

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

B E T W E E N:

CANADIAN WESTERN BANK

Applicant

and

2722959 ONTARIO LTD.

Respondent

**AFFIDAVIT OF ROD RANDALL  
(SWORN JULY 14, 2022)**

I, Rod Randall, of the City of Edmonton, in the Province of Alberta, MAKE OATH  
AND SAY:

1. I am the AVP Special Asset Management Unit for the Applicant, Canada Western Bank (“**CWB**” or “**Bank**”), and as such have personal knowledge of the matters hereinafter deposed. Where the source of my knowledge is based on the information or belief of others, I state the source of that information and belief and I believe it to be true.
2. I have reviewed the business records maintained by CWB in respect of the matters at issue, which I verily believe were made in the ordinary and usual course of business, and where I do not have direct personal knowledge of matters deposed herein, my knowledge is derived from my review of the business records of CWB, relevant copies of which are attached to this my Affidavit.

## Overview

3. 2722959 Ontario Ltd. (the “**Debtor**”) is in the business of manufacturing and distributing beverages and edible oils both through its own private labels and pursuant to distribution licenses with brands such as AriZona Beverages.

4. CWB gave a loan to the Debtor on April 4, 2022, in the principal amount of \$625,000.00. The Debtor has been in default of its payment obligations under the loan since May 7, 2022. The Bank has learned that the Debtor ceased operations and has been locked out of its Premises (defined below) since May 12, 2022, by its landlord. The Bank has also learned that the Debtor has cancelled its insurance coverage.

5. The Debtor along with Gemma Runaghan (the sole shareholder, officer, and director of the Debtor) and Frank D’Angelo (the directing mind and agent of the Debtor) have issued and served on the Bank a Statement of Claim for damages in the amount of \$280,000,000.00 for, among other things, alleged misrepresentations. The Bank denies the allegations in the Statement of Claim and will address those matters in due course within the action commenced by the Debtor.

6. In the interim, and despite demands, the Debtor and Mr. D’Angelo have refused to provide basic information to the Bank on the status of the Bank’s collateral and the obligations of the Debtor, such as whether it is up to date on priority payables, whether collateral is or will be removed from the premises, and as to the status of the distribution license under which the Debtor operates a portion of its business.

7. The Bank therefore seeks the appointment of an Interim Receiver for an initial period of 30 days over the property, assets and undertakings of the Debtor to obtain the stabilizing effect of a stay of proceedings and to obtain basic information on the status of the Bank's collateral and any impairments to that collateral, but not take possession of the Premises. The Bank is not seeking a stay of the Debtor's Statement of Claim at this time, nor is it seeking a charge on the assets of the Debtor for the fees and disbursements of the proposed Interim Receiver, or a borrowing charge.

### **The Parties**

8. CWB is a financial services organization providing specialized service in banking, trust and wealth management, including commercial loans to Canadian small and medium-sized enterprises.

9. The Debtor is a corporation incorporated pursuant to the laws of Ontario. The Debtor's principal place of business is located at 4544 East Gate Parkway, Mississauga, Ontario ("**Premises**"). Attached as **Exhibit "A"** is a true copy of the Debtor's corporate profile report. The main business activities of the Debtor up until May 12, 2022, was the manufacturing and packaging of beverage drinks and edible oils, both through private labels and pursuant to co-packaging arrangements for brands such as AriZona Beverages.

10. Gemma Runaghan ("**Ms. Runaghan**") is the sole officer and director of the Debtor. Runaghan holds the offices of President, Secretary and Treasurer of the Debtor.

11. Frank D'Angelo ("**Mr. D'Angelo**") is the directing mind of the Debtor and at all material times held himself out as being the authorized representative of the Debtor with whom CWB dealt. He is also Runaghan's spouse.

### **The Indebtedness**

12. On the application of the Debtor and pursuant to a commitment letter dated April 4, 2022, ("**Commitment Letter**"), a true copy of which is attached as **Exhibit "B"**, CWB extended the following credit facilities to the Debtor:

- (a) a demand non-revolving loan facility in the principal amount of up to \$500,000.00 and further evidenced and supported by a non-revolving credit agreement dated April 5, 2022, issued by the Debtor in favour of the Bank in the principal amount of \$500,000.00 ("**Demand Non-Revolving Loan Facility**");
- (b) a demand loan facility in the principal amount of up to \$100,000.00 and further evidenced and supported by a demand note dated April 5, 2022, issued by the Debtor in favour of the Bank ("**Demand Loan Facility**"); and
- (c) a corporate credit card facility in the principal amount of up to \$25,000 and established by a corporate credit card application dated April 20, 2022 (the "**Credit Card Facility**").

Collectively, the "**Credit Facilities**".

13. Pursuant to the terms of the Commitment Letter, the purpose of each Credit Facility is as follows:

- (a) the Demand Non-Revolving Loan Facility was established to finance the Debtor's purchase and installation of a new 100-head can filler carriage/carousel from Bevcorp LLC and associated installation costs;
- (b) the Demand Loan Facility was established to finance day-to-day operations of the Debtor's business; and
- (c) the Credit Card Facility was established to assist with the Debtor's day-to-day business expenses.

14. As of June 14, 2022, the Debtor was indebted to CWB in the principal amount of \$625,000 plus interest and costs, which continue to accrue in respect of the Credit Facilities (the "**Indebtedness**").

### **The Security**

15. To secure due payment and performance of all present and future indebtedness and liabilities of the Debtor to CWB, the Debtor granted or caused to be granted, among other security, a security interest in all of its present and after-acquired personal property under the terms of a General Security Agreement in favour of CWB dated April 5, 2022 (the "**GSA**"). A copy of the GSA is attached as **Exhibit "C"** (the "**Security**").

16. Section 9(f) of the GSA provides that the Bank is entitled to appoint a receiver upon the occurrence of a default.

17. In addition to the Security, the Bank also obtained:

- (d) a Full Liability Guarantee dated April 5, 2022, granted by Ms. Runaghan in favour of the Bank guaranteeing all indebtedness of the Debtor to the Bank which is attached as **Exhibit “D”**; and
- (e) a Full Liability Guarantee dated April 5, 2022, granted by Mr. D’Angelo in favour of the Bank guaranteeing all indebtedness of the Debtor to the Bank which is attached as **Exhibit “E”**.

18. The Bank registered financing statements on April 6, 2022, against the name of the Debtor, 2156775 Ontario Inc. (“**215**”) and Ms. Runaghan in the Personal Property Register pursuant to the *Personal Property Security Act* (Ontario), which are attached as **Exhibit “F”**. 215 is a corporation wholly owned by D’Angelo. It is understood that 215 may at one time have owned the trademark for “D’Angelo Brands”, under which the Debtor operates. As described below, 215 has assigned a postponement in favour of the Bank.

### **Other Creditors**

19. Attached as **Exhibit “G”** is a true copy of a PPSA search of the Debtor dated June 1, 2022. Besides the Bank, there is a registration in favour of Ms. Runaghan.

20. However, an Assignment and Postponement of Creditor’s Claims dated April 5, 2022, was entered into between the Debtor and Ms. Runaghan pursuant to which Ms. Runaghan postponed all of its claims against and obligations from the Debtor in favour of the Bank, a copy of which is attached as **Exhibit “H”**.

21. An Assignment and Postponement of Creditor's Claims dated April 5, 2022, was also entered into between the Debtor and 215 pursuant to which 215 postponed all of its claims against and obligations from the Debtor in favour of the Bank, a copy of which is attached as **Exhibit "I"**.

### **Default and Demands**

22. The Debtor is in default of the Credit Facilities and the Security, and all amounts owing under the Credit Facilities are immediately due and payable. The defaults include, among others:

- (a) the failure to make certain regular scheduled payments of principal and interest on the loan evidenced by the Demand Note and advanced pursuant to the terms of the Commitment Letter since May 7, 2022; and
- (b) an adverse change in the financial condition of the Debtor, as is further described below in paragraph 22 and 29.

23. On June 17, 2022, CWB provided notice of the foregoing defaults and notice of its intention to enforce security pursuant to section 244(1) of the *Bankruptcy and Insolvency Act* to the Debtor ("**Demand Letter**"). Concurrently, CWB demanded repayment of the Indebtedness. A copy of the demand and notice are attached as **Exhibit "J"**.

24. The deadline under the Demand Letter is July 26, 2022 at 2:00 PM. However, for the reasons set out below, the Bank seeks the appointment of an Interim Receiver primarily to obtain basic information on the status of the Bank's collateral and any impairments to that collateral, and specifically the answers to the questions the Bank

requested on June 24, 2022 (as is further described in paragraphs 26-29 below), and not to take possession of the Premises.

25. Since the issuance of the Demand Letter, the Debtor has committed additional defaults, namely the failure to maintain insurance of the Bank's collateral.

26. The Debtor has failed or neglected, and continues to fail or neglect to repay the Indebtedness, and remains in default of its obligations under the Credit Facilities.

### **Need for Appointment of a Receiver**

27. The Debtor is in default of its obligations and CWB is presently entitled to pursue its legal remedies under the Credit Facilities and the Security. Pursuant to the GSA, CWB may appoint or apply to this Honourable Court to appoint a receiver over the property, assets and undertaking of the Debtor.

28. The Debtor issued and served on CWB, and an employee of CWB in his personal capacity, a Statement of Claim claiming damages in the amount of \$280,000,000 for, among other things, alleged misrepresentations. CWB and its employee deny the allegations in the Statement of Claim, including the legal basis for naming an employee in his personal capacity, and will address those matters in due course within the action commenced by the Debtor. Attached as **Exhibit "K"** is a true copy of the Statement of Claim, issued on June 21, 2022. CWB is not seeking a stay of the Debtor's Statement of Claim at this time.

29. In the Statement of Claim, the Debtor states it is insolvent and that it ceased active business operations as of May 12, 2022, when its hydro was disconnected as a result of



non-payment to its utility provider. The Claim also states that on or about that date the Debtor's landlord locked the Debtor out of the Premises for non-payment of rent.

30. The Debtor's inventory includes food and other perishable products since the Debtor is in the business of manufacturing beverages. Without electricity or access to its premises, the Debtor's inventory (which forms part of the Bank's collateral) may deteriorate over time.

31. Since the Debtor has been locked out of the Premises, CWB is concerned that the landlord will distraint on the Debtor's equipment and inventory, which also form part of the Bank's collateral.

32. On June 22, 2022, CWB received a letter from Baird MacGregor Insurance Brokers LP, the insurance brokers for the Debtor. The letter advised, "The above captioned policies have been cancelled at the request of the insured effective June 20, 2022 at 12:01 am." Attached as **Exhibit "L"** is a true copy of this letter.

33. By letter dated June 24, 2022, counsel for CWB wrote to the Debtor's litigation counsel requesting information from the Debtor concerning what, if any, steps were being taken to protect and preserve the value of the Debtor's assets over which CWB holds security. CWB also requested specific information from the Debtor such as the status of all priority payments, including taxes, HST, and payroll, and whether any collateral has been or will be removed from the Premises. Attached as **Exhibit "M"** is a true copy of this letter.

34. The Debtor refused to provide any of the abovementioned basic factual information requested in CWB's letter. Instead, Debtor's litigation counsel wrote by email on June 27, 2022, to threaten an injunction if CWB moved on its security. Attached as **Exhibit "N"** is a true copy of this letter.

35. By email of the same date, counsel for CWB reiterated its request for information from the Debtor. Counsel for CWB further advised that given the Debtor's non-response and the notice letter received from Baird MacGregor, CWB was concerned that its collateral was in peril. Attached as **Exhibit "O"** is a true copy of this letter.

36. In response, Debtor's litigation counsel again refused to provide the requested information but did confirm that the power remains shut down at the Debtor's Premises, the Debtor does not have the funds to pay for insurance, and the Debtor has not been permitted access to the Premises by the landlord since May 12, 2022. Attached as **Exhibit "P"** is a true copy of this letter.

37. CWB and its employee filed a Notice of Intent to Defend the Statement of Claim on July 11, 2022.

38. On July 13, 2022, Debtor's litigation counsel emailed counsel for CWB and prospectively advised with respect to its Statement of Claim against the Bank, "...our client will not be granting any extensions in filing your Statement of Defence and will note your client in default if you do not have your defence delivered within the time frame permitted under the Rules." A true copy of this email is attached as **Exhibit "Q"**.

39. Among other things, at this juncture it is not clear whether or not the Debtor is up to date on priority payables, whether collateral is or will be removed from the premises, or whether or not the Debtor's co-packing arrangements or distribution licenses with brands such as AriZona Beverages re in good standing, remain in place or have been terminated or impaired.

40. In light of the foregoing, I believe that CWB's collateral is at risk and will be further eroded unless an Interim Receiver is immediately appointed to allow CWB to obtain accurate and updated information in order to assess its collateral and options. The appointment order also provides for a stay of proceedings that will provide stability while information is obtained that all stakeholders will benefit from. The Bank does not seek a stay of the Debtor's Statement of Claim against it at this time.

41. I verily believe that the immediate appointment of an Interim Receiver of the Debtor for an initial period of 30 days is just and convenient and is necessary to protect the interests of CWB, including to preserve the remaining assets of the Debtor and to realize on CWB's Security.

42. MNP is qualified and prepared to act as Interim Receiver and has consented to act as Interim Receiver of the Debtor should CWB's application be granted. A true copy of MNP's consent is attached as **Exhibit "R"**.

43. Independent counsel to the proposed Interim Receiver has prepared an opinion, subject to the ordinary qualifications, on the validity and enforceability of CWB's security. A true copy of the opinion is attached as **Exhibit "S"**.

44. I make this Affidavit in support of the application for the appointment of an interim receiver in respect of the Debtor and for no other or improper purpose.

**SWORN BEFORE ME:**

in person

by video conference

with the deponent in the City of Edmonton in the Province of Alberta, and the Commissioner in the City of Toronto this the 14<sup>th</sup> day of July, 2022, in accordance with O. Reg. 431/20, Administering Oath or Declaration

Remotely.



**ROD RANDALL**

A Commissioner for taking Affidavits *(or as may be)*

**KALEIGH SONSHINE**

RCP-E 14E (September 1, 2020)

This is Exhibit "A" referred to in the Affidavit of  
**ROD RANDALL**  
Sworn on July 14, 2022

A handwritten signature in blue ink that reads "K Sonshine". The signature is written in a cursive style with a long horizontal flourish at the end.

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A commissioner, etc.

**KALEIGH SONSHINE, LSO#70105T**



## Profile Report

2722959 ONTARIO LTD. as of June 02, 2022

Act	Business Corporations Act
Type	Ontario Business Corporation
Name	2722959 ONTARIO LTD.
Ontario Corporation Number (OCN)	2722959
Governing Jurisdiction	Canada - Ontario
Status	Active
Date of Incorporation	October 23, 2019
Registered or Head Office Address	477 Reeves Way Blvd, Stouffville, Ontario, Canada, L4A 0H2

Certified a true copy of the record of the Ministry of Government and Consumer Services.

*V. Quintanilla W.*

Director/Registrar

This report sets out the most recent information filed on or after June 27, 1992 in respect of corporations and April 1, 1994 in respect of Business Names Act and Limited Partnerships Act filings and recorded in the electronic records maintained by the Ministry as of the date and time the report is generated, unless the report is generated for a previous date. If this report is generated for a previous date, the report sets out the most recent information filed and recorded in the electronic records maintained by the Ministry up to the "as of" date indicated on the report. Additional historical information may exist in paper or microfiche format.

**Active Director(s)**

Minimum Number of Directors 1  
Maximum Number of Directors 10

Name	Gemma RUNAGHAN
Address for Service	477 Reeves Way Blvd, Stouffville, Ontario, Canada, L4A 0H2
Resident Canadian	Yes
Date Began	October 23, 2019

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*V. Quintanilla W.*

Director/Registrar

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**Active Officer(s)**

**Name** Gemma RUNAGHAN  
**Position** President  
**Address for Service** 477 Reeves Way Blvd, Stouffville, Ontario, Canada, L4A 0H2  
**Date Began** October 23, 2019

**Name** Gemma RUNAGHAN  
**Position** Secretary  
**Address for Service** 477 Reeves Way Blvd, Stouffville, Ontario, Canada, L4A 0H2  
**Date Began** October 23, 2019

**Name** Gemma RUNAGHAN  
**Position** Treasurer  
**Address for Service** 477 Reeves Way Blvd, Stouffville, Ontario, Canada, L4A 0H2  
**Date Began** October 23, 2019

Certified a true copy of the record of the Ministry of Government and Consumer Services.

*V. Quintanilla W.*

Director/Registrar

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**Corporate Name History**

**Name**

2722959 ONTARIO LTD.

**Effective Date**

October 23, 2019

Certified a true copy of the record of the Ministry of Government and Consumer Services.

*V. Quintanilla W.*

Director/Registrar

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### Active Business Names

This corporation does not have any active business names registered under the Business Names Act in Ontario.

Certified a true copy of the record of the Ministry of Government and Consumer Services.

*V. Quintanilla W.*

Director/Registrar

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### Expired or Cancelled Business Names

This corporation does not have any expired or cancelled business names registered under the Business Names Act in Ontario.

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*V. Quintanilla W.*

Director/Registrar

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## Document List

Filing Name	Effective Date
CIA - Notice of Change PAF: JOSEPH F. LO GRECO - OTHER	November 13, 2020
CIA - Initial Return PAF: FRANK D'ANGELO - OFFICER	November 29, 2019
BCA - Articles of Incorporation	October 23, 2019

All "PAF" (person authorizing filing) information is displayed exactly as recorded in the Ontario Business Registry. Where PAF is not shown against a document, the information has not been recorded in the Ontario Business Registry.

Certified a true copy of the record of the Ministry of Government and Consumer Services.

*V. Quintanilla W.*

Director/Registrar

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This is Exhibit "B" referred to in the Affidavit of  
**ROD RANDALL**  
Sworn on July 14, 2022

A handwritten signature in blue ink that reads "K. Sunshine". The signature is written in a cursive style with a long horizontal flourish at the end.

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A commissioner, etc.

**KALEIGH SONSHINE, LSO#70105T**

April 4, 2022

2722959 Ontario Ltd.  
477 Reeves Way Boulevard  
Stouffville, Ontario L4A 0H2

**Attention:** Mr. Frank D'Angelo and Ms. Gemma Runaghan

Dear Sir and Madam:

On the basis of the financial statements and other information provided by 2722959 Ontario Ltd. (the "Borrower") and Frank D'Angelo and Gemma Runaghan (the "Guarantors") in connection with your request for financing, Canadian Western Bank (the "Bank") has authorized the following loans subject to the terms and conditions outlined in this Commitment Letter (the "Agreement").

1. **LOAN AMOUNT:**

- 1.1. Loan Segment (1): Demand Loan \$100,000.
- 1.2. Loan Segment (2): Demand Non Revolving Loan #1 (DNR #1) \$500,000.
- 1.3. Loan Segment (3): Corporate Credit Card \$25,000

Collectively referred to as "the Loans".

2. **PURPOSE OF LOAN:**

Amounts advanced by the Bank are to be used by the Borrower as follows:

- 2.1. Loan Segment (1): To finance the day-to-day operations of the Borrower's business.
- 2.2. Loan Segment (2): To assist with financing the purchase and installation of a new 100 head can filler carriage/carousel from Bevcorp LLC and associated installation costs.
- 2.3. Loan Segment (3): To assist with day-to-day expenses.

3. **INTEREST RATE:**

Loans shall bear interest while outstanding before and after maturity and default at the following rates:

- 3.1. Loan Segment (1): Interest to float at a rate of 1.50% per annum above the Bank's Prime Lending Rate ("Prime"). As of the date of this Agreement, Prime is 2.70% per annum.
- 3.2. Loan Segment (2): Interest to float at a rate of 1.35% per annum above Prime.
- 3.3. Loan Segment (3): Standard fees, as applicable. Outstanding balances to be paid in full monthly.

Unless otherwise specified, all interest shall be payable without demand on the dates specified by the Bank and shall be calculated daily, compounded monthly. Overdue interest shall bear interest at the same rate.

Plaza 1, 2000 Argentia Road, Suite 101, Mississauga, ON L5N 1P7  
t. 289.998.2688 | F. 833.341.7556  
cwbank.com

4. **ADVANCES:**

- 4.1. Loan Segment (1) will revolve in multiples of \$5,000 and will be available following satisfaction of the Conditions Precedent as set forth in Schedule "D" herein attached.
- 4.2. Loan Segment (2) shall be advanced on a lump sum basis following satisfaction of the Conditions Precedent as set forth in Schedule "D" herein attached.

5. **REPAYMENT:**

All amounts outstanding under all segments shall be repaid on demand. Unless demanded, the Bank will accept payment as follows:

- 5.1. Loan Segment (1): On demand.
- 5.2. Loan Segment (2): Interest only for first 3 months. Principal and interest commence on the 4th month. Thereafter, to reduce by monthly principal plus interest or in the case of a fixed rate loan in equal blended monthly payments. Payments are based on an amortization of 57 months.

In the case of a fixed rate loan, payments will be adjusted at time of term renewal based on the fixed rate of interest in effect and the remaining amortization period.

For any DNR loan advanced on a floating rate basis with blended monthly payments, the Bank will have the discretion to vary the amount of the required monthly instalments each calendar quarter to reflect changes in Prime.

6. **FEES:**

- 6.1. The Borrower shall pay to the Bank a commitment fee of \$375 which has been paid.
- 6.2. The Borrower shall pay a monthly administration fee of \$25 to cover the cost of administration in monitoring the Line of Credit/DNR and review of all reporting information as outlined in the attached Schedule "C". This fee is in addition to the account's standard service charges.
- 6.3. The Borrower shall pay an annual review fee of \$350 each year in conjunction with the annual review (based on the Borrower's fiscal year end financial statements) to renew outstanding loans.
- 6.4. The Borrower shall pay CWB direct service fees as applicable.

7. **SECURITY:**

The attached Schedule "A" forms part of this Agreement.

8. **KEY COVENANTS/ CONDITIONS:**

The attached Schedule "B" forms part of this Agreement.

9. **REPORTING REQUIREMENTS:**

The attached Schedule "C" forms part of this Agreement.

10. **CONDITIONS PRECEDENT TO DRAWDOWN:**

The attached Schedule "D" forms part of this Agreement.

11. **GENERAL CONDITIONS:**

The attached Schedule "E" forms part of this Agreement.

12. **STANDARD LOAN TERMS & DEFINITIONS:**

The attached Schedule "F" forms part of this Agreement.

13. **REVIEW:**

All loans are subject to review at any time by the Bank, and in any event will be reviewed annually, based on the year-end financial statements of the Borrower.

14. **PREPAYMENT OF DEMAND NON REVOLVING LOAN:**

14.1. Prepayment of individual loan drawdowns are permitted without charges with the exception of loans drawn under the fixed rate option.

14.2. Loans drawn under the fixed rate option are subject to prepayment charges equal to the greater of the following:

- (a) three (3) months interest calculated on the unpaid principal balance at the rate provided herein; or
- (b) a prepayment charge equal to the Bank's Unwinding Costs.

15. **COSTS:**

All costs, including, but not limited to, legal counsel expense, appraisal fees, cost consultant fees and reasonable out-of-pocket expenses incurred by the Bank in connection with the preparation and registration of this Agreement and the Bank's security and the enforcement of the Bank's rights under this Agreement or the Bank's security are for the account of the Borrower and this Agreement will serve as the Bank's authority to charge this amount to the Borrower's deposit account under advice to the Borrower.

16. **ASSIGNMENT BY BORROWER:**

The Borrower shall not assign or encumber its rights and obligations under the Loan(s), this Agreement or the whole or any part of any advance to be made hereunder, without the prior written consent of the Bank.

17. **BANK'S COUNSEL:**

N/A

18. **MATERIAL CHANGE:**

Acceptance of this Agreement by the Borrower provides full and sufficient acknowledgement that if, in the opinion of the Bank, any material adverse change in risk occurs, including without limiting the generality of the foregoing, any material adverse change in the financial condition of the Borrower, any obligation by the Bank to advance all or any portion of the loan may be withdrawn or cancelled at the sole discretion of the Bank, acting in a commercially reasonable manner.

19. **NON-MERGER:**

The terms and conditions set out herein shall not be superseded by nor merge in and shall survive the execution, delivery and/or registration of any instruments of security or evidences of indebtedness granted by the Borrower and/or any Guarantor(s) hereafter, and the advancement of any funds by the Bank. In the event of a conflict between the security documents and the terms of this letter, the terms of the security documents shall govern.



20. **ACCOUNTING CHANGES:**

In the event that any Accounting Change (as defined below) shall occur and such change results in a change in the method of calculation of financial covenants, standards or terms in the Commitment Letter, then the Borrower and the Bank agree to enter into negotiations in order to amend such provisions of the Commitment Letter so as to reflect equitably such Accounting Changes with the desired result that the criteria for evaluating the Borrower's financial condition shall be substantially the same after such Accounting Changes as if such Accounting Changes had not been made. Until such time as an amendment shall have been executed and delivered by the Borrower(s) to the Bank all financial covenants, standards and terms in this Agreement shall continue to be calculated or construed as if such Accounting Changes had not occurred.

Accounting Changes refers to changes in accounting principles required by the promulgation of any rule, regulation, pronouncement or opinion by the Canadian Institute of Chartered Accountants, and all events including changes resulting from implementation of the International Financial Reporting Standards to the extent required by the Canadian Accounting Standards Board.


**ACCEPTANCE:**


To become effective, this Agreement must be accepted in writing by the Borrower and all Guarantors.

If you are in agreement with the above terms and conditions (which includes by reference, all of those terms and conditions set forth in all of the attached Schedules), please sign and return the enclosed copy of this letter. This Agreement will expire if not accepted by April 18, 2022.

The foregoing Agreement is offered in good faith and is to be held in strict confidence.

Yours truly,  
**CANADIAN WESTERN BANK**

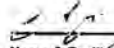
  
\_\_\_\_\_  
Colin O'Regan  
Senior Manager, Business Development


  
\_\_\_\_\_  
John Butler  
AVP & Market Manager

**ACKNOWLEDGEMENT:**

The Borrower certifies that all information provided to the Bank is true and hereby accept the terms and conditions set forth in the above Agreement (including all Schedules attached thereto).

**BORROWER: 2722959 ONTARIO LTD.**

Signed:   
\_\_\_\_\_  
Name & Position: Gemma Runagha  
President

Signed:   
\_\_\_\_\_  
Name & Position:  
I/We have the authority to bind the corporation\*

Accepted: 4/5/2022  
\_\_\_\_\_  
Date

**GUARANTORS:**

We/I acknowledge receiving advice of the Agreement described above and agree our/my guarantee is binding even if the Bank changes or waives compliance with the terms of this Agreement.

Signed:   
\_\_\_\_\_  
Frank D'Angelo

Signed:   
\_\_\_\_\_  
Gemma Dunaghan

Accepted: 4/5/2022  
Date

Accepted: 4/5/2022  
Date

## SCHEDULE "A" - DEMAND

### SECURITY

All security documentation described herein must be prepared, executed and registered, as required by the Bank, prior to drawdown of any funds. The types of security, supporting resolutions and agreements to be provided by the Borrower to the Bank will be in form and content satisfactory to the Bank and/or its solicitors, and without restricting the generality of the foregoing, will include:

1. Loan Agreement executed by the Borrower and Guarantors;
2. General Security Agreement providing a first security interest in all present and after acquired property to be registered in all appropriate jurisdictions;
3. Revolving Credit Agreement;
4. Promissory Note;
5. Application for Business Credit Card;
6. Full Liability Guarantee from Frank D'Angelo in favour of the Bank guaranteeing all indebtedness of the Borrower to the Bank. The Guarantee is to be executed in the presence of a Solicitor who has provided the Guarantor with the benefit of Independent Legal Advice. The Guarantee is to be accompanied by a Certificate of Independent Legal Advice.
7. Full Liability Guarantee from Gemma Runaghan in favour of the Bank guaranteeing all indebtedness of the Borrower to the Bank;
8. Assignment and Postponement of Creditors Claim executed by Gemma Runaghan;
9. Assignment and Postponement of Creditors Claim executed by 2156775 Ontario Inc.;
10. Acknowledged Assignment of Insurance coverage for full insurable values of all assets of the Borrower taken as security by the Bank with first loss payable to the Bank.
11. Such additional securities as the Bank may deem necessary or advisable for the purpose of obtaining and perfecting the foregoing security.

The Borrower and Guarantors acknowledge and agree that the securities above described provided by the Borrower support all loans and secure all indebtedness of the Borrower to the Bank.

**SCHEDULE "B" - DEMAND**  
**KEY COVENANTS/CONDITIONS**

**KEY COVENANTS:**

The Borrower agrees:

1. to pay all sums of money when due under this Agreement;
2. to give the Bank prompt notice of any Event of Default or any event which, with notice or lapse of time or both, would constitute an Event of Default;
3. to maintain a "*Cash Flow Coverage Ratio*" of not less than 1.25:1, tested annually;
4. to give the Bank 30 days prior notice in writing of any intended change in the ownership of its shares or any of its subsidiaries;
5. not to sell, transfer, convey, lease or otherwise dispose of any part of its property or assets, without the prior written consent of the Bank, except in the ordinary course of business;
6. not to change its name or merge, amalgamate or consolidate with any other corporation;
7. to insure and to keep fully insured all properties customarily insured by companies carrying on a similar business to that of the Borrower.
8. not to invest in, lend to, guarantee or otherwise provide for, on a direct or indirect or contingent basis, the payment of any monies or performance of any obligations by any third party except as provided herein;
9. to file on a timely basis, all material tax returns which are or will be required to be filed, to pay or make provision for payment of all material taxes (including interest and penalties) and other potential Priority Claims which are or will become due and payable and to provide adequate reserves for the payment of any tax, the payment of which is being contested;
10. to comply with all applicable environmental laws and regulations; to advise the Bank promptly of any breach of any environmental regulations or licenses or any control orders, work orders, stop orders, action requests or violation notices received concerning any of the Borrower's property; to comply with any such requests or notices, to diligently clean up any spills; and to hold the Bank harmless for any costs or expenses which the Bank incurs for any environment related liabilities existent now or in the future with respect to the Borrower's property;
11. to provide the Bank and its agents, nominees, and consultants with the right to enter the premises of the Borrower from time to time, and to carry out such environmental reviews as the Bank in its sole discretion deems advisable and in that connection to make good faith enquiries with government agencies and to examine the records, books, assets, affairs and business operations of the Borrower;
12. not to grant, create, assume or suffer to exist any mortgage, charge, lien, pledge, security interest, including a Purchase Money Security Interest (PMSI), or other encumbrance affecting any of its properties, assets or other rights other than a Normal Course Lien.

**SCHEDULE "C" - DEMAND  
REPORTING REQUIREMENTS**

The Borrower agrees to provide the following to the Bank:

1. Review Engagement annual financial statements of the Borrower prepared by a firm of qualified professional accountants within 120 days of the Borrower's fiscal year-end;
2. annual updated personal net worth statements of the Guarantors on the Canadian Western Bank forms duly completed and signed; and,
3. any further information, data, financial reports and records, accounting or banking statements, certificates, evidence of insurance and other assurances which the Bank may from time to time require in its sole discretion, acting reasonably.

**SCHEDULE "D" - DEMAND**  
**CONDITIONS PRECEDENT TO DRAWDOWN**

The following conditions precedent must be fulfilled prior to the Bank having any obligation to advance:

1. The Bank shall be satisfied with the business, assets and financial condition of the Borrower and Guarantors and all security documentation and supporting agreements and documents must be completed in a form satisfactory to the Bank and its solicitors, and must be executed and registered, as appropriate, and the Bank shall have received a solicitor's letter of opinion with respect to the same;
2. Updated PPSA search prior to funding to confirm no additional registrations exist;
3. Confirmation from counsel that legal title to the equipment is held by the Borrower.

## SCHEDULE "E" - DEMAND

### GENERAL CONDITIONS

#### EVENTS OF DEFAULT

1. Notwithstanding anything expressed or implied to the contrary, all indebtedness and liability of the Borrower's to the Bank under this Agreement is deemed to be repayable **ON DEMAND** and such indebtedness and liability may be demanded by the Bank at any time in the Bank's sole and exclusive discretion. In addition to being of a demand nature, the full amount of the indebtedness and liability of the Borrower then outstanding, together with accrued interest and any other charges then owing by the Borrower to the Bank shall, at the option of the Bank, forthwith be accelerated and be due and payable, and upon being declared to be due and payable, the securities shall immediately become enforceable and the Bank may proceed to realize and enforce the same upon the occurrence and during the continuance of any of the following events or circumstances (which events or circumstances are herein referred to as the "Events of Default"):
  - (a) the Borrower or any Guarantor fails to make when due, whether on demand or at a fixed payment date, by acceleration or otherwise any payment of interest, principal, fees, or other amounts payable to the Bank;
  - (b) there is a breach by the Borrower of any other term or condition contained in this Agreement or in any other agreement to which the Borrower and the Bank are parties and the Borrower has not corrected such breach within 15 days of notice having been provided to the Borrower;
  - (c) any default occurs under the terms of any security to be provided in accordance with this Agreement or under any other credit, loan or security agreement to which the Borrower is a party and the Borrower has not corrected such breach within 15 days of notice having been provided to the Borrower;
  - (d) any bankruptcy, re-organization, compromise, arrangement, insolvency or liquidation proceedings or other analogous proceedings are instituted by or against the Borrower and, if instituted against the Borrower are allowed against or consented to by the Borrower or are not dismissed or stayed within 60 days after such institution;
  - (e) a Receiver is appointed over any property of the Borrower or any judgement or order or any process of any court becomes enforceable against the Borrower or any property of the Borrower or any creditor takes possession of any property of the Borrower;
  - (f) any adverse change occurs in the financial condition of the Borrower or any Guarantor;
  - (g) any adverse change occurs in the environmental condition of:
    - (i) the Borrower(s), or either of them, or any Guarantor of the Borrower; or
    - (ii) any property, equipment, or business activities of the Borrower or any Guarantor of the Borrower.
  - (h) the Borrower acknowledges that failure by any Guarantor(s) of this Agreement to comply with the disclosure requirements set out in Section 45 of the Business Corporations Act (BCA) of Alberta shall constitute a default of the Borrower pursuant to this Agreement.

### **MISCELLANEOUS CONDITIONS**

1. The rights and remedies of the Bank pursuant to this Agreement and the securities taken pursuant hereto are cumulative and not alternative, and not in substitution for any other rights, remedies, or powers of the Bank.
2. Any failure or delay by the Bank to exercise, or exercise fully, its rights and remedies pursuant to this Agreement and the securities taken pursuant hereto shall not be construed as a waiver of such rights and remedies.
3. In the absence of a formal Loan Agreement being entered into, this Agreement shall continue in full force and effect and shall not merge in any securities provided by the Borrower to the Bank.
4. The Bank reserves the sole and absolute right to syndicate part or all of the loan facility contemplated herein, with various syndication partners with whom the Bank syndicates loans from time to time, on terms and conditions satisfactory to the Bank.
5. This Agreement and the security documentation to be provided by the Borrower pursuant hereto shall be construed in accordance with and governed by the laws of the Province of Ontario.





SCHEDULE "F" – DEMAND

SCHEDULE – STANDARD LOAN TERMS

ARTICLE 1 – GENERAL

- 1.1. **Interest Rate.** You will pay interest on each Loan at nominal rates per year at the rate specified in this Agreement.
- 1.2. **Floating rate of interest.** Each floating rate of interest provided for under this Agreement will change automatically, without notice, whenever the Bank's Prime Rate or the U.S. Base Rate, as the case may be, changes.
- 1.3. **Payment of interest.** Interest is calculated on the daily balance of the Loan at the end of each day. Interest is due once a month, unless the Agreement states otherwise. Unless you have made other arrangements with us, we will automatically debit your Operating Account for interest amounts owing. If your Operating Account is in overdraft and you do not deposit to the account an amount equal to the monthly interest payment, the effect is that we will be charging interest on overdue interest (which is known as compounding). Unpaid interest continues to compound whether or not we have demanded payment from you or started a legal action, or get judgment, against you.
- 1.4. **Fees.** You will pay the Bank's fees for the Loans as outlined in the Agreement. You will also reimburse us for all reasonable fees (including legal fees on a solicitor and his own client basis) and out-of-pocket expenses incurred in registering any security, and in enforcing our rights under this Agreement or any security. We will automatically debit your Operating Account for fee amounts owing.
- 1.5. **Our rights re demand Loans.** We believe that the banker-customer relationship is based on mutual trust and respect. It is important for us to know all the relevant information (whether good or bad) about your business. Canadian Western Bank is itself a business. Managing risks and monitoring our customers' ability to repay is critical to us. We can only continue to lend when we feel that we are likely to be repaid. As a result, if you do something that jeopardizes that relationship, or if we no longer feel that you are likely to repay all amounts borrowed, we may have to act. We may decide to act, for example, because of something you have done, information we receive about your business, or changes to the economy that affect your business. Some of the actions that we may decide to take include requiring you to give us more financial information, negotiating a change in the interest rate or fees, or asking you to get further accounting assistance, put more cash into the business, provide more security, or produce a satisfactory business plan. It is important to us that your business succeeds. We may demand immediate repayment of any outstanding amounts under any demand Loan. We may also, at any time and for any cause, cancel the unused portion of any demand Loan.
- 1.6. **Payments.** If any payment is due on a day other than a Business Day, then the payment is due on the next Business Day.
- 1.7. **Applying money received.** If you have not made payments as required by this Agreement, or if you have failed to satisfy any term of this Agreement (or any other agreement you have that relates to this Agreement), or at any time before default but after we have given you appropriate notice, we may decide how to apply any money that we receive. This means that we may choose which Loan to apply the money against, or what mix of principal, interest, fees and overdue amounts within any Loan will be paid.
- 1.8. **Information requirements.** We may from time to time reasonably require you to provide further information about your business. We may require information from you to be in a form acceptable to us.
- 1.9. **Insurance.** You will keep all your business assets and property insured (to the full insurable value) against loss or damage by fire and all other risks usual for property such as yours (plus for any other risks we may reasonably require). If we request, these policies will include a loss payee clause (and if you are giving us mortgage security, a Standard Mortgagee Clause). As further security, you assign all insurance proceeds to us. If we ask, you will give us either the policies themselves or adequate evidence of their existence. If your insurance coverage for any reason stops, we may (but do not have to) insure the property. We will automatically debit your Operating Account for this amount. In the event there are no funds on deposit, we may add the insurance cost to your Loan. Finally, you will notify us immediately of any loss or damage to the property.
- 1.10. **Environmental Matters.** You will carry on your business, and maintain your assets and property, in accordance with all applicable environmental laws and regulations. If (a) there is any release, deposit, discharge or disposal of pollutants of any sort (collectively, a "Discharge") in connection with either your business or your property, and we pay any fines or for any clean-up, or (b) we suffer any loss or damage as a result of any Discharge, you will reimburse the Bank, its directors, officers, employees and agents for any and all losses, damages, fines, costs and other amounts (including amounts spent preparing any necessary environmental assessment or other reports, or defending any lawsuits) that result. If we ask, you will defend any lawsuits, investigations or prosecutions brought against the Bank or any of its directors, officers, employees and agents in connection with any Discharge. Your obligation to us under this section continues even after all Loans have been repaid and this Agreement has terminated.
- 1.11. **Consent to release information.** We may from time to time give any loan or other information about you to, or receive such information from, (a) any financial institution, credit reporting agency, rating agency or credit bureau, (b) any person, firm or corporation with whom you may have or propose to have financial dealings, and (c) any person, firm or corporation in connection with any dealings you have or propose to have with us. You agree that we may use that information to establish and maintain your relationship with us and offer any services as permitted by law, including services and products offered by our subsidiaries when it is considered that this may be suitable to you.
- 1.12. **Proof of debt.** This Agreement provides the proof, between the Bank and you, of the loans made available to you. There may be times when the type of loan you have requires you to sign additional documents. Throughout the time that we provide you loans under this Agreement, our loan accounting records will provide complete proof of all terms and conditions of your loan (such as principal loan balances, interest calculations, and payment dates).
- 1.13. **Renewals of this Agreement.** This Agreement will remain in effect for your Loans for as long as they remain unchanged. If there are no changes to the Loans this Agreement will continue to apply, and you will not need to sign anything further. If there are any changes, we will provide you with either an amending agreement, or a new replacement Letter, for you to sign.
- 1.14. **Confidentiality.** The terms of this Agreement are confidential between you and the Bank. You therefore agree not to disclose the contents of this Agreement to anyone except your professional advisors and where required by law.

1.15. **Pre-conditions.** You may use the Loans granted to you under this Agreement only if:

- (a) we have received properly signed copies of all documentation that we may require in connection with the operation of your accounts and your ability to borrow and give security;
- (b) all the required security has been received and registered to our satisfaction;
- (c) any special provisions or conditions set forth in the Agreement have been complied with; and
- (d) if applicable, you have given us the required number of days notice for a drawing under a Loan.

1.16. **Notices.** We may give you any notice in person or by telephone, or by letter that is sent either by fax or by mail.

1.17. **Use of the Operating Loan.** You will use your Operating Loan only for your business operating cash needs. You are responsible for all debits from the Operating Account that you have either initiated (such as cheques, loan payments, pre-authorized debits, etc.) or authorized us to make. Payments are made by making deposits to the Operating Account. You may not at any time exceed the lesser of the Loan Amount and the maximum available under the Margin Requirements. We may, without notice to you, return any debit from the Operating Account that, if paid, would result in the Loan Amount being exceeded, unless you have made prior arrangements with us. If we pay any of these debits, you must repay us immediately the amount by which the Loan Amount is exceeded.

1.18. **Non-Revolving Loans.** The following terms apply to each Non-Revolving Loan:

- (a) **Non-revolving Loans.** Unless otherwise stated in the Agreement, any principal payment made permanently reduces the available Loan Amount. Any payment we receive is applied first to overdue interest, then to current interest owing, then to overdue principal, then to any fees and charges owing, and finally to current principal.
- (b) **Floating Rate Non-Revolving Loans.** Floating Rate Loans may have either (i) blended payments or (ii) payments of fixed principal amounts, plus interest as described below:

- (i) **Blended payments.** If you have a Floating Rate Loan that has blended payments, the amount of your monthly payment is fixed for the term of the loan, but the interest rate varies with changes in the Prime Rate or U.S. Base Rate (as the case may be). If the Prime Rate or U.S. Base Rate during any month is lower than what the rate was at the outset, you may end up paying off the loan before the scheduled end date. If, however, the Prime Rate or U.S. Base Rate is higher than what it was at the outset, the amount of principal that is paid off is reduced. As a result, you may end up still owing principal at the end of the term because of these changes in the Prime Rate or U.S. Base Rate. We will advise you from time to time of any changes in the blended payment necessary to maintain the original amortization period, should we chose to do so.

- (ii) **Payments of fixed principal plus interest.** If you have a Floating Rate Loan that has regular principal payments, plus interest, the principal payment amount of your Loan is due on the payment date specified in the Agreement. Although the principal payment amount is fixed, your interest payment will usually be different each month, for at least one and possibly more reasons, namely: the reducing principal balance of your loan, the number of days in the month, and changes to the Prime Rate or U.S. Base Rate (as the case may be).

- (c) **Demand of Fixed Rate Demand Non-Revolving Loans.** If you have a Fixed Rate Demand Non-Revolving Loan and we make demand for payment, you will owe us (i) all outstanding principal, (ii) interest, (iii) any other amount due under this Agreement, and (iv) a prepayment charge. The prepayment charge is equal to the greater of three (3) months interest calculated on the unpaid balance at the rate authorized or the Bank's Unwinding Costs.

## ARTICLE 2 – DEFINITIONS

2.1. **Definitions.** In this Agreement, the following terms have the following meanings:

"**Agreement**" means the letter agreement between you and Canadian Western Bank to which this Schedule and any other Schedules are attached.

"**Business Day**" means any day (other than a Saturday or a Sunday) that the CWB Branch/Centre is open for business.

"**Cash Flow Coverage Ratio**" means for any fiscal year the ratio of X to Y where:

X =  
Net profit after tax  
+ amortization/depreciation  
+ all interest expenses  
+ all taxes  
= EBITDA

Y =  
All interest paid or accrued during the trailing fiscal year + the Borrower's actual principal payment obligations for the trailing fiscal year under the CWB credit facility and any other document or agreement including without limitation:

- o in respect of any indebtedness for borrowed money as classified in the balance sheet of the Borrower and in accordance with generally accepted accounting principals; and
- o in respect of any capital lease in accordance with generally accepted accounting principles entered into by the Borrower.

"**Current Assets**" are cash, accounts receivable, inventory and other assets that are likely to be converted into cash, sold, exchanged or expended in the normal course of business within one year or less, excluding amounts due from related parties.

"**Current Liabilities**" means debts that are or will become payable within one year or one operating cycle, whichever is longer, excluding amounts due to related parties, and which will require Current Assets to pay. They usually include accounts payable, accrued expenses, deferred revenue and the current portion of long-term debt.

"**Current Ratio**" means the ratio of Current Assets to Current Liabilities.

"**Customer Automated Funds Transfer (CAFT)**" is a WEB based service that provides non-personal customers the ability to make multiple electronic transactions for purposes of direct deposit for payroll or direct payment of accounts payable.

"**CWB Branch/Centre**" means the Canadian Western Bank branch or banking centre noted on the first page of this Agreement, as changed from time to time by agreement between the parties.

"**CWBdirect**" is a service available to allow customers the capability to access their bank accounts and general banking information using a personal computer with via the internet.

"**Debt to Tangible Net Worth Ratio**" means the ratio of Debt to Tangible Net Worth, where:

- (a) Debt is defined as: all liabilities listed on the balance sheet less loans from shareholders or affiliates where the bank has a registered postponement of claim. The after tax portion of management bonuses not yet re-invested as shareholders' loans may be excluded from debt where written confirmation has been obtained from the borrower regarding the re-investment.
- (b) Tangible Net Worth is defined as: the aggregate of share capital, retained earnings, shareholder and affiliated company loans specifically postponed to the Bank, less intangible assets such as goodwill, investments in and advances to affiliated companies and any other asset determined by the Bank to be intangible. The after tax portion of management bonuses not yet re-invested as shareholders' loans may be included in tangible net worth where written confirmation has been obtained

from the borrower regarding the re-investment and providing these loans are specifically postponed to the Bank.

"**Demand Non-Revolving Loan**" means an instalment loan that is payable upon demand. Such a Loan may be either at a fixed or a floating rate of interest.

"**Fixed Rate Loan**" means any loan drawn down, converted or extended under a Loan at an interest rate which was fixed for a term, instead of referenced to a floating rate such as the Prime Rate or U.S. Base Rate, at the time of such drawdown, conversion or extension.

"**Intangibles**" means assets of the business that have no value in themselves but represent value. They include such things as copyright, goodwill, patents and trademarks; franchises, licenses, leases, research and development costs, and deferred development costs.

"**Letter of Credit**" or "**L/C**" means a documentary or stand-by Letter of Credit, a Letter of Guarantee, or a similar instrument in form and substance satisfactory to us.

"**Lien**" includes a mortgage, charge, lien, security interest or encumbrance of any sort on an asset, and includes conditional sales contracts, title retention agreements, capital trusts and capital leases.

"**Loan**" means any loan segment referred to in the Agreement and if there are two or more segments, "Loan" includes reference to each segment.

"**Loan Amount**" of any Loan means the amount specified in the Agreement and if there are two or more segments, "Loan Amount" includes reference to each segment.

"**Mandatory Capital Expenditures**" means net capital expenditures incurred by you not financed by long term debt. Net capital expenditures means all capitalized fixed asset purchases less fixed asset sales.

"**Monthly Statement of Borrowing Limit**" means the CWB form 1099 by that name, as it may from time to time be changed.

"**Normal Course Lien**" means a Lien that (a) arises by operation of law or in the ordinary course of business as a result of owning any such asset (but does not include a Lien given to another creditor or to secure debts owed to that Loan) and (b) taken together with all other Normal Course Liens, does not materially affect the value of the asset or its use in the business.

"**Operating Account**" means the account that you normally use for the day-to-day cash needs of your business, and may be either or both of a Canadian dollar and a U.S. dollar account.

"**Postponed Debt**" means any debt owed by you that has been formally postponed to the Bank.

"**Principal Sum**" means the loan balance outstanding.

"**Priority Claims**" means priorities that are created when a borrower does not remit monies due for Income Tax, Workers Compensation, Canada Pension Plan, Employment Insurance, GST, Provincial Sales Tax, wage claims including unpaid holiday entitlement, unpaid utility bills and arrears of rent for business premises. These are considered to be deemed trust and rank in priority to all security interests.

"**Prime Rate**" means the variable reference rate of interest per year declared by the Bank from time to time to be its Prime rate for Canadian dollar loans made by the Bank in Canada.

"**Purchase Money Lien**" means a Lien incurred in the ordinary course of business only to secure the purchase price of an asset, or to secure debt used only to finance the purchase of the asset.

"**Shareholders' Equity**" means paid-in capital, retained earnings and attributed or contributed surplus.

"**Standard Overdraft Rate**" means the variable reference interest rate per year declared by the Bank from time to time to be its standard overdraft rate on overdrafts in Canadian or U.S. dollar accounts maintained with the Bank in Canada.

**"Unwinding Costs"** means the costs the Bank incurs when a fixed rate loan is paid out early. The unwinding costs are based on an interest rate differential between the loan rate and the bid side yield for Government of Canada securities with the same maturity as the loan, for the remaining term of the loan at the time of repayment.

**"U.S. Base Rate"** means the variable reference rate of interest per year as declared by the Bank from time to time to be its base rate for U.S. dollar loans made by the Bank in Canada.

This is Exhibit "C" referred to in the Affidavit of  
**ROD RANDALL**  
Sworn on July 14, 2022

A handwritten signature in blue ink that reads "K. Sunshine". The signature is written in a cursive style with a long horizontal flourish at the end.

---

A commissioner, etc.

**KALEIGH SONSHINE, LSO#70105T**



**THIS GENERAL SECURITY AGREEMENT DATED** April 05, 2022

**BRANCH ADDRESS:**

7303 Warden Avenue, Markham, ON L3R 5Y6

**1. DEFINITIONS**

The following definitions shall apply herein:

- (a) "Act" means the Personal Property Security Act of the Province/Territory of ONTARIO in effect on the date hereof;
- (b) "Accessions", "Account", "Chattel Paper", "Consumer Goods", "Document of Title", "Equipment", "Financing Change Statement", "Financing Statement", "Goods", "Instrument", "Intangible", "Inventory", "Money", "Purchase Money Security Interest", "Security", "Securities Account" and "Security Entitlement" shall have the meanings ascribed to them in the Act and shall be deemed to include both the singular and plural of such terms. All other capitalized words or terms used herein, unless otherwise defined herein, shall have the meanings ascribed to them in the Act and the Regulations passed pursuant thereto;
- (c) "Agreement", "herein", and similar expressions refer to the whole of this Security Agreement and not to any particular section or other portion thereof and extend to and include every instrument which amends or supplements this Agreement;
- (d) "Bank" means **CANADIAN WESTERN BANK**;
- (e) "Collateral" means all present and after-acquired personal property and Real Property of the Debtor of whatever kind and wherever situate, including, without limiting the generality of the foregoing, those specific items, if any, described on the attached Schedule "A", and all other related, attached collateral schedules and all documents, writings, papers, books of account and records relating to the foregoing and all rights and interests therein, but shall not include:
  - (i) the last day of any term of years reserved by any lease, verbal or written, or any agreement therefore now or hereafter held by the Debtor, it being the intention that the Debtor shall stand possessed of the reversion remaining in respect of any leasehold interest forming part of the Collateral upon trust to assign and dispose thereof as the Bank may after default direct;
  - (ii) Consumer Goods, or
  - (iii) those specific items, if any, described on the attached Schedule "B";
- (f) "Debtor" means:  
2722959 ONTARIO LTD.  
  
4544 Eastgate Parkway  
Mississauga, ON L4W 3W6
- (g) "Default" means the happening of any one or more of the events or conditions described in section 7 and such term shall be deemed to include each, any, or all such events or conditions, whether any such event is voluntary or involuntary or is effected by operation of law or pursuant to or in compliance with any judgement, decree or order of any Court or any order, rule or regulation of any administrative or governmental body;

- (h) "Indebtedness" means and includes any and all obligations, indebtedness and liability of the Debtor to the Bank, (including but not limited to principal, interest and all costs on a full indemnity basis) present or future, direct or indirect, absolute or contingent, matured or not, extended or renewed, wherever and however incurred, together with any ultimate unpaid balance thereof, whether the same is from time to time reduced and thereafter increased or entirely extinguished and thereafter incurred again, and whether the Debtor is bound alone or with another or others and whether as principal or surety;
- (i) "Permitted Encumbrances" means those specific security interests, if any, whether by way of mortgage, lien, claim, charge or otherwise, listed on Schedule "A" or hereafter approved in writing by the Bank prior to their creation or assumption:
- (j) "Proceeds" shall have the meaning ascribed to it in the Act and shall be interpreted to include bank accounts, cash, trade-ins, Equipment, notes, Chattel Paper, Goods, contractual rights, Accounts and any other personal property or obligation received when Collateral or Proceeds thereof are sold, exchanged, collected or otherwise disposed of;
- (k) "Real Property" means all of the Debtor's right, title and interest in and to all its presently owned or held and after acquired or held real, immovable and leasehold property and all interests therein, and all easements, right-of-way, privileges, benefits, licenses, improvements and rights whether connected therewith or appurtenant thereto or separately owned or held, including all structures, plant and other fixtures;
- (l) "Receiver" means any one or more persons (whether officers of the Bank or not), firms or corporations appointed pursuant to subsection 9(f) and shall be deemed to include a receiver, manager, receiver-manager, or receiver and manager;
- (m) "Security Interest" means the security interest and the floating charge granted by the Debtor to the Bank pursuant to this Agreement; and
- (n) "Specifically Described Collateral" means those items, if any, described in Schedule "A" which comprise part of the Collateral.

## **2. GRANT OF SECURITY INTEREST**

For value received (the receipt and sufficiency of which is hereby acknowledged):

- (a) the Debtor hereby grants, assigns, conveys, mortgages, pledges and charges, as and by way of a specific mortgage, pledge and charge and grants a continuing Security Interest to and in favor of the Bank in the Collateral (other than Real Property); and
- (b) the Debtor hereby charges the Real Property as and by way of a floating charge.

## **3. INDEBTEDNESS SECURED**

The Security Interest secures payment and satisfaction of the Indebtedness; provided however, that if the Security Interest in the Collateral is not sufficient to satisfy the Indebtedness of the Debtor in full, the debtor agrees that the Debtor shall continue to be liable for any Indebtedness remaining outstanding and the Bank shall be entitled to pursue full payment and satisfaction thereof.

## **4. ATTACHMENT OF SECURITY INTEREST**

The Security Interest shall attach to the Collateral at the earliest possible moment in accordance with the Act, there being no intention on the part of the Debtor and the Bank that it attach at any later time.

## **5. REPRESENTATIONS AND WARRANTIES OF THE DEBTOR**

The Debtor represents and warrants, and as long as this Agreement remains in effect shall be deemed to continuously represent and warrant, that:

- (a) the Debtor, if a natural person, is of legal age and, if a corporation, is duly organized, existing and in good standing under the laws of its incorporating jurisdiction and of each other jurisdiction in which the nature of its activities make such necessary;
- (b) the Debtor has the right, power and authority to enter into this Agreement and to grant the Security Interest;
- (c) the execution, delivery and performance of this Agreement have been duly authorized by all necessary corporate action and are not in contravention of any instrument by which the Debtor has been incorporated or continued, any instrument amending any such instrument, any internal regulation of the Debtor, any law, or any indenture, agreement or undertaking to which the Debtor is a party or by which it is bound;
- (d) the Debtor has not previously carried on business, does not currently carry on business, and shall not, without the prior written consent of the Bank, in the future carry on business under any name other than the name set forth in paragraph 1(f);
- (e) the Collateral is genuine and is legally and beneficially owned by the Debtor free of all security interests except for the Security Interest and the Permitted Encumbrances;
- (f) the description of the Specifically Described Collateral, whether contained herein or provided elsewhere the Debtor to the Bank, is complete and accurate and all serial numbers affixed or ascribed to any of the Collateral have been provided to the Bank;
- (g) each Chattel Paper, Intangible and Instrument constituting Collateral is enforceable in accordance with its terms against the party obligated to pay the same ("Account Debtor"), the amount represented by the Debtor to the Bank from time to time as owing by each Account Debtor shall be the correct amount owing unconditionally by such Account Debtor, and no Account Debtor shall have any defence, set-off, claim or counterclaim against the Debtor which can be asserted against the Bank, whether in any proceedings to enforce the Collateral or otherwise;
- (h) the locations specified in the attached Schedule "C" as to business operations and records are accurate and complete and, except for Goods in transit to such locations and Inventory on lease or consignment, all Collateral shall be situate at one of such locations;
- (i) all financial statements, certificates and other information concerning the Debtor's financial condition or otherwise from time to time furnished by the Debtor to the Bank are and shall be in all respects complete, correct and fair representations of the affairs of the Debtor stated in accordance with generally accepted accounting principles applied on a consistent basis;
- (j) there has not been and shall not be a material adverse change in the Debtor's position, financial or otherwise, from that indicated by the financial statements which have been delivered to the Bank;
- (k) there are no actions, suits or proceedings pending or, to the knowledge of the Debtor, threatened against the Debtor except as have been disclosed in writing to and approved by the Bank; and
- (l) none of the Collateral is or shall be Consumer Goods.



**6. COVENANTS OF THE DEBTOR**

The Debtor covenants:

- (a) to defend the Collateral against the claims and demands of all other parties claiming the same or an interest therein and to keep the Collateral free from all security interests except for the Security Interest and the Permitted Encumbrances:
- (b) except as expressly permitted herein, not to sell, exchange, transfer, assign, destroy, lease or otherwise dispose of the Collateral or any interest therein without the prior written consent of the Bank;
- (c) except as expressly permitted herein, not to move the Collateral from its current location, as indicated on Schedule "C", without the prior written consent of the Bank;
- (d) to assemble and deliver the Collateral to the Bank at such location as the Bank may direct;
- (e) to notify the Bank promptly in writing of:
  - (i) any change in the information contained in this Agreement including any information relating to the Debtor (including its name), the Debtor's business, the Collateral, or the locations of the Collateral or the records of the Debtor, so that the Bank shall be constantly advised of all places where the Debtor conducts its business, maintains the Collateral and maintains its records,
  - (ii) the details of any significant acquisition of Collateral (including serial numbers where required under the Act in connection with registration or as otherwise requested by the Bank), and for the purposes of this Agreement "significant" shall mean any item or items the value of which exceeds in the aggregate \$5,000.00,
  - (iii) the removal of any of the Collateral to any jurisdiction in which any registration of, or in respect of, this Agreement may not be effective to protect the Security Interest, and in the case of such removal to provide the Bank with a written certificate stating the time of removal, what is being removed and the intended new locality of such Collateral, and to assist the Bank in effecting such further registrations as may be required by the Bank to protect its Security Interest; provided however that this provision shall not be construed as a waiver of any prohibition against removal or relocation of Collateral contained elsewhere in this Agreement, nor shall it be construed as permission to do so,
  - (iv) the details of any claims or litigation affecting the Debtor or the Collateral,
  - (v) any loss or damage to the Collateral,
  - (vi) any Default by an Account Debtor in payment or other performance of its obligations with respect to any Collateral, and
  - (vii) the return to or repossession by the Debtor of any Collateral;
- (f) to keep all of its property, including the Collateral, in good order, condition and repair and not to use the Collateral in violation of the provisions of this Agreement or any other agreement relating to the Collateral or any policy insuring the Collateral or any applicable statute, law, by-law, rule, regulation or ordinance having jurisdiction over the same;

- (g) to execute, acknowledge and deliver such further agreements and documents supplemental hereto (including financing statements, further schedules to this Agreement, assignments and transfers) and to do all acts, matters and things as may be requested by the Bank in order to give effect to this Agreement and to perfect the Security Interest, including but not limited to any of the same which may be required to correct or amplify the description of any Collateral or for any other purpose not inconsistent with the terms of this Agreement;
- (h) to pay all costs and expenses on a full indemnity basis (including legal fees as between a solicitor and his own client) incidental to:
  - (i) the preparation, execution and filing of this Agreement,
  - (ii) maintaining, protecting and defending the Collateral, the Security Interest, and all of the Bank's rights and interest arising pursuant to this Agreement, and
  - (iii) the exercise of any rights or remedies of the Bank pursuant to this Agreement, including but not limited to the costs of the appointment of a Receiver and all expenditures incurred by such Receiver, the cost of any sale proceedings (whether the same prove abortive or not), and all costs of inspection, and all other costs and expenses incurred by the Bank in connection with or arising out of, directly or indirectly, this Agreement, all without limitation. All such costs and expenses shall be payable by the Debtor immediately upon demand from the Bank and until paid shall bear interest from the date incurred by the Bank at the highest rate of interest then chargeable by the Bank to the Debtor on any of the Indebtedness. The amount of all such costs and expenses shall be added to the Indebtedness and shall be secured by this Agreement;
- (i) to punctually pay and discharge all taxes, rates, levies, assessments and other charges of every nature which might result in any lien, encumbrance, right of distress, forfeiture or termination or sale, or any other remedy being enforced against the Collateral and to provide to the Bank satisfactory evidence of such payment and discharge;
- (j) to maintain its corporate existence, and to diligently preserve all its rights, licenses, powers, privileges, franchises and goodwill;
- (k) to observe and perform all of its obligations and comply with all conditions under leases, licenses and other agreements to which it is a party or pursuant to which any of the Collateral is held;
- (l) to carry on and conduct its business in an efficient and proper manner so as to preserve and protect the Collateral and income therefrom;
- (m) to keep, in accordance with generally accepted accounting principles consistently applied, proper books of account and records of all transaction in relation to its business and the Collateral;
- (n) to observe and conform to all valid requirements of law and of any governmental or municipal authority relating to the Collateral or the carrying on by the Debtor of its business;
- (o) at all reasonable times, to allow the Bank access to its premises in order to view the state and condition of its property and to inspect its books and records and make extracts therefrom;
- (p) to insure the Collateral for such periods, in such amounts, on such terms, with such insurers and against such loss or damage by fire and other such risks as the Bank reasonably directs, with loss payable to the Bank and the Debtor as insureds, as their respective interests may appear, to pay all premiums therefor, to deliver evidence of the same on request, and to do all acts necessary to obtain payment to the Bank of any insurance proceeds;

- (q) to prevent the Collateral from being or becoming an Accession or a fixture to other property not covered by this Agreement or other security granted by the Debtor in favor of the Bank;
- (r) to deliver to the Bank from time to time promptly upon request:
  - (i) any Documents of Title, Instruments, Securities, Security Entitlements, Securities Account and Chattel Paper constituting the Collateral,
  - (ii) all books of account and all records, ledgers, reports, correspondence, schedules, documents, statements, lists and other writings relating to the Collateral,
  - (iii) all financial statements prepared by or for the Debtor regarding its business, or, where the Debtor is an individual, all tax returns and such personal financial statements as the Bank may request,
  - (iv) all policies and certificates of insurance relating to the Collateral, and
  - (v) such further information concerning the Collateral, the Debtor and the Debtor's business and affairs as the Bank may request;
- (s) not to change the present use of the Collateral; and
- (t) to comply with all other requirements of the Bank, whether in the nature of positive or negative covenants, as may be communicated by the Bank to the Debtor from time to time, including but not limited to those additional covenants, terms and conditions, if any, contained on the attached Schedule "D".

## 7. EVENTS OF DEFAULT

The following constitute Default:

- (a) non-payment when due, whether by acceleration or otherwise, of any principal or interest forming part of the Indebtedness;
- (b) failure of the Debtor to perform or observe any obligation, covenant, term, provision or condition contained in this Agreement or any other agreement, security instrument or other document made by the Debtor with or in favor of the Bank or any other person, firm or corporation;
- (c) the death of or declaration of incompetency by a Court of competent jurisdiction with respect to the Debtor, if an individual;
- (d) the Debtor becomes insolvent or makes a voluntary assignment or proposal in bankruptcy or otherwise acknowledges its insolvency, a bankruptcy petition is filed or presented against the Debtor, the making of an authorized assignment for the benefit of the creditors of the Debtor, the appointment of a receiver, receiver-manager, receiver and manager or trustee for the Debtor or any assets of the Debtor, or the institution by or against the Debtor of any other type of insolvency proceeding under the Bankruptcy and Insolvency Act, Companies Creditors Arrangement Act or similar legislation in any jurisdiction;
- (e) any act, matter or thing being done toward, or the commencement of any action or proceeding for, terminating the corporate existence of the Debtor, or if the Debtor is a partnership, the existence of the partnership, whether by way of winding-up, surrender of charter or otherwise;

- (f) any encumbrance or security interest affecting the Collateral becomes enforceable;
- (g) the Debtor ceases or threatens to cease to carry on its business or makes or proposes to make a bulk sale of its assets or any sale of the Collateral other than as expressly permitted herein;
- (h) any execution or other process of any Court becomes enforceable against the Debtor or a distress or analogous process is levied upon the assets of the Debtor or any part thereof (whether or not forming part of the Collateral);
- (i) the Debtor permits any amount which has been admitted as due by it or is not disputed to be due by it and which forms, or is capable of being made, a charge upon the Collateral in priority to, or *pari passu* with, the charge created by this Agreement to remain unpaid for 30 days after proceedings have been taken to enforce the same;
- (j) the Debtor allows any amount outstanding from it to the Crown pursuant to any federal, provincial or territorial statute to remain unpaid for 30 days or more;
- (k) a corporate dispute occurs within the Debtor, if a corporation, (whether between or among its shareholders, directors, officers, employees or otherwise) which may hamper the business operations of the Debtor or otherwise adversely affect, in the sole opinion of the Bank, the Debtor's business assets or the Collateral;
- (l) any representation or warranty furnished by or on behalf of the Debtor pursuant to or in connection with this Agreement (regardless of the form thereof or whether contained herein or elsewhere), whether as an inducement to the Bank to extend any credit to or to enter into this or any other agreement with the Debtor or otherwise proves to have been false or misleading as of the day made in any material respect or to have omitted any substantial contingent or unliquidated liability or claim against the Debtor;
- (m) there is any material adverse change in any of the facts disclosed to the Bank, in the Debtor's position (financial or otherwise), or in the nature and value of the Collateral; or
- (n) the Bank considers or deems, in its sole opinion, that the Security Interest and the Collateral are not sufficient security in relation to the extent of the Indebtedness.

For the purposes of Section 198.1 of the Land Title Act (British Columbia), the floating charge created by this Security Agreement over Real Property shall become a fixed charge thereon upon the earlier of:

- (a) the occurrence of an event described in clause 7(d), (e), (f), (g), or (h); or
- (b) the Bank taking any action pursuant to clause 9 to enforce and realize on the Security Interests created by this Security Agreement.

## **8. ACCELERATION/DEFAULT**

- (a) In the event of Default the Bank, in its sole discretion, may declare all or any part of the Indebtedness which is not by its terms payable on demand to be immediately due and payable, without demand or notice of any kind. The provisions of this clause shall not in any way affect any rights of the Bank with respect to any Indebtedness which may now or hereafter be payable on demand.

- (b) In the event of early payout, in whole or in part, the Debtor shall pay the Bank a prepayment charge equal to the greater of three months interest on the amount of the prepayment calculated at the rate of interest payable on the loan or the Bank's unwinding costs consisting of the interest rate differential calculated by the Bank based on the difference between the interest rate on the loan being prepaid and the bid side yield on Government of Canada securities for a comparable term. Notwithstanding the foregoing, the terms of any early payout provisions and prepayment charges agreed upon in a commitment letter signed by the Debtor and the Bank shall take precedence over the early payout and prepayment charges provided for in this subsection.

## 9. REMEDIES

Upon Default the Bank shall have the following rights and powers, which the Bank may exercise immediately:

- (a) to enter upon the premises of the Debtor or any other premises where the Collateral may be situated and to take possession of all or any part of the Collateral, by any method permitted by law, to the exclusion of all others, including the Debtor, its directors, officers, agents and employees, and the Debtor hereby waives and releases the Bank and any Receiver from all claims in connection therewith or arising therefrom;
- (b) to remove all or any part of the Collateral to such place as the Bank deems advisable;
- (c) to preserve and maintain the Collateral and to do all such acts incidental thereto as the Bank considers advisable, including but not limited to making replacements and additions to the Collateral;
- (d) to collect, demand, sue on, enforce, recover and receive Collateral and give receipts and discharges therefor, and may do any such act and take any proceedings related thereto in the name of the Debtor or otherwise as the Bank considers appropriate;
- (e) to sell, lease, or otherwise dispose of the Collateral in such manner, at such time or times and place or places, for such consideration and upon such terms and conditions as the Bank deems reasonable (including without limitation, by deferred payment) all in the Bank's absolute discretion and without the concurrence of the Debtor; provided however, that the Bank shall not be required to do so and it shall be lawful for the Bank to use and possess the Collateral for any and all purposes and in any manner the Bank sees fit, all without hindrance or interruption by the Debtor or any other person or persons, provided however that none of the foregoing shall prejudice the Bank's right to pursue the Debtor for recovery in full of the amount of the Indebtedness, including the amount of any deficiency owing after the application of the proceeds of realization (and to the extent permitted by laws, the Debtor waives its rights to the protection afforded by any rule of law or legislation respecting such deficiency);
- (f) to appoint by instrument in writing, with or without bond, or by application to any Court of competent jurisdiction, a Receiver of the Collateral and to remove any Receiver so appointed and appoint another or others in his stead. Any such Receiver shall, so far as concerns responsibility for his acts, be deemed the agent of the Debtor and not of the Bank and the Bank shall not be in any way responsible for any misconduct, negligence or non-feasance on the part of any such Receiver, his agents, servants or employees. Subject to the provisions of the instrument appointing him, any such Receiver shall have the power to take possession of the Collateral, to preserve the Collateral or its value, to carry on or concur in carrying on all or any part of the business of the Debtor and to sell, lease or otherwise dispose of or concur in selling, leasing or otherwise disposing of the Collateral (including disposition by way of deferred payment). To facilitate the foregoing powers, any such Receiver may, to the exclusion of all others including the Debtor, enter upon, use and occupy all premises owned or occupied by the Debtor where Collateral may be situated, to employ and discharge such employees, agents or professional advisors as the Receiver deems advisable, to enter into such compromises, arrangements or settlements as the Receiver deems advisable, to borrow or otherwise raise money on the security of the Collateral and to issue Receiver's certificates and do all such other acts as the Receiver deems advisable in connection with any of the powers referred to herein. Except as may be otherwise directed by the Bank, all monies received from time to time by the Receiver in carrying out

his appointment shall be received in trust for and paid over to the Bank. In addition, every Receiver may, in the discretion of the Bank, be vested with all or any of the rights and powers of the Bank under the Act or any other applicable legislation or under this Agreement or any other agreement;

- (g) to rescind or vary any contract for sale, lease or other disposition that the Debtor or the Bank may have entered into and to resell, release or redispense of the Collateral;
- (h) to deliver to any purchasers of the Collateral good and sufficient conveyances or deeds for the same free and clear of any claim by the Debtor. For such purposes, the purchaser or lessee receiving any disposition of the Collateral need not inquire whether Default under this Agreement has actually occurred but may as to this and all other matters rely upon a statutory declaration of an officer of the Bank, which declaration shall be conclusive evidence as between the Debtor and such purchaser or lessee, and any such disposition shall not be affected by any irregularity of any nature or kind relating to the enforcement of this Agreement or the exercise of the rights and remedies of the Bank;
- (i) to exercise any of the powers and rights given to a Receiver pursuant to this Agreement;
- (j) to provide written notice to the Debtor that all the powers, functions, rights and privileges of the directors and officers of the Debtor with respect to the Collateral, business and undertaking of the Debtor have or shall cease as of the date notified therein, except to the extent specifically continued at any time by the Bank in writing; and
- (k) to take the benefit of or to exercise any other right, proceeding or remedy authorized or permitted at law or in equity, whether as a secured party pursuant to the Act as the same is in force from time to time or otherwise.

All rights and remedies of the Bank are cumulative and may be exercised at any time and from time to time independently or in combination. No delay or omission by the Bank in exercising any right or remedy shall operate as a waiver thereof or of any other right or remedy, and no singular partial exercise thereof shall preclude any other or further exercise thereof or the exercise of any other right or remedy. Provided always that the Bank shall not be liable or accountable for any failure to exercise its remedies, take possession of, collect, enforce, realize, sell, maintain, lease or otherwise dispose of the Collateral, or to institute any proceedings for such purposes. The Bank shall have no obligation to take any steps to preserve rights against other parties, shall have no obligation to exercise any of the rights and remedies available to it on Default and shall not be liable or accountable for not exercising any such rights and remedies.

The Bank may waive any Default but no such waiver shall be effective unless made in writing and signed by an authorized officer of the Bank. Any such waiver shall not extend to, or be taken in any manner whatsoever to affect, any subsequent Default or the rights resulting therefrom.

By its acceptance of this Agreement, the Bank acknowledges that it shall not, except in the case of the bankruptcy of the Debtor, enforce this Security Agreement against any personal property of the Debtor used solely for the personal or household use and enjoyment of the Debtor or the Debtor's immediate family.

## **10. BANK MAY REMEDY DEFAULT**

The Bank shall have the right, but shall not be obliged to, remedy any default of the Debtor and all sums thereby expended by the Bank shall be payable immediately by the Debtor, together with interest thereon at the highest rate of interest then chargeable by the Bank to the Debtor on any portion of the Indebtedness. All such sums shall be added to the Indebtedness and shall be secured by this Agreement.

In no case shall the exercise of the Bank's rights pursuant to this Section 10 be deemed to relieve the Debtor from such Default or be deemed a waiver of such Default or of any other prior or subsequent Default.

## 11. USE OF COLLATERAL

Subject to compliance with the Debtor's covenants contained herein and to the following provisions of this Section 11, until Default the Debtor may:

- (a) in the case of Equipment, dispose of the same for the purpose of immediately replacing it by other Equipment of a similar nature or of a more useful or convenient character and of at least equal value;
- (b) in the case of Inventory and Money, dispose of the same in the ordinary course of the business of the Debtor and for the sole purpose of carrying on the same; and
- (c) otherwise possess, collect, use, enjoy and deal with the Collateral in the ordinary course of the Debtor's business in any manner not expressly or impliedly prohibited herein or otherwise inconsistent with the provisions of this Agreement.

Notwithstanding the foregoing:

- (a) before or after Default the Bank may notify all or any Account Debtors and may direct such Account Debtors to make all payments owed in respect of the Collateral directly to the Bank; and
- (b) the Debtor agrees that any payments on or other Proceeds of Collateral received by the Debtor, whether before or after Default, shall be received and held by the Debtor in trust for the Bank and shall be turned over to the Bank upon request.

If the Collateral at any time includes Securities, the Debtor authorizes the Bank to transfer the same or any part thereof into its own name or that of its nominees so that the Bank or its nominees may appear on record as the sole owner thereof; provided however that until Default the Bank shall deliver to the Debtor all notices or other communications received by it or its nominees as registered owner and upon demand and receipt of payment of any necessary expenses shall issue to the Debtor or its order a proxy to vote and take all action with respect to such Securities. However, after Default the Debtor waives all rights to receive any notices or communications in respect of such Securities and agrees that no proxy issued by the Bank to the Debtor or its order as aforesaid shall thereafter be effective.

## 12. APPROPRIATION OF PAYMENTS

All payments made at any time in respect of the Indebtedness and all Proceeds realized from any Securities held therefor may be applied (and reapplied from time to time notwithstanding any previous application) in such manner as the Bank sees fit or, at the option of the Bank, may be held unappropriated in a collateral account or released to the Debtor all without prejudice to the rights of the Bank hereunder, including the Bank's right to collect from the Debtor the amount of any deficiency remaining after application of all such payments and Proceeds.

## 13. POWER OF ATTORNEY AND AUTHORIZATION TO FILE

The Debtor hereby authorizes the Bank to file such Financing Statements and other documents and do such acts, matters and things (including completing and adding schedules to this Agreement indentifying Collateral or location) as the Bank from time to time deems appropriate to perfect, continue and realize upon the Security Interest and to protect and preserve the Collateral. In addition, for valuable consideration, the Debtor hereby irrevocably appoints the Bank and its officers from time to time, or any one or more of them, to be the true and lawful attorney of the Debtor, with full power of substitution, in the name of and on behalf of the Debtor to execute and to do all deeds, transfers, conveyances, assignments,

assurances, and other things which the Debtor ought to execute and do under the covenants and provisions contained in this Agreement and generally to use the name of the Debtor in the exercise of all or any of the rights, remedies and powers of the Bank.

#### 14. MISCELLANEOUS

- (a) The Bank may grant extensions of time and other indulgences, take and give up security, accept compositions, compound, comprise, settle, grant releases and discharges and otherwise deal with the Debtor, debtors of the Debtor, sureties and others and with the Collateral and other securities as the Bank sees fit, all without prejudice to the liability of the Debtor to the Bank or to the Bank's rights in respect thereof. In addition, the Bank may demand, collect, and sue on the Collateral in either the Debtor's or the Bank's name, all at the Bank's option, and may endorse the Debtor's name on any and all cheques, commercial paper and other Instruments pertaining to or constituting the Collateral.
- (b) Neither the execution or registration of this Agreement, nor the advance or readvance of part of the monies hereby intended to be secured, shall bind the Bank to advance or readvance the said monies or any unadvanced part thereof. The advance or readvance of the said monies or any part thereof from time to time shall be in the sole discretion of the Bank.
- (c) The Debtor hereby waives protest of any Instrument constituting Collateral at any time held by the Bank on which the Debtor is in any way liable and, except as expressly prohibited by law, waives notice of any other action taken by the Bank.
- (d) Without limiting any other right of the Bank, whenever the Indebtedness is due and payable or the Bank has the right to declare it to be due and payable (whether or not it has been so declared), the Bank may, in its sole discretion, set off against the Indebtedness any and all monies then owed to the Debtor by the Bank in any capacity, whether or not due, and the Bank shall be deemed to have exercised such right to set-off immediately at the time of making its decision to do so even though any charge therefor is made or entered on the Bank's records subsequent thereto.
- (e) In any action brought by an assignee of this Agreement and the Security Interest or any part thereof to enforce any rights hereunder, the Debtor shall not assert against such assignee any claim or defence which the Debtor now has or may hereafter have against the Bank.

#### 15. NOTICE

In addition to the notice provisions contained in the Act, whenever the Debtor or the Bank is required or entitled to notify or direct the other or to make a demand or request upon the other, such notice, direction, demand or request shall be in writing and shall be sufficiently given only if delivered, transmitted by facsimile, or sent by prepaid registered mail addressed to the party for whom it is intended at the Branch Address, in the case of the bank, and at the Debtor Address, in the case of the Debtor, as set out herein or as changed pursuant hereto. Either party may notify the other of any change in such party's address to be used for the purposes hereof. All such communications shall, in the case of delivery or facsimile, be deemed received on the date of delivery and, if mailed as aforesaid, shall be deemed received on the third business day following the date of posting. In the case of a disruption in postal service all such communications shall be delivered or transmitted by facsimile.

#### 16. INTERPRETATION

- (a) This Agreement shall be governed by and construed in accordance with the laws of the Province/ Territory of ONTARIO.
- (b) This Agreement and the security afforded by it is in addition to and not in substitution for any other security now or hereafter held by the Bank and is intended to be a continuing security agreement and shall remain in full force and effect until released in writing by the Bank. The Bank shall have no obligation to provide such release unless and until the full amount of the Indebtedness has been paid in full.



- (c) If any provision of this Agreement is held invalid, in whole or in part, by any Court of competent jurisdiction, the remaining terms and provisions of this Agreement shall remain in full force and effect and this Agreement shall be enforced to the fullest extent permitted by law.
- (d) The Debtor hereby waives the benefit of all statutory, common law and equitable rights, benefits and provisions which in any way limit or restrict the Bank's rights and remedies, to the extent that such waiver is not expressly prohibited by law. The Debtor acknowledges and agrees that the Bank shall have the right to recover the full amount of the indebtedness by all lawful means, including the right to seek recovery of any deficiency remaining after the sale of the Collateral, including any sale thereof to the Bank.
- (e) The headings of the sections of this Agreement are inserted for convenience of reference only and shall not affect or limit the construction or interpretation of this Agreement.
- (f) All schedules, whether attached hereto on the date hereof or subsequently attached pursuant to the provisions of this Agreement, form part of this Agreement. With the exception of any schedules which may be added hereafter by the Bank without the concurrence of the Debtor pursuant to the provisions of this Agreement, no modification, variation or amendment of this Agreement shall be made except by a written agreement executed by the Debtor and the Bank.
- (g) When the context so requires, words importing the singular number shall be read to include the plural and vice versa, and words importing gender shall be read with all grammatical changes necessary to reflect the identity of the parties.
- (h) This Agreement shall enure to the benefit of the Bank, its successors and assigns and shall be binding upon the Debtor, its personal representatives, administrators, successors and permitted assigns.
- (i) Time shall be in all respects of the essence of this Agreement.

## **17. RECEIPT OF DOCUMENTS**

- (a) The Debtor hereby acknowledges receiving a copy of this Agreement.
- (b) The Debtor hereby waives its right to receive a copy of any Financing Statement, Financing Change Statement or verification statement which may be filed by or issued to the Bank pursuant to the Act.


IN WITNESS WHEREOF the Debtor has executed this Agreement as of the day and year first above written.

**2722959 ONTARIO LTD.**

Name: Gemma Runaghan

*Corporate Seal  
If Applicable*

Title: President

Signature: 

**Debtor Address:**

4544 Eastgate Parkway, Mississauga, ON L4W 3W6

## **SCHEDULE "A"**

### **1. SPECIFICALLY DESCRIBED COLLATERAL**

(a) Serial Number Goods

Make, Model, Year of Manufacture, Serial Number

(b) Other

### **2. PURCHASE MONEY SECURITY INTERESTS**

### **3. PERMITTED ENCUMBRANCES**

**SCHEDULE "B"**

**PERSONAL PROPERTY NOT INCLUDED IN COLLATERAL**

## **SCHEDULE "C"**

### **1. LOCATIONS OF DEBTOR'S BUSINESS OPERATIONS**

(a) Chief Executive Office

4544 Eastgate Parkway  
Mississauga, ON L4W 3W6

(b) Other Locations:

### **2. LOCATIONS OF RECORDS RELATING TO COLLATERAL**

4544 Eastgate Parkway  
Mississauga, ON L4W 3W6

### **3. LOCATIONS OF COLLATERAL**

ONTARIO

**SCHEDULE "D"**

**ADDITIONAL COVENANTS, TERMS AND CONDITIONS**

Dated:

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**FROM:**  
2722959 ONTARIO LTD.

4544 Eastgate Parkway  
Mississauga, ON L4W 3W6

**TO:**  
**CANADIAN WESTERN BANK**

7303 Warden Avenue  
Markham, ON L3R 5Y6

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**GENERAL SECURITY AGREEMENT**

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This is Exhibit "D" referred to in the Affidavit of  
**ROD RANDALL**  
Sworn on July 14, 2022

A handwritten signature in blue ink that reads "K. Sunshine". The signature is written in a cursive style with a long horizontal flourish at the end.

---

A commissioner, etc.

**KALEIGH SONSHINE, LSO#70105T**





## FULL LIABILITY GUARANTEE

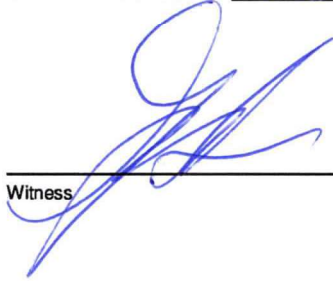
For value received the undersigned ("Guarantor") hereby guarantees to CANADIAN WESTERN BANK ("Bank") payment, forthwith after demand made therefor as hereinafter provided, of all indebtedness and liability (present and future, direct or indirect, absolute or contingent, matured or not) of 2722959 ONTARIO LTD. ("Customer") to the Bank whether arising from agreement or dealings between the Bank and the Customer or from agreement or dealings between the Bank and any third person by which the Customer now is or hereafter may become indebted or liable to the Bank or however otherwise arising and whether the Customer be bound alone or with another or others and whether as principal or surety or guarantor; and the Guarantor further agrees that:

1. If more than one Guarantor executes this instrument the provisions hereof shall be read with all grammatical changes thereby rendered necessary and each reference to the Guarantor shall include the undersigned and each and every one of them severally and this guarantee and all covenants and agreements herein contained shall be deemed to be joint and several. This instrument shall be read with all grammatical changes made necessary by the Guarantor's or Customer's gender.
2. The Bank may increase, reduce, renew, extend, discontinue or otherwise vary the Customer's credit, grant time, renewals, extensions, releases and discharges to, take and give up securities (which may include other guarantees), and otherwise deal with the Customer and other parties and securities as the Bank may see fit, and may apply all monies received from the Customer or others or from the sale or other disposal of security upon such part of the Customer's liability as the Bank may think best, without prejudice to or in any way limiting or lessening the liability of the Guarantor under this guarantee. The Guarantor's obligation to pay under this guarantee shall not be limited or reduced as a result of the termination, invalidity or unenforceability of any right of the Bank against the Customer or any other party (including other guarantors) for any cause whatsoever.
3. This guarantee shall be a continuing security for payment by the Customer to the Bank of all the indebtedness and liability aforesaid; provided that the Guarantor may determine his further liability under this guarantee by 30 days written notice given to the branch of the Bank at which this guarantee is held but, if such notice be given, this guarantee shall apply and extend to any indebtedness or liability of the Customer to the Bank incurred prior to the expiration of 30 days from the date of receipt of such notice by the said branch of the Bank.
4. The Bank shall not be bound to exhaust its recourse against the Customer or other parties or the securities that it may hold before being entitled to payment from the Guarantor under this guarantee.
5. Any loss of or in respect of securities received by the Bank from the Customer or others, whether occasioned through the fault of the Bank or otherwise, shall not discharge or limit or lessen the liability of the Guarantor under this guarantee.
6. Any change or changes in the name of the Customer, or, if the Customer is a partnership, any change or changes in the membership of the Customer's firm by death or by the retirement of one or more of the partners or by the introduction of one or more new partners or otherwise, shall not affect or in any way limit or lessen the liability of the Guarantor under this guarantee and this guarantee shall extend to the person, firm or corporation acquiring or from time to time carrying on the business of the Customer.
7. All monies, advances, renewals and credits borrowed or obtained from the Bank shall be deemed to form part of the indebtedness and liabilities hereby guaranteed, notwithstanding any incapacity, disability, limitation of status or lack of power of the Customer or the directors, partners or agents thereof, or that the Customer may not be a legal entity, or any defect in the borrowing or obtaining of such money, advances, renewals or credits; and any amount which may not be recoverable from the Guarantor on the footing of a guarantee shall be recoverable from the Guarantor as principal debtor in respect thereof and it shall be paid to the Bank after demand therefor by the Bank.
8. Any account settled or stated by or between the Bank and the Customer shall be accepted by the Guarantor as conclusive evidence that the balance or amount thereby appearing due by the Customer to the Bank is in fact so due.
9. The Guarantor agrees not to assert any right of contribution against any other guarantor until the customer's indebtedness and liabilities have been paid in full. If the Bank should receive from the Guarantor a payment in full or on account of the indebtedness or liability under this guarantee, all rights of subrogation arising therefrom shall be postponed and the Guarantor shall not be entitled to claim repayment against the Customer or the Customer's estate until the Bank's claims against the Customer have been paid in full; and in the case of liquidation, winding up or bankruptcy of the Customer (whether voluntary or compulsory) or in the event that the Customer shall make a bulk sale of any of the Customer's assets

within the bulk transfer provisions of any applicable legislations, or shall make any compromise with creditors or scheme of arrangement, the Bank shall have the right to rank for its full claim and receive all dividends or other payments in respect thereof until its claim has been paid in full and the Guarantor shall continue to be liable, up to the amount guaranteed, less any payments made by the guarantor, for any balance which may be owing to the Bank by the Customer. In the event of the valuation by the Bank of any of its securities and/or the retention of such securities by the Bank, such valuation and/or retention shall not, as between the Bank and the Guarantor, be considered as a purchase of such securities or as payment or satisfaction or reduction of the Customer's indebtedness or liabilities to the Bank, or any part thereof.

10. Any notice or demand which the Bank may wish to give may be served on the Guarantor either personally on him or his legal personal representative or, in the case of a corporation, on any officer or director of the corporation, or by sending the same registered mail in an envelope addressed to the last known address of the Guarantor as it appears on the Bank's records and the notice so sent shall be deemed to be received on the fifth business day following that on which it is mailed.
11. As security for the performance of the Guarantor's covenants herein and the payment of the present and future debts and liabilities of the Customer to the Bank, the Guarantor hereby grants to the Bank a security interest in all debts and liabilities, present and future, of the Customer to the Guarantor, all of which are hereby assigned by the Guarantor to the Bank and postponed to the present and future debts and liabilities of the Customer to the Bank. Any monies or other proceeds received by the Guarantor in respect of such debts and liabilities shall be received in trust for and forthwith paid over to the Bank, in whole, without in any way limiting or lessening the liability of the Guarantor hereunder. Notwithstanding anything to the contrary herein, the assignment and postponement contained in this paragraph 11 are intended to be and are independent of the remainder of this guarantee and may, at the option of The Bank, be severed therefrom. A notice of termination given by the Guarantor pursuant to paragraph 3 shall not terminate the provisions contained in this paragraph 11, which shall continue in full force and effect until released in writing by the Bank. The Guarantor hereby acknowledges receiving a copy of this guarantee and waives all rights to receive from the Bank a copy of any financing statement, financing change statement or verification statement filed or issued at any time in respect of this assignment.
12. The Guarantor shall be currently liable under this guarantee at any time for the full amount of the debts and liabilities of the Customer to the Bank then outstanding, provided that the Guarantor shall not be in default under or in breach of this guarantee unless and until the Bank has made demand upon the Guarantor hereunder and the Guarantor has failed to pay the amount demanded or otherwise failed to comply with such demand forthwith following receipt (or deemed receipt) of such demand. In the case of default the Bank may maintain an action upon this guarantee whether or not the Customer is joined therein or separate action is brought against the Customer or judgment obtained against him. The Bank's rights are cumulative and shall not be exhausted by the exercise of any of the Bank's rights hereunder or otherwise against the Guarantor or by any successive actions until and unless all indebtedness and liability hereby guaranteed has been paid and each of the Guarantor's obligations under the guarantee has been fully performed.
13. The Guarantor shall pay to the Bank on demand (in addition to all debts and liabilities of the Customer hereby guaranteed) all costs, charges and expenses (including, without limitation, lawyer's fees as between solicitor and his own client on a full indemnity basis) incurred by the Bank for the preparation, execution and perfection and enforcement of this guarantee and of any securities collateral thereto, together with interest thereon, both before and after demand, default and judgment, calculated from the date of payment by the Bank of each such cost, charge and expense until payment by the Guarantor hereunder, at a rate per annum equal to 3% above the rate published by the Bank from time to time as the Bank's prime lending rate. A statement signed by any officer of the Bank confirming the Bank's prime lending rate at any time or times shall be conclusive evidence thereof for all purposes under this guarantee.
14. This instrument is in addition and without prejudice to any other securities of any kind including any other guarantees, whether or not in the same form as this instrument, now or hereafter held by the Bank. Without limiting the generality of the foregoing, all limits and evidence of liability pursuant to any guarantee now or hereafter held by the Bank shall be cumulative.
15. There are no representations, warranties, collateral agreements or conditions with respect to this guarantee or affecting the Guarantor's liability hereunder other than as contained herein. Without restricting the generality of the foregoing, this guarantee shall be operative and binding upon every signatory hereto notwithstanding the non-execution hereof by any other proposed or intended signatory or signatories.
16. This instrument shall be construed in accordance with the laws of ONTARIO, and the Guarantor agrees that any legal suit, action or proceedings arising out of or relating to this instrument may be instituted in the courts of such province or territory and the Guarantor hereby accepts and irrevocably submits to the jurisdiction of the said courts and acknowledges their competence and agrees to be bound by any judgment thereof, provided that nothing herein shall limit the Bank's right to bring proceedings against the Guarantor elsewhere.
17. This instrument shall extend to and enure to the benefit of the successors and assigns of the Bank and shall be binding upon the Guarantor and the heirs, executors, administrators and successors of the Guarantor.

GIVEN under seal at KLEINBERG, ONTARIO this 5 day of April, 2022



A handwritten signature in blue ink, appearing to be 'JH', written over a horizontal line.

Witness



A handwritten signature in blue ink, appearing to be 'Gemma Runaghan', written over a horizontal line.

GEMMA RUNAGHAN

This is Exhibit "E" referred to in the Affidavit of  
**ROD RANDALL**  
Sworn on July 14, 2022

A handwritten signature in blue ink that reads "K. Sunshine". The signature is written in a cursive style with a long horizontal flourish at the end.

---

A commissioner, etc.

**KALEIGH SONSHINE, LSO#70105T**



## FULL LIABILITY GUARANTEE

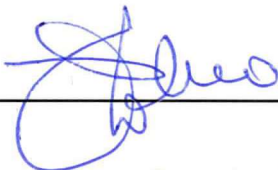
For value received the undersigned ("Guarantor") hereby guarantees to CANADIAN WESTERN BANK ("Bank") payment, forthwith after demand made therefor as hereinafter provided, of all indebtedness and liability (present and future, direct or indirect, absolute or contingent, matured or not) of 2722959 ONTARIO LTD. ("Customer") to the Bank whether arising from agreement or dealings between the Bank and the Customer or from agreement or dealings between the Bank and any third person by which the Customer now is or hereafter may become indebted or liable to the Bank or however otherwise arising and whether the Customer be bound alone or with another or others and whether as principal or surety or guarantor; and the Guarantor further agrees that:

1. If more than one Guarantor executes this instrument the provisions hereof shall be read with all grammatical changes thereby rendered necessary and each reference to the Guarantor shall include the undersigned and each and every one of them severally and this guarantee and all covenants and agreements herein contained shall be deemed to be joint and several. This instrument shall be read with all grammatical changes made necessary by the Guarantor's or Customer's gender.
2. The Bank may increase, reduce, renew, extend, discontinue or otherwise vary the Customer's credit, grant time, renewals, extensions, releases and discharges to, take and give up securities (which may include other guarantees), and otherwise deal with the Customer and other parties and securities as the Bank may see fit, and may apply all monies received from the Customer or others or from the sale or other disposal of security upon such part of the Customer's liability as the Bank may think best, without prejudice to or in any way limiting or lessening the liability of the Guarantor under this guarantee. The Guarantor's obligation to pay under this guarantee shall not be limited or reduced as a result of the termination, invalidity or unenforceability of any right of the Bank against the Customer or any other party (including other guarantors) for any cause whatsoever.
3. This guarantee shall be a continuing security for payment by the Customer to the Bank of all the indebtedness and liability aforesaid; provided that the Guarantor may determine his further liability under this guarantee by 30 days written notice given to the branch of the Bank at which this guarantee is held but, if such notice be given, this guarantee shall apply and extend to any indebtedness or liability of the Customer to the Bank incurred prior to the expiration of 30 days from the date of receipt of such notice by the said branch of the Bank.
4. The Bank shall not be bound to exhaust its recourse against the Customer or other parties or the securities that it may hold before being entitled to payment from the Guarantor under this guarantee.
5. Any loss of or in respect of securities received by the Bank from the Customer or others, whether occasioned through the fault of the Bank or otherwise, shall not discharge or limit or lessen the liability of the Guarantor under this guarantee.
6. Any change or changes in the name of the Customer, or, if the Customer is a partnership, any change or changes in the membership of the Customer's firm by death or by the retirement of one or more of the partners or by the introduction of one or more new partners or otherwise, shall not affect or in any way limit or lessen the liability of the Guarantor under this guarantee and this guarantee shall extend to the person, firm or corporation acquiring or from time to time carrying on the business of the Customer.
7. All monies, advances, renewals and credits borrowed or obtained from the Bank shall be deemed to form part of the indebtedness and liabilities hereby guaranteed, notwithstanding any incapacity, disability, limitation of status or lack of power of the Customer or the directors, partners or agents thereof, or that the Customer may not be a legal entity, or any defect in the borrowing or obtaining of such money, advances, renewals or credits; and any amount which may not be recoverable from the Guarantor on the footing of a guarantee shall be recoverable from the Guarantor as principal debtor in respect thereof and it shall be paid to the Bank after demand therefor by the Bank.
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within the bulk transfer provisions of any applicable legislations, or shall make any compromise with creditors or scheme of arrangement, the Bank shall have the right to rank for its full claim and receive all dividends or other payments in respect thereof until its claim has been paid in full and the Guarantor shall continue to be liable, up to the amount guaranteed, less any payments made by the guarantor, for any balance which may be owing to the Bank by the Customer. In the event of the valuation by the Bank of any of its securities and/or the retention of such securities by the Bank, such valuation and/or retention shall not, as between the Bank and the Guarantor, be considered as a purchase of such securities or as payment or satisfaction or reduction of the Customer's indebtedness or liabilities to the Bank, or any part thereof.

10. Any notice or demand which the Bank may wish to give may be served on the Guarantor either personally on him or his legal personal representative or, in the case of a corporation, on any officer or director of the corporation, or by sending the same registered mail in an envelope addressed to the last known address of the Guarantor as it appears on the Bank's records and the notice so sent shall be deemed to be received on the fifth business day following that on which it is mailed.
11. As security for the performance of the Guarantor's covenants herein and the payment of the present and future debts and liabilities of the Customer to the Bank, the Guarantor hereby grants to the Bank a security interest in all debts and liabilities, present and future, of the Customer to the Guarantor, all of which are hereby assigned by the Guarantor to the Bank and postponed to the present and future debts and liabilities of the Customer to the Bank. Any monies or other proceeds received by the Guarantor in respect of such debts and liabilities shall be received in trust for and forthwith paid over to the Bank, in whole, without in any way limiting or lessening the liability of the Guarantor hereunder. Notwithstanding anything to the contrary herein, the assignment and postponement contained in this paragraph 11 are intended to be and are independent of the remainder of this guarantee and may, at the option of The Bank, be severed therefrom. A notice of termination given by the Guarantor pursuant to paragraph 3 shall not terminate the provisions contained in this paragraph 11, which shall continue in full force and effect until released in writing by the Bank. The Guarantor hereby acknowledges receiving a copy of this guarantee and waives all rights to receive from the Bank a copy of any financing statement, financing change statement or verification statement filed or issued at any time in respect of this assignment.
12. The Guarantor shall be currently liable under this guarantee at any time for the full amount of the debts and liabilities of the Customer to the Bank then outstanding, provided that the Guarantor shall not be in default under or in breach of this guarantee unless and until the Bank has made demand upon the Guarantor hereunder and the Guarantor has failed to pay the amount demanded or otherwise failed to comply with such demand forthwith following receipt (or deemed receipt) of such demand. In the case of default the Bank may maintain an action upon this guarantee whether or not the Customer is joined therein or separate action is brought against the Customer or judgment obtained against him. The Bank's rights are cumulative and shall not be exhausted by the exercise of any of the Bank's rights hereunder or otherwise against the Guarantor or by any successive actions until and unless all indebtedness and liability hereby guaranteed has been paid and each of the Guarantor's obligations under the guarantee has been fully performed.
13. The Guarantor shall pay to the Bank on demand (in addition to all debts and liabilities of the Customer hereby guaranteed) all costs, charges and expenses (including, without limitation, lawyer's fees as between solicitor and his own client on a full indemnity basis) incurred by the Bank for the preparation, execution and perfection and enforcement of this guarantee and of any securities collateral thereto, together with interest thereon, both before and after demand, default and judgment, calculated from the date of payment by the Bank of each such cost, charge and expense until payment by the Guarantor hereunder, at a rate per annum equal to 3% above the rate published by the Bank from time to time as the Bank's prime lending rate. A statement signed by any officer of the Bank confirming the Bank's prime lending rate at any time or times shall be conclusive evidence thereof for all purposes under this guarantee.
14. This instrument is in addition and without prejudice to any other securities of any kind including any other guarantees, whether or not in the same form as this instrument, now or hereafter held by the Bank. Without limiting the generality of the foregoing, all limits and evidence of liability pursuant to any guarantee now or hereafter held by the Bank shall be cumulative.
15. There are no representations, warranties, collateral agreements or conditions with respect to this guarantee or affecting the Guarantor's liability hereunder other than as contained herein. Without restricting the generality of the foregoing, this guarantee shall be operative and binding upon every signatory hereto notwithstanding the non-execution hereof by any other proposed or intended signatory or signatories.
16. This instrument shall be construed in accordance with the laws of ONTARIO, and the Guarantor agrees that any legal suit, action or proceedings arising out of or relating to this instrument may be instituted in the courts of such province or territory and the Guarantor hereby accepts and irrevocably submits to the jurisdiction of the said courts and acknowledges their competence and agrees to be bound by any judgment thereof, provided that nothing herein shall limit the Bank's right to bring proceedings against the Guarantor elsewhere.
17. This instrument shall extend to and enure to the benefit of the successors and assigns of the Bank and shall be binding upon the Guarantor and the heirs, executors, administrators and successors of the Guarantor.

GIVEN under seal at KLEINBURG, ONTARIO this 5 day of April, 2022



Witness

Joseph F. La Greca



FRANK D'ANGELO

This is Exhibit "F" referred to in the Affidavit of  
**ROD RANDALL**  
Sworn on July 14, 2022

A handwritten signature in blue ink that reads "K Sonshine". The signature is written in a cursive style with a long horizontal flourish at the end.

---

A commissioner, etc.

**KALEIGH SONSHINE, LSO#70105T**





# VERIFICATION



## Document Details

Registration Date: **06 APR 2022**  
Expiry Date: **06 APR 2027**  
Registration Number: **20220406 1139 1793 5365**  
File Number: **781801722**

Transaction ID: **004-192-688**



## General

Reference Number:  
Registration Period (Years): **5**

Caution Filing: **No**  
Perform a Post Search: **Yes**  
Register Immediately: **Yes**



## Business Debtor

2722959 ONTARIO LTD.  
4544 EASTGATE PARKWAY  
MISSISSAUGA ON L4W3W6



## Individual Debtor

*No Individual Debtor*



## Secured Party

CANADIAN WESTERN BANK  
300, 606 4 STREET SW  
CALGARY AB T2P1T1



## Collateral Classification

Consumer Goods: **Yes** Inventory: **Yes** Equipment: **Yes** Accounts: **Yes** Other: **Yes**  
Motor Vehicle Included: **Yes**



## Serial Numbered Collateral

*No Serial Numbered Collateral*



## General Collateral

ALL PRESENT AND AFTER ACQUIRED PERSONAL PROPERTY. ALL PROCEEDS THEREOF.



## Registering Agent

CANADIAN WESTERN BANK  
300, 606 4 STREET SW  
CALGARY AB T2P1T1



# VERIFICATION



## Document Details

Registration Date: **06 APR 2022**  
Expiry Date: **06 APR 2027**  
Registration Number: **20220406 1403 1462 8493**  
File Number: **781810821**

Transaction ID: **004-192-860**



## General

Reference Number:  
Registration Period (Years): **5**

Caution Filing: **No**  
Perform a Post Search: **No**  
Register Immediately: **No**



## Business Debtor

2156775 ONTARIO INC.  
162 CAMLAREN CRES.  
KLEINBURG ON L0J1C0



## Individual Debtor

*No Individual Debtor*



## Secured Party

CANADIAN WESTERN BANK  
300, 606 4 STREET SW  
CALGARY AB T2P1T1



## Collateral Classification

Consumer Goods: **No** Inventory: **No** Equipment: **No** Accounts: **Yes** Other: **Yes**  
Motor Vehicle Included: **No**



## Serial Numbered Collateral

*No Serial Numbered Collateral*



## General Collateral

ASSIGNMENT AND POSTPONEMENT BETWEEN 2722959 ONTARIO LTD. AND 2156775 ONTARIO INC. PURSUANT TO ASSIGNMENT AND POSTPONEMENT OF CREDITORS CLAIMS AGREEMENT. ALL DEBTS AND LIABILITIES, PRESENT AND FUTURE OF 2722959 ONTARIO LTD. TO CANADIAN WESTERN BANK PLUS ANY SECURITY FOR THE PAYMENT THEREOF. PROCEEDS GOODS, CHATTEL PAPER, SECURITIES, DOCUMENTS OF TITLE, INSTRUMENTS, MONEY AND INTANGIBLES. ALL PROCEEDS THEREOF.



## Registering Agent

CANADIAN WESTERN BANK  
300, 606 4 STREET SW  
CALGARY AB T2P1T1



# VERIFICATION



## Document Details

Registration Date: **06 APR 2022**  
Expiry Date: **06 APR 2027**  
Registration Number: **20220406 1403 1462 8492**  
File Number: **781810812**

Transaction ID: **004-192-803**



## General

Reference Number:  
Registration Period (Years): **5**

Caution Filing: **No**  
Perform a Post Search: **No**  
Register Immediately: **No**



## Business Debtor

*No Business Debtor*



## Individual Debtor

GEMMA RUNAGHAN 13-APR-1979  
477 REEVES WAY BLVD.  
STOUFVILLE ON L4A0A2



## Secured Party

CANADIAN WESTERN BANK  
300, 606 4 STREET SW  
CALGARY AB T2P1T1



## Collateral Classification

Consumer Goods: **No** Inventory: **No** Equipment: **No** Accounts: **Yes** Other: **Yes**  
Motor Vehicle Included: **No**



## Serial Numbered Collateral

*No Serial Numbered Collateral*



## General Collateral

ASSIGNMENT AND POSTPONEMENT BETWEEN 2722959 ONTARIO LTD. AND GEMMA RUNAGHAN. PURSUANT TO ASSIGNMENT AND POSTPONEMENT OF CREDITORS CLAIMS AGREEMENT. ALL DEBTS AND LIABILITIES, PRESENT AND FUTURE OF 2722959 ONTARIO LTD. TO CANADIAN WESTERN BANK PLUS ANY SECURITY FOR THE PAYMENT THEREOF. PROCEEDS GOODS, CHATTEL PAPER, SECURITIES, DOCUMENTS OF TITLE, INSTRUMENTS, MONEY AND INTANGIBLES. ALL PROCEEDS THEREOF.



## Registering Agent

CANADIAN WESTERN BANK  
300, 606 4 STREET SW  
CALGARY AB T2P1T1

This is Exhibit "G" referred to in the Affidavit of  
**ROD RANDALL**  
Sworn on July 14, 2022

A handwritten signature in blue ink that reads "K. Sunshine". The signature is written in a cursive style with a long horizontal flourish at the end.

---

A commissioner, etc.

**KALEIGH SONSHINE, LSO#70105T**

**ServiceOntario**

[Main Menu](#) [New Enquiry](#)

Enquiry Result

File Currency: 01JUN 2022



All Pages



Show All Pages

**Note: All pages have been returned.**

**Type of Search** Business Debtor  
**Search Conducted On** 2722959 ONTARIO LTD.  
**File Currency** 01JUN 2022

File Number	Family	of Families	Page	of Pages	Expiry Date	Status
772869456	1	2	1	11	27MAY 2026	

**FORM 1C FINANCING STATEMENT / CLAIM FOR LIEN**

File Number	Caution Filing	Page of	Total Pages	Motor Vehicle Schedule	Registration Number	Registered Under	Registration Period
772869456		001	001		20210527 1114 1862 8771	P PPSA	5

**Individual Debtor**      **Date of Birth**      **First Given Name**      **Initial**      **Surname**

**Business Debtor**      **Business Debtor Name**      **Ontario Corporation Number**  
 2722959 ONTARIO LIMITED      2722959  
**Address**      **City**      **Province**      **Postal Code**  
 4544 EASTGATE PARKWAY      MISSISSAUGA      ON      L4W 3W6

**Individual Debtor**      **Date of Birth**      **First Given Name**      **Initial**      **Surname**

**Business Debtor**      **Business Debtor Name**      **Ontario Corporation Number**  
**Address**      **City**      **Province**      **Postal Code**

**Secured Party**      **Secured Party / Lien Claimant**

GEMMA RUNAGHAN  
**Address**      **City**      **Province**      **Postal Code**  
 477 REEVES WAY BLVD      STOUFFVILLE      ON      L4A 0H2

Collateral Classification	Consumer Goods	Inventory	Equipment	Accounts	Other	Motor Vehicle Included	Amount	Date of Maturity or	No Fixed Maturity Date
		X	X	X			450000		X

**Motor Vehicle Description**      **Year**      **Make**      **Model**      **V.I.N.**

**General Collateral Description**      **General Collateral Description**


<b>Registering Agent</b>	<b>Registering Agent</b>			
	CYBERBAHN			
	<b>Address</b>	<b>City</b>	<b>Province</b>	<b>Postal Code</b>
	4610-199 BAY STREET	TORONTO	ON	M5L 1E9

CONTINUED

<b>Type of Search</b>	Business Debtor								
<b>Search Conducted On</b>	2722959 ONTARIO LTD.								
<b>File Currency</b>	01JUN 2022								
	<b>File Number</b>	<b>Family</b>	<b>of Families</b>	<b>Page</b>	<b>of Pages</b>				
	772869456	1	2	2	11				
<b>FORM 2C FINANCING CHANGE STATEMENT / CHANGE STATEMENT</b>									
	<b>Caution Filing</b>	<b>Page of</b>	<b>Total Pages</b>	<b>Motor Vehicle Schedule Attached</b>	<b>Registration Number</b>	<b>Registered Under</b>			
		001	9		20220428 1015 1590 9652				
<b>Record Referenced</b>	<b>File Number</b>	<b>Page Amended</b>	<b>No Specific Page Amended</b>	<b>Change Required</b>	<b>Renewal Years</b>	<b>Correct Period</b>			
	772869456			J OTHER					
<b>Reference Debtor/ Transferor</b>	<b>First Given Name</b>			<b>Initial</b>	<b>Surname</b>				
	<b>Business Debtor Name</b>								
	2722959 ONTARIO LTD								
<b>Other Change</b>	<b>Other Change</b>								
	THE SECURED PARTY, GEMMA RUNAGHAN,								
<b>Reason / Description</b>	<b>Reason / Description</b>								
	THE SECURED PARTY, GEMMA RUNAGHAN, HEREBY POSTPONES ITS SECURITY INTERESTS IN THE PROPERTY OF THE DEBTOR, 2722959 ONTARIO LTD., PERFECTED BY PPSA REFERENCE FILE NUMBER 772869456 TO THOSE SECURITY								
<b>Debtor/ Transferee</b>	<b>Date of Birth</b>	<b>First Given Name</b>			<b>Initial</b>	<b>Surname</b>			
	<b>Business Debtor Name</b>							<b>Ontario Corporation Number</b>	
	<b>Address</b>				<b>City</b>	<b>Province</b>	<b>Postal Code</b>		
<b>Assignor Name</b>	<b>Assignor Name</b>								
<b>Secured Party</b>	<b>Secured party, lien claimant, assignee</b>								
	<b>Address</b>				<b>City</b>	<b>Province</b>	<b>Postal Code</b>		
<b>Collateral Classification</b>	<b>Consumer Goods</b>	<b>Inventory</b>	<b>Equipment</b>	<b>Accounts</b>	<b>Other</b>	<b>Motor Vehicle Included</b>	<b>Amount</b>	<b>Date of Maturity or</b>	<b>No Fixed Maturity Date</b>
<b>Motor Vehicle Description</b>	<b>Year</b>	<b>Make</b>			<b>Model</b>			<b>V.I.N.</b>	
<b>General Collateral Description</b>	<b>General Collateral Description</b>								

<b>Registering Agent</b>		<b>Registering Agent or Secured Party/ Lien Claimant</b>		
MACDONALD SAGER LLP				
<b>Address</b>		<b>City</b>	<b>Province</b>	<b>Postal Code</b>
800-150 YORK STREET		TORONTO	ON	M5H 3S5

CONTINUED

**Type of Search** Business Debtor  
**Search Conducted On** 2722959 ONTARIO LTD.

**File Currency** 01JUN 2022

File Number	Family	of Families	Page	of Pages
772869456	1	2	3	11

**FORM 2C FINANCING CHANGE STATEMENT / CHANGE STATEMENT**

Caution Filing	Page of	Total Pages	Motor Vehicle Schedule Attached	Registration Number	Registered Under
	002	9		20220428 1015 1590 9652	

Record Referenced	File Number	Page Amended	No Specific Page Amended	Change Required	Renewal Years	Correct Period
	772869456					

Reference Debtor/ Transferor	First Given Name	Initial	Surname
	<b>Business Debtor Name</b>		

**Other Change** **Other Change**  
 HEREBY POSTPONES ITS SECURITY INTERESTS

Reason / Description	Reason / Description
	INTERESTS OF CANADIAN WESTERN BANK IN THE PROPERTY OF THE DEBTOR, 2722959 ONTARIO LTD. PERFECTED BY PPSA REFERENCE FILE NUMBER 781801722

Debtor/ Transferee	Date of Birth	First Given Name	Initial	Surname
		<b>Business Debtor Name</b>		<b>Ontario Corporation Number</b>
		Address	City	Province Postal Code

**Assignor Name** **Assignor Name**

Secured Party	Secured party, lien claimant, assignee			
	Address	City	Province	Postal Code

Collateral Classification	Consumer Goods	Inventory	Equipment	Accounts	Other	Motor Vehicle Included	Amount	Date of Maturity or	No Fixed Maturity Date
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Motor Vehicle Description	Year	Make	Model	V.I.N.
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Motor Vehicle Description	Year	Make	Model	V.I.N.
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General Collateral Description	General Collateral Description
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Registering Agent	Registering Agent or Secured Party/ Lien Claimant			
	Address	City	Province	Postal Code

CONTINUED

<b>Type of Search</b>	Business Debtor						
<b>Search Conducted On</b>	2722959 ONTARIO LTD.						
<b>File Currency</b>	01JUN 2022						
	File Number	Family	of Families	Page	of Pages		
	772869456	1	2	5	11		
<b>FORM 2C FINANCING CHANGE STATEMENT / CHANGE STATEMENT</b>							
	Caution Filing	Page of	Total Pages	Motor Vehicle Schedule Attached	Registration Number	Registered Under	
		004	9		20220428 1015 1590 9652		
<b>Record Referenced</b>	File Number	Page Amended	No Specific Page Amended	Change Required	Renewal Years	Correct Period	
	772869456						
<b>Reference Debtor/ Transferor</b>	First Given Name			Initial	Surname		
	Business Debtor Name						
<b>Other Change</b>	Other Change						
	ONTARIO LTD., PERFECTED BY PPSA						
<b>Reason / Description</b>	Reason / Description						
<b>Debtor/ Transferee</b>	Date of Birth	First Given Name		Initial	Surname		
	Business Debtor Name					Ontario Corporation Number	
	Address			City	Province	Postal Code	
<b>Assignor Name</b>	Assignor Name						
<b>Secured Party</b>	Secured party, lien claimant, assignee						
	Address			City	Province	Postal Code	
		Inventory	Equipment	Accounts	Other	Amount	

<b>Collateral Classification</b>	<b>Consumer Goods</b>				<b>Motor Vehicle Included</b>		<b>Date of Maturity or</b>	<b>No Fixed Maturity Date</b>
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**Motor Vehicle Description**      **Year**      **Make**      **Model**      **V.I.N.**

**General Collateral Description**      **General Collateral Description**

**Registering Agent**      **Registering Agent or Secured Party/ Lien Claimant**

	<b>Address</b>	<b>City</b>	<b>Province</b>	<b>Postal Code</b>

CONTINUED

**Type of Search** Business Debtor  
**Search Conducted On** 2722959 ONTARIO LTD.  
**File Currency** 01JUN 2022

<b>File Number</b>	<b>Family</b>	<b>of Families</b>	<b>Page</b>	<b>of Pages</b>
772869456	1	2	6	11

**FORM 2C FINANCING CHANGE STATEMENT / CHANGE STATEMENT**

<b>Caution Filing</b>	<b>Page of</b>	<b>Total Pages</b>	<b>Motor Vehicle Schedule Attached</b>	<b>Registration Number</b>	<b>Registered Under</b>
	005	9		20220428 1015 1590 9652	

<b>Record Referenced</b>	<b>File Number</b>	<b>Page Amended</b>	<b>No Specific Page Amended</b>	<b>Change Required</b>	<b>Renewal Years</b>	<b>Correct Period</b>
	772869456					

<b>Reference Debtor/ Transferor</b>	<b>First Given Name</b>	<b>Initial</b>	<b>Surname</b>
	<b>Business Debtor Name</b>		

**Other Change**      **Other Change**  
 REFERENCE FILE NUMBER 772869456 TO THOSE

**Reason / Description**      **Reason / Description**

<b>Debtor/ Transferee</b>	<b>Date of Birth</b>	<b>First Given Name</b>	<b>Initial</b>	<b>Surname</b>
		<b>Business Debtor Name</b>		<b>Ontario Corporation Number</b>
		<b>Address</b>	<b>City</b>	<b>Province Postal Code</b>

**Assignor Name**      **Assignor Name**

**Secured Party**      **Secured party, lien claimant, assignee**

	Address	City	Province	Postal Code
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Collateral Classification	Consumer Goods	Inventory	Equipment	Accounts	Other	Motor Vehicle Included	Amount	Date of Maturity or	No Fixed Maturity Date
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Motor Vehicle Description	Year	Make	Model	V.I.N.
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General Collateral Description	General Collateral Description
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Registering Agent	Registering Agent or Secured Party/ Lien Claimant
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	Address	City	Province	Postal Code
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CONTINUED

<b>Type of Search</b>	Business Debtor								
<b>Search Conducted On</b>	2722959 ONTARIO LTD.								
<b>File Currency</b>	01JUN 2022								
	<b>File Number</b>	<b>Family</b>	<b>of Families</b>	<b>Page</b>	<b>of Pages</b>				
	772869456	1	2	7	11				
<b>FORM 2C FINANCING CHANGE STATEMENT / CHANGE STATEMENT</b>									
	<b>Caution Filing</b>	<b>Page of</b>	<b>Total Pages</b>	<b>Motor Vehicle Schedule Attached</b>	<b>Registration Number</b>	<b>Registered Under</b>			
		006	9		20220428 1015 1590 9652				
<b>Record Referenced</b>	<b>File Number</b>	<b>Page Amended</b>	<b>No Specific Page Amended</b>	<b>Change Required</b>	<b>Renewal Years</b>	<b>Correct Period</b>			
	772869456								
<b>Reference Debtor/ Transferor</b>	<b>First Given Name</b>			<b>Initial</b>	<b>Surname</b>				
	<b>Business Debtor Name</b>								
<b>Other Change</b>	<b>Other Change</b>								
	SECURITY INTERESTS OF CANADIAN WESTERN								
<b>Reason / Description</b>	<b>Reason / Description</b>								
<b>Debtor/ Transferee</b>	<b>Date of Birth</b>	<b>First Given Name</b>			<b>Initial</b>	<b>Surname</b>			
	<b>Business Debtor Name</b>						<b>Ontario Corporation Number</b>		
	<b>Address</b>				<b>City</b>	<b>Province</b>	<b>Postal Code</b>		
<b>Assignor Name</b>	<b>Assignor Name</b>								

<b>Secured Party</b>		<b>Secured party, lien claimant, assignee</b>							
		<b>Address</b>			<b>City</b>		<b>Province</b>		<b>Postal Code</b>
<b>Collateral Classification</b>	<b>Consumer Goods</b>	<b>Inventory</b>	<b>Equipment</b>	<b>Accounts</b>	<b>Other</b>	<b>Motor Vehicle Included</b>	<b>Amount</b>	<b>Date of Maturity or</b>	<b>No Fixed Maturity Date</b>
<b>Motor Vehicle Description</b>	<b>Year</b>	<b>Make</b>			<b>Model</b>		<b>V.I.N.</b>		
<b>General Collateral Description</b>	<b>General Collateral Description</b>								
<b>Registering Agent</b>		<b>Registering Agent or Secured Party/ Lien Claimant</b>							
		<b>Address</b>			<b>City</b>		<b>Province</b>	<b>Postal Code</b>	

CONTINUED

**Type of Search** Business Debtor  
**Search Conducted On** 2722959 ONTARIO LTD.  
**File Currency** 01JUN 2022

<b>File Number</b>	<b>Family</b>	<b>of Families</b>	<b>Page</b>	<b>of Pages</b>
772869456	1	2	8	11

**FORM 2C FINANCING CHANGE STATEMENT / CHANGE STATEMENT**

<b>Caution Filing</b>	<b>Page of</b>	<b>Total Pages</b>	<b>Motor Vehicle Schedule Attached</b>	<b>Registration Number</b>	<b>Registered Under</b>
	007	9		20220428 1015 1590 9652	

<b>Record Referenced</b>	<b>File Number</b>	<b>Page Amended</b>	<b>No Specific Page Amended</b>	<b>Change Required</b>	<b>Renewal Years</b>	<b>Correct Period</b>
	772869456					

<b>Reference Debtor/ Transferor</b>	<b>First Given Name</b>	<b>Initial</b>	<b>Surname</b>
	<b>Business Debtor Name</b>		

**Other Change** BANK IN THE PROPERTY OF THE DEBTOR, **Other Change**

<b>Reason / Description</b>	<b>Reason / Description</b>

<b>Debtor/ Transferee</b>	<b>Date of Birth</b>	<b>First Given Name</b>	<b>Initial</b>	<b>Surname</b>
	<b>Business Debtor Name</b>			
				<b>Ontario Corporation Number</b>

		<b>Address</b>			<b>City</b>		<b>Province</b>	<b>Postal Code</b>	
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<b>Assignor Name</b>		<b>Assignor Name</b>							
<b>Secured Party</b>		<b>Secured party, lien claimant, assignee</b>							
		<b>Address</b>			<b>City</b>		<b>Province</b>		<b>Postal Code</b>
<b>Collateral Classification</b>	<b>Consumer Goods</b>	<b>Inventory</b>	<b>Equipment</b>	<b>Accounts</b>	<b>Other</b>	<b>Motor Vehicle Included</b>	<b>Amount</b>	<b>Date of Maturity or</b>	<b>No Fixed Maturity Date</b>
<b>Motor Vehicle Description</b>	<b>Year</b>	<b>Make</b>			<b>Model</b>		<b>V.I.N.</b>		
<b>General Collateral Description</b>		<b>General Collateral Description</b>							
<b>Registering Agent</b>		<b>Registering Agent or Secured Party/ Lien Claimant</b>							
		<b>Address</b>			<b>City</b>		<b>Province</b>		<b>Postal Code</b>

CONTINUED

<b>Type of Search</b>	Business Debtor									
<b>Search Conducted On</b>	2722959 ONTARIO LTD.									
<b>File Currency</b>	01JUN 2022									
	<b>File Number</b>	<b>Family</b>	<b>of Families</b>	<b>Page</b>		<b>of Pages</b>				
	772869456	1	2	9	11					
<b>FORM 2C FINANCING CHANGE STATEMENT / CHANGE STATEMENT</b>										
	<b>Caution Filing</b>	<b>Page of</b>	<b>Total Pages</b>	<b>Motor Vehicle Schedule Attached</b>	<b>Registration Number</b>		<b>Registered Under</b>			
		008	9		20220428 1015 1590 9652					
<b>Record Referenced</b>	<b>File Number</b>	<b>Page Amended</b>	<b>No Specific Page Amended</b>	<b>Change Required</b>	<b>Renewal Years</b>	<b>Correct Period</b>				
	772869456									
<b>Reference Debtor/ Transferor</b>	<b>First Given Name</b>			<b>Initial</b>	<b>Surname</b>					
	<b>Business Debtor Name</b>									
<b>Other Change</b>	<b>Other Change</b>									
	2722959 ONTARIO LTD. PERFECTED BY PPSA									
<b>Reason / Description</b>	<b>Reason / Description</b>									
<b>Debtor/ Transferee</b>	<b>Date of Birth</b>	<b>First Given Name</b>			<b>Initial</b>	<b>Surname</b>				

	<b>Business Debtor Name</b>						<b>Ontario Corporation Number</b>		
	<b>Address</b>				<b>City</b>	<b>Province Postal Code</b>			
<b>Assignor Name</b>	<b>Assignor Name</b>								
<b>Secured Party</b>	<b>Secured party, lien claimant, assignee</b>								
	<b>Address</b>				<b>City</b>	<b>Province Postal Code</b>			
<b>Collateral Classification</b>	<b>Consumer Goods</b>	<b>Inventory</b>	<b>Equipment</b>	<b>Accounts</b>	<b>Other</b>	<b>Motor Vehicle Included</b>	<b>Amount</b>	<b>Date of Maturity or</b>	<b>No Fixed Maturity Date</b>
<b>Motor Vehicle Description</b>	<b>Year</b>	<b>Make</b>			<b>Model</b>		<b>V.I.N.</b>		
<b>General Collateral Description</b>	<b>General Collateral Description</b>								
<b>Registering Agent</b>	<b>Registering Agent or Secured Party/ Lien Claimant</b>								
	<b>Address</b>				<b>City</b>	<b>Province</b>	<b>Postal Code</b>		

CONTINUED

**Type of Search** Business Debtor  
**Search Conducted On** 2722959 ONTARIO LTD.  
**File Currency** 01JUN 2022

<b>File Number</b>	<b>Family</b>	<b>of Families</b>	<b>Page</b>	<b>of Pages</b>
772869456	1	2	10	11

**FORM 2C FINANCING CHANGE STATEMENT / CHANGE STATEMENT**

<b>Caution Filing</b>	<b>Page of</b>	<b>Total Pages</b>	<b>Motor Vehicle Schedule Attached</b>	<b>Registration Number</b>	<b>Registered Under</b>
	009	9		20220428 1015 1590 9652	

<b>Record Referenced</b>	<b>File Number</b>	<b>Page Amended</b>	<b>No Specific Page Amended</b>	<b>Change Required</b>	<b>Renewal Years</b>	<b>Correct Period</b>
	772869456					

<b>Reference Debtor/ Transferor</b>	<b>First Given Name</b>	<b>Initial</b>	<b>Surname</b>
	<b>Business Debtor Name</b>		

**Other Change** REFERENCE FILE NUMBER 781801722

**Reason / Description**

<b>Debtor/ Transferee</b>	<b>Date of Birth</b>	<b>First Given Name</b>	<b>Initial</b>	<b>Surname</b>					
<b>Business Debtor Name</b>				<b>Ontario Corporation Number</b>					
<b>Address</b>			<b>City</b>	<b>Province Postal Code</b>					
<b>Assignor Name</b>		<b>Assignor Name</b>							
<b>Secured Party</b>		<b>Secured party, lien claimant, assignee</b>							
<b>Address</b>			<b>City</b>	<b>Province Postal Code</b>					
<b>Collateral Classification</b>	<b>Consumer Goods</b>	<b>Inventory</b>	<b>Equipment</b>	<b>Accounts</b>	<b>Other</b>	<b>Motor Vehicle Included</b>	<b>Amount</b>	<b>Date of Maturity or</b>	<b>No Fixed Maturity Date</b>
<b>Motor Vehicle Description</b>	<b>Year</b>	<b>Make</b>		<b>Model</b>		<b>V.I.N.</b>			
<b>General Collateral Description</b>	<b>General Collateral Description</b>								
<b>Registering Agent</b>	<b>Registering Agent or Secured Party/ Lien Claimant</b>								
<b>Address</b>		<b>City</b>		<b>Province</b>	<b>Postal Code</b>				

END OF FAMILY

**Type of Search** Business Debtor  
**Search Conducted On** 2722959 ONTARIO LTD.  
**File Currency** 01JUN 2022

File Number	Family	of Families	Page	of Pages	Expiry Date	Status
781801722	2	2	11	11	06APR 2027	

**FORM 1C FINANCING STATEMENT / CLAIM FOR LIEN**

File Number	Caution Filing	Page of	Total Pages	Motor Vehicle Schedule	Registration Number	Registered Under	Registration Period
781801722		001	1		20220406 1139 1793 5365	P PPSA	5

<b>Individual Debtor</b>	<b>Date of Birth</b>	<b>First Given Name</b>	<b>Initial</b>	<b>Surname</b>
<b>Business Debtor</b>				<b>Ontario Corporation Number</b>
<b>Address</b>				<b>City Province Postal Code</b>
4544 EASTGATE PARKWAY				MISSISSAUGA ON L4W3W6
<b>Individual Debtor</b>	<b>Date of Birth</b>	<b>First Given Name</b>	<b>Initial</b>	<b>Surname</b>
<b>Business Debtor</b>				<b>Ontario Corporation Number</b>
<b>Address</b>			<b>City</b>	<b>Province Postal Code</b>

<b>Secured Party</b>		<b>Secured Party / Lien Claimant</b>							
CANADIAN WESTERN BANK		<b>Address</b>			<b>City</b>	<b>Province</b>	<b>Postal Code</b>		
300, 606 4 STREET SW					CALGARY	AB	T2P1T1		
<b>Collateral Classification</b>	<b>Consumer Goods</b>	<b>Inventory</b>	<b>Equipment</b>	<b>Accounts</b>	<b>Other</b>	<b>Motor Vehicle Included</b>	<b>Amount</b>	<b>Date of Maturity or</b>	<b>No Fixed Maturity Date</b>
	X	X	X	X	X	X			
<b>Motor Vehicle Description</b>	<b>Year</b>	<b>Make</b>			<b>Model</b>			<b>V.I.N.</b>	
<b>General Collateral Description</b>	<b>General Collateral Description</b>								
	ALL PRESENT AND AFTER ACQUIRED PERSONAL PROPERTY. ALL PROCEEDS THEREOF.								

<b>Registering Agent</b>	<b>Registering Agent</b>			
	CANADIAN WESTERN BANK			
	<b>Address</b>	<b>City</b>	<b>Province</b>	<b>Postal Code</b>
	300, 606 4 STREET SW	CALGARY	AB	T2P1T1

LAST PAGE

**Note: All pages have been returned.**

[BACK TO TOP](#)



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Last Modified: November 03, 2019

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This is Exhibit "H" referred to in the Affidavit of  
**ROD RANDALL**  
Sworn on July 14, 2022

A handwritten signature in blue ink that reads "K. Sunshine". The signature is written in a cursive style with a long horizontal flourish at the end.

---

A commissioner, etc.

**KALEIGH SONSHINE, LSO#70105T**

**ASSIGNMENT AND POSTPONEMENT OF CREDITOR'S CLAIMS**

THIS AGREEMENT made this 05 day of April, 2022.

AMONG: \_\_\_\_\_ **GEMMA RUNAGHAN** ("Creditor")  
- and -  
\_\_\_\_\_ **2722959 ONTARIO LTD.** ("Corporation")  
- and -  
**CANADIAN WESTERN BANK** ("Bank")

WHEREAS the Corporation has a banking relationship with the Bank and desires to continue the said relationship and to have such accommodation from time to time as the Bank may furnish it;

AND WHEREAS the Creditor is now and intends to continue to be a supporter of the Corporation in carrying on its business and the Corporation is or may become indebted to the Creditor;

NOW THEREFORE in consideration of the Bank continuing the banking relationship with the Corporation for such time as the Bank sees fit and of such banking accommodation as the Bank may from time to time furnish to the Corporation, the Creditor agrees to postpone and hereby postpones the payment of any and all amounts which the Corporation may owe to the Creditor from time to time and at any time, until the Bank's claim against the Corporation has been paid in full, and in order to give effect to this agreement the Creditor hereby grants a security interest in and assigns and transfers unto the Bank, by way of security for the present and future indebtedness of the Corporation to the Bank, all indebtedness, (including all monies and other proceeds represented thereby or realized therefrom) both present and future, of the Corporation to the Creditor, and the Creditor does hereby agree that the Bank shall be subrogated to all of the Creditor's rights in respect thereto. The Creditor represents and warrants that the existing indebtedness of the Corporation to the Creditor is not subject to any set-off or counterclaim and has not been assigned, pledged, or hypothecated by the Creditor.

The Corporation acknowledges the within assignment and agrees that any present or future indebtedness of any nature or kind of the Corporation to the Creditor will not, without the consent of the Bank, be made the subject of any set-off or counterclaim by the Corporation. The Corporation and the Creditor represent to the Bank that the Creditor holds no security for any present or future indebtedness of any nature or kind of the Corporation to the Creditor, nor does it hold any negotiable paper for or other evidence of any such indebtedness other than that delivered to the Bank herewith. The Corporation and the Creditor hereby agree with the Bank that no satisfaction, consideration or security will be given to or accepted by the Creditor for any debt, liability or obligation, present or future, owing by the Corporation to the Creditor without the prior written consent of the Bank.

The Bank shall not in any event be bound to demand payment of the said claims or any part thereof or take any proceeding to collect any indebtedness of the Corporation to the Creditor or to enforce any security in respect thereof except as the Bank may at its own discretion deem fit.

The Creditor and the Corporation shall each, at any time and from time to time at the request of the Bank, make, execute and deliver all statements of claim, proofs of claim, assignments and other documents and do all matters and things which may be necessary or advisable for the protection of the rights of the Bank under this agreement.

In the event of the bankruptcy or winding up of the Corporation or any distribution of the assets or any of the assets of the Corporation or proceeds thereof among its creditors in any manner whatsoever the Bank may prove in respect of the said sums hereby assigned as a debt owing to it by the Corporation and the Bank shall be entitled to receive the dividends payable in respect thereof, such dividends to be applied on such part or parts of the Corporation's then indebtedness to the Bank as the Bank shall see fit until the whole of such indebtedness has been paid in full and thereafter the Creditor shall be entitled to such dividends.

Upon payment in full of the Corporation's indebtedness to the Bank secured by the assignment herein contained and of all bills, notes and other instruments representing the same, the Bank will release to the Creditor all the Bank's claim under this agreement in respect of the claims hereby assigned to it.

It is declared and agreed that the Bank shall not be bound to continue its banking relationship with the Corporation longer than it thinks proper or to make advances or give accommodation to the Corporation to any greater extent than it shall from time to time think proper.

This agreement is in addition to and without prejudice to any other securities, agreements or documents of any kind now or hereafter held by the Bank.

The Creditor and Corporation waive execution by the Bank of this agreement. The Creditor hereby acknowledges receiving a copy of this agreement and waives all rights to receive from the Bank a copy of any financing statement, financing change statement or verification statement filed or issued at any time in respect of this agreement.

This agreement shall be binding upon and shall enure to the benefit of the heirs, executors, administrators, successors and assigns of the respective parties hereto.

IN WITNESS WHEREOF the Creditor and Corporation have executed this agreement this 5 day of April, 2022.

CREDITOR:

CORPORATION:

GEMMA RUNAGHAN

2722959 ONTARIO LTD.

PER:

*Gemma Runaghan*

(SEAL)

PER:

*Gemma Runaghan*

(SEAL)

This is Exhibit "I" referred to in the Affidavit of  
**ROD RANDALL**  
Sworn on July 14, 2022

A handwritten signature in blue ink that reads "K. Sunshine". The signature is written in a cursive style with a long horizontal flourish at the end.

---

A commissioner, etc.

**KALEIGH SONSHINE, LSO#70105T**

**ASSIGNMENT AND POSTPONEMENT OF CREDITOR'S CLAIMS**

THIS AGREEMENT made this 05 day of April, 2022.

AMONG: 2156775 ONTARIO INC. ("Creditor")  
- and -  
2722959 ONTARIO LTD. ("Corporation")  
- and -  
CANADIAN WESTERN BANK ("Bank")

WHEREAS the Corporation has a banking relationship with the Bank and desires to continue the said relationship and to have such accommodation from time to time as the Bank may furnish it;

AND WHEREAS the Creditor is now and intends to continue to be a supporter of the Corporation in carrying on its business and the Corporation is or may become indebted to the Creditor;

NOW THEREFORE in consideration of the Bank continuing the banking relationship with the Corporation for such time as the Bank sees fit and of such banking accommodation as the Bank may from time to time furnish to the Corporation, the Creditor agrees to postpone and hereby postpones the payment of any and all amounts which the Corporation may owe to the Creditor from time to time and at any time, until the Bank's claim against the Corporation has been paid in full, and in order to give effect to this agreement the Creditor hereby grants a security interest in and assigns and transfers unto the Bank, by way of security for the present and future indebtedness of the Corporation to the Bank, all indebtedness, (including all monies and other proceeds represented thereby or realized therefrom) both present and future, of the Corporation to the Creditor, and the Creditor does hereby agree that the Bank shall be subrogated to all of the Creditor's rights in respect thereto. The Creditor represents and warrants that the existing indebtedness of the Corporation to the Creditor is not subject to any set-off or counterclaim and has not been assigned, pledged, or hypothecated by the Creditor.

The Corporation acknowledges the within assignment and agrees that any present or future indebtedness of any nature or kind of the Corporation to the Creditor will not, without the consent of the Bank, be made the subject of any set-off or counterclaim by the Corporation. The Corporation and the Creditor represent to the Bank that the Creditor holds no security for any present or future indebtedness of any nature or kind of the Corporation to the Creditor, nor does it hold any negotiable paper for or other evidence of any such indebtedness other than that delivered to the Bank herewith. The Corporation and the Creditor hereby agree with the Bank that no satisfaction, consideration or security will be given to or accepted by the Creditor for any debt, liability or obligation, present or future, owing by the Corporation to the Creditor without the prior written consent of the Bank.

The Bank shall not in any event be bound to demand payment of the said claims or any part thereof or take any proceeding to collect any indebtedness of the Corporation to the Creditor or to enforce any security in respect thereof except as the Bank may at its own discretion deem fit.

The Creditor and the Corporation shall each, at any time and from time to time at the request of the Bank, make, execute and deliver all statements of claim, proofs of claim, assignments and other documents and do all matters and things which may be necessary or advisable for the protection of the rights of the Bank under this agreement.

In the event of the bankruptcy or winding up of the Corporation or any distribution of the assets or any of the assets of the Corporation or proceeds thereof among its creditors in any manner whatsoever the Bank may prove in respect of the said sums hereby assigned as a debt owing to it by the Corporation and the Bank shall be entitled to receive the dividends payable in respect thereof, such dividends to be applied on such part or parts of the Corporation's then indebtedness to the Bank as the Bank shall see fit until the whole of such indebtedness has been paid in full and thereafter the Creditor shall be entitled to such dividends.

Upon payment in full of the Corporation's indebtedness to the Bank secured by the assignment herein contained and of all bills, notes and other instruments representing the same, the Bank will release to the Creditor all the Bank's claim under this agreement in respect of the claims hereby assigned to it.

It is declared and agreed that the Bank shall not be bound to continue its banking relationship with the Corporation longer than it thinks proper or to make advances or give accommodation to the Corporation to any greater extent than it shall from time to time think proper.

This agreement is in addition to and without prejudice to any other securities, agreements or documents of any kind now or hereafter held by the Bank.

The Creditor and Corporation waive execution by the Bank of this agreement. The Creditor hereby acknowledges receiving a copy of this agreement and waives all rights to receive from the Bank a copy of any financing statement, financing change statement or verification statement filed or issued at any time in respect of this agreement.

This agreement shall be binding upon and shall enure to the benefit of the heirs, executors, administrators, successors and assigns of the respective parties hereto.

IN WITNESS WHEREOF the Creditor and Corporation have executed this agreement this 5 day of April, 2022

CREDITOR:

CORPORATION:

2156775 ONTARIO INC.

2722959 ONTARIO LTD.

PER:

(SEAL)

PER:

(SEAL)

This is Exhibit "J" referred to in the Affidavit of  
**ROD RANDALL**  
Sworn on July 14, 2022

A handwritten signature in blue ink that reads "K Sonshine". The signature is written in a cursive style with a long horizontal flourish at the end.

---

A commissioner, etc.

**KALEIGH SONSHINE, LSO#70105T**



June 17, 2022

**Private and Confidential**

**Delivered via Prepaid Registered Mail**

2722959 Ontario Ltd.  
4544 East Gate Parkway  
Mississauga, Ontario  
L4W 3W6

Attention: Gemma Runaghan, President

-and-

Gemma Runaghan  
477 Reeves Way  
Stouffville, Ontario  
L4A 0A2

-and-

Frank D'Angelo  
162 Camlaren Crescent  
Kleinburg, Ontario  
L0J 1C0

Dear Sirs:

**Re:** Credit facilities established by Canadian Western Bank (the "**Bank**") in favour of 2722959 Ontario Ltd. (the "**Borrower**") pursuant to a commitment letter dated April 4, 2022 issued by the Bank and accepted by the Borrower and each of each of Gemma Runaghan ("**GR**") and Frank D'Angelo ("**FD**", and collectively with GR, the "**Guarantors**" and each a "**Guarantor**"), as guarantors (as the same may have been amended, replaced, restated, supplemented or renewed from time to time, the "**Commitment Letter**") and evidenced and supported by (a) a demand note dated April 5, 2022 issued by the Borrower in favour of Bank (the "**Demand Note**"); and (b) a revolving credit agreement dated April 5, 2022 between the Bank and the Borrower (the "**Revolving Credit Agreement**"); and (c) a credit card application dated April 20, 2022 executed by the Borrower (the "**Credit Card Application**", and collectively with the Commitment Letter, the Demand Note and the Revolving Credit Agreement, the "**Loan Agreements**")

We act as counsel for the Bank in respect to the above noted matter.

The Bank has made available to the Borrower certain credit facilities (the "**Credit Facilities**") pursuant to the Loan Agreements. As security for the obligations under the Loan Agreements,



the Borrower issued certain security in favour of the Bank, being: (a) a general security agreement dated April 5, 2022 (the "**GSA**"); (b) an assignment and postponement of creditor's claims dated April 5, 2022 between the Borrower and 2156775 Ontario Inc. (the "**Assignment and Postponement**"); and (c) an assignment of insurance dated April 12, 2022 (the "**Assignment of Insurance**" and collectively with the GSA and Assignment and Postponement, the "**Security**").

Additionally, according to the Bank's records, each of the Guarantors is obligated to the Bank for any amounts outstanding under the Loan Agreements. In that regard, the Bank holds the following guarantees granted by the Guarantors:

- (a) a full liability guarantee dated April 5, 2022 granted by GR in favour of the Bank; and
- (b) a full liability guarantee dated April 5, 2022 granted by FD in favour of the Bank.

To date, the Borrower has committed a number of defaults on its obligations under the Loan Agreements and the Security. These defaults include, but are not limited to, the following:

- (a) the failure to make certain regular scheduled payments of principal and interest on the loan evidenced by the Demand Note and advanced pursuant to the terms of the Commitment Letter since May 7, 2022; and
- (b) an adverse change in the financial condition of the Borrower.

At this time, the Borrower has indicated to the Bank that they will not be in a position to repay their Indebtedness (as hereinafter defined) to the Bank.

According to the Bank's records, as at June 14, 2022 the Borrower is obligated or otherwise liable to the Bank for advances, accrued interest and fees under each of the Credit Facilities described in Schedule "A" hereto in such amounts as described therein, plus accruing interest and all such other costs and expenses to which the Bank is entitled under its existing arrangements with the Borrower (the "**Outstanding Indebtedness**").

The Bank has also incurred professional and legal fees<sup>1</sup> on account of the defaults of the Borrower described in Schedule "A" (the "**Profession and Legal Fees**" and together with the Outstanding Indebtedness, the "**Indebtedness**"). These amounts are also payable by the Borrower in accordance with the terms of the Loan Agreements and Security.

We confirm that the Bank has declared all of the obligations of the Borrower to the Bank to be immediately due and payable and we hereby demand payment of such obligations from the Borrower and each of the Guarantors. We also enclose herewith a notice of intention to

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<sup>1</sup> The amounts owing by the Borrower on account of professional and legal fees described in the table attached hereto as "Schedule A" is not exhaustive and the Borrower is obligated and liable for all such other professional and legal costs and expenses to which the Bank is entitled under its existing arrangements with the Borrower, and therefore the amounts for professional and legal expenses described in the table are subject to change.



enforce security pursuant to the *Bankruptcy and Insolvency Act* (Canada), with respect to the security that you issued in favour of the Bank in support of your obligations in that regard.

All of the Indebtedness of the Borrower to the Bank must be paid by 2:00 p.m. on July 26, 2022. Payment should be made to our office by certified cheque payable to the Bank. In the event that the Borrower does not remit the required funds by July 26, 2022 or the Borrower does not demonstrate, by July 26, 2022 their ability to pay the funds at a later date, on terms satisfactory to the Bank, the Bank reserves its right to commence proceedings against the Borrower, without further notice, including, without limitation, with respect to the appointment of a receiver and/or manager pursuant to the security which the Borrower executed in favour of the Bank, and which includes a general security agreement and other security as more particularly described in the Loan Agreements.

The Bank reserves its right to act before July 26, 2022 if, for example, the Bank considers the property under its security to be in peril.

We trust that you will respond accordingly.

Yours truly,

MILLER THOMSON LLP

Per:



Geoffrey Marinangeli on behalf of Jeffrey C. Carhart  
JCC/af

c. Dean Chan  
Cameron Kerr  
Rod Randall



**SCHEDULE A****INDEBTEDNESS AS AT JUNE 14, 2022**

<b>Facility</b>	<b>Loan Number</b>	<b>Currency</b>	<b>Principal</b>	<b>Interest</b>	<b>Total Principal &amp; Interest</b>
Demand Note	101014476955	CAD	\$500,000.00	\$4,282.95	\$504,282.95
Revolving Credit Agreement	101014526437	CAD	\$99,886.97	\$183.63	\$100,070.60
VISA Credit Card	MD 2211030914	CAD	\$25,000.00	0.00	\$25,000.00
Unpaid Legal Fees	Miller Thomson LLP	CAD	\$2,400.00	0.00	\$2,400.00
<b>Total (CAD)</b>					<b>\$631,753.55</b>

**Notice of Intention to Enforce Security**

**(Subsection 244(1))**

**TO:** 2722959 ONTARIO LTD. (“**Borrower**”), an insolvent person

**AND TO:** GEMMA RUNAGHAN (“**GR**”), an insolvent person

**AND TO:** FRANK D’ANGELO (“**FD**”), an insolvent person

Take notice that:

1. **Canadian Western Bank** (the “**Bank**”), a secured creditor, intends to enforce its security on the property of each of the insolvent persons described below:
  - (a) with respect to Borrower, all property described as collateral for the obligations of Borrower to the Bank in the following documentation:
    - (i) a general security agreement dated April 5, 2022 granted by the Borrower in favour of the Bank;
    - (ii) an assignment and postponement of creditor claims dated April 5, 2022 between the Borrower and 2156775 Ontario Inc. in favour of the Bank; and
    - (iii) an assignment of insurance dated April 12, 2022 granted by the Borrower in favour of the Bank;
  - (b) with respect to GR, all property described as collateral for the obligations of GR to the Bank in the following documentation:
    - (i) the full liability guarantee dated April 5, 2022 granted by GR in favour of the Bank; and
    - (ii) an assignment and postponement of creditor claims dated April 5, 2022 between the Borrower and GR in favour of the Bank; and
  - (c) with respect to FD, all property described as collateral for the obligations of FD to the Bank in the full liability guarantee dated April 5, 2022 granted by FD in favour of the Bank.
2. The security that is to be enforced is in the form of the security listed in paragraph 1 above.
3. The total amount of indebtedness secured by the security is as set out in the attached demand letter dated 17 day of June, 2022.

4. The secured creditor will not have the right to enforce the security until after the expiry of the ten-day period following the sending of this Notice, unless the insolvent person consents to an earlier enforcement.

Dated at Toronto this 17 day of June, 2022

**CANADIAN WESTERN BANK**, by its  
lawyers, Miller Thomson LLP

Per: 

Geoffrey Marinangeli on behalf of  
Jeffrey C. Carhart

Telephone: (416) 595-8615

[jcarhart@millerthomson.com](mailto:jcarhart@millerthomson.com)

This is Exhibit "K" referred to in the Affidavit of  
**ROD RANDALL**  
Sworn on July 14, 2022

A handwritten signature in blue ink that reads "K. Sunshine". The signature is written in a cursive style with a large, stylized "K" and a long horizontal flourish at the end.

---

A commissioner, etc.

**KALEIGH SONSHINE, LSO#70105T**



Court File No.:

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

B E T W E E N:

**2722959 ONTARIO INC., FRANK D'ANGELO, and GEMMA RUNAGHAN**

Plaintiffs

- and -

**CANADIAN WESTERN BANK and JOHN BUTLER**

Defendants

**STATEMENT OF CLAIM**

TO THE DEFENDANTS:

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the Plaintiffs. The claim is made against you is set out in the following pages.

IF YOU WISH TO DEFEND THIS PROCEEDING, you or an Ontario lawyer acting for you must prepare a Statement of Defence in Form 18A prescribed by the Rules of Civil Procedure, serve it on the Plaintiffs' lawyer, or, where the Plaintiffs do not have a lawyer, serve it on the Plaintiffs, and file it, with proof of service, in the court office, WITHIN TWENTY DAYS after this Statement of Claim is served on you, if you are served in Ontario.

If you are served in another Province or Territory of Canada, or the United States of America, the period of serving and filing your statement of defence is forty days. If you are served outside Canada or the United States of America, the period for serving and filing your statement of defence is sixty days.

Instead of serving and filing a Statement of Defence, you may file a Notice of Intent to Defend in form 18B prescribed by the Rules of Civil Procedure. This will entitle you to ten more days in which to serve and file your Statement of Defence.

IF YOU FAIL TO DEFEND THIS PROCEEDING, JUDGEMENT MAY BE GIVEN AGAINST YOU IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF YOU WISH TO DEFEND THIS PROCEEDING BUT ARE UNABLE TO PAY LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.

Date: June 13, 2022

Issued by: \_\_\_\_\_

50 Eagle St W, Newmarket,  
Ontario L3Y 6B1

TO: **CANADIAN WESTERN BANK**  
**101-200 Argentia Road**  
**Mississauga, Ontario L5N 1P7**  
**T. 289 998 2600**  
**F. 833 341 7556**

AND TO: **JOHN BUTLER**  
**101-200 Argentia Road**  
**Mississauga, Ontario L5N 1P7**  
**T. 289 998 2600**  
**F. 833 341 7556**



## CLAIM

1. The Plaintiffs, 2722959 Ontario Inc., Frank D'Angelo, and Gemma Runaghan (hereinafter referred to as "the Plaintiffs"), claim against the Defendants, Canadian Western Bank ("CWB") and John Butler ("Butler") jointly and severally:

A. As against the Defendant CWB:

- a) General damages for breach of contract, breach of duty of care, breach of trust, breach of fiduciary duty, misrepresentation in the amount of \$250 million dollars (\$250,000,000.00), which includes damages for loss of contract revenues of \$140 million US dollars (\$140,000,000.00 USD) per year for the next 5 years, loss of inventory and equipment in the amount of \$12 million dollars (\$12,000,000.00), all of which the full particulars will be provided prior to trial;
- b) Punitive damages in the amount of \$30 million dollars (\$30,000,000.00);
- c) Special damages in an amount to be determined prior to trial;
- d) Pre-judgment and post-judgment interest pursuant to the *Courts of Justice Act*, R.S.O. 1990, c. C.43 as amended;
- e) Their costs on a substantial indemnity basis, plus any applicable HST; and
- f) Such further and other relief as this Honourable Court may deem just.

B. As against the Defendant Butler:

- a) General damages for breach of contract, breach of duty of care, breach of trust, breach of fiduciary duty, misrepresentation in the amount of \$250 million dollars (\$250,000,000.00), which includes damages for loss of contract revenues of \$140 million US dollars (\$140,000,000.00 USD) per year for the next 5 years, loss of inventory and equipment in the amount of \$12 million dollars (\$12,000,000.00), all of which the full particulars will be provided prior to trial;
- b) Punitive damages in the amount of \$30 million dollars (\$30,000,000.00);

- c) Special damages in an amount to be determined prior to trial;
- d) Pre-judgment and post-judgment interest pursuant to the *Courts of Justice Act*, R.S.O. 1990, c. C.43 as amended;
- e) Their costs on a substantial indemnity basis, plus any applicable HST; and
- f) Such further and other relief as this Honourable Court may deem just.

## **The Parties**

2. The Plaintiff, 2722959 Ontario Inc., operating as D'Angelo Brands, is an entity incorporated pursuant the laws of Ontario which manufactures and packages beverage drinks and edible oils, it also warehouses and provides logistics to its customers, and sells directly to the retail markets.

3. The Plaintiff, Frank D'Angelo, ("D'Angelo") is an individual who resides in the City of Kleinburg. D'Angelo is the partner of Gemma Runaghan.

4. Gemma Runaghan ("Runaghan") is an individual who resides in the City of Kleinburg. Runaghan was, at all material times, the sole shareholder of 2722959 Ontario Inc. and is the partner of Frank D'Angelo.

5. The Defendant John Butler ("Butler") was at all material times the Assistant Vice President and Team Lead of Canadian Western Bank.

6. The Defendant Canadian Western Bank ("CWB") is a financial service organization providing specialized service in banking, trust, and wealth management. CWB is a federally incorporated financial institution with a national presence across Canada with office in the City of Mississauga in the province of Ontario.

## **Overview**

7. On or about October 2021, the Plaintiffs engaged Rick Arnone ("Arnone") and Suzanne Kekely ("Kekely") as commercial financing consultants and advisors in order to

assist the Plaintiffs in obtaining a loan with a financial institution.

8. The Plaintiffs wished to secure financing for the growth of the company and to meet its production contracts for 2022. At this time, 2722959 Ontario Inc. had an approved mortgage with another lender in the amount of approximately \$11,000,000.00 for the purchase of its landlord's building.

9. Arnone and Kekely were at all material times advisors, consultants, and agents for the Plaintiffs, and they owed the Plaintiffs a fiduciary duty and were at all times not to be in a position of conflict when acting on behalf of the Plaintiffs.

10. Both Kekely and Arnone introduced the Plaintiffs to Butler, the Assistant Vice President of Canadian Western Bank. Butler expressed to the Plaintiffs that he and CWB were interested in pursuing a financial relationship with the Plaintiffs and that CWB would be the lender and would satisfy the Plaintiffs' financial needs.

11. By January 2022 the Plaintiffs were approved for a bridge loan by the Defendants.

12. As an agreement was reached to use CWB as lender for the 2722959 Ontario Inc., on or about February 3, 2022, the Plaintiffs' consultant, Kekely, Principal of Vision Business Consulting, sent an email and an interim reporting package to Butler and Colin O'Regan ("O'Regan"), Manager, Business Development for CWB. The package sent by Kekely consisted of (a) Interim financial statements, (b) comparative financial presentation, (c) aged accounts receivable, (d) inventory listing and (e) accounts payable listings.

13. On or about February 22, 2022, O'Regan sent Kekely via email an Amended Discussion Paper for the Plaintiff to sign. The summary of the Discussion Paper summarized that the Lender, CWB would consider lending to 2722959 Ontario Inc. the loan amount of \$10,150,000.00 where the Plaintiffs D'Angelo and Runaghan would be personal guarantors to the loan and that 2156775 Ontario Inc. would be the corporate guarantor of the loan.

14. On or about March 3, 2022, O'Regan sent an email to Kekely advising, amongst other things, that *“in our opinion and the avenue for which we believe we will have the greatest success will be keeping the commercial term advances around \$5.5 million range and implementing whatever level of operating facility we can layer on over and above.... Our priority will be to meet the largest needs as discussed: Landlord obligations, city of Mississauga payable and equipment refurbishment.”*

15. In order to proceed with the application immediately and to satisfy the Plaintiffs' deadlines, O'Regan requested that Kekely deliver to him a list of documents including D'Angelo and Runaghan's Notices of Assessment, personal mortgage statements, and RRSP Statements. These requests were fully satisfied by the Plaintiffs.

16. Between January and mid-March 2022, D'Angelo, Arnone, Kekely, O'Regan, and Butler had various exchanges by email, telephone discussions, and in person meetings. The Defendants knew in January that the Plaintiffs requested a loan to increase the production line and to meet the production order for their customers. The Plaintiffs state that it was important to have financing resources to improve the production lines to meet their orders to customers. The loan amount that would be approved by the defendants was approximately \$6,500,000.00, or at least this was the loan amount that the Defendants were considering in advancing to the Plaintiffs.

17. By mid-March 2022, the loan funding had been delayed. In explaining such delay, Butler advised that the Bank was busy with many other files, and he was pushing the Plaintiffs' loan application as a priority. Butler kept on advising and representing to the Plaintiffs that *“we are almost there...everything looks good...you have nothing to worry about... the loan is coming...”*

18. As the delays caused a shortage on the cash flow, on the advice of Butler, he recommended that D'Angelo and Runaghan obtain a high-priced mortgage loan on their personal properties and use such funding to satisfy the immediate debt liabilities until

such time that the commercial loan would be advanced. According to Butler, the loan advance would be immediate.

19. During this time frame, while the loan funding had been delayed, Butler made representations to the Plaintiffs and assured them that the loan would be advanced shortly.

20. Butler also assured the Plaintiffs that he would be personally instrumental in helping into 2722959 Ontario Inc. growth.

21. The Plaintiffs state that from January until March 2022, they were losing revenues as the production line could not keep up with the demands of their clients. The Defendants recognized that the Plaintiffs needed loan funds to improve and fix their production line to keep with the demands by its customers.

22. At a meeting in March 2022 with Arnone, Kekely, O'Regan, Butler and D'Angelo, Butler advised that, despite the delays in being funded, Butler would be sending letters to the Plaintiffs' suppliers assuring them that the Plaintiffs would be receiving a loan to satisfy the suppliers' debts.

23. Butler, on numerous occasions, assured the Plaintiffs that they had been approved for the loan, but in the short-term, he advised to D'Angelo to cash in his RRSPs and not to worry about it.

24. Between Butler and D'Angelo, a special relationship of trust developed, and D'Angelo relied upon Butler's advice guidance and representations. Butler had also become D'Angelo's advisor where he advised D'Angelo to cash the family's RRSPs in order to support the Plaintiff's financial obligations until the loan was advanced. On the advice of Butler, D'Angelo cashed his RRSPs and used such funds to meet some of the corporate Plaintiff's financial obligations.

25. Butler knew of the pressing urgency in getting funding for the Plaintiffs. He was aware that if the Plaintiffs did not receive funding by April, or by the first week of May

2022 the latest, the Plaintiffs would suffer catastrophic losses to both the business and personally. Butler was not only aware of such urgency in providing the loan to the Plaintiffs, which had been delayed by his own actions, but was also aware of the existence of the debtors and the amounts of the debts that had to be satisfied by the Plaintiffs in a timely fashion. Butler was aware and neglected to advance the loan to Plaintiffs by the deadlines imposed by the Plaintiffs' landlords and suppliers.

26. Butler, in the presence of various parties, including Arnone and Kekely, always assured and represented to the Plaintiffs that they would be in receipt of the loan by the latest, May 8, 2022.

27. On or about April 1, 2022, Kekely confirmed via email to D'Angelo that "*CWB has completed their internal approvals and is proceeding with funding mechanics for next week*". Kekely requested additional documents, all of which were provided.

28. On or about April 3, 2022, D'Angelo spoke to Butler as he was concerned about the funding delays respecting the substantial portion of the loan. D'Angelo spoke to Butler advising that the company could not have any further delays for the funding as suppliers and the landlord were insisting on payment. Butler again advised D'Angelo that the loan had been approved, they were experiencing some delays, but not to worry about the loan as it would be advanced shortly.

29. As Butler knew that the Plaintiffs had immediate financial obligations to others, a partial loan was advanced to the Plaintiffs on or about April 5, 2022. According to Butler, this advance was to assist the Plaintiffs meet their pressing financial obligations on a temporary basis. This was considered to be a bridge finance facility to support the operating needs of the Plaintiffs until the balance of the larger loan would be advanced.

30. The Plaintiffs state that on April 4, 2022, Kekely provided the Plaintiffs with the Commitment Letter of a loan consisting of 3 segments:

- a. Loan Segment (1): Demand Loan \$100,000.00, to finance day-to-day operations of the Borrower's business;

- b. Loan Segment (2): Demand Non-Revolving Loan #1 (DNR #1) \$500,000.00, to assist with financing the purchase and installation of new 100 head can filler carriage/carousel from Bevcorp LLC and associated installation costs; and
- c. Loan Segment (3): Corporate Credit Card \$25,000.00, to assist with day-to-day expenses.

31. The Plaintiffs state that the advance of the above loan was an assurance to them by the Defendants that the balance of the remaining loan would be advanced shortly.

32. The Plaintiffs state that they were induced by the Defendants to take this loan for which they provided personal guarantees and now the Plaintiffs, by such commitment to the loan, were unable to seek out other loan opportunities with other financial institutions.

33. The Plaintiffs further state that despite the representations and advice from Butler, as of April 12, 2022, the balance of the remaining funds of the loan were not advanced and the Plaintiffs were at risk of being locked out by the landlord and having the hydro service disconnected to the Plaintiffs' manufacturing facility.

### **Misrepresentations By Butler**

34. The Plaintiffs state that on April 13, 2022, Butler wrote to Eastgate Group Inc., one of the Plaintiffs landlords, and advised of the following:

*This letter is to confirm to you that CWB recently on-boarded D'Angelo Brands as a client, and that we completed our initial tranche of Equipment financing on April 8, 2022.*

*This letter is to further confirm to you that we are in the process of finalizing additional financing for the client, which we fully intend to fund by May 8, 2022. This additional financing will provide for the full pay-out of funds owing to you relative to the Leasehold Improvement costs. In this regard, can you kindly provide the undersigned with a Pay-Out Statement, as of May 8, 2022, as we intend to direct funds to you on this date.*

*I understand that you recently met with Mr. D'Angelo and impressed upon the need to complete his financing arrangements on an immediate basis, in order to avoid distraint. We believe that it is in the best interest of all parties to avoid such action and are seeking your cooperation in this manner.*

*If you should have any questions regarding this matter, please do not hesitate to contact the undersigned at your convenience.*

*Yours Truly,  
CANADIAN WESTERN BANK  
[Signed by John Butler, AVP & Market Lead]*

35. On or about May 5, 2022, the Plaintiffs' consultant/advisor, Arnone, directed to the Plaintiffs' solicitor a letter of direction for the payment of their commission for the loan. The email from Arnone to D'Angelo and Runaghan reads as follows:

*Dear Frank/Gemma,*

*We appear to be near the finish line with CWB. As a result, I have attached a Letter of Direction for your lawyer so that Suzanne and I get paid as per our agreement.*

36. In addition to the letter Butler sent to the Plaintiffs' Landlord, Butler wrote a similar letter to other suppliers advising them that funding would take place by May 8, 2022.

37. Butler also in early May wrote to the Plaintiffs' lawyer requesting a pay-out of the landlord's debt so that these could be funded without further delay.

38. In response to Butler's letter, Alectra advised D'Angelo confirming that:

*We have received the attached letter from the bank. To confirm, the bank will be providing funds to you by May 8th, which is Sunday. We will be extending the date of payment for both 4500 Eastgate & 5901 Tomken until May 9th. Both payments need to be paid in full by May 9th with proof of payment sent in to us.*

39. On May 11, 2022 Butler wrote to another of the Plaintiffs advising that funds would be released not later than next week. In his email Butler writes



*Although we have made significant progress towards funding, we have been delayed slightly as we work through loan documentation and pay-outs. The loan proceeds are being advanced to the Bank's Counsel, who is in turn coordinating with the suppliers and their counsel, where applicable.*

*The delay has been due strictly to the Bank and our legal counsel – and is in no way related to D'Angelo Brands – please accept our apologies.*

*From a timing perspective, we are somewhat at the mercy of Counsel, who understanding the priority of completing funding. I believe we will be able to release funds not later than next week.*

*In the interim, if you have any questions, please let me know.*

40. On May 12, 2022, Butler and CWB destroyed the Plaintiffs' business as Alectra disconnected the hydro utility, and later the landlords locked out the Plaintiffs from their business for not delivering payments as promised by Butler. It turned out to be the case that Butler had deceived and lied to the Plaintiffs including their suppliers and landlords.

41. On May 13, 2022, following the Plaintiffs' plant being shut down due to the negligent misrepresentations made by the Defendants, the Defendants presented to the Plaintiffs a Commitment Letter dated May 12, 2022. The Plaintiffs states and the fact is that such new Commitment Letter forms the basis of all the misrepresentation and negotiations in bad faith undertaken by Butler to the Plaintiff's detriment as the loan as promised by Butler was not yet approved despite Butler assurances to the Plaintiffs that the loan had been approved. Had the Plaintiffs been informed of the fact that the loan had not yet been approved, the Plaintiffs would have secured a loan in March or April with another financial institution.

42. The Plaintiffs state that the Commitment Letter of May 12, 2022 presented to the Plaintiffs on May 13, 2022 had new conditions, never discussed with the Plaintiffs and these were impossible to satisfy in a timely fashion. One of the conditions was for a new appraisal be conducted on the Plaintiffs' equipment while the plant was now shut down having no access to it without Hydro.

43. Contrary to Butler's advice and representations, the Plaintiffs did not receive the loan funds as committed by the Defendants. The Plaintiffs state that the Defendants made serious misrepresentations which were relied upon the Plaintiffs to their detriment, such misrepresentations were done in bad faith which ultimately caused the Plaintiffs to suffer damages to the point of having their business shut down after the D'Angelo family had been in business for over 25 years.

44. The Plaintiffs state that the conduct and misrepresentations of Butler were egregious, reprehensible, and reckless.

45. Butler in his dealings with the Plaintiffs, Arnone and Kekely knew or ought to have known that one of the suppliers of the Plaintiffs, Alectra, would disconnect the hydro utility from the Plaintiffs' facility if it was not paid by the first week in May for the hydro bill owed to them by the Plaintiffs.

46. The Plaintiffs state that as of April, and again by May 3<sup>rd</sup> or 4<sup>th</sup>, 2022, Butler knew that if Alectra was not paid as promised by the Defendants, the Plaintiff's company would be shut down and over 200 employees would be without a job.

47. The Plaintiffs state that Butler and CWB were negligent and reckless in allowing Alectra to disconnect the hydro when they knew or ought to have known this would happen if funds were not delivered to them by the deadline imposed, which Butler had promised to satisfy.

48. The Plaintiffs state that:

- a. The representations were made in the context of a special relationship;
- b. The representations were untrue;
- c. The representations were made negligently;
- d. The plaintiffs relied on the representations;
- e. The Plaintiffs' reliance on the representations were reasonably foreseeable by the Defendants;

- f. The Defendants knew or ought to have known that the Plaintiffs would rely on the representations; and
- g. As a result, the Plaintiffs have suffered damages for which the Defendants should be liable.

49. Butler understood from the Plaintiffs the necessity and urgency in having loan funds available immediately at their disposal in order to satisfy debts owed to Alectra, the hydro utility, and the Landlord. Butler advised and confirmed and falsely misrepresented on many occasions that the loan had been approved and that he would be funding immediately. Despite these false misrepresentations, Butler advised D'Angelo to cash in his RRSP and not to worry about the penalties as the loan would be forthcoming any day now.

50. On the advice of Butler, acting also as his financial advisor, D'Angelo cashed his RRSPs, and the family took high ratio mortgages on personal properties to service the company's debts, believing on the advice of Butler that the loan had been approved and that funds were to be delivered in a short time span and such loan would make the personal Plaintiffs whole again.

### **Breach of Fiduciary Duty**

51. Butler misrepresented to the Plaintiffs that they would be fully financed by May 8, 2022.

52. The Defendants failed to follow through with the loan commitment.

53. The Plaintiffs further state that despite the wording in the Letters of Intent or other agreements signed by the Plaintiffs, through the representations and assurances made by Butler, the Defendants now had an obligation to advance funds despite other terms that the Defendants may now be alleging were not satisfied. The representations and assurances made by Butler to the Plaintiffs constitute a verbal and/or oral agreement by which the Defendants are now bound.

54. The Defendants owed a duty of care to D'Angelo and Runaghan to act with reasonable care and judgment. Such duty of care included to act for the Plaintiffs' sole benefit and best interests, and to place the Plaintiffs' interests ahead of their own interests or those of its employers. Butler failed to be diligent and independent and made erroneous recommendations and advice in pressing upon the Plaintiffs to cash out their family RRSP and take mortgages on their personal properties to keep the business running.

55. The Plaintiffs would have not committed to the loan presented by the Defendants had they been advised in a timely manner by them that the loan was not approved.

56. The Plaintiffs, as a direct result of having the hydro utility disconnected by the actions of the Defendants, they are unable to reengage the everyday operations of the company and are unable to fulfil any orders to its customers. The Plaintiffs relied on the Defendants misrepresentations and at each and every step of their promises to their detriment. The Defendants' representations were misleading, untrue, and/or inaccurate. The Defendant's misrepresentations to the Plaintiffs were negligent.

57. The Defendants were negligent in making representations that the loan would be advanced when promised, as Butler did not have the approval nor the authorization to advance the loan.

58. The Defendants knew or ought to have known that the Plaintiffs would rely on their representations, and it would be detrimental to the Plaintiffs should those representations be untrue. The Plaintiffs' reliance on those representations was reasonable in those circumstances. The Defendants owed the Plaintiffs a duty of care based on a special relationship. It was reasonably foreseeable, and/or the Defendants knew or ought to have known that the Plaintiffs would rely on representations made by senior banking officials for the Defendants in the course of the loan considerations. The Plaintiffs have also suffered prejudice to their reputation in the eyes of various suppliers and customers.

59. The detrimental reliance has caused damages to the Plaintiffs and the Defendants are liable to the Plaintiffs for negligent misrepresentation, breach of contract, breach of duty of care, breach of trust, breach of fiduciary duty.

60. At all times, the Defendants failed to realize the financial circumstances of the Plaintiffs. They failed to proceed diligently and expeditiously and lacked the consideration of the Plaintiffs' financial position. After the Plaintiffs' manufacturing facility was shut down of May 12, 2022, the Plaintiffs requested an updated accounts payable listing a week after the manufacturing facility was shut down. By this time, the Plaintiffs missed their payroll obligations to their employees. No one could enter the plant without electricity, and access to any information on their computers, without electricity, would be impossible.

#### **Conflict of Interest, Bad Faith and Further Breaches of Fiduciary Duties**

61. The plaintiffs further state that the Defendants acted dishonestly and in bad faith by hiring the Plaintiffs' advisor, consultant, and employee, Kekely. The Defendants hired Kekely as Assistant Vice President, Commercial Accounts for CWB. The Defendants did not advise the Plaintiffs that Kekely was interviewed or hired for the position of being an employee of CWB. The Plaintiffs plead that the Defendants have breached their duty of good faith owed to the Plaintiffs. The Defendants also acted in bad faith and placed themselves in a conflict-of-interest position when on or about late March early April 2022 they hired Kekely while she was an advisor, agent, and employee of the Plaintiffs. The Defendants' conduct caused damages to the Plaintiffs, and they suffered damages.

62. The Plaintiffs allege that the CWB misused confidential information when it hired Kekely while being an employee of the Plaintiffs. The Plaintiffs states that due to this egregious conduct by CWB, the court should make an adverse inference in favour of the Plaintiffs by finding that the Defendants conduct merits an award of punitive damages against them.

63. Also, the Plaintiffs state that the Defendants owed a fiduciary duty as well as a duty to act in good faith in dealing with the Plaintiffs.

64. The Plaintiffs state that the actions and conduct of the Defendants were malicious, harsh, misleading, and intentional. The Plaintiff states that punitive damages, aggravated damages, and exemplary damages will serve a rational purpose in this instance and that an award of \$20 million dollars should be made against the Defendants.

### **Irreparable Harm**

65. By not advancing the loan funds as promised by Butler, and by the Defendants causing the hydro utility service to be disconnected, and by having the Plaintiffs RRSPs cashed and by taking mortgages on their personal properties as advised by Butler, the Plaintiffs continued to be unable to secure any other finances and as a result, these steps taken by the Plaintiffs on the advice of Butler stand to cost them millions of dollars.

66. The Plaintiffs, until May 12, 2022, had lucrative contracts with Arizona beverages and others ranging approximately \$150 million USD of sales per year for the next 5 years. Such contract has been terminated as the Plaintiffs' manufacturing plant has been shut down by the conduct of the Defendants. The Plaintiffs also claim for damages to their inventory and equipment which had a value as of May 12, 2020 of approximately \$11 millions dollars. The full particulars of the full damages suffered by the Plaintiffs will be made available prior to trial.

67. The Plaintiffs propose that this action be tried at the City of Newmarket.

Date: June 13, 2022

**LO GRECO STILMAN LLP**

Barristers and Solicitors  
201-14845 Yonge Street  
Aurora ON L4G 6H8

**Joseph F. Lo Greco**

LSO No.: 355570

Tel: (416) 488-4110

Fax: (416) 488-0216

Lawyers for the Plaintiffs

**2722959 ONTARIO INC. et al.**  
Plaintiffs

-and-

**Court File No.:**  
**CANADIAN WESTERN BANK et al.**  
Defendants

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

Proceeding commenced at Newmarket

**STATEMENT OF CLAIM**

**LO GRECO STILMAN LLP**  
Barristers and Solicitors  
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**Joseph F. Lo Greco**  
LSO No.: 355570

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Fax: (416) 488 - 0216  
[jlogreco@lslaw.ca](mailto:jlogreco@lslaw.ca)

Lawyers for the Plaintiffs



This is Exhibit "L" referred to in the Affidavit of  
**ROD RANDALL**  
Sworn on July 14, 2022

A handwritten signature in blue ink that reads "K. Sunshine". The signature is written in a cursive style with a long horizontal flourish at the end.

---

A commissioner, etc.

**KALEIGH SONSHINE, LSO#70105T**

**REGISTERED MAIL & REGULAR MAIL**

June 22, 2022

Canadian Western Bank  
Plaza 1, 2000 Argentia Road, Suite 101  
Mississauga, ON L5N 1P7

Dear: John Butler

**Re: 2156775 Ontario Inc. o/a D'Angelo Brands and 2722959 Ontario Inc.**  
**Policy # 01861678-14008, 501411549 & EBI051135879**

The above captioned policies have been cancelled at the request of the insured effective June 20, 2022 at 12:01 a.m.

This is your formal notice; please mark your files accordingly.

Yours truly



Jesse Henkenhaf, FCIP, CRM  
Vice President  
:lm  
Encl.

This is Exhibit "M" referred to in the Affidavit of  
**ROD RANDALL**  
Sworn on July 14, 2022

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---

A commissioner, etc.

**KALEIGH SONSHINE, LSO#70105T**



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June 24, 2022

**Private and Confidential**

**Via Email: [jlogreco@lslaw.ca](mailto:jlogreco@lslaw.ca)**

**Lo Greco Stilman LLP**  
Barristers and Solicitors  
14845 Yonge Street  
Aurora, ON  
L4G 6H8

**Attention: Mr. Joseph F. Lo Greco**

Dear Mr. Lo Greco:

**Re: Canadian Western Bank (“CWB”) and 2722959 Ontario Ltd. (“Company”),  
Gemma Runaghan and Frank D’Angelo  
Court File No.: CV-22-00001968-0000**

Thank you for acknowledging receipt of our demand letter dated June 17, 2022, concerning existing indebtedness owing by the Company to CWB, as more particularly described in the aforesaid demand and CWB’s enforcement of its security (including against certain collateral located at 4544 East Gate Parkway, Mississauga, Ontario (“**Premises**”)).

As you know, CWB has valid and enforceable security including a General Security Agreement (“**GSA**”) granting CWB security in all personal and after-acquired personal property of the Company, and full liability guarantees from each of Gemma Runaghan and Frank D’Angelo for any amounts owing by the Company to CWB.

As set out on your Statement of Claim, the Company is insolvent and ceased active business operations as of May 12, 2022. We understand that the Premises may now be in control of the landlord. We further understand that the inventory of the Company may be fungible, and therefore may deteriorate in value over time, and that there may also be issues regarding the deterioration of the value of the licenced brand associated with the Company.

In the circumstances, we will immediately require information from you concerning what, if any, steps are being taken to protect and preserve the value of the Company’s assets over which CWB holds security.

In that respect, the information we require is as follows:

- a) Details of all tangible and intangible assets of the Company;
- b) The status of the payment of all priority payables, including taxes, HST, and payroll;
- c) The value of the Company’s equipment;

- d) Whether the landlord is making attempts to distraint on the assets of the Company;  
and
- e) Whether any collateral has been removed from the Premises.

In the alternative, and in accordance with its rights under section 6(o) of the GSA, CWB would like to have its financial advisor attend at the Premises to inspect the value of its collateral, as well as review the Company's books and records (or attend at such other location as those books and records may be located) and appraise the Company's equipment.

If we do not receive the requested information immediately and, in any event, no later than the close of business on Monday June 27, 2022, we will have no option but to consider the assets of the Company in peril and we will be relying upon this correspondence should it become necessary to take immediate enforcement steps to protect the value of CWB's collateral.

Yours truly,

MILLER THOMSON LLP

Per:



Kaleigh Sonshine

KS/jx

- c. Gavin Finlayson, Miller Thomson LLP, via email  
Jeffrey Carhart, Miller Thomson LLP, via email



This is Exhibit "N" referred to in the Affidavit of  
**ROD RANDALL**  
Sworn on July 14, 2022

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---

A commissioner, etc.

**KALEIGH SONSHINE, LSO#70105T**

---

**From:** Joseph F. Lo Greco <jlogreco@lslaw.ca>  
**Sent:** Monday, June 27, 2022 10:39 AM  
**To:** Xu, Joan  
**Cc:** Carhart, Jeffrey; Finlayson, Gavin; Sonshine, Kaleigh; Gemma Runaghan  
**Subject:** [\*\*EXT\*\*] Re: Canadian Western Bank ("CWB") and 2722959 Ontario Ltd. ("Company"), Gemma Runaghan and Frank D'Angelo, Court File No.: CV-22-00001968-0000 [MTDMS-Legal.FID11454516]

As per our communication to you previously, if CWB, moves on their security, we will immediately bring an Application or Motion for an injunction. As you must appreciate our clients have filed a claim against CWB, as CWB and John Butler caused damaged while negotiating in bad faith. Our clients will be seeking their costs.

Joseph F. Lo Greco



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*Mobile 416-545-9605*

---

**From:** Xu, Joan <jxu@millerthomson.com>  
**Date:** Friday, June 24, 2022 at 5:20 PM  
**To:** Joseph F. Lo Greco <jlogreco@lslaw.ca>  
**Cc:** Carhart, Jeffrey <jcarhart@millerthomson.com>, Finlayson, Gavin <gfinlayson@millerthomson.com>, Sonshine, Kaleigh <ksonshine@millerthomson.com>  
**Subject:** Canadian Western Bank ("CWB") and 2722959 Ontario Ltd. ("Company"), Gemma Runaghan and Frank D'Angelo, Court File No.: CV-22-00001968-0000 [MTDMS-Legal.FID11454516]

Dear Mr. Lo Greco,

Please see attached correspondence from Ms. Kaleigh Sonshine of today's date.

Thanks.

Joan

**JOAN XU**  
Legal Assistant

Miller Thomson LLP  
Services provided through Miltom Management LP

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This is Exhibit "O" referred to in the Affidavit of  
**ROD RANDALL**  
Sworn on July 14, 2022

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---

A commissioner, etc.

**KALEIGH SONSHINE, LSO#70105T**

---

**From:** Sonshine, Kaleigh <ksonshine@millerthomson.com>  
**Sent:** Monday, June 27, 2022 1:51 PM  
**To:** Joseph F. Lo Greco  
**Cc:** Carhart, Jeffrey; Finlayson, Gavin; Xu, Joan  
**Subject:** RE: Canadian Western Bank ("CWB") and 2722959 Ontario Ltd. ("Company"), Gemma Runaghan and Frank D'Angelo, Court File No.: CV-22-00001968-0000 [MTDMS-Legal.FID11454516]

Mr. Lo Greco,

I am taking your client off of this lawyer to lawyer communication.

We note that you have refused to provide any of the basic factual information requested in our letter of last Friday, June 24, 2022. CWB is contractually entitled to this information under the General Security Agreement.

We also note that on June 22, 2022, CWB received a notice letter from Baird MacGregor Insurance Brokers LP advising that your clients unilaterally cancelled their insurance policies, without prior notice to CWB.

CWB is entitled to satisfy itself that its collateral is not in peril, which appears to be the case based upon your response and the notice letter from Bair MacGregor.

Do your clients intend to provide the requested information before end of day today or not? Please advise.

**KALEIGH SONSHINE**  
Associate

**Miller Thomson LLP**  
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P.O. Box 1011  
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**From:** Joseph F. Lo Greco <jlogreco@lslaw.ca>  
**Sent:** Monday, June 27, 2022 10:39 AM  
**To:** Xu, Joan <jxu@millerthomson.com>  
**Cc:** Carhart, Jeffrey <jcarhart@millerthomson.com>; Finlayson, Gavin <gfinlayson@millerthomson.com>; Sonshine, Kaleigh <ksonshine@millerthomson.com>; Gemma Runaghan <Gemma.Runaghan@DangeloBrands.ca>  
**Subject:** [\*\*EXT\*\*] Re: Canadian Western Bank ("CWB") and 2722959 Ontario Ltd. ("Company"), Gemma Runaghan and Frank D'Angelo, Court File No.: CV-22-00001968-0000 [MTDMS-Legal.FID11454516]

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Joseph F. Lo Greco



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*Mobile 416-545-9605*

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**From:** Xu, Joan <[jxu@millerthomson.com](mailto:jxu@millerthomson.com)>  
**Date:** Friday, June 24, 2022 at 5:20 PM  
**To:** Joseph F. Lo Greco <[jlogreco@lslaw.ca](mailto:jlogreco@lslaw.ca)>  
**Cc:** Carhart, Jeffrey <[jcarhart@millerthomson.com](mailto:jcarhart@millerthomson.com)>, Finlayson, Gavin <[gfinlayson@millerthomson.com](mailto:gfinlayson@millerthomson.com)>, Sonshine, Kaleigh <[ksonshine@millerthomson.com](mailto:ksonshine@millerthomson.com)>  
**Subject:** Canadian Western Bank ("CWB") and 2722959 Ontario Ltd. ("Company"), Gemma Runaghan and Frank D'Angelo, Court File No.: CV-22-00001968-0000 [MTDMS-Legal.FID11454516]

Dear Mr. Lo Greco,

Please see attached correspondence from Ms. Kaleigh Sonshine of today's date.

Thanks.

Joan

**JOAN XU**  
Legal Assistant

**Miller Thomson LLP**  
Services provided through Miltom Management LP  
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**ROD RANDALL**  
Sworn on July 14, 2022

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---

A commissioner, etc.

**KALEIGH SONSHINE, LSO#70105T**

---

**From:** Joseph F. Lo Greco <jlogreco@lslaw.ca>  
**Sent:** Monday, June 27, 2022 2:43 PM  
**To:** Sonshine, Kaleigh  
**Cc:** Carhart, Jeffrey; Finlayson, Gavin; Xu, Joan  
**Subject:** Re: Canadian Western Bank ("CWB") and 2722959 Ontario Ltd. ("Company"), Gemma Runaghan and Frank D'Angelo, Court File No.: CV-22-00001968-0000 [MTDMS-Legal.FID11454516]

Hello Ms. Kaleigh,

I thought we were clear during our telephone call that all assets are at their current locations since the power shut down on May 12, 2022 resulting from your client's representations. Your client had promised to Electra payment by May 8<sup>th</sup> and subsequently on the 12<sup>th</sup> of May the power was shut off.

Our client do not have funds to pay for insurance since seizing to operate on the 12<sup>th</sup> of May. You and your client are fully aware that the landlords have locked out our clients from their premises.

I trust this is to your satisfaction.

Regards,

Joseph F. Lo Greco



14845 Yonge Street  
Aurora, Ontario L4G 6H8

T. 416-488-4110  
F. 416-488-0216  
*Mobile 416-545-9605*

---

**From:** Sonshine, Kaleigh <ksonshine@millerthomson.com>  
**Date:** Monday, June 27, 2022 at 1:51 PM  
**To:** Joseph F. Lo Greco <jlogreco@lslaw.ca>  
**Cc:** Carhart, Jeffrey <jcarhart@millerthomson.com>, Finlayson, Gavin <gfinlayson@millerthomson.com>, Xu, Joan <jxu@millerthomson.com>  
**Subject:** RE: Canadian Western Bank ("CWB") and 2722959 Ontario Ltd. ("Company"), Gemma Runaghan and Frank D'Angelo, Court File No.: CV-22-00001968-0000 [MTDMS-Legal.FID11454516]

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Do your clients intend to provide the requested information before end of day today or not? Please advise.

## **KALEIGH SONSHINE**

**Associate**

### **Miller Thomson LLP**

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40 King Street West, Suite 5800

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**From:** Joseph F. Lo Greco <jlogreco@lslaw.ca>

**Sent:** Monday, June 27, 2022 10:39 AM

**To:** Xu, Joan <jxu@millerthomson.com>

**Cc:** Carhart, Jeffrey <jcarhart@millerthomson.com>; Finlayson, Gavin <gfinlayson@millerthomson.com>; Sonshine, Kaleigh <ksonshine@millerthomson.com>; Gemma Runaghan <Gemma.Runaghan@DangeloBrands.ca>

**Subject:** [\*\*EXT\*\*] Re: Canadian Western Bank ("CWB") and 2722959 Ontario Ltd. ("Company"), Gemma Runaghan and Frank D'Angelo, Court File No.: CV-22-00001968-0000 [MTDMS-Legal.FID11454516]

As per our communication to you previously, if CWB, moves on their security, we will immediately bring an Application or Motion for an injunction. As you must appreciate our clients have filed a claim against CWB, as CWB and John Butler caused damaged while negotiating in bad faith. Our clients will be seeking their costs.

Joseph F. Lo Greco



14845 Yonge Street

Suite 201

Aurora, Ontario L4G 6H8

T. 416-488-4110

F. 416-488-0216  
Mobile 416-545-9605

---

**From:** Xu, Joan <[jxu@millerthomson.com](mailto:jxu@millerthomson.com)>

**Date:** Friday, June 24, 2022 at 5:20 PM

**To:** Joseph F. Lo Greco <[jlogreco@lslaw.ca](mailto:jlogreco@lslaw.ca)>

**Cc:** Carhart, Jeffrey <[jcarhart@millerthomson.com](mailto:jcarhart@millerthomson.com)>, Finlayson, Gavin <[gfinlayson@millerthomson.com](mailto:gfinlayson@millerthomson.com)>, Sonshine, Kaleigh <[ksonshine@millerthomson.com](mailto:ksonshine@millerthomson.com)>

**Subject:** Canadian Western Bank ("CWB") and 2722959 Ontario Ltd. ("Company"), Gemma Runaghan and Frank D'Angelo, Court File No.: CV-22-00001968-0000 [MTDMS-Legal.FID11454516]

Dear Mr. Lo Greco,

Please see attached correspondence from Ms. Kaleigh Sonshine of today's date.

Thanks.

Joan

**JOAN XU**  
Legal Assistant

**Miller Thomson LLP**

Services provided through Miltom Management LP

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40 King Street West, Suite 5800

P.O. Box 1011

Toronto, Ontario M5H 3S1

**Direct Line:** +1 416.595.8579

**Fax:** +1 416.595.8695

**Email:** [jxu@millerthomson.com](mailto:jxu@millerthomson.com)

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This is Exhibit "Q" referred to in the Affidavit of  
**ROD RANDALL**  
Sworn on July 14, 2022

A handwritten signature in blue ink that reads "K. Sunshine". The signature is written in a cursive style with a long horizontal flourish at the end.

---

A commissioner, etc.

**KALEIGH SONSHINE, LSO#70105T**

---

**From:** Joseph F. Lo Greco <jlogreco@lslaw.ca>  
**Sent:** Wednesday, July 13, 2022 1:04 PM  
**To:** Finlayson, Gavin; Sonshine, Kaleigh  
**Cc:** Carhart, Jeffrey; Xu, Joan; Montinola, Krystal  
**Subject:** [\*\*EXT\*\*] Re: Canadian Western Bank ("CWB") and 2722959 Ontario Ltd. ("Company"), Gemma Runaghan and Frank D'Angelo, Court File No.: CV-22-00001968-0000 [MTDMS-Legal.FID11454516]

Good afternoon,

We are in receipt of your clients' Notice of Intent to Defend.

Please be advised that our client will not be granting any extensions in filing your Statement of Defence and will note your client in default if you do not have your defence delivered within the time frame permitted under the *Rules*.

Also, I have been advised that various registered letters have been sent via Canada Post. These have not yet been picked up at the post office. Please provide copies of those letters to me directly and I will forward same to our clients. I suspect that these letters have to do with the loan and other individuals in your firm may be dealing with this.

Regards,

Joseph F. Lo Greco



14845 Yonge Street  
Suite 201  
Aurora, Ontario L4G 6H8

T. 416-488-4110  
F. 416-488-0216  
Mobile 416-545-9605

---

**From:** Xu, Joan <jxu@millერთhompson.com>  
**Date:** Monday, July 11, 2022 at 2:45 PM  
**To:** Joseph F. Lo Greco <jlogreco@lslaw.ca>  
**Cc:** Carhart, Jeffrey <jcarhart@millერთhompson.com>, Finlayson, Gavin <gfinlayson@millერთhompson.com>, Sonshine, Kaleigh <ksonshine@millერთhompson.com>, Montinola, Krystal <kmontinola@millერთhompson.com>  
**Subject:** Canadian Western Bank ("CWB") and 2722959 Ontario Ltd. ("Company"), Gemma Runaghan and Frank D'Angelo, Court File No.: CV-22-00001968-0000 [MTDMS-Legal.FID11454516]

Dear Mr. Lo Greco,

Please see attached correspondence from Ms. Kaleigh Sonshine of today's date, serving our clients' Notice of Intent to Defend.

Thanks.

Joan

**JOAN XU**  
Legal Assistant

**Miller Thomson LLP**  
Services provided through Miltom Management LP  
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40 King Street West, Suite 5800  
P.O. Box 1011  
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**Direct Line:** +1 416.595.8579  
**Fax:** +1 416.595.8695  
**Email:** [jxu@millerthomson.com](mailto:jxu@millerthomson.com)  
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This is Exhibit "R" referred to in the Affidavit of  
**ROD RANDALL**  
Sworn on July 14, 2022

A handwritten signature in blue ink that reads "K Sonshine". The signature is written in a cursive style with a long horizontal flourish at the end.

---

A commissioner, etc.

**KALEIGH SONSHINE, LSO#70105T**

Court File No.

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

BETWEEN:

CANADIAN WESTERN BANK

Applicant

and

2722959 ONTARIO INC.

Respondent

**CONSENT**

MNP LTD hereby consents to act as Trustee of 2722959 ONTARIO INC. pursuant to the Application of Canadian Western Bank.

DATED AT Richmond Hill, Ontario this 13<sup>th</sup> day of July, 2022.

**MNP LTD**

Per:

Name: Sheldon Title

Title: Senior Vice-President

CANADIAN WESTERN BANK  
Applicant

and

2722959 ONTARIO INC.  
Respondent

Court File No.

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

Proceeding Commenced at  
TORONTO

**CONSENT TO ACT  
AS LICENSED INSOLVENCY TRUSTEE**

**MILLER THOMSON LLP**

Scotia Plaza  
40 King Street West, Suite 5800  
P.O. Box 1011  
Toronto, ON M5H 3S1

**Gavin H. Finlayson LSO#: 44126D**  
gfinlayson@millerthomson.com  
Tel: 416.595.8619

**Kaleigh Sonshine LSO#: 70105T**  
ksonshine@millerthomson.com  
Tel: 416.595.8166

Lawyers for the Applicant,  
Canadian Western Bank

This is Exhibit "S" referred to in the Affidavit of  
**ROD RANDALL**  
Sworn on July 14, 2022

A handwritten signature in blue ink that reads "K. Sunshine". The signature is written in a cursive style with a long horizontal flourish at the end.

---

A commissioner, etc.

**KALEIGH SONSHINE, LSO#70105T**



July 13, 2022

**SENT BY E-MAIL**

MNP Ltd.  
111 Richmond Street West, Suite 300  
Toronto, ON M5H 2G4

Attention: Sheldon Title

Dear Mr. Title,

**RE: Opinion to MNP Ltd. in its capacity as proposed receiver and receiver and manager of 2722959 Ontario Ltd (“959”) regarding the validity and enforceability of the security of Canadian Western Bank (“CWB”) over the property, assets and undertakings of 959**

**1. INTRODUCTION**

You have asked that we review and comment upon certain security granted in connection with certain credit facilities extended by CWB to 959.

This report is provided solely for the benefit of MNP Ltd. in its capacity as proposed receiver and receiver and manager (in such capacities, the “**Receiver**”) of 959 in connection with the review of security granted in favour of CWB over the property, assets and undertakings of 959 and may not be used or relied upon by any other person or for any other purpose without our express prior written consent.

**2. SCOPE OF REVIEW**

It is our understanding that 959 only has assets in the Province of Ontario and have accordingly limited our review to the laws of Ontario and the laws of Canada applicable therein. The matters opined upon in this letter relate only to the personal property and assets of 959 situated in Ontario (the “**Property**”). Save as expressly stated in this report, we offer no views on priority of security and this report is subject to the assumptions and qualifications expressed herein and in **Schedule “A”** attached hereto.

**3. SUMMARY**

Subject to the assumptions and qualifications referred to herein and the discussion set out below, we are of the opinion that the security interest of CWB granted in the Property is valid and enforceable as against a trustee in bankruptcy of 959.



#### 4. EXAMINATION OF DOCUMENTS

For the purposes of the opinions set out herein, we have been provided with copies of the following loan and security documents:

- (a) Demand Note between 959 and CWB dated April 5, 2022;
- (b) General Security Agreement between 959 and CWB dated April 5, 2022;
- (c) Commitment Letter between 959 and CWB dated April 4, 2022;
- (d) Revolving Credit Agreement between 959 and CWB dated April 5, 2022;
- (e) Visa Application of 959;
- (f) Assignment and Postponement of Creditor's Claims between 2156775 Ontario Inc., 959 and CWB dated April 5, 2022;
- (g) Full Liability Guarantee between 959 and CWB dated April 5, 2022;
- (h) Full Liability Guarantee between Gemma Runaghan and CWB dated April 5, 2022;
- (i) Full Liability Guarantee between Frank D'Angelo and CWB dated April 5, 2022;

(collectively, the "**Loan and Security Documents**").

- (j) copies of search results conducted in the Province of Ontario against 959 in the Ontario Personal Property Security Registration System in respect to the Personal Property Security Act ("**PPSA**"); and
- (k) copies of a Certificate of Status of 959.

Capitalized terms not otherwise defined herein have the meaning ascribed thereto in the Loan and Security Documents.

For the purposes of the opinion expressed below we have considered the questions of law, made the searches and investigations, and examined originals or copies, certified or otherwise identified to our satisfaction, of the certificates of public officials and other certificates, documents and records, that we considered necessary or relevant, and we have relied without independent verification or investigation on all statements as to matters of fact contained in the certificates, documents and records we examined.



The Loan and Security Documents that we have received appear to us to be regular on their face. We assume that the Loan and Security Documents have been signed by the appropriate person(s) and within the scope of the authority of that person(s). We have not been provided with copies of the directors' resolutions authorizing any of the borrowers or guarantors to execute the Security Documents. We note that section 19(e) of the *Business Corporations Act* (Ontario) (the "OBCA") provides that no corporation and no guarantor of an obligation of a corporation may assert, against a person dealing with the corporation or against a person who acquired rights from the corporation, that a person held out by a corporation as a director, an officer or an agent of the corporation has not been duly appointed or has no authority to exercise the powers and perform the duties that are reasonably expected to be performed in the business of the corporation. This general rule will apply except where the person has or ought to have, by virtue of the person's position with or relationship to the corporation, knowledge to that effect.

## 5. SEARCHES

### (a) 959

A search of the Ministry of Government and Consumer Services (Ontario) (the "Ontario Registry") conducted on July 11, 2022 notes that 959 was incorporated on October 23, 2019 and has not been dissolved.

A search of the PPSA registration System in Ontario against 959 was conducted and returned with a currency date of July 10, 2022. There is a registration in favour of CWB (File No. 781801722; Registration No. 20220406 1139 1793 5365) against 959 dated April 6, 2022, identifying the collateral classifications "Consumer Goods", "Inventory", "Equipment", "Accounts", "Other" and "Motor Vehicle". No vehicle identification number or vehicle description appears. This registration is for a period of 5 years, expiring April 6, 2027.

## 6. OPINION

Based upon the assumptions and reliances stated above, and subject to the qualifications and limitations stated below, we are of the opinion that there were no apparent defects in the manner of completion or execution of the Loan and Security Documents. The financing statements and the financing change statements registered in respect of the security interests on the Property, granted pursuant to the Loan and Security Documents were properly completed and registered.

Based on the foregoing, and subject to the assumptions and qualifications referred to herein, we are of the opinion that the security interest granted in the Property pursuant to the Loan and Security Documents, securing the obligations of 959 in favour of CWB are valid and enforceable as against 959 and would be effective as against a trustee in bankruptcy of 959.

This opinion is solely for the benefit of its addressees in connection with the security interests



arising from the Loan and Security Documents. This opinion may not be relied upon in any manner by any other person and may not be disclosed, quoted, filed with a governmental agency or otherwise referred to without our prior written consent.

Yours truly,

**WEISZ FELL KOUR LLP**

A handwritten signature in blue ink that reads "C. Fell".

Caitlin Fell  
CF/sfp



## Schedule "A"

### Assumptions and Qualifications

In preparing this report, we have made the following standard assumptions:

- 1) the Loan and Security Documents been provided in electronic portable document format (PDF) only and we assume that the copies provided to us conform to the original;
- 2) the Loan and Security Documents were in fact signed by the relevant parties with authority to execute such documents;
- 3) the Loan and Security Documents have not been further amended, restated or supplemented other than as set out herein;
- 4) value was given by 959 and payment obligations remain outstanding;
- 5) 959 was not insolvent, unable to pay its debts in full, or on the eve of insolvency, at the time the security was granted in the Property pursuant to the Loan and Security Documents and 959 was not rendered insolvent by the grant of such security;
- 6) 959 has title to or rights in the Property or the proceeds thereto;
- 7) the parties did not and have not agreed to postpone the time of attachment of the security interest to the Property;
- 8) the conditions precedent to the effectiveness of the Loan and Security Documents were either satisfied or waived;
- 9) 959 had all necessary corporate power and capacity to lease property and assets and carry on business, and to enter into and perform its obligations under the Loan and Security Documents;
- 10) the Loan and Security Documents were duly authorized, executed, and delivered by 959 on the date set out therein;
- 11) 959 and its business and assets were located in the Province of Ontario at the time the security interests created by the Loan and Security Documents attached to the Property;
- 12) since the currency date of the searches referred to herein, no event or circumstance has occurred which would require action to be taken in order to maintain the security granted by 959; and,

- 13) we have assumed the accuracy, currency, and completeness of the indices and filing systems and other public records maintained by public offices where we searched or enquired, or have caused searches or enquiries to be made upon such information, as provided to us by the appropriate governmental, regulatory, or other like authorities.

The opinions expressed in this report are subject to the following qualifications:

- 1) other than the law in the Province of Ontario, we express no opinion as to any other laws;
- 2) the postponement by Gemma Runaghan in favour of CWB was validly entered into and registered;
- 3) the enforceability of the Loan and Security Documents is subject to laws relating to bankruptcy, insolvency, reorganization, arrangement, moratorium, winding-up, liquidation or other similar laws affecting creditors' rights generally;
- 4) we express no opinion on any security interests registered relating to the property of 959 aside from those registered by CWB; and
- 5) the enforceability of the Loan and Security Documents are subject to general principles of equity, including the doctrine that equitable remedies such as specific performance and injunctions may be awarded only in the discretion of the court.

**CANADIAN WESTERN BANK**

Applicant

and

**2722959 ONTARIO LTD.**

Respondent

**Court File No.**

**CV-22-00684064-00CL**

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
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**AFFIDAVIT OF ROD S. RANDALL  
(SWORN JULY 14, 2022)**

**MILLER THOMSON LLP**

Scotia Plaza

40 King Street West, Suite 5800

P.O. Box 1011

Toronto, ON Canada, M5H 3S1

**Gavin H. Finlayson LSO#: 44126D**

[gfinlayson@millerthomson.com](mailto:gfinlayson@millerthomson.com)

Tel: 416.595.8619

**Kaleigh Sonshine LSO#: 70105T**

[ksonshine@millerthomson.com](mailto:ksonshine@millerthomson.com)

Tel: 416.595.8166

Lawyers for the Applicant,  
Canadian Western Bank

RCP-F 4C (September 1, 2020)