

SEP 05 2018

Halifax, N.S.

2018

Hfx No. 475298

## SUPREME COURT OF NOVA SCOTIA

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 Wicker Emporium Limited

**SALE APPROVAL ORDER****(Companies' Creditors Arrangement Act, s. 36)**

**THIS MOTION** made by Wicker Emporium Limited ("Wicker"), pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36 (the "CCAA") for an order:

1. Approving the sale transaction (the "Transaction") of certain assets contemplated by an offer dated as of August 19, 2018 (the "APA") between the Applicant and Artisan Direct Ltd. (the "Purchaser") and transferring to the Purchaser all the right, title and interest of the Respondent in and to certain assets of the Respondent described in the APA and the schedules there to (the "Purchased Assets"); and
2. Foreclosing and barring certain interests in the Purchased Assets and transferring to the Purchaser all the Respondent's right, title and interest in it to the Purchased Assets.

**AND UPON** reading the Affidavit of Madan Mohan Kapahi, the Report of the Monitor dated August 30<sup>th</sup>, 2018 (the "Fourth Report"), and the other materials on file herein;

**AND UPON** hearing from D. Bruce Clarke, Q.C., on behalf of the Applicant, and such other counsel who were present and wished to be heard;

**AND UPON** it appearing that the Monitor has expressed its approval of the Transaction and the process leading to the Transaction, and has recommended the Transaction for approval by the Court.

**IT IS HEREBY ORDERED THAT:****Service of Materials**

1. This motion is properly returnable today.

## Sale of Property

2. The Transaction is hereby approved, and the execution and delivery of the APA by the Applicant is hereby authorized and approved, with such minor amendments as the Applicant and the Purchaser, in consultation with the Monitor, may agree to. The Applicant is hereby authorized and directed to take such additional steps and execute such additional documents, including a deed, bill of sale, assignment or general conveyance document, as maybe necessary or desirable for the completion of the transaction and for the conveyance of the Purchased Assets to the Purchaser or to the Purchaser's assignee, nominee or designate, as the case may be, pursuant to the APA.
  
3. Upon the delivery of a Monitor's certificate to the Applicant and the Purchaser substantially in the form attached as **Schedule "A"** hereto (the "**Monitor's Certificate**") and closing the Transaction in accordance with the APA, all of the Applicant's right, title and interest in and to the Purchased Assets, and the right, title and interest of all those claiming through the Applicant in and to such Purchased Assets are forever barred and foreclosed, and the Purchased Assets shall vest absolutely in the Purchaser, or the Purchaser's assignee, nominee or designate as the case may be, free and clear of and from any and all Claims, and all ownership claims, security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, pledges, trusts, constructive trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, encumbrances, obligations, liabilities, demands, guarantees, set-off, executions, levies, charges, or other financial or monetary claims, adverse claims or rights of use, real property licences or encumbrances including but not limited to forced sale provisions, rights of first refusal, or non-disturbance agreements, whether arising prior to or subsequent to the commencement of the CCAA proceedings, and whether or not they have attached or been perfected, registered or filed and whether secured, unsecured, legal, equitable, possessory or otherwise, including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Initial Order granted herein dated July 22, 2016 or any subsequent charges created by other Order of the Court in this proceeding; (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Nova Scotia) or any other personal property registry system, or the *Land Registration Act* (Nova Scotia) or any other real property registration system, affecting or relating to the Purchased Assets, including but not limited to those listed in **Schedule "B"** hereto; and (iii) any statutory liens, trusts or deemed trusts, including but not limited to those of Canada Revenue Agency and the Workers' Compensation Board of Nova Scotia, or availing pursuant to the *Labour Standards Code* (Nova Scotia), all to the extent permitted by law (all of which are collectively referred to as the "**Encumbrances**"), provided that the "Claims" and the "Encumbrances" referred to herein shall not include the permitted encumbrances listed on **Schedule "C"** hereto and shall not include any obligations or liabilities assumed by the Purchaser pursuant to the APA. For greater certainty, this Court orders that all of the Claims and Encumbrances affecting or relating to the Purchased Assets, which include but are not limited to

those Encumbrances listed in Schedule "B" hereto, be and are hereby expunged and discharged as against the Purchased Assets effective upon delivery of the Monitor's Certificate and any Person holding such Claims and Encumbrances is from that time permanently barred from seeking any remedy against the Purchaser or the Purchased Assets. For greater certainty, nothing in this Order shall be read to release or discharge any Claim or Encumbrance against any of the remaining property and assets of the Applicant which do not constitute Purchased Assets. Provided that nothing herein shall constitute the assignment of any real estate leases until such time as this court makes an order, on proper notice, under CCAA section 11.3 or until the respective landlord consents to the assignment.

4. For the purposes of determining the nature and priority of Claims and Encumbrances, from and after the delivery of the Monitor's Certificate, any net proceeds from the sale of the Purchased Assets received by the Applicant shall stand in the place and stead of the Purchased Assets, and for greater certainty, 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 Purchased Assets with the same priority as they had with respect to the Purchased Assets immediately prior to the sale, as if the Purchased Assets had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale. The Monitor is hereby authorized and empowered to hold in trust any net proceeds from the sale of the Purchased Assets delivered to it pursuant to the APA pending further Order of the Court.
5. The Monitor, in addition to its prescribed rights and obligations under the CCAA and the express powers provided to it under Orders issued by this Honourable Court in this proceeding, is hereby directed and empowered:
  - (a) to receive and hold for the purposes set out herein, in the trust account of Monitor's Counsel:
    - (i) any net closing proceeds received from the Transaction; and
    - (ii) other funds of the Applicant on hand or in the Applicant's bank account after the Closing;
  - (b) after Closing, to pay from those funds amounts secured by the Administration Charge (as defined in the Initial Order);
  - (c) to hold the balance of the funds in trust, if any, pending further order(s) of this Court.
6. The Monitor shall file with the Court a copy of the Monitor's Certificate forthwith after delivery thereof to the Applicant and the Purchaser.

7. The Monitor may rely on written notice from the Applicant and the Purchaser regarding the satisfaction of the Purchase Price and the fulfillment of conditions to closing under the APA and shall incur no liability with respect to the delivery of the Monitor's Certificate.
8. 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 customer information and human resources and payroll information in the Applicant's records to the extent necessary or desirable in relation to the continued servicing of customers and the employment or potential employment of such employees by the Purchaser as set forth in the APA. 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 that is consistent with the prior use of such information by the Applicant.
9. Notwithstanding:
  - (a) the pendency of these proceedings;
  - (b) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) (the "BIA") in respect of 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 entering into of the APA, the transfer of the Purchased Assets to the Purchaser or the Purchaser's assignee, nominee or designate as the case may be, the foreclosure and barring of Claims as against the Purchased Assets, and the vesting of the Purchased Assets in the Purchaser, or the Purchaser's assignee, nominee or designate as the case may be, pursuant to this Order and the various subsections of Section 36 of the CCAA, 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 fraudulent preference, assignment, fraudulent conveyance, transfer at under value, or other reviewable transaction under the BIA, any other applicable federal or provincial legislation or otherwise at law or equity, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant, to any applicable federal or provincial legislation.

10. The aid and recognition of any court, tribunal, registrar, regulatory or administrative body having jurisdiction in Canada or outside Canada, and all courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance as may be necessary or desirable, to recognize and give effect to this Order and to assist: (i)

the Monitor and its agents in carrying out the terms of this Order; (ii) the Purchaser in giving effect to the transfer of title pursuant to the APA, as approved herein, the vesting in the Purchaser of the Purchased Assets free and clear of any and all Encumbrances in accordance with Section 36(6) of the CCAA, and the foreclosure of interests and barring of proceedings against the Purchaser and the Purchased Assets provided for herein.

11. The Stay Period as set out in Paragraph 11 of the Initial Order and extended at Paragraph 3 of the Extension and Charging Order, Paragraph 2 of the Second Extension Order, and Paragraph 2 of the Third Extension Order, is extended to 11:59 p.m. on October 5, 2018, subject to the right of the creditors of the Applicant to request a review and reconsideration of this Order.
12. This Order and all of its provisions are effective as of 12:01 a.m. local time on the date of this Order.

**DATED** at Halifax, Province of Nova Scotia, this 5<sup>th</sup> day of September, 2018.



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DEPUTY PROTHONOTARY

**ERIKA SCHMIDT**  
Deputy Prothonotary

## SCHEDULE "A"

### Monitor's Certificate

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### MONITOR'S CERTIFICATE

#### RECITALS

- A. Pursuant to an Order of the Supreme Court of Nova Scotia (the "Court") dated April 18, 2018, MNP Limited was appointed as the monitor (the "**Monitor**") of Wicker Emporium Limited (the "**Applicant**") in respect of these CCAA Proceedings.
- B. Pursuant to an Order of the Court dated September \_\_\_\_, 2018 (the "**Sale Approval Order**") the Court approved an asset sale transaction (the "**Transaction**") between the Applicant, as vendor, and Artisan Direct Limited, as the purchaser (the "**Purchaser**"), as reflected in an Offer dated August 19, 2018 (the "**APA**"), for purchase and sale of the Applicant's right, title and interest in and to the assets and business undertaking of the Applicant described in the APA and the Sale Approval Order (the "**Purchased Assets**"), foreclosed and forever barred as against the Purchased Assets and the Purchaser all "Claims" and "Encumbrances", (both terms as defined in the Sale Approval Order), and provided for the vesting in the Purchaser or the Purchaser's assignee, nominee or

designate as the case may be, of the Applicant's right, title and interest in and to the Purchased Property free and clear of any such Claims or Encumbrances, which foreclosure and vesting is to be effective with respect to the Purchased Assets upon the delivery to the Purchaser, or the Purchaser's assignee, nominee or designate as the case may be, of a certificate issued by the Monitor confirming (i) that the conditions to closing as set out in the APA have been satisfied or waived by the Applicant and the Purchaser (as applicable); and (ii) the Transaction has been completed to the satisfaction of the Monitor.

- C. Pursuant to the Sale Approval Order, the Monitor may rely on written notice from the Applicant and the Purchaser regarding fulfilment of conditions to closing under the APA.
- D. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the APA.

**THE MONITOR CERTIFIES** the following:

- 1. The Applicant and the Purchaser have each delivered written notice to the Monitor that all applicable conditions under the APA have been satisfied and/or waived, as applicable; and
- 2. The Transaction has been completed to the satisfaction of the Monitor.

This Certificate was delivered by the Monitor on \_\_\_\_\_,  
2018 at \_\_\_\_\_ o'clock in the \_\_\_\_\_ noon.

MNP Limited, in its capacity as Court  
appointed Monitor of Wicker Emporium  
Limited and not in its personal or corporate  
capacity.

\_\_\_\_\_  
Per:

## **SCHEDULE "B"**

### **Encumbrances to be Expunged and Discharged as Against the Purchased Assets**

#### **Personal Property Security Act (Nova Scotia)**

<b>Secured Party</b>	<b>Registration Number</b>
Royal Bank of Canada	12784781
Raj Mohan Kapahi	17026964
Madan Kapahi	17026980
Canadian Imperial Bank of Commerce	21541917
RoyNat Inc.	24881260
RoyNat Inc.	25789397
Meridian Onecap Credit Corp.	27929215
Meridian Onecap Credit Corp.	28785335
ICapital Financial Services Corp.	28926913

#### **Personal Property Security Act (Newfoundland and Labrador)**

<b>Secured Party</b>	<b>Registration Number</b>
Canadian Imperial Bank of Commerce	11194222
Madan Kapahi	11350436
Raj Mohan Kapahi	11350576

#### **Personal Property Security Act (Prince Edward Island)**

<b>Secured Party</b>	<b>Registration Number</b>
Canadian Imperial Bank of Commerce	3228634

#### **Personal Property Security Act (New Brunswick)**

<b>Secured Party</b>	<b>Registration Number</b>
Canadian Imperial Bank of Commerce	23285158
Madan Kapahi	23502529
Raj Mohan Kapahi	23502685
On Deck Capital Canada, ULC	30266597



**Personal Property Security Act (Ontario)****Secured Party**

Canadian Imperial Bank of Commerce

Raj Mohan Kapahi

Madan Kapahi

**Registration Number**

20130719 1255 1219 9351

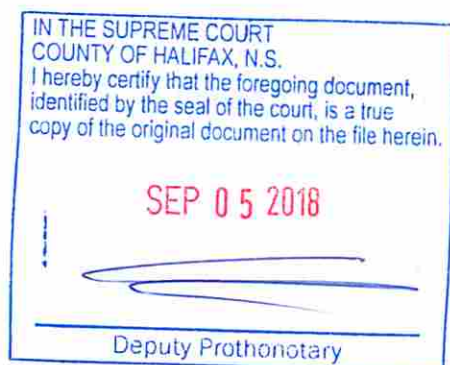
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## SCHEDULE "C"

### Permitted Encumbrances

<b><u>No.</u></b>	<b><u>Interest Holder</u></b>	<b><u>Type</u></b>	<b><u>Registration Date/ Instrument No.</u></b>
1	Accord Financial Inc.	Factoring Agreement and General Security Agreement	September 28, 2016 - 26636662 (Nova Scotia Personal Property Security Act)
2	Accord Financial Inc.	Factoring Agreement and General Security Agreement	September 28, 2016 – 14351704 (NL Personal Property Security Act)
3	Accord Financial Inc.	Factoring Agreement and General Security Agreement	September 28, 2016 - 4058782 (Prince Edward Island Personal Property Security Act)
4	Accord Financial Inc.	Factoring Agreement and General Security Agreement	September 28, 2016 – 28018117 (New Brunswick Personal Property Security Act)
5	Accord Financial Inc.	Factoring Agreement and General Security Agreement	Registration No. 20160928 1534 1793 7775 Ontario Personal Property Security Act)
6	O'Regan Motors Limited	Vehicle lease	August 29, 2014 – 23262389 (Nova Scotia Personal Property Security Act)
7	BMW Canada Inc.	Vehicle lease	January 25, 2017 – 27130970 (Nova Scotia Personal Property Security Act)



**ERIKA SCHMIDT**  
Deputy Prothonotary