered to customers by Seller, any other miscellaneous accounts receivable of Seller, and any claim, remedy or other right of Seller related to any of the foregoing.

“*Acquired Leased Real Property*” has the meaning set forth in Section 1.1(f).

“*Action*” means any claim, charge, action, suit, arbitration, mediation, inquiry, proceeding or investigation by any person or Governmental Entity before any Governmental Entity or any arbitrator or mediator.

“*Adjusted Base Purchase Price*” has the meaning set forth in Section 1.6.

“*Adjustment Amount*” has the meaning set forth in Section 1.7.

“*Administration Charge*” has the meaning set forth in the Initial Order.

“*Affiliate*” has the meaning set forth in the *Business Corporations Act* (Ontario), as amended.

“*Agreement*” has the meaning set forth in the Preamble.

“*Allocation Schedules*” has the meaning set forth in Section 1.8.

“*Alternative Transaction*” means Seller entering, or otherwise agreeing to enter, into a transaction or series of transactions involving a sale, transfer or other disposition of all or any portion of the Canadian Acquired Assets to another purchaser or purchasers other than Purchasers.

“*Amended APA*” has the meaning set forth in the Recitals.

“*Ancillary Documents*” means the Bill of Sale, Deeds, Assignment and Assumption Agreement, Assignment and Assumption of Assumed Leases, Assignment of Patents, Assignment of Trademarks, Assignment of Copyrights, Assignment of Domain Names and each other agreement, document or instrument (other than this Agreement) executed and delivered by the Seller and Purchasers in connection with the consummation of the transactions contemplated by this Agreement.

“*Asset Purchase*” has the meaning set forth in the Recitals.

“*Assigned Contract*” has the meaning set forth in Section 1.1(c).

“*Assignment and Assumption Agreement*” means the Assignment and Assumption Agreement substantially in the form of Exhibit B.

“*Assignment and Assumption of Assumed Leases*” means the Assignment and Assumption of Assumed Leases substantially in the form of Exhibit C.

“*Assignment of Copyrights*” has the meaning set forth in Section 2.2(a)(ii).

“*Assignment of Domain Names*” has the meaning set forth in Section 2.2(a)(ii).

“*Assignment of Patents*” has the meaning set forth in Section 2.2(a)(ii).

“*Assignment of Trademarks*” has the meaning set forth in Section 2.2(a)(ii).

“*Assumed Lease Payments*” has the meaning set forth in Section 8.4(g).

“*Assumed Leases*” has the meaning set forth in Section 1.1(f).

“*Assumed Liabilities*” has the meaning set forth in Section 1.3.

“*Auction*” has the meaning set forth in Section 5.6.

“*Base Purchase Price*” has the meaning set forth in Section 1.6.

“*Benefit Plan*” has the meaning set forth in Section 3.14(a).

“*Bidding Procedures*” means bidding procedures to govern the conduct of the Canadian Sale Process during the Canadian Proceedings, consistent with the terms and deadlines of Section 5.6 and Section 5.7, in form and substance acceptable to Purchasers in their reasonable discretion, it being acknowledged and agreed that an objection by Purchasers to

Bidding Procedures that deviate from the dates and time periods referenced in Sections 5.6, 5.7, 7.1(c) or 7.1(d) shall be deemed to be the exercise of reasonable discretion by Purchasers.

“*Bidding Procedures Order*” means an Order of the Canadian Court in accordance with Section 5.6 and Section 5.7, establishing the Bidding Procedures in form and substance acceptable to Purchasers in their reasonable discretion, it being acknowledged and agreed that an objection by Purchasers to a Bidding Procedures Order that deviates from the dates and time periods referenced in Sections 5.6, 5.7, 7.1(c) or 7.1(d) shall be deemed to be the exercise of reasonable discretion by Purchasers.

“*Bill of Sale*” means the Bill of Sale substantially in the form of Exhibit D.

“*Brand Names*” means the brand names set forth on Exhibit A.

“*Business*” has the meaning set forth in the Recitals.

“*Business Day*” means any day that is not a Saturday, Sunday or other day on which banking institutions in Toronto, Ontario are authorized or required by law or executive order to close.

“*Canadian Acquired Assets*” has the meaning set forth in Section 1.1.

“*Canadian Court*” means the Ontario Superior Court of Justice (Commercial List).

“*Canadian Proceedings*” means proceedings in respect of Seller pursuant to the *Companies’ Creditors Arrangement Act* (Canada).

“*Canadian Sale Process*” has the meaning set forth in Section 5.6.

“*CCAA Priority Charge Advance*” means the advance by the DIP Lender to Seller to provide cash collateral for the Administration Charge and the Directors’ Charge as provided for in the Forbearance Agreement.

“*Chapter 11 Cases*” has the meaning set forth in the Recitals.

“*Closing*” has the meaning set forth in Section 2.1.

“*Closing Date*” has the meaning set forth in Section 2.1.

“*Collective Bargaining Agreements*” has the meaning set forth in Section 3.15(c).

“*Computers*” means all computer equipment and hardware, including, without limitation, all central processing units, terminals, disk drives, tape drives, electronic memory units, printers, keyboards, screens, mobile communication devices (e.g., cell phones, satellite phones, personal digital assistants (PDAs)), peripherals (and other input/output devices), modems and other communication controllers, and any and all parts and appurtenances thereto, together with all intellectual property used in connection with the operation of such computer

equipment, including, without limitation, all software and rights under any licenses related to such use.

“*Concord Premises*” means the land and building currently leased by Seller and located at 40 Adesso Drive, Concord, Ontario.

“*Concord Shirt Business*” has the meaning set forth in the Recitals.

“*Contract*” means any agreement, contract, obligation, promise, instrument undertaking, purchase order, or other arrangements (whether written or oral) that is legally binding, other than Lease, to which Seller is party.

“*Copyrights*” means all Canadian and foreign copyrights and copyrightable subject matter, whether registered or unregistered, including all Canadian copyright registrations and applications for registration and foreign equivalents, all moral or artist’s rights, all common law copyright rights, and all rights to register and obtain renewals and extensions of copyright registrations, together with all other copyright rights accruing by reason of any international copyright convention.

“*Customer Contracts*” has the meaning set forth in Section 1.1(c)(i).

“*Customer Lists*” means all customer lists, files and Documents used or otherwise compiled in connection with the Business, including the following information: customer names; customer mailing addresses, email addresses, and other personal information; customer gift registries and all information related thereto; all records regarding customer purchasing and payment histories; and any and all other customer information.

“*DIP Balance*” means the sum of (i) the aggregate outstanding obligations owing by the Seller under the DIP Financing and (ii) the face value of letters of credit issued and outstanding under the DIP Financing (excluding any such letters of credit under which the DIP Lender has no liability from and after the Closing other than those letters of credit which are assumed or replaced by the Purchasers at Closing) in accordance with the terms of this Agreement.

“*DIP Balance Certificate*” means a certificate signed by the chief financial officer of Seller delivered to Purchasers pursuant to Section 1.7, in form and substance satisfactory to Purchasers, setting forth the Pre-Closing DIP Balance and setting forth particulars in sufficient detail of all amounts claimed as Eligible Amounts to establish to the satisfaction of Purchasers, acting reasonably, that such amounts qualify as Eligible Amounts.

“*DIP Budget*” means the budget defined and referenced in the DIP Order, as the same may be amended or modified through the Effective Date.

“*DIP Financing*” means the borrowings by Seller as contemplated pursuant to (i) the Forbearance Agreement and (ii) the Loan Agreement as defined in the Forbearance Agreement.

“*DIP Lender*” means Wachovia.

“*DIP Order*” means the Order (A) Authorizing Debtors to Obtain Final Post-Petition Financing and Grant Security Interests and Superpriority Administrative Expense Status Pursuant to 11 U.S.C. § 105.363 and 364(c); (B) Modifying the Automatic Stay Pursuant to 11 U.S.C. § 362; and (C) Authorizing Debtors to Enter Into Agreements with Wachovia Capital Finance Corporation (Central), as Agent, entered on the docket in the Chapter 11 Cases on February 19, 2009, Docket No. 149.

“*Directors’ Charge*” has the meaning set out in the Initial Order.

“*Documents*” means all books, records, files, invoices, Inventory records, product specifications, advertising materials, customer lists, cost and pricing information, supplier lists, business plans, catalogs, customer literature, quality control records and manuals, research and development files, records and laboratory books and credit records of customers (including all data and other information stored on discs, tapes or other media) to the extent used in or to the extent relating to the assets, properties, including the Intellectual Property, business or operations of the Business.

“*Domain Name*” means any alphanumeric designation registered with or assigned by a domain name registrar, registry or domain name registration authority as part of an electronic address on the Internet. A Domain Name may or may not also be a Trademark.

“*Effective Date*” has the meaning set forth in the Preamble.

“*Eligible Amounts*” mean the portion of the CCAA Priority Charge Advance attributable to: (i) amounts incurred by Seller and not paid in respect of fees and disbursements (collectively, “Professional Fees”) of the Monitor, Monitor’s counsel, the DIP Lender’s Canadian counsel, Seller’s counsel and the financial advisors to Seller (collectively, the “Advisors”) properly attributable to periods prior to Closing as contemplated by the Operating Budget; (ii) Professional Fees for Advisors properly attributable to periods from and after Closing to a maximum of Cdn.\$240,000, less the aggregate amount of any retainers held by such Advisors at Closing to be applied to services rendered after Closing; (iii) accrued and unpaid salary and wages owing by Seller to employees of Seller (other than Hired Employees) due in the normal course on the first regular payroll pay date following Closing in circumstances where the applicable pay period commenced prior to the Closing Date, properly attributable to periods prior to the Closing Date, as contemplated by the Operating Budget; and (iv) accrued (to the extent not paid by Seller) and unused vacation pay to which employees of Seller (other than Hired Employees) are entitled as of the Closing Date, pursuant to policies of Seller applicable to such employees immediately prior to the Closing Date; provided that, at the conclusion of the Canadian Proceedings, in the event that the actual total salary, wages, vacation pay and Professional Fees referenced above is less than the Eligible Amounts used for purposes of Section 1.7, Purchasers shall be entitled to be paid 72% of the cash collateral returned for such Eligible Amounts.

“*Emerisque*” has the meaning set forth in the Preamble.

“*Encumbrance*” means any charge, lien, claim, mortgage, lease, license, hypothecation, deed of trust, pledge, security interest, option, rights of setoff, right of use, first

offer or first refusal, easement, servitude, restrictive covenant, encroachment, encumbrance, liability, commitment, or other similar restriction of any kind.

“Environment” means all air, water vapor, surface water, groundwater, drinking water supply or land, including land surface or subsurface, and includes all fish, wildlife, biota and all other natural resources.

“Environmental Laws” means all foreign, federal, state, provincial, municipal or local environmental, land use, health, chemical use, safety and sanitation laws, statutes, ordinances, regulations, by-laws or rule of common law (including with respect to the Business, specific Environmental Permits and Orders), as in effect on the date hereof, relating to the protection of the Environment and/or governing the discharge of pollutants or the use, storage, treatment, generation, transportation, processing, handling, production or disposal of Hazardous Substances.

“Environmental Permits” means all permits, licenses, certificates, approvals, authorizations, consents or registrations issued by a Governmental Entity pursuant to an Environmental Law.

“Equipment” means all furniture, fixtures, equipment, Computers, machinery, apparatus, appliances, spare parts, signage, supplies, vehicles, forklifts and all other tangible personal property of very kind and description in which Seller has an interest.

“Excluded Assets” has the meaning set forth in Section 1.2.

“Excluded Contracts” has the meaning set forth in Section 1.2(e).

“Excluded Liabilities” has the meaning set forth in Section 1.4.

“Existing Letters of Credit” has the meaning set forth in Section 5.10.

“Excluded Real Property” has the meaning set forth in Section 5.18.

“Final Order” means an action taken or Order issued by the applicable Governmental Entity as to which: (i) no request for stay of the action or Order is pending, no such stay is in effect, and, if any deadline for filing any such request is designated by statute or regulation, it is passed, including any extensions thereof, (ii) no petition for rehearing or reconsideration of the action or Order, or protest of any kind, is pending before the Governmental Entity and the time for filing any such petition or protest is passed, (iii) the Governmental Entity does not have the action or Order under reconsideration or review on its own motion and the time for such reconsideration or review has passed, and (iv) the action or Order is not then under judicial review, there is no notice of appeal or other application for judicial review pending, and the deadline for filing such notice of appeal or other application for judicial review has passed, including any extensions thereof; provided, however, that a request for a stay, appeal, motion to rehear or reconsider or petition for certiorari referred to above shall be disregarded for purposes of such clause if such request for a stay, appeal, motion to rehear or reconsider or petition for certiorari would not, individually or in the aggregate, reasonably be expected to result in more than \$250,000 of losses to Purchasers.

“*Financing*” means financing facilities available to Purchasers as of the Closing Date providing for sufficient availability to fund the cash portion of the Adjusted Base Purchase Price.

“*Financing Commitment Letters*” has the meaning set forth in Section 4.6(b).

“*Forbearance Agreement*” means the forbearance agreement between Seller, Parent, the US Sellers, Wachovia Capital Finance Corporation (Central) as agent for the Lenders referenced therein and Wachovia.

“*GAAP*” means generally accepted accounting principles in the United States.

“*Governmental Entity*” means any federal, state, provincial, local, county or municipal government, governmental, regulatory or administrative agency, commission, board, bureau or other authority or instrumentality, domestic or foreign or any court, tribunal, arbitration panel or judicial body having jurisdiction.

“*Hazardous Substances*” means any chemicals, materials or substances defined as or included in the definition of “hazardous substances,” “hazardous wastes,” “controlled waste,” “waste,” “hazardous materials,” “hazardous constituents,” “restricted hazardous materials,” “extremely hazardous substances,” “toxic substances,” “contaminants,” “pollutants,” “toxic pollutants,” or words of similar meaning and regulatory effect under any applicable Environmental Law including, without limitation, petroleum, petroleum products, polychlorinated biphenyls, asbestos and any substance (alone or in combination with any other substance) likely to cause significant harm to the environment.

“*Hired Employees*” means the Offered Employees who accept employment with the Purchasers not later than 7 days prior to the Closing Date and the Represented Employees.

“*Indebtedness*” of any Person means, without duplication, (i) the principal of and premium (if any) in respect of (A) indebtedness of such Person for money borrowed and (B) indebtedness evidenced by notes, debentures, bonds or other similar instruments for the payment of which such Person is responsible or liable; (ii) all obligations of such Person issued or assumed as the deferred purchase price of property, all conditional sale obligations of such Person and all obligations of such Person under any title retention agreement (but excluding trade accounts payable and other accrued current liabilities arising in the ordinary course of the business); (iii) all obligations of such Person under leases required to be capitalized in accordance with GAAP, (iv) all obligations of such Person for the reimbursement of any obligor on any letter of credit, banker’s acceptance or similar credit transaction; (v) all obligations of the type referred to in clauses (i) through (iv) of any Persons for the payment of which such Person is responsible, or, liable, directly or indirectly, as obligor, guarantor, surety or otherwise, including guarantees of such obligations; and (vi) all obligations of the type referred to in clauses (i) through (v) of other Persons secured by any lien on any property or asset of such Person (whether or not such obligation is assumed by such Person).

“*Initial Order*” means the Order commencing the Canadian Proceedings and any amendments thereto from time to time, in form and substance acceptable to Purchasers.

“Intellectual Property” means all intellectual property rights of any kind owned, used or licensed (as licensor or licensee) by a Seller, including all Software, Copyrights, Patents, Trademarks, Trade Secrets, Domain Names and Customer Lists; all rights to privacy and proprietary rights to personal information, all inventions (whether patentable or not), invention disclosures, improvements, know-how, technology and technical data and all documentation relating to any of the foregoing; all industrial designs and any registrations and applications therefor; all databases and data collections and all rights therein; all moral and economic rights of authors and inventors, however denominated; all intellectual, literary, artistic, design and moral rights in and to all artwork, designs, sketches, websites, concept and themes, and all graphic, photographic, and other creative and other artistic expressions and visual representation ever created or used by Seller at any time in connection with the manufacture, advertising, marketing, distribution, delivery and sale of products or services bearing any of the Trademarks in connection with the operation of the Business; and all rights and remedies related thereto (including the right to sue for and recover damages, profits and any other remedy in connection therewith) for past, present or future infringement, misappropriation or other violation relating to any of the foregoing.

“Inventory” has the meaning set forth in Section 1.1(e).

“Knowledge,” with respect to Seller, means the actual knowledge of any executive officer of Seller.

“Leased Real Property” has the meaning set forth in Section 3.13(a).

“Leases” has the meaning set forth in Section 3.13(a).

“Legal Requirement” means any federal, state, provincial, local, municipal, foreign, international, multinational, or other administrative Order, constitution, law, ordinance, principle of common law, regulation, statute or treaty.

“Liability” means any debt, loss, claim, damage, demand, fine, judgment, penalty, liability or obligation (whether direct or indirect, known or unknown, absolute or contingent, accrued or unaccrued, liquidated or unliquidated, or due or to become due), and including all costs and expenses relating thereto.

“License Agreements” has the meaning set forth in Section 1.1(c)(iii).

“Material Adverse Effect” means any event or condition in respect of the operation of the Business, the Canadian Acquired Assets, and the Assumed Liabilities that individually or in the aggregate results in a material adverse effect on the properties, liabilities, business, condition (financial or otherwise), operations or prospects of the Business taken as a whole, other than the effects of events or conditions resulting from (i) the Canadian Proceedings, (ii) changes in general economic, financial market or geopolitical conditions, (iii) general changes or developments in the industries and markets in which the Business operates, (iv) the announcement and performance of this Agreement and the other transactions contemplated by this Agreement, including termination of, reduction in or similar negative impact on relationships, contractual or otherwise, with any customers, suppliers, distributors, partners or employees of the Business to the extent due to the announcement and performance of this Agreement or the

identity of Purchasers, (v) any actions required under this Agreement to obtain any approval or authorization required under applicable antitrust or competition laws for the consummation of the transactions contemplated by this Agreement, (vi) changes in (or proposals to change) any applicable laws or regulations or applicable accounting regulations or principles or interpretations thereof, (vii) any outbreak or escalation of hostilities or war or any act of terrorism, or (viii) matters arising as a result of actions taken by the Seller after the Effective Date in respect of the Concord Shirt Business or the Leased Real Property (other than the Acquired Leased Real Property).

“Material Contract” means any Contract to which Seller is a party or by which any of the Canadian Acquired Assets are bound and pursuant to which Seller would be required to make or entitled to receive, as applicable, payments in excess of \$50,000 from and after the Effective Date.

“Monitor” means the monitor appointed in the Canadian Sale Proceedings.

“Offered Employees” has the meaning set forth in Section 5.11(a).

“Operating Budget” means a budget to be prepared by the Seller and approved by the DIP Lender in form and substance satisfactory to the Purchasers governing the operations of the Business from the Effective Date through the Closing Date, which budget shall be substituted for the DIP Budget upon its approval by the DIP Lender.

“Order” means any order, injunction, judgment, decree, ruling, writ, assessment or arbitration award of a Governmental Entity.

“Original APA” has the meaning set forth in the Preamble.

“Parent” has the meaning set forth in the Preamble.

“Parent SEC Documents” means all forms, reports, schedules, statements and other documents filed by Parent since January 1, 2006 under the Securities Exchange Act of 1934, as amended, or the Securities Act of 1933, as amended (as such documents have been amended since the time of their filing).

“Party” or *“Parties”* means, individually or collectively, each Purchaser and Seller.

“Patents” means Canadian and foreign patents (including certificates of invention and other patent equivalents), patent applications, provisional applications and patents issuing therefrom, as well as any continuations, continuations-in-part, continued prosecution applications, requests for continued examination, divisions, extensions, reexaminations, reissues, renewals, patent disclosures, inventions (whether or not patentable or reduced to practice) or improvements thereto.

“Permits” means all franchises, grants, authorizations, licenses, permits, variances, exceptions, consents, certificates, approvals, clearances and orders of any

Governmental Entity which are necessary for Seller to own, lease and operate its properties and assets or to carry on the Business as it is now being conducted.

“Permitted Encumbrances” means (i) statutory liens for current property Taxes and assessments not yet due and payable, including, without limitation, liens for ad valorem Taxes and statutory liens not yet due and payable arising other than by reason of any default on the part of Seller, (ii) mechanics’, carriers’, workmen’s, repairmen’s or other like Encumbrances arising or incurred in the ordinary course of business, consistent with past practice, with respect to obligations that are not delinquent; (iii) any recorded or unrecorded easements, covenants, trackage rights, rights of way, covenants, conditions, restrictions, declarations, leases, licenses, and other similar matters or imperfections of title with respect to the Acquired Leased Real Property or personally that do not in any material respect detract from the marketability or insurability (at standard premiums) thereof and do not individually or in the aggregate materially interfere with the present use of the property subject thereto, (iv) deposits under worker’s compensation, unemployment insurance and social security laws to the extent required by law and to the extent not related to any Excluded Liability, (v) local, county, state and federal laws, ordinances or governmental regulations now or hereafter in effect relating to the Leased Real Property, (vi) non-exclusive licenses of or other non-exclusive grants of rights to use Intellectual Property in the ordinary course of business consistent with past practice, (vii) those items set forth on Schedule 3.7, and (viii) the Assumed Liabilities.

“Person” means any individual, corporation, partnership, joint venture, limited liability company, association, joint-stock company, trust, unincorporated organization or Governmental Entity.

“PIPEDA” means the *Personal Information Protection and Electronic Documents Act* (Canada).

“Pre-Closing DIP Balance” means the DIP Balance as of the close of business on the day immediately preceding the Closing Date which shall not, for purposes of Section 1.7, include any portion of the CCAA Priority Charge Advance.

“Proceeding” means any action, arbitration, audit, hearing, investigation, litigation, or suit (whether civil, criminal, administrative or investigative) commenced, brought, conducted, or heard by or before, or otherwise involving any Governmental Entity or arbitrator.

“Purchase Price” has the meaning set forth in Section 1.6.

“Purchasers” has the meaning set forth in the Preamble.

“Release” means any release, spill, emission, discharge, leaking, pumping, injection, deposit, disposal, dispersal, leaching or migration into the indoor or outdoor environment (including, without limitation, ambient air, surface water, groundwater and surface or subsurface strata) or into or out of any property, including the movement of Hazardous Substances through or in the air, soil, surface water, groundwater or property.

“*Representative*” means with respect to a particular Person, any director, officer, employee, agent, consultant, advisor or other representative of such Person, including legal counsel, accountants and financial advisors.

“*Represented Employees*” has the meaning set forth in Section 5.11(a).

“*Required Consents*” mean any consent, approval or authorization of, or declaration, filing or registration with, any Governmental Entity that is required to be made or obtained in connection with the transactions contemplated by this Agreement.

“*Sale Order*” means an order of the Canadian Court, among other things, authorizing and approving the sale of the Canadian Acquired Assets to Purchasers and vesting such assets in Purchasers free and clear of Encumbrances and other claims, except Permitted Encumbrances, which order shall be in form and substance acceptable to Purchasers in their sole discretion.

“*Seller*” has the meaning set forth in the Preamble.

“*SKNL*” has the meaning set forth in the Preamble.

“*SKNL Parent*” has the meaning set forth in the Preamble.

“*Software*” has the meaning set forth in Section 1.1(i).

“*Successful Bidder*” has the meaning set forth in the Bidding Procedures.

“*Supplier Contracts*” has the meaning set forth in Section 1.1(c)(ii).

“*Tangible Personal Property*” has the meaning set forth in Section 1.1(g).

“*Tax*” or “*Taxes*” (and with correlative meaning, “*Taxing*”) means (i) any federal, state, provincial, local, foreign or other income, alternative, minimum, add-on minimum, accumulated earnings, personal holding company, franchise, capital stock, net worth, capital, profits, intangibles, windfall profits, gross receipts, value added, sales, use, goods and services, excise, customs duties, transfer, conveyance, mortgage, registration, stamp, documentary, recording, premium, severance, environmental, natural real sources, real property, personal property, ad valorem, intangibles, rent, occupancy, vault, license, occupational, employment, unemployment insurance, social security, disability, workers’ compensation, payroll, health care, withholding, estimated or other similar taxes, duty, levies or other governmental charges or assessments or deficiencies thereof (including all interest, penalties and additions to tax whether disputed or not) and, (ii) any transferee liability in respect of any items described in clause (i) above.

“*Tax Return*” means any tax return, filing or information statement required to be filed in connection with or with respect to any Tax.

“*Termination Notice*” has the meaning set forth in Section 7.1(f).

“Third Party Consents” means the consents, approvals and waivers from the Persons or in respect of the Contracts, Leases and Permits set forth on Schedule 3.3, in form and content acceptable to the Purchaser, including a consent to the transactions contemplated hereby and waiving any defaults.

“Trademarks” means Canadian, state and foreign trademarks, service marks, logos, slogans, trade dress and trade names (including all assumed or fictitious names under which the Business is conducted), and any other indicia of source of goods and services, designs and logotypes related to the above, in any and all forms, whether registered or unregistered, and registrations, and pending applications to register the foregoing (including intent to use or proposed use applications), and all goodwill related to or symbolized by the foregoing.

“Trade Secrets” means confidential and/or proprietary information, trade secrets and all information in whatever form or medium, including non-memorialized form, not generally known to the public and which provides Seller any advantage.

“Transfer Taxes” has the meaning set forth in Section 8.4(b).

“Unaudited Financial Statements” has the meaning set forth in Section 3.24.

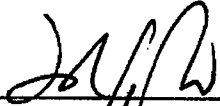
“US Sellers” has the meaning set forth in the Preamble.

“Wachovia” has the meaning set forth in Section 5.10.

IN WITNESS WHEREOF, Seller and Purchasers have caused this Agreement to be executed on their behalf by their officers thereunto duly authorized, as of the date first above written.

SELLER:

COPPLEY APPAREL GROUP LIMITED

By: 
Name: Taras R. Proczko
Title: Vice President

PURCHASERS:

EMERISQUE BRANDS UK LIMITED

By: _____
Name:
Title:

SKNL NORTH AMERICA, B.V.

By: _____
Name:
Title:

IN WITNESS WHEREOF, Seller and Purchasers have caused this Agreement to be executed on their behalf by their officers thereunto duly authorized, as of the date first above written.

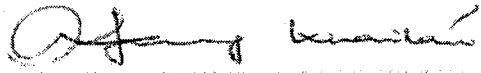
SELLER:

COPPLEY APPAREL GROUP LIMITED

By: _____
Name:
Title:

PURCHASERS:

EMERISQUE BRANDS UK LIMITED

By: 
Name: NJAY KHAITAN
Title: CHIEF EXECUTIVE

SKNL NORTH AMERICA, B.V.

By: _____
Name:
Title:

IN WITNESS WHEREOF, Seller and Purchasers have caused this Agreement to be executed on their behalf by their officers thereunto duly authorized, as of the date first above written.

SELLER:

COPPLEY APPAREL GROUP LIMITED

By: _____
Name:
Title:

PURCHASERS:

EMERISQUE BRANDS UK LIMITED

By: _____
Name:
Title:

SKNL NORTH AMERICA, B.V.

By: Anil Channa
Name: Anil Channa
Title: Authorized Signatory

AMENDING AGREEMENT

THIS AMENDING AGREEMENT is made the _____ day of June, 2009

BY AND BETWEEN:

COPPLEY APPAREL GROUP LIMITED, an Ontario corporation (the “**Seller**”)

- and -

EMERISQUE BRANDS UK LIMITED, a company formed under the laws of England and Wales (“**Emerisque**”) and **SKNL NORTH AMERICA, B.V.**, a company incorporated under the laws of The Netherlands (“**SKNL**” and together with Emerisque and any of their permitted designees, the “**Purchasers**”)

WHEREAS the Seller and the Purchasers entered into an asset purchase agreement made as of the 5th day of June, 2009 providing for the Asset Purchase (the “**Asset Purchase Agreement**”);

AND WHEREAS the Parties have agreed to amend certain deadlines in the Bidding Procedures;

AND WHEREAS Section 8.12 of the Asset Purchase Agreement provides that no amendment to the Asset Purchase Agreement will be valid or binding unless set forth in writing and duly executed by the Parties thereto.

NOW THEREFORE, in consideration of the premises and the covenants and agreements herein contained, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto agree to amend the Asset Purchase Agreement as follows:

**ARTICLE 1
DEFINITIONS AND SECTION REFERENCES**

1.1 **Definitions.** Terms for which meanings are provided in the Asset Purchase Agreement are, unless otherwise defined herein, used in this Amending Agreement with such meanings.

1.2 **Section References.** Any reference to a section in this Amending Agreement is a reference to the Asset Purchase Agreement.

**ARTICLE 2
AMENDMENTS TO THE ASSET PURCHASE AGREEMENT**

Effective on the date hereof, the Asset Purchase Agreement is hereby amended as follows:

2.1 The deadlines referred to in the last sentence of Section 5.6 are changed to July 7, 2009 and July 9, 2009, respectively, such that the sentence shall read as follows:

“Seller has proposed and has agreed to conduct, and Purchasers have agreed to, a process for seeking offers for the Acquired Assets (such process including a Bidding Procedures Order in form and content satisfactory to the Purchasers in their reasonable discretion, the “Canadian Sale Process”) in accordance with the Bidding Procedures Order in the Canadian Proceedings that will provide that, among other things, any interested parties (other than the Purchasers) who wish to submit a competing offer must do so on or before July 7, 2009 by way of a binding offer for the Acquired Assets or relevant portion thereof and any auction in respect of the Acquired Assets must be held on or before July 9, 2009 (the “Auction”).”

2.2 The deadline referred to in the first sentence of Subsection 5.7(c) is changed to July 13, 2009, such that the sentence shall read as follows:

“Subject to Purchasers being the successful bidder under the Canadian Sale Process and the Bidding Procedures Order, Seller shall obtain the Sale Order on or before July 13, 2009.”

2.3 The deadlines referred to in the first part of Subsection 7.1(c) are changed to July 9, 2009 and July 13, 2009, respectively, such that the sentence shall read as follows:

“(c) by Purchasers if (i) the Auction, if required, has not concluded on or before July 9, 2009 or (ii) the Sale Order has not been entered by the Canadian Court and has not become a Final Order by July 13, 2009;”

2.4 The deadline referred to in the first part of Subsection 7.1(d) is changed to July 20, 2009, such that the sentence shall read as follows:

“(d) by Purchasers or Seller if the Closing Date has not occurred on or before July 20, 2009;”

2.5 The deadline referred to in Subsection 7.1(k) is changed to July 20, 2009, such that the sentence shall read as follows:

“(k) by Seller, if all of the conditions set forth in Sections 6.1 and 6.3 have been satisfied (other than those conditions that by their terms are to be satisfied at the Closing but which conditions would be satisfied if the Closing Date were the date of such termination) and Purchasers have failed to consummate the transaction contemplated hereby on or prior to July 20, 2009.”

ARTICLE 3 MISCELLANEOUS

3.1 **No Other Amendments.** Except as specifically amended in this Amending Agreement, the Asset Purchase Agreement and all other related documents shall

remain in full force and effect and are hereby ratified and confirmed in all respects. After this Amending Agreement becomes effective as provided herein, any reference to the Asset Purchase Agreement shall refer to the Asset Purchase Agreement as amended hereby.

3.2 **Headings.** The headings of the various sections of this Amending Agreement have been inserted for convenience of reference only and shall not be deemed to be a part of this Amending Agreement.

3.3 **Counterparts; Effectiveness.** This Amending Agreement may be executed in two or more counterparts, each of which shall be deemed to be an original but all of which shall constitute one and the same agreement. This Amending Agreement shall become effective when each Party hereto shall have received counterparts thereof signed by all the other Parties hereto

3.4 **Electronic Execution.** Delivery of an executed signature page to this Amending Agreement by any Party by electronic transmission will be as effective as delivery of a manually executed copy of this Amending Agreement by such Party.

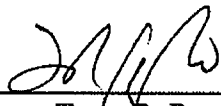
3.5 **Governing Law; Attornment.** This Amending Agreement is governed by and will be construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein. For the purpose of all legal proceedings this Amending Agreement will be deemed to have been performed in the Province of Ontario and the courts of the Province of Ontario will have jurisdiction to entertain any action arising under this Amending Agreement. Seller and Purchasers each attorn to the jurisdiction of the courts of the Province of Ontario.

IN WITNESS WHEREOF the Parties have executed this Amending Agreement.

[signature page follows]

SELLER:

COPPLEY APPAREL GROUP LIMITED

By: 
Name: Taras R. Proczko
Title: Vice President

PURCHASERS:

EMERISQUE BRANDS UK LIMITED

By: _____
Name:
Title:

SKNL NORTH AMERICA, B.V.

By: _____
Name:
Title:

SELLER:

COPPLEY APPAREL GROUP LIMITED

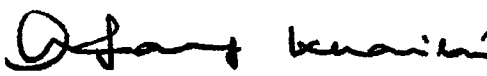
By: _____

Name:

Title:

PURCHASERS:

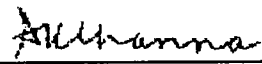
EMERISQUE BRANDS UK LIMITED

By: 

Name: Ajay Khaitan

Title: Chief Executive Officer

SKNL NORTH AMERICA, B.V.

By: 

Name: Anil Channa

Title: Authorized Signatory

AMENDED AND RESTATED ASSIGNMENT AGREEMENT

THIS AGREEMENT is made as of August 4, 2009

BETWEEN

EMERISQUE BRANDS UK LIMITED, a corporation
incorporated under the laws of England and Wales ("**Emerisque**")

- and -

SKNL NORTH AMERICA, B.V., a corporation incorporated
under the laws of The Netherlands ("**SKNL**", collectively with
Emerisque, the "**Purchasers**")

- and -

HMX CANADA ACQUISITION CORP., a corporation
incorporated under the laws of the Province of New Brunswick
("**HMX**")

- and -

**EMBU INVESTMENTS SPÓŁKA Z OGRANICZONĄ
ODPOWIEDZIALNOŚCIĄ BRANCH IN LUXEMBOURG**, a
company incorporated and organized under the laws of Poland,
entered into the National Court Register maintained by the District
Court in Warsaw XII Business Division under KRS number
0000321848, NIP number 1080006576, whose registered office is
at Al. Jerozolimskie 56C, 1st Floor, 00-803 Warsaw, Poland,
whose share capital amounts to PLN 50.000., and whose branch
office in Luxembourg is registered at 12, rue Guillaume Kroll, L-
1882 Luxembourg ("**Embu**").

WHEREAS Copley Apparel Group Limited and the Purchasers entered into an asset purchase agreement made as of June 5, 2009, as amended on June 23, 2009 and as may be further amended (the "**Asset Purchase Agreement**"), providing for, among other things, the sale of the Canadian Acquired Assets by the Seller to the Purchasers and the assumption by the Purchasers of the Assumed Liabilities;

WHEREAS Section 8.8(a)(i) of the Asset Purchase Agreement provides that all or any portion of the right of the Purchasers or either of them under the Asset Purchase Agreement may be assigned prior to the Closing, without the consent of the Seller, to one or more Affiliates of either or both Purchasers; provided that (A) the assignee shall assume in writing all of such Purchaser's obligations to Seller under the Asset Purchase Agreement, (B) such Purchaser shall not be released from any of its obligations under the Asset Purchase Agreement by reason of such assignment and (C) such assignment shall not delay or otherwise impede in any respect the timing for the consummation of the transactions contemplated hereby;

AND WHEREAS the Purchasers and HMX entered into an assignment agreement on July 9, 2009 providing for the assignment of all of the Purchasers' rights, interest and obligations under the Asset Purchase Agreement to HMX (the "**Original Assignment Agreement**");

AND WHEREAS the Purchasers and HMX wish to amend and restate the Original Assignment Agreement to provide that certain of the Purchasers' rights, interests and obligations under the Asset Purchase Agreement be assigned to Embu, an Affiliate of the Purchasers;

NOW THEREFORE, in consideration of the premises and the covenants and agreements herein contained, the parties agree as follows:

ARTICLE 1 - ASSIGNMENT AND ASSUMPTION

1.01 Assignment and Assumption

(1) The Purchasers hereby assign to HMX, and HMX hereby accepts, all of the Purchasers' rights, interests and obligations under the Asset Purchase Agreement, except for the Purchasers' rights, interest and obligations with respect to the Canadian Acquired Assets listed in Section 1.1(h) of the Asset Purchase Agreement (the "**Canadian Acquired IP Assets**"). HMX agrees to assume and be bound by all of the obligations of the Purchasers in respect of the Asset Purchase Agreement, except with respect to the Canadian Acquired IP Assets.

(2) The Purchasers hereby assign to Embu, and Embu hereby accepts, the Purchasers' rights, interests and obligations under the Asset Purchase Agreement with respect to the purchase of the Canadian Acquired IP Assets. Embu hereby agrees to assume and be bound by all of the obligations of the Purchasers in respect of the Canadian Acquired IP Assets.

(3) The Purchasers hereby confirm that they shall not be released from any of their obligations under the Asset Purchase Agreement by reason of this Agreement.

ARTICLE 2 - GENERAL

2.01 Definitions

Unless otherwise defined herein, terms used in this Agreement will have the same meaning ascribed thereto in the Asset Purchase Agreement.

2.02 Further Assurances

Each of the Purchasers, HMX and Embu will, from time to time, execute and deliver all such further documents and instruments and do all acts and things as the other party may reasonably require to effectively carry out or better evidence or perfect the full intent and meaning of this Agreement.

2.03 **Benefit of the Agreement**

This Agreement will enure to the benefit of and be binding upon the respective successors and assigns of the parties hereto.

2.04 **Entire Agreement**

This Agreement contains the entire agreement between the parties related to its subject matter and supersedes all prior and contemporaneous agreements, understandings, negotiations and discussions, whether oral or written (including, for greater certainty, the Original Assignment Agreement). There are no warranties, representations or other agreements between the parties in connection with the subject matter hereof except as specifically set forth herein.

2.05 **Governing Law**

This Agreement is governed by and will be construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein.

2.06 **Electronic Transmission**

Delivery of an executed signature page to this Agreement by any party by electronic transmission will be as effective as delivery of a manually executed copy of this Agreement by such party.


[Remainder of page intentionally left blank.]

IN WITNESS WHEREOF the parties have executed this Agreement.

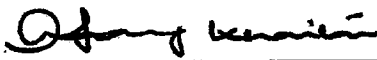
EMERISQUE BRANDS UK LIMITED

Per: 
Name: Ajay Khaitan
Title: Chief Executive Officer

SKNL NORTH AMERICA, B.V.

Per: 
Name: Anil Channa
Title: Authorized Signatory

HMX CANADA ACQUISITION CORP.

Per: 
Name: Ajay Khaitan
Title: President

**EMBU INVESTMENTS SPÓLKA Z
OGRANICZONĄ ODPOWIEDZIALNOŚCIĄ,
BRANCH IN LUXEMBOURG**

Per: _____
Name: Ismael Hajjar
Title: Duly Authorized Representative of
the Luxembourg Branch of Embu
Investments sp. z o.o.

- 4 -

IN WITNESS WHEREOF the parties have executed this Agreement.

EMERISQUE BRANDS UK LIMITED

Per: _____

Name: Ajay Khaitan

Title: Chief Executive Officer

SKNL NORTH AMERICA, B.V.

Per: _____

Name: Anil Channa

Title: Authorized Signatory

HMX CANADA ACQUISITION CORP.

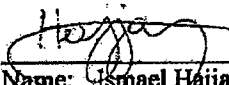
Per: _____

Name: Ajay Khaitan

Title: President

**EMBU INVESTMENTS SPÓLKA Z
OGRANICZONĄ ODPOWIEDZIALNOŚCIĄ,
BRANCH IN LUXEMBOURG**

Per: _____

Name:  Ismael Hajjar

Title: Duly Authorized Representative of
the Luxembourg Branch of Embu
Investments sp. z o.o.

SECOND AMENDING AGREEMENT

THIS SECOND AMENDING AGREEMENT is made the 7th day of August, 2009

BY AND BETWEEN:

COPPLEY APPAREL GROUP LIMITED, an Ontario corporation (the “**Seller**”)

- and -

EMERISQUE BRANDS UK LIMITED, a company formed under the laws of England and Wales (“**Emerisque**”) and **SKNL NORTH AMERICA, B.V.**, a company incorporated under the laws of The Netherlands (“**SKNL**” and together with Emerisque, the “**Original Purchasers**”)

- and -

HMX CANADA ACQUISITION CORP., a company formed under the laws of the Province of New Brunswick (“**HMX**”)

- and -

EMBU INVESTMENTS SPÓŁKA Z OGRANICZONĄ ODPOWIEDZIALNOŚCIĄ BRANCH IN LUXEMBOURG, a company incorporated and organized under the laws of Poland, entered into the National Court Register maintained by the District Court in Warsaw XII Business Division under KRS number 0000321848, NIP number 1080006576, whose registered office is at Al. Jerozolimskie 56C, 1st Floor, 00-803 Warsaw, Poland, whose share capital amounts to PLN 50.000., and whose branch office in Luxembourg is registered at 12, rue Guillaume Kroll, L-1882 Luxembourg (“**Embu**”)

WHEREAS the Seller and the Original Purchasers entered into an asset purchase agreement made as of the 5th day of June, 2009, as amended by an amending agreement dated June 23, 2009, providing for the Asset Purchase (the “**Asset Purchase Agreement**”);

AND WHEREAS the Original Purchasers assigned all their rights, interests and obligations under the Asset Purchase Agreement to HMX pursuant to an assignment agreement dated July 9, 2009 as permitted under the Asset Purchase Agreement, which assignment agreement was further amended and restated on August 4, 2009 (the “**Amended and Restated Assignment Agreement**”) to provide that all of the Original Purchasers’ rights, interests and obligations under the Asset Purchase Agreement be assigned to HMX, other than the rights, interests and obligations relating to the Canadian Acquired IP Assets (as defined in the Amended and Restated Assignment Agreement), which are assigned to Embu, an Affiliate of the Purchasers;

AND WHEREAS the Parties have agreed to further amend the Asset Purchase Agreement as hereinafter set forth;

AND WHEREAS Section 8.12 of the Asset Purchase Agreement provides that no amendment to the Asset Purchase Agreement will be valid or binding unless set forth in writing and duly executed by the Parties thereto.

NOW THEREFORE, in consideration of the premises and the covenants and agreements herein contained, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto agree to amend the Asset Purchase Agreement as follows:

**ARTICLE 1
DEFINITIONS AND SECTION REFERENCES**

1.1 **Definitions.** Terms for which meanings are provided in the Asset Purchase Agreement are, unless otherwise defined herein, used in this Second Amending Agreement with such meanings.

1.2 **Section References.** Any reference to a section in this Second Amending Agreement is a reference to the Asset Purchase Agreement.

**ARTICLE 2
AMENDMENTS TO THE ASSET PURCHASE AGREEMENT**

2.1 **Amendments.** Effective on the date hereof, the Asset Purchase Agreement is hereby amended as follows:

- (a) “Exhibit I – Top 15 Finished Goods/Piece Goods Suppliers” is deleted from the Table of Exhibits on page v of the Asset Purchase Agreement.
- (b) Section 1.1 is hereby amended by
 - (i) adding the words “the Shirt Inventory and” immediately after the words “all right, title and interest of Seller in and to” in the fifth line of such section; and
 - (ii) deleting the words “of the Business” in Section 1.1(a).
- (c) Section 1.2(g) is hereby amended and restated in its entirety as follows:

“(g) any Inventory or Shirt Inventory sold prior to the Closing in the ordinary course of the Business or the Concord Shirt Business, respectively;”
- (d) Section 1.3(c) is hereby amended by including after the word “Inventory”, the words “or Shirt Inventory”.
- (e) Section 1.3(e) is hereby amended and restated in its entirety as follows:

“(e) amounts incurred in the ordinary course of business after the date of the Initial Order consistent with past practice and in compliance with the Operating Budget in an aggregate amount not to exceed \$475,000, but excluding any amounts described in Section 1.3(c) and any Eligible Amounts, which liabilities shall be paid by the Purchasers in full as and when due.”

- (f) Section 1.6 is hereby amended by replacing “U.S. \$5,389,922” with “U.S. \$7,486,003” and by replacing the reference to “72%” with “100%”.
- (g) Section 1.7 is hereby amended by:
 - (i) replacing, in Section 1.7(a), the reference to “seventy-two percent (72%)” with “one hundred percent (100%)”;
 - (ii) replacing, in Section 1.7(a)(y), the reference to “the Eligible Amounts” with “the estimated Eligible Amounts at Closing, as agreed between Seller, the DIP Lender and Purchasers”; and
 - (iii) adding a new Section 1.7(c) that reads:

“(c) As soon as such calculation can be reasonably determined, but not later than the conclusion of the Canadian Proceedings, Seller will repay to Purchasers the amount, if any, by which the estimated Eligible Amounts referred to in Section 1.7(a)(y) exceeds the actual Eligible Amounts (the “Eligible Amount Overpayment”), and the Purchase Price shall be reduced accordingly.”
- (h) Section 3.20 is hereby amended by including after the word “Inventory”, the words “and Shirt Inventory”.
- (i) Section 3.21 is hereby amended and restated in its entirety as follows:

“Inventory and Shirt Inventory. All Inventory and Shirt Inventory consists of items of quantity and quality historically useable or saleable in the ordinary course of business, except for items of obsolete and slow-moving material and materials which are below standard quality that, in the case of any such items that are Inventory, are not material to the financial condition or operation of the Business taken as a whole or, in the case of any such items that are Shirt Inventory, are not material in the context of the overall value of the Shirt Inventory.”
- (j) Section 5.1(a)(v) is hereby amended and restated in its entirety as follows:

“(v) other than the sale of Inventory in the ordinary course of the Business consistent with past practice or the sale of Shirt Inventory in the ordinary course of the Concord Shirt Business consistent with past practice, sell, lease (as lessor), licence, transfer or otherwise dispose of (including any

transfer from the Business to any Affiliates of Seller (other than a US Seller)), or mortgage or pledge, or voluntarily impose or suffer to be imposed, any Encumbrance on (other than Assumed Liabilities and Permitted Encumbrances), any of the Canadian Acquired Assets;

- (k) Section 5.11(a) is amended by deleting the words “Not later than five (5) Business Days”.
- (l) Section 5.11(f) is amended by deleting the words “At least 7 days”.
- (m) Section 5.12(a) is amended by adding this following sentence at the end of such section:

“Without limitation to the foregoing, Seller and Purchaser agree that they will cooperate in good faith and assist each other with respect to the calculation of, and payment by Seller or Purchaser (as applicable) in accordance herewith and any Orders of the Canadian Court, the Hired Employee Amounts and the liabilities assumed by Purchasers pursuant to Section 1.3(e).”

- (n) A new Section 5.20 is added as follows:

“Section 5.20 Shirt Inventory. Prior to the Closing, Seller shall move the Shirt Inventory from the Concord Premises to the Acquired Leased Real Property or such other location as may be agreed to between the Seller and the Purchasers.”

- (o) The deadline referred to in the first part of Section 7.1(d) is changed to August 14, 2009.
- (p) The deadline referred to in Section 7.1(k) is changed to August 14, 2009.
- (q) The term “Documents” defined in Article IX is amended by including after the words “Inventory records,”, the words “Shirt Inventory records,”.
- (r) The term “Eligible Amounts” defined in Article IX shall read as follows:

“mean the portion of the CCAA Priority Charge Advance attributable to: (i) amounts incurred by Seller and not paid in respect of fees and disbursements (collectively, “Professional Fees”) of the Monitor, Monitor’s counsel, the DIP Lender’s Canadian counsel, Seller’s counsel and the financial advisors to Seller (collectively, the “Advisors”) properly attributable to periods prior to Closing as contemplated by the Operating Budget; (ii) Professional Fees for Advisors properly attributable to periods from and after Closing to a maximum of Cdn.\$240,000, less the aggregate amount of any retainers held by such Advisors at Closing to be applied to services rendered after Closing; (iii) accrued and unpaid salary and wages owing by Seller to employees of Seller (other than Hired Employees) due in the normal course on the first regular payroll pay date

following Closing in circumstances where the applicable pay period commenced prior to the Closing Date, properly attributable to periods prior to the Employee Termination Date, as contemplated by the Operating Budget; (iv) accrued (to the extent not paid by Seller) and unused vacation pay to which employees of Seller (other than Hired Employees) are entitled as of the Employee Termination Date, pursuant to policies of Seller applicable to such employees immediately prior to the Closing Date; (v) accrued and unpaid source deductions for employees of the Seller (other than Hired Employees) properly attributable to the period prior to the Employee Termination Date and referenced in paragraph 7(a) of the Initial Order and in respect of which paragraphs 19 and 20 of the Initial Order apply; (vi) goods and services or other applicable sales taxes referenced in paragraph 7(b) of the Initial Order and in respect of which paragraphs 19 and 20 of the Initial Order apply; and (vii) accrued and unpaid salary and wages owing by Seller to Hired Employees up to the Closing Date and certain other accrued and unpaid amounts owing by Seller in respect of Hired Employees as set out in Schedule A hereof in an aggregate amount not to exceed \$512,000.”

- (s) The term “Forbearance Agreement” defined in Article IX shall read as follows:

“means the forbearance agreement between Seller, Parent, the US Sellers, Wachovia Capital Finance Corporation (Central) as agent for the Lenders referenced therein and Wachovia, as amended from time to time pursuant to the terms of the agreement.”

- (t) The term “Hired Employees” defined in Article IX is amended by deleting the words “7 days”.

- (u) The term “Operating Budget” defined in Article IX shall read as follows:

“means the budget prepared by the Seller as set forth on Schedule B attached hereto governing the operations of the Business from July 24, 2009 through the Closing Date, as may be amended from time to time with the approval of the DIP Lender, each such amendment to be in form and substance satisfactory to the Purchasers.”

- (v) The term “Pre-Closing DIP Balance” defined in Article IX shall read as follows:

“means the DIP Balance as of the close of business on the day immediately preceding the Closing Date which shall not, for purposes of Section 1.7, include any portion of the CCAA Priority Charge Advance and which shall be reduced by any cash, cash equivalents or any bank deposits available to the Seller on the day immediately preceding the Closing Date (and which are to be repaid to the DIP Lender pursuant to an Order of the Canadian Court).”

- (w) The following definitions are hereby added to Article IX in their proper alphabetical locations:

“*Eligible Amount Overpayment*” has the meaning set forth in Section 1.7(c).

“*Employee Termination Date*” means, in the case of employees of the Concord Shirt Business, the earliest of (i) the date of their deemed termination, (ii) the date that termination letters are delivered to them by Copley, and (iii) August 10, 2009, and in the case of all other employees, the Closing Date.

“*Hired Employee Amounts*” means the amounts referred to in clause (vii) of the definition of Eligible Amounts.

“*Shirt Inventory*” means all inventory, finished goods, goods in transit, works in process, samples, raw materials, packaging materials and other materials used or held for use in the operation of the Concord Shirt Business or held by third parties, whether on consignment or not.

ARTICLE 3 MISCELLANEOUS

3.1 **Effectiveness of Second Amending Agreement.** This Second Amending Agreement shall become effective only upon the obtaining of an amended Sale Order approving this Second Amending Agreement.

3.2 **No Other Amendments.** Except as specifically amended in this Second Amending Agreement, the Asset Purchase Agreement and all other related documents shall remain in full force and effect and are hereby ratified and confirmed in all respects. After this Second Amending Agreement becomes effective as provided herein, any reference to the Asset Purchase Agreement shall refer to the Asset Purchase Agreement as amended hereby.

3.3 **Headings.** The headings of the various sections of this Second Amending Agreement have been inserted for convenience of reference only and shall not be deemed to be a part of this Second Amending Agreement.

3.4 **Counterparts; Effectiveness.** This Second Amending Agreement may be executed in two or more counterparts, each of which shall be deemed to be an original but all of which shall constitute one and the same agreement. This Second Amending Agreement shall become effective when each Party hereto shall have received counterparts thereof signed by all the other Parties hereto

3.5 **Electronic Execution.** Delivery of an executed signature page to this Second Amending Agreement by any Party by electronic transmission will be as effective as delivery of a manually executed copy of this Second Amending Agreement by such Party.


3.6 **Governing Law; Attornment.** This Second Amending Agreement is governed by and will be construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein. For the purpose of all legal proceedings this Second

Amending Agreement will be deemed to have been performed in the Province of Ontario and the courts of the Province of Ontario will have jurisdiction to entertain any action arising under this Second Amending Agreement. The Parties each attorn to the jurisdiction of the courts of the Province of Ontario.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF the Parties have executed this Second Amending Agreement.

**COPPLEY APPAREL GROUP
LIMITED**

By: 
Name: Taras R. Proczko
Title: Vice President

EMERISQUE BRANDS UK LIMITED

By: _____
Name:
Title:

SKNL NORTH AMERICA, B.V.

By: _____
Name:
Title:

HMX CANADA ACQUISITION CORP.

By: _____
Name:
Title:

IN WITNESS WHEREOF the Parties have executed this Second Amending Agreement.

**COPPLEY APPAREL GROUP
LIMITED**

By: _____
Name:
Title:

EMERISQUE BRANDS UK LIMITED

By: Agony Khaitan
Name: Agony KHAITAN
Title:

SKNL NORTH AMERICA, B.V.

By: Albanna
Name:
Title:

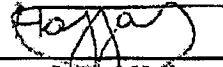
EMX CANADA ACQUISITION CORP.

By: Agony Khaitan
Name: Agony KHAITAN
Title:

- 8 -

**EMBU INVESTMENTS SPÓŁKA Z
OGRANICZONĄ
ODPOWIEDZIALNOŚCIĄ, BRANCH
IN LUXEMBOURG**

By:



Name: Ismael Hajjar
Title: Duly Authorized Representative
of the Luxembourg Branch of Embu
Investments sp. z o.o.

Schedule "A"

Coppley Apparel Group
Forecasted Cash Outlay at Aug 4, 2009

	Actual Liabilities as of May 31, 2009		Forecasted Cash Outlay at July 20, 2009		Forecasted Cash Outlay at Aug 7, 2009		Total	Payment Date	Last Payment Date
	Pre	Post	Coppley	Royal	Coppley	Royal			
Other Accounts Payable									
Employer Health Tax Payable	27,331	81,112	12,908	1,995	14,899	4,516	677	Paid to WE June 27	June 28 - Aug 7 estimate
Workers Compensation	-	-	14,734	1,597	16,331	5,157	559	Paid to WE June 27	assume July paid, Aug CI
Credit Union	1,196	45	1,200	-	1,200	1,200	-	1 week factory	assume July paid, Aug CI
United Apparel Office Fund	4,888	781	50	-	50	50	-	1,200 week following	assume July paid, Aug CI
Garnishee	781	1,875	963	-	963	217	-	50 1st week next month	assume July paid, Aug CI
Due by Employees Savings bonds)	1,875	149,542	2,000	-	2,000	2,000	-	217 1st week next month	assume July paid, Aug CI
Union Educational Fund	149,542	13,754	7,742	1,290	9,032	3,048	452	2,000 week following	1 week factory
Union Dues	13,754	5,725	-	-	15,770	-	-	19,270 1st week next month	assume July paid, Aug CI
Part Shop Fund	5,725	716	-	-	-	-	-	-	-
Cutting Room Fund	716	286,584	39,592	4,823	44,415	16,189	1,688	80,630	-
Total Other Accounts Payable	286,584	-	95,000	9,000	104,000	16,000	-	113,000	1 week factory
Accrued Payrolls									
Factory Payroll	111,455	6,000	25,000	-	25,000	-	-	90,000	Salarys June 28 - Aug 7
Accrued Deferred Payroll	6,000	34,474	25,000	-	25,000	-	-	88,333	assumes accrual for June and July Coppley factory, no accrual for
Commission Due/Draw due	34,474	854,867	217,000	70,000	287,000	83,333	5,000	231,667	assumes accrual for July Royal factory, no accrual for salary
Vacation Pay	854,867	1,006,736	337,000	29,000	416,000	268,333	23,000	393,333	-
Total Accrued Payrolls	1,006,736	-	55,000	4,000	59,000	4,000	-	63,000	1 week salary, 2 weeks f
Accrued Taxes, Non-income									
Employee Deductions	14,311	5,918	14,311	2,000	16,000	14,000	2,000	16,000	See note below
Employer's Share	5,918	11,322	34,000	3,000	31,000	28,000	3,000	34,000	See note below
CPP	11,322	27,784	1,500	-	1,500	1,899	-	3,399	See note below
Sales Tax Provincial	27,784	-	-	-	-	-	-	-	Paid to WE June 27
Withholding Tax	-	-	-	-	-	-	-	-	Paid to WE June 27
GST Recoverable-Hour Tax Credit	(45,400)	-	35,000	-	35,000	42,909	-	77,909	June 28 - Aug 7 estimate
GST Payable (from Sales)	76,074	89,989	338,500	9,000	447,500	141,742	9,000	589,242	-
Total Accrued Taxes Non-income	89,989	-	338,500	9,000	447,500	141,742	9,000	589,242	-
Other Accruals									
Sunlife/Axa	10,905	10,905	8,387	-	8,387	2,995	-	11,382	assume Aug premium 0
Pension Plan Employees Non Unio (voluntary contributions)	-	-	-	-	-	-	-	-	assume July paid, Aug CI
Pension Plan - defined benefit	513	28,078	22,581	323	22,981	335	323	23,316	assume July paid, Aug CI
RRSP Payable Royal	28,078	1,347	18,065	645	18,710	6,323	226	25,033	assume July paid, Aug CI
Union Retirement Fund	1,347	-	839	-	839	294	-	1,133	assume July paid, Aug CI
Employee RRSP Payable	40,843	-	49,871	968	50,839	107,790	10,549	160,336	assume July paid, Aug CI
Total	1,424,592	-	559,963	93,791	653,754	334,054	44,237	713,041	-
Less	-	-	-	-	-	-	-	-	-
TO directors charge salary and vacation pay	-	-	-	-	-	-	-	-	-
D&O Govt remittances	-	-	-	-	-	-	-	-	-
Total	1,424,592	-	559,963	93,791	653,754	334,054	44,237	713,041	-

Source Deductions Note:
Salary and Exec paid out to WE Aug 1 - paid to Rec General Aug 3
Factory paid out to WE July 24 - paid to Rec General Aug 3

May actuals by account for source deductions are lower than estimate for July 20, as cheque for receiver general for 1 week of source deductions was in AP at May period end.

Schedule "B"
Operating Budget

**IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED
AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF COPPLEY APPAREL GROUP LIMITED**

**ONTARIO
SUPERIOR COURT OF JUSTICE
(Commercial List)**

(PROCEEDING COMMENCED AT TORONTO)

AFFIDAVIT OF RICHARD SEXTON
(sworn August 7, 2009)

GOWLING LAFLEUR HENDERSON LLP
Barristers & Solicitors
1 First Canadian Place, Suite 1600
100 King Street West
Toronto, ON M5X 1G5

Heath P.L. Whiteley (LSUC No. 38528P)
Tel: (416) 862-4400
Fax: (416) 862-7661

Alan J. Butcher (LSUC No. 32168L)
Tel: (905) 540-3242
Fax: (905) 523-2953

Robert C. Dunford (LSUC No. 54819D)
Tel: (905) 540-2472
Fax: (905) 523-2948

Solicitors for the Applicant,
Coppoley Apparel Group Limited

TAB 3

Court File No. CV-09-8221-00CL

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

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

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR
ARRANGEMENT OF COPPLEY APPAREL GROUP LIMITED**

**FIFTH REPORT OF
BDO DUNWOODY LIMITED
IN ITS CAPACITY MONITOR OF
COPPLEY APPAREL GROUP LIMITED**

DATED AUGUST 7, 2009

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Schedule B	Cash Flow Weekly Budget Versus Actual Report - July 24, 2009
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1. Introduction and Background

1.1 On June 10, 2009 pursuant to an application made by Copley Apparel Group Limited ("**Copley**" or the "**Company**"), the Court made an Order (the "**Initial Order**") declaring that Copley is a company to which the *Companies' Creditors Arrangement Act* ("**CCAA**") applies, and granting the customary initial relief, including a Stay of Proceedings against Copley until and including July 8, 2009. On July 8, 2009 Madam Justice Pepall granted an Order extending the CCAA stay of proceedings until and including July 14, 2009 (the "**Stay Period**").

1.2 BDO Dunwoody Limited was appointed Monitor under the Initial Order under the CCAA (the "**Monitor**") and was authorized to take a number of actions including, but not limited to, monitoring receipts and disbursements, assisting Copley with its required cash flow reporting requirements to the Debtor-in-Possession Lender, Wachovia Capital Finance Corporation (Central) and Wachovia Capital finance Corporation (Canada) ("**Wachovia**" or the "**DIP Lender**"), in accordance with the Forbearance Agreement dated June 8, 2009 (the "**Forbearance Agreement**"), assisting with the dissemination of financial information, consulting and assisting Copley to conduct a sales process in accordance with the Canadian Bid Procedures (the "**Sales Process**") and advising Copley on the development of a Plan of Arrangement.

1.3 The "**Proposed**" Monitor's First Report dated June 9, 2009 (the "**First Report**") was filed in support of the Company's initial application under the CCAA and briefly reported and commented on the following:

- a) the projected statement of Anticipated Receipts and Disbursements for the seven weeks ending July 17, 2009 (the "DIP Budget") provided by Copley to the Court;
- b) the Debtor-In-Possession Financing as described in the Forbearance Agreement; and
- c) the proposed sale process as outlined in the affidavit of Richard Sexton, Chief Financial Officer of Copley, sworn on June 8, 2009 and described as the Canadian Bid Procedure.

1.4 The Second Report to the Court dated July 10, 2009 was filed in support of the Company's application for the approval of the sale of its assets to Emerisque including:

- a) to update this Court on the events and the activities of the Company and of the Monitor since June 10, 2009, the date of the First Report;
- b) to report to Court on the cash flow results of the Company since June 10, 2009;
- c) to report on the actions undertaken by the Company and the Monitor to carry out the Sales Process;
- d) to report on the results of the Sale Process;

- e) to recommend to the Court that it approve the sale of the assets of Coppley, excluding the inventory and equipment of the former Royal Shirt manufacturing facility in Concord, Ontario (the "Concord Assets"), to Emerisque Brands UK Limited and SKNL North America, B.V. and HMX Canada Acquisition Corp. (collectively "Emerisque") in accordance with the terms and conditions set out in the Canadian APA;
- f) to seek approval of the Monitor's conduct and activities to date as set out in this report; and
- g) to seek approval of the professional fees of the Monitor and its legal counsel to July 3, 2009.

1.5 The Third Report to the Court dated July 20, 2009 was filed in support of the Company's motion for a brief extension to the stay period to allow for the parties to complete a re-negotiation of the transaction and the Forbearance Agreement including:

- a) to update the Court on the events and the activities of the Company and of the Monitor since July 10, 2009, the date of the Second Report;
- b) to recommend to the Court that it approve the extension of the Stay to July 27, 2009 to accommodate the parties negotiation of transactions for the Canadian and US businesses including an extension of the Closing Date;

- c) to report to the Court on the Company's weekly cash flow forecast for the six weeks ending August 28, 2009 ("DIP Budget") filed in support of the requested extension;
- d) to update the Court on the realization of the Company's Concord Assets.

1.6 The Fourth Report to the Court dated July 27, 2009 was filed for in support of the Company's motion for a further extension of the Stay Period to August 28, 2009 to facilitate the completion of the Emerisque transaction including:

- a) to update the Court on the events and the activities of the Company and of the Monitor since July 20, 2009, the date of the Third Report;
- b) to recommend to the Court that it approve the extension of the Stay period to August 28, 2009 to accommodate the parties negotiation of transactions for the Canadian and US businesses including an extension of the Closing Date;

The Order dated July 27, 2009 extending the Stay to August 28, 2009 is attached as **Schedule A**.

1.7 This Fifth Report to the Court is filed in support of the Company's motion for the approval of the Second Amending Agreement with Emerisque dated August 7, 2009 including the following:

- a) to update the Court on the events and the activities of the Company and of the Monitor since July 27, 2009, the date of the Fourth Report;
- b) to recommend to the Court that it approve the Second Amending Agreement ("**Amended APA**") which now includes certain assets of the Concord (Royal Shirt) facility;

2. Monitor's Activities

2.1 The key activities of the Monitor since July 27, 2009, the date of the Fourth Report, include the following:

- a) reviewing Copley's cash flow and providing a weekly variance analysis to the Company and the DIP Lender comparing actual results to forecasted amounts for the seven week period ending July 24, 2009 (attached as **Schedule B**);
- b) reviewing availability under the borrowing base with Copley and reporting the results to the DIP Lender;
- c) monitoring progress to completion of the Emerisque transaction and the sale of the Concord Assets.

3. Sale Process Update

A. Emerisque Sale

- 3.1 Emerisque acquisition of the US business of Hartmarx was to be completed on July 17, 2009 and as stated, the Canadian transaction was to be completed on July 20, 2009.
- 3.2 The Monitor was advised on July 20, 2009 that the parties were re-negotiating various terms of the transaction including an extension of the Closing Date. During the past few weeks these negotiations continued and the transactions in both Canada and the US are now expected to close in the first week in August, 2009.
- 3.3 Wachovia agreed to extend the expiry date of the Forbearance Agreement to August 28, 2009. However, Wachovia retained the right to terminate the Forbearance Agreement and appoint a receiver in the event the transactions for the sales of the US and Canadian businesses are not completed on terms acceptable to Wachovia.
- 3.4 Emerisque originally had offered to acquire the Copley assets, excluding the Concord assets, for 72 cents on the dollar of the Wachovia debt. Due to Emerisques' difficulties in obtaining financing, the parties have now agreed to complete the transaction with the assumption of 100% of the existing secured debt of Wachovia and the assumption of CCAA post-filing liabilities. The Monitor expects that Emerisque will pay non-employee related CCAA post-filing liabilities in due course but there is no

specific guarantee in place. A copy of the Amended APA is attached as **Schedule C**.

3.5 This amendment to the transaction has no affect on unsecured and other creditors as there is not any recovery under this amended transaction nor the prior transaction that was approved by the Court. Therefore, the Monitor recommends that the Court approve the Amended APA.

B. Concord Assets

3.6 As Emerisque is to assume Wachovia's secured debt, they have also asked to acquire all of the existing inventory at the Concord facility. Unfortunately, they do not want to acquire the business operations including the cutting and sewing equipment due to the risks of assumed legacy costs associated with this unionized plant. These remaining assets may be liquidated or abandoned depending on the potential for a net recovery for the creditors.

4. CCAA Priority Charge / Payment of Post CCAA Liabilities

4.1 In connection with the commencement of the CCAA Proceedings, Copley, Wachovia and certain other parties entered into the Forbearance Agreement.

- 4.2 Pursuant to Section 3.3 of the Forbearance Agreement, Wachovia advanced the full amount of the \$1,000,000 Administration Charge, and the \$1,300,000 Directors' Charge, (each as defined in the Initial Order) in the aggregate amount of \$2,300,000 (the "CCAA Priority Charge Advance") within three (3) Business Days of the Initial Order being entered with the Canadian Court into an escrow bank account held by the Monitor, in trust.
- 4.3 The Initial Order provides that the Monitor shall receive and hold funds in the amount of the CCAA Priority Charge Advance as provided for by the Forbearance Agreement and the terms of an escrow agreement to be entered into between Wachovia and the Monitor on terms satisfactory to such parties, and shall not release such funds without the consent of both Copley and Wachovia or by order of the Canadian Court.
- 4.4 The Monitor is acting as escrow agent for the sole purpose of accepting, holding and releasing the CCAA Priority Charge Advance in accordance with the terms and conditions of the escrow agreement.
- 4.5 The Monitor, Wachovia and Copley will enter into an agreement that follows the terms of the proposed form of Order and the DIP Balance Certificate which provides for:
1. the release of a portion of the funds to Wachovia;
 2. the payment of certain funds to Copley to fund director's obligations; and
 3. the retention of certain funds for the payment of remaining legal and professional fees.

To the extent there are any funds remaining, after the above payments, the Monitor is directed to remit those funds to Emerisque.

5. Summary and Recommendations

5.1 The Monitor recommends the approval of the Second Amending Agreement ("Amended APA") dated August 7, 2009.

All of which is respectfully submitted this 7th day of August, 2009.

BDO DUNWOODY LIMITED
Monitor in the CCAA of
Copley Apparel Group Limited
Per:



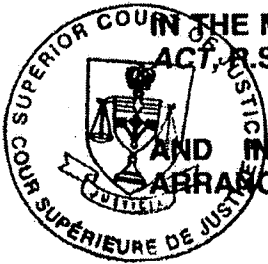
Blair F. Davidson, CA, CIRP, CBV
President

Appendix A

Court File No. CV-09-8221-00CL

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

THE HONOURABLE)
JUSTICE WILTON-SEIGEL)
MONDAY, THE 27th
DAY OF JULY, 2009



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

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR
ARRANGEMENT OF COPPLEY APPAREL GROUP LIMITED**

ORDER

THIS MOTION, made by the Applicant for an order further extending the stay of proceedings was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the affidavit of Richard Sexton sworn July 27, 2009 (the "**Sexton Affidavit**") and the exhibits thereto, the Fourth Report of the Monitor dated July 27, 2009 and on hearing the submissions of counsel for: (i) Copley Apparel Group Limited, (ii) the Monitor, (iii) Wachovia Capital Finance Corporation (Central) and Wachovia Capital Finance Corporation (Canada), and (iv) HMX Canada Acquisition Corp.,

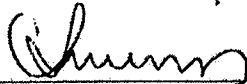
- 2 -

SERVICE

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

EXTENSION OF STAY PERIOD

2. **THIS COURT ORDERS** that the Stay Period (as defined in paragraph 13 of the Order of the Honourable Madam Hoy dated June 10, 2009) be and the same is hereby further extended to and including August 28, 2009.



Christina Irwin
Registrar, Superior Court of Justice

TOR_LAW\ 7173262\2

ENTERED AT / INSCRIT A TORONTO
ON / BOOK NO:
LE / DANS LE REGISTRE NO.:

JUL 27 2009

PER / PAR. 

**IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED
AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF COPPLEY APPAREL GROUP LIMITED**

**ONTARIO
SUPERIOR COURT OF JUSTICE
(Commercial List)**

(PROCEEDING COMMENCED AT TORONTO)

ORDER

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Solicitors for the Applicant,
Copley Apparel Group Limited

Appendix B

MEMO

Date: July 28, 2009

To: Wachovia Capital Finance Corporation

From: BDO Dunwoody Limited (“the Monitor”)

Re: Copley Apparel Group Limited (“Copley”)
Cash Flow Comparison Actual versus Budget

Purpose:

The purpose of the memo is to explain the results of Copley’s projected cash flow versus actual results for the week ending July 24, 2009. The Monitor reviewed the report (Exhibit A - Anticipated Receipts and Disbursements: Revised Version 2 Projections, hereinafter referred to as the “**Extension Forecast**”) in order to determine the accuracy of the report and to provide commentary on the variances.

Explanation of Revision:

On July 27, 2009 the Extension Forecast was filed by Copley in support of its application for an extension of the CCAA stay to August 28, 2009. The Extension Forecast was approved by Wachovia and is the basis upon which Wachovia had agreed to extend the expiry date of the Forbearance Agreement to August 28, 2009. The Extension Forecast replaces the earlier report “Receipts and Disbursements: Version 2 Projections”, hereinafter referred to as the “Revised Forecast”.

Validation of the Extension Forecast:

Opening Cash Balances –

The Monitor reconciled the opening cash balance by reviewing the bank statements as at July 20, 2009. In order to reconcile to the general ledger, the Monitor added back unprocessed deposits and removed outstanding cheques that had not cleared the bank account at that point in time. The results of our reconciliation agree with opening cash balance in the Extension Forecast.

Cash Receipts and Disbursements –

The Monitor reviewed the supporting documentation for the receipts and the charges in the Extension Forecast. The amounts reported agree without exception to the supporting

documentation. The Monitor then compared the actual amounts reported to actual amounts recorded in the bank statements, this too was performed without exception.

Closing Cash Balances –

The Monitor reconciled the closing cash balance by reviewing the bank statements at closing of July 24, 2009. In order to reconcile to the general ledger, BDO added back unprocessed deposits and removed outstanding cheques that had not cleared the bank account at that point in time. The results of our reconciliation agree with the closing cash balance in the Extension Forecast.

Variance Commentary:

The Monitor engaged in discussions with Richard Sexton, CFO, Sandy Gillies, Controller and Julie Dubber, Assistant Controller to gain an understanding regarding the nature of the variances. The Monitor reviewed the variances and acquired additional support for the balances in question. The actual variance explanations can be found in the footnotes of Exhibit A.

Extension Forecast Summary:

(in \$000s)	Week Ending 07/24/2009			Cumulative		
	Budget	Actual	Variance	Budget	Actual	Variance
Receipts	394.8	654.5	259.7F	394.8	654.5	259.7F
Disbursements	508.0	448.7	59.3F	508.0	448.7	59.3F
Net Cash Flow	-113.2	205.8	319F	-113.2	205.8	319F
Opening Cash				502.2	502.2	0
Net Cash Flow				-113.2	205.8	319F
Borrowing				0	0	0
Closing Cash				388.9	707.9	319F

**“U” is an unfavourable variance

**“F” is a favourable variance

Week Ending July 24, 2009 -

For the week ending July 24, 2009 Copley had actual cash receipts of \$654,470 and actual cash disbursements of \$448,692 for a net cash inflow of \$205,778. The budgeted cash receipts for the period were \$394,815 and budgeted cash disbursements were \$508,047 for a net budgeted outflow of \$113,232. The result is a favorable actual to budget net cash flow position of \$319,009 for the week. This favorable variance is

primarily a timing difference caused by higher than expected receivable collections of \$259,655.

Cumulative Net Cash Flow Variance (Extension & Revised Projections)

Copley has a positive net cash flow variance compared with cumulative projections to date of \$1,277,221 consisting of a variance of \$927,000 related to the period covered by the Revised Forecast and a \$350,221 variance relating to the period covered in the Extension Forecast.

Cumulative Summary:

	Projected CDN \$000s	Projected CDN \$000s	Variance CDN \$000's	Variance %
Collections				
A/R Collections	\$3,561	\$4,172	(\$611)	-17.2%
Disbursements				
Employee Related	2,479	2,416	63	2.5%
Inventory Related	1,087	887	200	18.4%
Overhead Related	617	586	31	5.1%
Financing Related	57	64	(7)	-12.3%
Professional Fees	1,132	753	380	33.5%
	5,372	4,705	666	12.4%
Net Change in Cash Position	(\$1,811)	(\$533)	(\$1,277)	70.5%

The cumulative cash variance results from better than expected accounts receivable collections of \$610,867 and a \$666,354 reduction in overall expenditures.

The positive cash variance resulting from the increase in accounts receivable collections over budget will eventually become permanent when the Emerisque transaction is concluded.

The \$666,354 positive cash variance related to the expenditures results from a \$380,000 reduction in restructuring costs and a \$317,566 reduction in other expenditures. Of the \$286,354 reduction in other expenditures, approximately \$200,000 relates to a reduction in overall inventory purchases while approximately \$63,000 relates to a reduction in payroll related costs. At this juncture, we expect that the \$200,000 reduction in inventory purchases will represent a permanent reduction in expenditures given that Copley will not be purchasing any more raw materials until the Emerisque transaction is concluded. Alternatively, the restructuring costs are not yet fully known given the delay in the receipt of professional fee invoices from the restructuring professionals and so the \$380,000 variance resulting from the decrease in restructuring costs is still considered temporary at this point in time.

Restructuring Costs

Restructuring costs, as detailed in Exhibit B, to July 24, 2009 indicate that to date \$752,395 has been paid for professional and legal services. The details of payments and invoices indicate that there is only \$11,186 of unpaid invoices. However, Gowlings. Fasken Martineau and FTI each have either one or two weeks of unbilled time. The Monitor will follow-up on these accounts.

Anticipated Receipts and Disbursements
Week Ended July 24, 2009 through August 28, 2009

Revised - Version 2

Week	Actual		Anticipated Receipts and Disbursements					Total Forecast	A			
Week Ending	07/24/2009	07/24/2009	Var	07/21/2009	08/07/2009	08/14/2009	08/21/2009	08/28/2009	Cumulative Budget	Cumulative Actual	Cumulative Variance	
Opening Bank Balance	502,212	502,212	-	H 388,680	165,361	-	-	175,000	\$ 175,000	602,212	602,212	-
Receipts												
Receivable Collections	304,815	400,544	(14,729)	213,043	341,837	-	-	-	\$ 940,405	994,815	400,544	(14,729)
Critical Customer Receivables (Harry Rosen)	-	244,928	(244,928)	135,000	-	-	-	-	\$ 135,000	-	244,928	(244,928)
Net proceeds Concord liquidation	-	-	-	-	-	-	200,000	-	\$ 200,000	-	-	-
Prof fees retainer	-	-	-	-	-	-	-	225,000	\$ 225,000	-	-	-
TOTAL RECEIPTS	304,815	645,472	(250,657)	348,043	341,837	-	200,000	225,000	\$ 1,190,205	602,212	645,472	(196,685)
Disbursements												
Total ACH Disbursements												
Employee Related Expenses	297,125	302,054	(4,929)	304,302	438,822	150,000	-	-	\$ 1,190,109	297,125	302,054	(4,929)
Payroll	-	-	-	-	-	-	-	-	\$ -	-	-	-
Commissions Payments	-	-	-	-	-	-	-	-	\$ -	-	-	-
Payroll taxes and fringes	-	-	-	-	-	-	-	-	\$ -	-	-	-
Employee Related Expenses	297,125	302,054	(4,929)	304,302	438,822	150,000	-	-	\$ 1,190,109	297,125	302,054	(4,929)
Inventory												
Piece goods/Trim based on PO's Xmill dr	25,000	15,507	9,493	-	-	-	-	-	\$ 25,000	25,000	15,507	9,493
Purchase Order Slow Down Factor	-	-	-	-	-	-	-	-	\$ -	-	-	-
Critical (Hoslog)	-	-	-	-	-	-	-	-	\$ -	-	-	-
Finished goods	-	-	-	-	-	-	-	-	\$ -	-	-	-
Inventory Related Expenses	25,000	15,507	9,493	-	-	-	-	-	\$ 25,000	25,000	15,507	9,493
Overhead												
Overhead Related Expenses	85,922	25,582	60,340	192,300	203,083	-	-	-	\$ 495,383	85,922	25,582	60,340
Other												
All other (see calculation below (1))	-	-	-	-	205,384	-	-	-	\$ 205,384	-	-	-
Ordinary Course Professionals	-	-	-	-	-	-	-	-	\$ -	-	-	-
Restructuring Professional Fees	100,000	105,400	(5,400)	75,000	180,000	25,000	25,000	25,000	\$ 490,000	100,000	105,400	(5,400)
Other Related Expenses	100,000	105,400	(5,400)	75,000	180,000	25,000	25,000	25,000	\$ 490,000	100,000	105,400	(5,400)
TOTAL DISBURSEMENTS	609,047	645,037	(35,990)	571,602	618,905	175,000	25,000	25,000	\$ 1,204,502	609,047	645,037	(35,990)
ADJUSTED CLOSING CASH BALANCE	388,989	707,989	(319,000)	165,361	-	-	175,000	375,000	\$ 375,000	388,989	707,989	(319,000)

(1)
All Other Calculation
Payment to HMX - - - - - \$ 55,384
End of Period Payment - - - - - \$ 150,000
Other Costs - - - - - \$ 5,000

Sales and AR Details												
Accounts Receivable												
Beginning Accounts Receivable	7,215,933	7,215,933	-	7,081,416	7,097,456	7,483,987	8,212,155	8,622,285	\$ 7,215,933	7,215,933	7,215,933	-
Credit Sales	200,297	287,457	(7,160)	364,084	728,188	728,188	910,210	910,210	\$ 3,901,537	200,297	287,457	(7,160)
Receivables Collections	304,815	409,544	(14,729)	248,043	341,837	-	200,000	225,000	\$ 1,509,495	304,815	409,544	(14,729)
Ending Accounts Receivable	7,111,415	7,212,844	(101,429)	7,497,457	7,827,481	8,212,155	9,132,365	10,037,595	\$ 7,111,415	7,111,415	7,212,844	(101,429)

ASSUMPTIONS
Deal closes on Aug 7 2009
Cash Receipts at 65% of 2009 collections
Harry Rosen collections based on analysis from Evellin

Sales from P7 forecast file
Payroll and OH posted from Forecast Payments Plan July 2-Oct 2, 2009
Raw Materials from Payables Tab
Removed \$638K CDN from opening AR balance to remove HF pro bankruptcy balance

Variance Commentary
A - The totals reported in these columns are the cumulative actual to budget totals for the past week.
B - For the current week ending July 24, 2009 cash collections from accounts receivable is \$250,655 higher than projected. This positive variance is caused by a timing difference in the anticipated collections from Harry Rosen. \$139,000 of the collections from Harry Rosen were projected to be collected in the week of July 31, 2009 and the balance of \$115,000 was projected to be collected in prior weeks but remained outstanding.
C - For the week ending July 24, 2009 payroll related disbursements were higher than expected by \$4,929. This temporary variance is related to the timing of vacation pay payments.
D - For the week ending July 24, 2009, inventory related disbursements were lower than expected by \$9,493. This variance is considered temporary due to the delay in the receipt of supplier invoices related to prior period purchases.
E - For the week ending July 24, 2009 general accounts payable expenditures were lower than projected by \$60,330. This difference is caused by the accelerated payments that occurred in the previous week in anticipation of the original closing date which reported \$94,000 in expenditures over budget.
F - For the week ending July 24, 2009 professional fee disbursements were lower than projected by \$5,400. This represents a temporary difference. For full details of professional fees from the week ending June 12, 2009 please refer to Professional Fee Reconciliation Schedule.
G - For the week ending July 24, 2009 the ending accounts receivable balance is lower than projected by \$252,495. This results from the higher than expected collections for the period explained in Note B.
H - The difference of \$31,212 between the July 17, 2009 closing cash balance and the opening cash balance at July 19, 2009 was a deposit received into the M&T lockbox on July 17, 2009, however Coppley Apparel was not notified of the deposit until July 19, 2009 and therefore an adjustment was made retroactively to the accounts receivable collections in the week of July 17, 2009.

**Professional Fees Reconciliation
Copley Apparel Group
Week Ending July 24, 2009**

Information Obtained from Cash Flow Projection									
Service Provider	Week Ending							Totals	
	12-Jun-09	19-Jun-09	26-Jun-09	03-Jul-09	10-Jul-09	17-Jul-09	24-Jul-09		31-Jul-09
BDO Dunwoody	16,167	19,087	23,833	22,679	11,125	22,986	17,366		133,244
FTI Consulting	54,203	15,638	-	5,754		6,650	3,564		85,809
Gowlings Lafleur Henderson LLP	200,470		70,214		65,379	26,648	65,935		428,646
Fasken Martineau LLP	21,000	44,134	-		20,969		18,593		104,696
Godmans LLP	-	-	-	-	-	-	-	-	-
Totals	291,840	78,859	94,047	28,433	97,473	56,284	105,460		752,395

All Invoices Received					
Invoice Details	Invoice Number	Date	Period Covered	Amount	
Gowlings Lafleur Henderson LLP	16751536	06/09/2009	May 25 - June 8, 2009	121,511	
Gowlings Lafleur Henderson LLP	16751053	06/10/2009	May 25 - June 8, 2009	79,126	
Gowlings Lafleur Henderson LLP	16757597	06/12/2009	June 2 - June 12, 2009	70,114	
Gowlings Lafleur Henderson LLP	16762733	06/19/2009	June 13 - June 19, 2009	23,187	
Gowlings Lafleur Henderson LLP	16771539	07/03/2009	June 20 - July 3, 2009	42,192	
Gowlings Lafleur Henderson LLP	16774235	07/12/2009	July 6 - July 12, 2009	26,548	
Gowlings Lafleur Henderson LLP	16777879	07/19/2009	July 15 - July 19, 2009	65,935	
Gowlings Total					428,613
FTI Consulting	7201418	06/09/2009	June 1 - June 5, 2009	54,203	
FTI Consulting	7202373	06/18/2009	June 6 - June 12, 2009	15,638	
FTI Consulting	7203638	06/29/2009	June 13 - June 19, 2009	5,754	
FTI Consulting	7204603	07/10/2009	June 20 - July 3, 2009	6,650	
FTI Consulting	7205744	07/21/2009	July 6 - July 12, 2009	3,564	
FTI Total					85,809
Fasken Martineau		06/09/2009	Retainer Top Off	21,000	
Fasken Martineau	410375	06/16/2009	June 3 - June 12, 2009	44,134	
Fasken Martineau	413974	07/02/2009	June 13 - June 30, 2009	20,969	
Fasken Martineau	416325	07/15/2009	July 1 - July 10, 2009	18,593	
Fasken Martineau Total					104,696
BDO Dunwoody	10232077	06/09/2009	Jun 3 - June 8, 2009	16,167	
BDO Dunwoody	10232395	06/18/2009	June 9 - June 12, 2009	19,087	
BDO Dunwoody	10233045	06/23/2009	June 15 - June 19, 2009	23,833	
BDO Dunwoody	10234265	06/29/2009	June 21 - June 26, 2009	22,679	
BDO Dunwoody	10236179	07/06/2009	June 29 - July 3, 2009	11,125	
BDO Dunwoody	10233679	07/13/2009	July 6 - July 10, 2009	21,986	
BDO Dunwoody	1	07/16/2009	Bank Fees	1,000	
BDO Dunwoody	5	07/22/2009	July 13 - July 19, 2009	17,366	
BDO Dunwoody	10232711	07/28/2009	July 20 - July 25, 2009	11,186	
BDO Total					144,429
Totals					763,548

A - This invoice is not included in the cash flow projection estimate as it was received after period end

Appendix C

SECOND AMENDING AGREEMENT

THIS SECOND AMENDING AGREEMENT is made the 7th day of August, 2009

BY AND BETWEEN:

COPPLEY APPAREL GROUP LIMITED, an Ontario corporation (the "Seller")

- and -

EMERISQUE BRANDS UK LIMITED, a company formed under the laws of England and Wales ("Emerisque") and **SKNL NORTH AMERICA, B.V.**, a company incorporated under the laws of The Netherlands ("SKNL" and together with Emerisque, the "Original Purchasers")

- and -

HMX CANADA ACQUISITION CORP., a company formed under the laws of the Province of New Brunswick ("HMX")

- and -

EMBU INVESTMENTS SPÓŁKA Z OGRANICZONĄ ODPOWIEDZIALNOŚCIĄ BRANCH IN LUXEMBOURG, a company incorporated and organized under the laws of Poland, entered into the National Court Register maintained by the District Court in Warsaw XII Business Division under KRS number 0000321848, NIP number 1080006576, whose registered office is at Al. Jerozolimskie 56C, 1st Floor, 00-803 Warsaw, Poland, whose share capital amounts to PLN 50.000., and whose branch office in Luxembourg is registered at 12, rue Guillaume Kroll, L-1882 Luxembourg ("Embu")

WHEREAS the Seller and the Original Purchasers entered into an asset purchase agreement made as of the 5th day of June, 2009, as amended by an amending agreement dated June 23, 2009, providing for the Asset Purchase (the "Asset Purchase Agreement");

AND WHEREAS the Original Purchasers assigned all their rights, interests and obligations under the Asset Purchase Agreement to HMX pursuant to an assignment agreement dated July 9, 2009 as permitted under the Asset Purchase Agreement, which assignment agreement was further amended and restated on August 4, 2009 (the "Amended and Restated Assignment Agreement") to provide that all of the Original Purchasers' rights, interests and obligations under the Asset Purchase Agreement be assigned to HMX, other than the rights, interests and obligations relating to the Canadian Acquired IP Assets (as defined in the Amended and Restated Assignment Agreement), which are assigned to Embu, an Affiliate of the Purchasers;

AND WHEREAS the Parties have agreed to further amend the Asset Purchase Agreement as hereinafter set forth;

- 2 -

AND WHEREAS Section 8.12 of the Asset Purchase Agreement provides that no amendment to the Asset Purchase Agreement will be valid or binding unless set forth in writing and duly executed by the Parties thereto.

NOW THEREFORE, in consideration of the premises and the covenants and agreements herein contained, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto agree to amend the Asset Purchase Agreement as follows:

**ARTICLE 1
DEFINITIONS AND SECTION REFERENCES**

1.1 **Definitions.** Terms for which meanings are provided in the Asset Purchase Agreement are, unless otherwise defined herein, used in this Second Amending Agreement with such meanings.

1.2 **Section References.** Any reference to a section in this Second Amending Agreement is a reference to the Asset Purchase Agreement.

**ARTICLE 2
AMENDMENTS TO THE ASSET PURCHASE AGREEMENT**

2.1 **Amendments.** Effective on the date hereof, the Asset Purchase Agreement is hereby amended as follows:

- (a) "Exhibit I – Top 15 Finished Goods/Piece Goods Suppliers" is deleted from the Table of Exhibits on page v of the Asset Purchase Agreement.
- (b) Section 1.1 is hereby amended by
 - (i) adding the words "the Shirt Inventory and" immediately after the words "all right, title and interest of Seller in and to" in the fifth line of such section; and
 - (ii) deleting the words "of the Business" in Section 1.1(a).
- (c) Section 1.2(g) is hereby amended and restated in its entirety as follows:
 - "(g) any Inventory or Shirt Inventory sold prior to the Closing in the ordinary course of the Business or the Concord Shirt Business, respectively;"
- (d) Section 1.3(c) is hereby amended by including after the word "Inventory", the words "or Shirt Inventory".
- (e) Section 1.3(e) is hereby amended and restated in its entirety as follows:

“(e) amounts incurred in the ordinary course of business after the date of the Initial Order consistent with past practice and in compliance with the Operating Budget in an aggregate amount not to exceed \$475,000, but excluding any amounts described in Section 1.3(c) and any Eligible Amounts, which liabilities shall be paid by the Purchasers in full as and when due.”

- (f) Section 1.6 is hereby amended by replacing “U.S. \$5,389,922” with “U.S. \$7,486,003” and by replacing the reference to “72%” with “100%”.
- (g) Section 1.7 is hereby amended by:
- (i) replacing, in Section 1.7(a), the reference to “seventy-two percent (72%)” with “one hundred percent (100%)”;
 - (ii) replacing, in Section 1.7(a)(v), the reference to “the Eligible Amounts” with “the estimated Eligible Amounts at Closing, as agreed between Seller, the DIP Lender and Purchasers”; and
 - (iii) adding a new Section 1.7(c) that reads:

“(c) As soon as such calculation can be reasonably determined, but not later than the conclusion of the Canadian Proceedings, Seller will repay to Purchasers the amount, if any, by which the estimated Eligible Amounts referred to in Section 1.7(a)(v) exceeds the actual Eligible Amounts (the “Eligible Amount Overpayment”), and the Purchase Price shall be reduced accordingly.”
- (h) Section 3.20 is hereby amended by including after the word “Inventory”, the words “and Shirt Inventory”.
- (i) Section 3.21 is hereby amended and restated in its entirety as follows:
- “Inventory and Shirt Inventory. All Inventory and Shirt Inventory consists of items of quantity and quality historically useable or saleable in the ordinary course of business, except for items of obsolete and slow-moving material and materials which are below standard quality that, in the case of any such items that are Inventory, are not material to the financial condition or operation of the Business taken as a whole or, in the case of any such items that are Shirt Inventory, are not material in the context of the overall value of the Shirt Inventory.”
- (j) Section 5.1(a)(v) is hereby amended and restated in its entirety as follows:
- “(v) other than the sale of Inventory in the ordinary course of the Business consistent with past practice or the sale of Shirt Inventory in the ordinary course of the Concord Shirt Business consistent with past practice, sell, lease (as lessor), licence, transfer or otherwise dispose of (including any

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transfer from the Business to any Affiliates of Seller (other than a US Seller)), or mortgage or pledge, or voluntarily impose or suffer to be imposed, any Encumbrance on (other than Assumed Liabilities and Permitted Encumbrances), any of the Canadian Acquired Assets;

- (k) Section 5.11(a) is amended by deleting the words "Not later than five (5) Business Days".
- (l) Section 5.11(f) is amended by deleting the words "At least 7 days".
- (m) Section 5.12(a) is amended by adding this following sentence at the end of such section:

"Without limitation to the foregoing, Seller and Purchaser agree that they will cooperate in good faith and assist each other with respect to the calculation of, and payment by Seller or Purchaser (as applicable) in accordance herewith and any Orders of the Canadian Court, the Hired Employee Amounts and the liabilities assumed by Purchasers pursuant to Section 1.3(e)."

- (n) A new Section 5.20 is added as follows:

"Section 5.20 Shirt Inventory. Prior to the Closing, Seller shall move the Shirt Inventory from the Concord Premises to the Acquired Leased Real Property or such other location as may be agreed to between the Seller and the Purchasers."

- (o) The deadline referred to in the first part of Section 7.1(d) is changed to August 14, 2009.
- (p) The deadline referred to in Section 7.1(k) is changed to August 14, 2009.
- (q) The term "Documents" defined in Article IX is amended by including after the words "Inventory records," the words "Shirt Inventory records,".
- (r) The term "Eligible Amounts" defined in Article IX shall read as follows:

"mean the portion of the CCAA Priority Charge Advance attributable to: (i) amounts incurred by Seller and not paid in respect of fees and disbursements (collectively, "Professional Fees") of the Monitor, Monitor's counsel, the DIP Lender's Canadian counsel, Seller's counsel and the financial advisors to Seller (collectively, the "Advisors") properly attributable to periods prior to Closing as contemplated by the Operating Budget; (ii) Professional Fees for Advisors properly attributable to periods from and after Closing to a maximum of Cdn.\$240,000, less the aggregate amount of any retainers held by such Advisors at Closing to be applied to services rendered after Closing; (iii) accrued and unpaid salary and wages owing by Seller to employees of Seller (other than Hired Employees) due in the normal course on the first regular payroll pay date

following Closing in circumstances where the applicable pay period commenced prior to the Closing Date, properly attributable to periods prior to the Employee Termination Date, as contemplated by the Operating Budget; (iv) accrued (to the extent not paid by Seller) and unused vacation pay to which employees of Seller (other than Hired Employees) are entitled as of the Employee Termination Date, pursuant to policies of Seller applicable to such employees immediately prior to the Closing Date; (v) accrued and unpaid source deductions for employees of the Seller (other than Hired Employees) properly attributable to the period prior to the Employee Termination Date and referenced in paragraph 7(a) of the Initial Order and in respect of which paragraphs 19 and 20 of the Initial Order apply; (vi) goods and services or other applicable sales taxes referenced in paragraph 7(b) of the Initial Order and in respect of which paragraphs 19 and 20 of the Initial Order apply; and (vii) accrued and unpaid salary and wages owing by Seller to Hired Employees up to the Closing Date and certain other accrued and unpaid amounts owing by Seller in respect of Hired Employees as set out in Schedule A hereof in an aggregate amount not to exceed \$512,000.”

- (s) The term “Forbearance Agreement” defined in Article IX shall read as follows:
- “means the forbearance agreement between Seller, Parent, the US Sellers, Wachovia Capital Finance Corporation (Central) as agent for the Lenders referenced therein and Wachovia, as amended from time to time pursuant to the terms of the agreement.”
- (t) The term “Hired Employees” defined in Article IX is amended by deleting the words “7 days”.
- (u) The term “Operating Budget” defined in Article IX shall read as follows:
- “means the budget prepared by the Seller as set forth on Schedule B attached hereto governing the operations of the Business from July 24, 2009 through the Closing Date, as may be amended from time to time with the approval of the DIP Lender, each such amendment to be in form and substance satisfactory to the Purchasers.”
- (v) The term “Pre-Closing DIP Balance” defined in Article IX shall read as follows:
- “means the DIP Balance as of the close of business on the day immediately preceding the Closing Date which shall not, for purposes of Section 1.7, include any portion of the CCAA Priority Charge Advance and which shall be reduced by any cash, cash equivalents or any bank deposits available to the Seller on the day immediately preceding the Closing Date (and which are to be repaid to the DIP Lender pursuant to an Order of the Canadian Court).”
- (w) The following definitions are hereby added to Article IX in their proper alphabetical locations:

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"Eligible Amount Overpayment" has the meaning set forth in Section 1.7(c).

"Employee Termination Date" means, in the case of employees of the Concord Shirt Business, the earliest of (i) the date of their deemed termination, (ii) the date that termination letters are delivered to them by Coppley, and (iii) August 10, 2009, and in the case of all other employees, the Closing Date.

"Hired Employee Amounts" means the amounts referred to in clause (vii) of the definition of Eligible Amounts.

"Shirt Inventory" means all inventory, finished goods, goods in transit, works in process, samples, raw materials, packaging materials and other materials used or held for use in the operation of the Concord Shirt Business or held by third parties, whether on consignment or not.

ARTICLE 3 MISCELLANEOUS

3.1 **Effectiveness of Second Amending Agreement.** This Second Amending Agreement shall become effective only upon the obtaining of an amended Sale Order approving this Second Amending Agreement.

3.2 **No Other Amendments.** Except as specifically amended in this Second Amending Agreement, the Asset Purchase Agreement and all other related documents shall remain in full force and effect and are hereby ratified and confirmed in all respects. After this Second Amending Agreement becomes effective as provided herein, any reference to the Asset Purchase Agreement shall refer to the Asset Purchase Agreement as amended hereby.

3.3 **Headings.** The headings of the various sections of this Second Amending Agreement have been inserted for convenience of reference only and shall not be deemed to be a part of this Second Amending Agreement.

3.4 **Counterparts; Effectiveness.** This Second Amending Agreement may be executed in two or more counterparts, each of which shall be deemed to be an original but all of which shall constitute one and the same agreement. This Second Amending Agreement shall become effective when each Party hereto shall have received counterparts thereof signed by all the other Parties hereto

3.5 **Electronic Execution.** Delivery of an executed signature page to this Second Amending Agreement by any Party by electronic transmission will be as effective as delivery of a manually executed copy of this Second Amending Agreement by such Party.

3.6 **Governing Law; Attornment.** This Second Amending Agreement is governed by and will be construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein. For the purpose of all legal proceedings this Second


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Amending Agreement will be deemed to have been performed in the Province of Ontario and the courts of the Province of Ontario will have jurisdiction to entertain any action arising under this Second Amending Agreement. The Parties each attorn to the jurisdiction of the courts of the Province of Ontario.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF the Parties have executed this Second Amending Agreement.

COPPLEY APPAREL GROUP LIMITED

By: 
Name: Taras R. Proczko
Title: Vice President

EMERISQUE BRANDS UK LIMITED

By: _____
Name:
Title:

SKNL NORTH AMERICA, B.V.

By: _____
Name:
Title:

HMX CANADA ACQUISITION CORP.

By: _____
Name:
Title:

IN WITNESS WHEREOF the Parties have executed this Second Amending Agreement.

COPPLEY APPAREL GROUP LIMITED

By: _____
Name:
Title:

EMERISQUE BRANDS UK LIMITED

By: *Ajmy Khatam*
Name: *Ajmy Khatam*
Title:

SKNL NORTH AMERICA, B.V.

By: *Aubanna*
Name:
Title:

HMX CANADA ACQUISITION CORP.

By: *Ajmy Khatam*
Name: *Ajmy Khatam*
Title:

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**EMBU INVESTMENTS SPÓŁKA Z
OGRANICZONĄ
ODPOWIEDZIALNOŚCIĄ, BRANCH
IN LUXEMBOURG**

By:



Name: Ismael Hajjar
Title: Duly Authorized Representative
of the Luxembourg Branch of Embu
Investments sp. z o.o.

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Schedule "A"

Clippers Apparel Group
Forecasted Cash Outlay at Aug 4, 2009

	Actual Liabilities as of May 31, 2009		Forecasted Cash Outlay at July 20, 2009		Forecasted Cash Outlay at Aug 7, 2009		Total	Payment Date	Last Payment Date
	Prn	Post	Company	Not in AP Yet	Company	Scout			
Other Accounts Payable									
Employer Health Tax Payable	27,331	-	12,903	2,935	4,516	677	14,839	15th of month	Paid to WE June 27
Workers Compensation	81,112	-	14,734	1,597	21,943	556	16,331	1st of month	Paid to WE June 27
Other	1,196	-	1,200	-	1,200	-	1,200	week following	Paid to WE July 13th
Unemp Appeal	45	-	50	-	50	-	50	1st week next month	assume July paid, Aug 02
Other Food	4,888	-	983	-	983	-	983	1st week next month	assume July paid, Aug 02
Guarantee	1,175	-	983	-	983	-	983	1st week next month	assume July paid, Aug 02
Due by Employees (Savings bonds)	1,175	-	2,000	-	2,000	-	2,000	week following	Paid to WE Aug 1
Union Educational Fund	149,642	-	7,742	-	7,742	-	7,742	1st week next month	assume July paid, Aug 02
Union Dues	13,754	-	1,290	-	1,290	-	1,290	1st week next month	assume July paid, Aug 02
Part Shop Fund	9,725	-	3,048	-	3,048	-	3,048	1st week next month	assume July paid, Aug 02
Caring Room Fund	716	-	4,813	-	4,813	-	4,813	1st week next month	assume July paid, Aug 02
Total Other Accounts Payable	286,364	-	83,532	4,813	21,189	1,288	89,633		
Accounts Payable									
Factory Payroll	111,655	-	95,000	9,000	95,000	12,000	104,000	week following	Paid to WE Aug 1
Accrued Deferred Payroll	6,000	-	-	-	-	-	-	-	-
Commission Due/Dish-Gua	34,474	-	25,000	-	25,000	-	25,000	15th of month	assume accrual for June and July. Copy to factory, no accrual!
Vacation Pay	854,867	-	70,000	-	70,000	5,000	75,000	1st week next month	assume accrual for June and July. Copy to factory, no accrual!
Total Accounts Payable	1,006,996	-	317,000	79,000	285,113	17,000	331,113		
Accrued Liabilities/Reserves									
Employee Deductions	14,311	-	55,000	4,000	55,000	4,000	59,000	week following	See notes below
CPA	3,925	-	14,000	2,000	14,000	2,000	16,000	week following	See notes below
Sales Tax Payable	11,322	-	38,000	3,000	38,000	3,000	41,000	week following	See notes below
Warranty Tax	27,764	-	1,500	-	1,500	1,819	1,500	1st of month	Paid to WE June 27
GST Recoverable-Inv. Tax Credit	(45,400)	-	-	-	-	-	-	-	-
GST Payable (from Sales)	76,074	-	35,000	-	35,000	42,983	35,000	31st of month	Paid to WE June 27
Total Accrued Liabilities/Reserves	89,999	-	133,500	9,000	133,500	21,792	154,292		
Other Accounts									
Seniority/Age	10,905	-	8,387	-	8,387	10,000	18,387	1st of month	assume Aug government O
Pension Plan Employees Not Under	-	-	-	-	-	-	-	-	-
Voluntary Contributions	-	-	-	-	-	-	-	-	-
RSB2 Payable (after benefit)	315	-	21,581	315	21,581	315	22,211	1st of month	assume July paid, Aug 02
Union Reimburse Fund	34,075	-	18,085	645	18,730	236	19,411	1st of month	assume July paid, Aug 02
Employee RSB2 Payable	40,841	-	48,872	968	49,840	294	50,134	1st week next month	assume July paid, Aug 02
Total Other Accounts	85,726	-	86,842	1,928	88,757	10,549	99,306		
Total	1,424,530	0	1,024,532	33,728	1,058,260	44,317	1,102,577		
Less:									
TD directors charge salary and vacation pay									
D&O Govt reimburse									
Total									

Source Deductions Note:
Salary and Eric paid out to WE Aug 1 - paid to Rec General Aug 3
Factory paid out to WE July 24 - paid to Rec General Aug 3

May actuals by account for source deductions are lower than estimates for July 20, as cheque for reissue general for 1 week of source deductions was in AP at May period end.

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Schedule "B"
Operating Budget

Week Ending July 24, 2008 through August 31, 2008
 (in CAD dollars)

Week	Actual	Forecast
Week Ending		
Opening Bank Balance	522,772.4	548,800.0
REVENUES		
Remittance Collections	294,915.5	273,043.4
Client/Subscriber Reimbursements	128,000.0	128,000.0
Net proceeds Contract Application		200,000.0
Net Interest		775,000.0
Total Receipts		1,126,043.4
Disbursements		
Total ACH Disbursements		
Check:		
Payroll expenses	261,125.0	261,125.0
Charitable Contributions		150,000.0
Payroll Taxes and Benefit		
Employee Subsidy Expense		
Other		
Total Disbursements	261,125.0	411,125.0
Photo/Graphics Issued as PCH, 2008		
Purchase Order Short Down Factor		
Change/Reversal		
Financial gain/loss		
Inventory Related Expense		
Overhead		
Overhead Budget Expense		
All other fees (including bank)		
Orderly Closure Provisions		
Building/Production Fee		
Other Related Expense		
Total Credits		
Total Disbursements		
NET CASH (IN/OUT)		
CLOSING BANK BALANCE		
Funding Required		
Adjusted Closing Balance		
Interest to Letter of Inc.		
Net Cash		
Final PCH Ex Provisions (exp)		
State Projections		
Good Bank		
Total Bank		
Accounts Receivable		
Debt (gross on Aug 7, 2008)		
Cash Projections at 50% or 2008 collections		
IFP collections based on analysis from ERM		
State Cash Projections		
Final and Or present level Forecast Payments Plan July 2-2nd 2, 2008		
New Members and Provisions Exp		
New Member Cash Requirements (if balance to receive IFP per contingency balance)		

2008-08-31 02:30:00 06/1/07:18
 07/24/08 1:22 PM

**IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED
AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF COPPLEY APPAREL GROUP LIMITED**

**ONTARIO
SUPERIOR COURT OF JUSTICE
(Commercial List)**

(PROCEEDING COMMENCED AT TORONTO)

MOTION RECORD

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Solicitors for the Applicant,
Copley Apparel Group Limited