

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

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

**AND IN THE MATTER OF A PROPOSED PLAN  
OF COMPROMISE OR ARRANGEMENT OF W.C. WOOD CORPORATION,  
LTD. AND W.C. WOOD CORPORATION INC. (together the "Applicants" or  
"W.C. Wood")**

**MOTION RECORD**

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Solicitors for the Applicants

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**Applicants**

**INDEX**

<b>TAB</b>	<b>DESCRIPTION</b>
1.	Notice of Motion
2.	Affidavit of Michael Hadjinian, sworn May 22, 2009 Exhibit "A" – Corporate Structure Chart Exhibit "B" – Accommodation Agreement (DIP Financing)
3.	Proposed <u>Amended</u> Initial Order

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OF COMPROMISE OR ARRANGEMENT OF W.C. WOOD CORPORATION, LTD.  
AND W.C. WOOD CORPORATION INC.

**Applicants/Moving Parties**

**NOTICE OF MOTION  
(Returnable on Monday, May 25, 2009)**

The Applicants, W.C. Wood Corporation, Ltd. and W.C. Wood Corporation Inc. ("W.C. Wood" or the "Applicants"), will bring a motion to the Honourable Madam Justice Pepall presiding over the Commercial List on Monday, May 25, 2009 at 9:00 a.m., or as soon after that time as the motion can be heard, at 330 University Avenue, Toronto, Ontario, or at such other place as may be directed by the Court.

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

**THE MOTION IS FOR:**

- (a) An Order abridging the time for, and validating the service of this Notice of Motion and the materials filed in support thereof;
- (b) An Order approving the interim financing (the "DIP Financing") arrangements and making effective paragraphs 34 to 39 of the Order of the Honourable Madam Justice Pepall dated May 19, 2009 (the "Initial Order");
- (c) An Order amending the Initial Order in the form attached hereto to, *inter alia*, add W.C. Wood Holdings Inc. as an Applicant to these proceedings; and

- (d) Such further and other relief as counsel may advise and this Honourable Court deems just.

**THE GROUNDS FOR THE MOTION ARE:**

- (a) DIP Financing has been arranged with the Applicants' existing lender group and the Applicants seek approval thereof;
  - (b) W.C. Wood Holdings Inc. is the parent company of the Applicants. It is a debtor company pursuant to the CCAA because it has assets in Ontario and does business in Canada through its direct and indirect ownership of the Applicants, whose centre of main interest is in Ontario;
  - (c) W.C. Wood Holdings is also a party to the credit agreement, has guaranteed the debt of the Canadian Applicant and is a necessary party to the DIP Financing.
  - (d) The circumstances that exist make the order sought by the Applicants appropriate;
  - (e) Rules 2.03, 3.02 and 5 of the *Rules of Civil Procedure*;
  - (f) the provisions of the CCAA and the equitable jurisdiction of this Honourable Court; and
  - (g) such other grounds as counsel may advise and this Honourable Court may permit.
2. The following documentary evidence will be used at the initial hearing of the application:
- (a) the affidavit of Michael Hadjinian sworn May 22, 2009; and
  - (b) such further and other evidence as counsel may advise and this Honourable Court may permit.

May 22, 2009

**McCARTHY TÉTRAULT LLP**  
Barristers and Solicitors

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Solicitors for the Applicants/Moving  
Parties

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Solicitors for the Lenders, CIT Business Credit Canada Inc., The CIT  
Group/Business Credit, Inc., Bank of Montreal and Bank of Montreal Chicago  
Branch

AND TO: **Aird & Berlis LLP**  
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Solicitor for ITN Transborder Services Inc.

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

IN THE MATTER OF THE *COMPANIES' CREDITORS  
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AND IN THE MATTER OF A PROPOSED PLAN  
OF COMPROMISE OR ARRANGEMENT OF W.C. WOOD CORPORATION, LTD. AND  
W.C. WOOD CORPORATION INC.

**Applicants**

**AFFIDAVIT OF MICHAEL HADJINIAN,  
SWORN MAY 22, 2009**

I, Michael Hadjinian, of the City of Guelph, in the Province of Ontario and the City of Chicago in the State of Illinois in the United States of America, MAKE OATH AND SAY:

1. I am the President and Chief Executive Officer of W.C. Wood Corporation, Ltd. (W.C. Wood Canada"), W.C. Wood Corporation, Inc. ("W.C. Wood US") and W.C. Wood Holdings, Inc. ("W.C. Wood Holdco") and as such have personal knowledge of the facts to which I depose, except where I have indicated that I have obtained facts from other sources, in which case I believe those facts to be true.

2. I make this Affidavit in support of the motion by the Applicants for relief set out in the Notice of Motion, including approving the interim financing ("DIP Financing"), and for no other or improper purpose.

**OVERVIEW**

3. W.C. Wood is a leading manufacturer and marketer of chest, upright residential and commercial freezers and dehumidifiers in North America. W.C. Wood is headquartered in Guelph, Ontario and has production facilities in Guelph, Ontario and Ottawa, Ohio as well as a production facility in Torreon, Mexico owned by the Mexican subsidiary of W.C. Wood US (the "Facilities").

4. On Tuesday May 19, 2009, the Honourable Madam Justice Pepall granted an order providing protections to the Applicants under the *Companies' Creditors Arrangement Act* ("CCAA") (the "Initial Order"). Her Honour found Ontario is the appropriate forum for these proceedings and the centre of main interest of the Applicants. Her Honour also found that the restructuring of this integrated business must take place on a "fully coordinated basis" and acknowledged the evidence suggesting that the business could not sustain the additional costs associated with a Chapter 11 filing in addition to the CCAA filing.

5. At the time the initial application was made to the Court in this proceeding, DIP Financing had not yet been finalized and accordingly certain portions of the proposed Initial Order relating to DIP Financing were amended by Justice Pepall to remain ineffective until further order of the Court. The intention was to seek a further Court order after the DIP Financing was arranged and presented to the Court for approval.

6. An Accommodation Agreement has now been reached with the secured lenders of the Applicants, CIT Business Credit Canada Inc., The CIT Group/Business Credit, Inc., Bank of Montreal and Bank of Montreal Chicago Branch (collectively, the "Lenders") pursuant to which the Lenders have agreed to provide DIP Financing to the Applicants. W.C. Wood Holdco, as the parent company of the Applicants is a party to the Accommodation Agreement (as is it was to the Credit Agreement) and has given representations, warranties and covenants in favour of the Lenders, in addition to its guarantee of the obligations of the Applicants.

#### ***W.C. Wood Holdco***

7. W.C. Wood Holdco, a Delaware corporation, is the parent company of W.C. Wood US (100% ownership) and, indirectly, the parent company of W.C. Wood Canada. Attached hereto as Exhibit "A" is a copy of the corporate chart.

8. The corporate hierarchy was organized in this manner for reasons related to its acquisition in 2008 by Red Diamond Capital and is unrelated to the actual functioning of the business, which is directed from the head office in Canada.

9. As set out in my affidavit on the Initial Application, the business of W.C. Wood Canada and W.C. Wood US are intimately related and are operated as one business. W.C. Wood Holdco

is a part of that business and, like W.C. Wood US, W.C. Wood Holdco is a guarantor of the obligations of W.C. Wood Canada under the credit facility.

10. W.C. Wood Holdco is a holding company with no assets other than the shares it holds in W.C. Wood. However, it has assets in Ontario in the form of approximately \$40,000 that it has deposited with the Monitor, BDO Dunwoody Limited ("BDO") as a retainer.

11. In addition, W.C. Wood Holdco is part of the integrated business. W.C. Wood Holdco carries on business in Canada through its operating companies, the Applicants, which have their centre of main interest in Canada and which receive direction from the W.C. Wood Holdco Board of Directors. In addition, W.C. Wood Holdco is an integral part of the credit facility and the DIP Financing arrangements.

12. While the Applicants initially believed that the restructuring could take place without including W.C. Wood Holdco as an applicant in the CCAA proceedings, as a condition of the DIP Financing, the Lenders have required that the credit agreement, pursuant to which the Lenders provided the original credit facility to the Applicants, have continuing application. W.C. Wood Holdco is a guarantor of the obligations of W.C. Wood Canada pursuant to that credit agreement and associated guarantees.

13. As guarantor, W.C. Wood Holdco is liable for the obligations of W.C. Wood Canada under the Credit Agreement which are now due and payable and which total approximately C\$6.9 million. It therefore qualifies as a *debtor company* under the provisions of the CCAA.

14. Accordingly, and given that W.C. Wood Holdco has assets in Ontario and does business in Canada through its operating companies and its role in the credit facility, the Applicants seek an amendment to the Initial Order to add W.C. Wood Holdco as an Applicant in this proceeding.

#### ***DIP Financing***

15. On May 21, 2009, the Applicants, the Lenders (the "DIP Lenders") and W.C. Wood Holdco agreed to terms pursuant to which the Lenders would provide DIP Financing to the Applicants and W.C. Wood Holdco during the CCAA proceedings. Attached hereto as Exhibit "B" is a copy of the Accommodation Agreement.

16. Pursuant to the Accommodation Agreement, the DIP Lenders agree to forbear from exercising their rights and remedies under the credit agreement made as of January 14, 2008 (the "Credit Agreement") and to provide further loans during the CCAA proceedings on the terms set out therein.

17. The DIP Financing is structured as a continuation of the existing credit facility with a number of amendments, including the DIP Lenders' agreement to forbear in respect of existing defaults, the addition of new "Interim Defaults" relating to sales compliance, and modifications with respect to certain Credit Agreement standards. In addition, the Accommodation Agreement sets out a deadline of July 1, 2009 for W.C. Wood to deliver a Plan and a deadline of August 1, 2009 to complete the sale of the Mexican Business. The interest rates set out in the Credit Agreement are also increased by 2%.

18. The Initial Order contains provision for interim, debtor-in-possession financing at paragraphs 34 to 39, which paragraphs are presently ineffective pending a further order of this court. The Accommodation Agreement attached hereto as Exhibit "B" is the equivalent of the "Commitment Letter" referred to at paragraph 35 of the Initial Order.

19. The DIP Lenders seek a priority charge to secure amounts advanced by them during the course of the CCAA Proceedings up to the maximum amount of the DIP Facility. The priority charge will be placed upon the property of the Applicants (the "**DIP Lenders' Charge**") and the priority of the DIP Lenders' Charge shall be third, behind the Administration Charge to a maximum of \$175,000 and the Directors' Charge to a maximum of \$75,000 as set out in paragraph 40 of the Initial Order.

20. W.C. Wood believes that with the DIP Facility it will have sufficient funding to meet its cash flow needs for the period necessary to complete its restructuring. W.C. Wood has now received the Escrow funds cited in the Initial Order and management expects that with these funds and the DIP Financing, it shall have sufficient liquidity as set out in the cash flows attached to my May 18, 2009 Affidavit.

21. W.C. Wood management also believes that the DIP Facility and the terms set out in the Accommodation Agreement/ Commitment Letter are reasonable and necessary in the



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W.C. WOOD CORPORATION, LTD. AND W.C. WOOD CORPORATION INC.

Court File No. CV-09-8194-00CL

**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**  
**(COMMERCIAL LIST)**  
Proceeding Commenced at Toronto

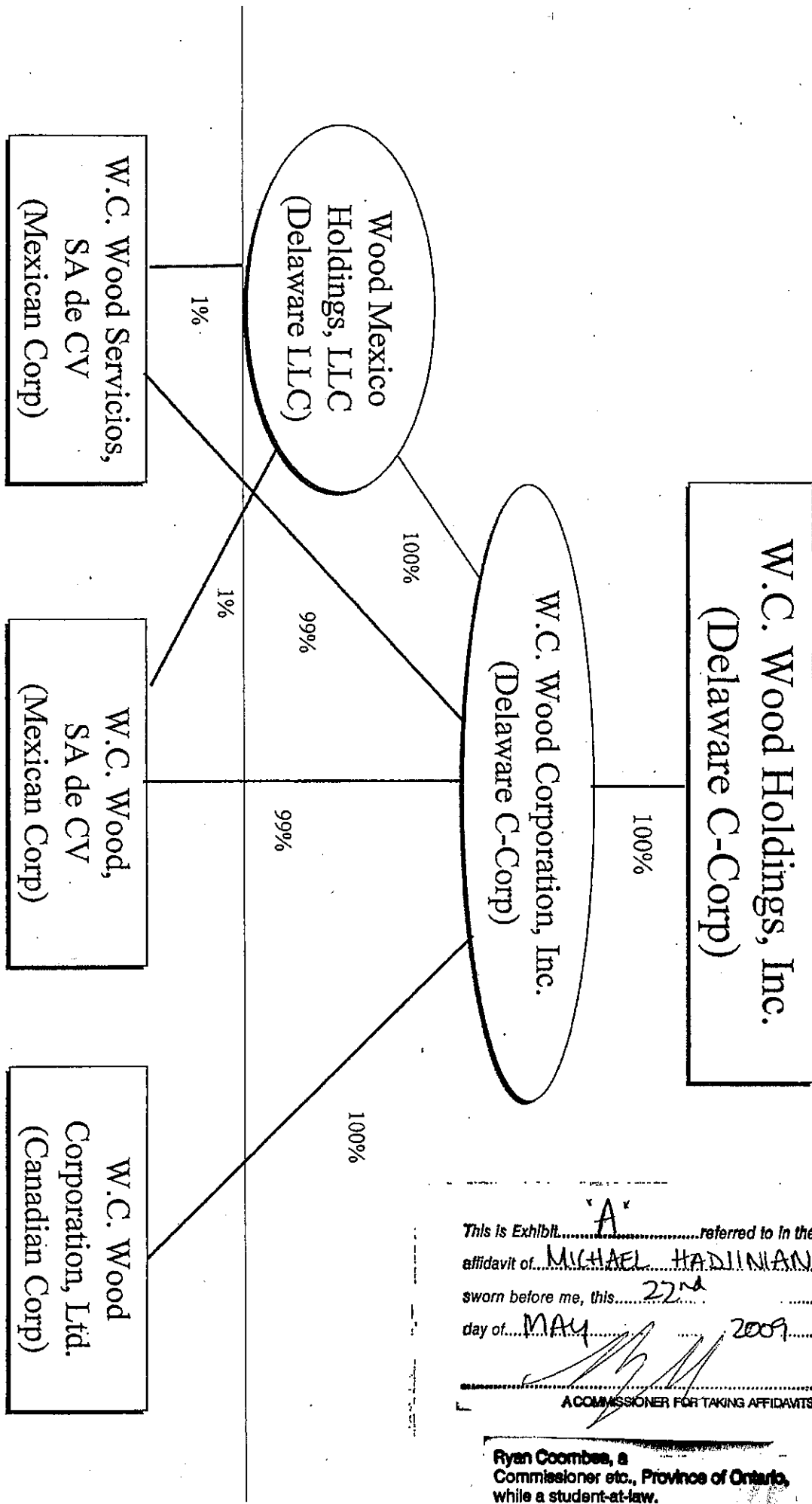
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Fax: (416) 868-0673

Solicitors for the Applicants  
416821



This is Exhibit A referred to in the affidavit of MICHAEL HADJIANIAN sworn before me, this 22<sup>nd</sup> day of MAY, 2009.

*[Signature]*  
 A COMMISSIONER FOR TAKING AFFIDAVITS

Ryan Coombes, a Commissioner etc., Province of Ontario, while a student-at-law. Expires May 28, 2010.

AVE SCHOLLER LLP

**ACCOMMODATION AND DEBTOR-IN-POSSESSION (DIP)  
FINANCING AGREEMENT**

**DATED** as of May 21, 2009.

**AMONG:**            **CIT BUSINESS CREDIT CANADA INC.,**  
                         in its capacity as Agent for the Lenders

(the "Agent");

- and -

**THE FINANCIAL INSTITUTIONS** listed on the signature pages hereof as  
Lenders,

(the "Lenders");

- and -

**W.C. WOOD CORPORATION, LTD.,**  
a corporation duly organized and existing under the laws of Canada,

(the "Canadian Borrower")

- and -

**W.C. WOOD CORPORATION, INC.,**  
a corporation duly organized and existing under the laws of Delaware,

(the "U.S. Borrower")

**W.C. WOOD HOLDINGS, INC.**

("Holdings")

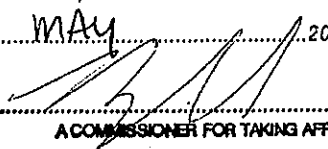
- and -

**WOOD MEXICO HOLDINGS, LLC, WC WOOD SERVICIOS, S.A. de  
C.V.; and WC WOOD, S.A. de C.V.,**

(collectively with Holdings, the "Guarantors")

**WHEREAS:**

- A.     The Lenders, the Agent, the Canadian Borrower, the U.S. Borrower and the Guarantors entered into a Credit Agreement made as of January 14, 2008, as amended by

This is Exhibit "B" referred to in the  
affidavit of MICHAEL HADJIAN  
sworn before me, this 22<sup>nd</sup>  
day of MAY, 2009  
  
A COMMISSIONER FOR TAKING AFFIDAVITS

Ryan Coombes, a  
Commissioner etc., Province of Ont  
while a student-at-law.  
Expires May 28, 2010.

Amendment No. 1 to Credit Agreement dated as of June 11, 2008, Amendment No. 2 to Credit Agreement dated as of September 15, 2008, and Amendment No. 3 to Credit Agreement dated as of October 31, 2008 and a letter dated January 8, 2009, which provides for certain credit facilities and other financial accommodations to be made available by the Lenders to the U.S. Borrower or the Canadian Borrower (as amended and supplemented hereby and which together with any other or subsequent replacement, supplement, amendment, restatement, modification, revision or addition thereto, hereinafter referred to as the "**Credit Agreement**");

- B. The Lenders, the Canadian Borrower, the U.S. Borrower, and the Guarantors entered into a Forbearance Agreement in connection with the Credit Agreement dated as of September 15, 2008 and amended by the Amendment Forbearance Agreement dated as of November 27, 2008;
- C. The U.S. Borrower, the Canadian Borrower and various of their affiliates have executed and delivered various security documents to and in favour of the Agent, creating liens and encumbrances in and on all of the present and after acquired property, assets and undertakings of those borrowers and affiliates;
- D. As of the date hereof, the U.S. Borrower and the Canadian Borrower are in breach of certain of their Obligations under the Credit Agreement in consequence of which one or more Events of Default have occurred and are continuing;
- E. The U.S. Borrower and the Canadian Borrower advised the Agent that they intend to make an application for a stay of proceedings (the "**Application**") and other relief under the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**");
- F. The U.S. Borrower and the Canadian Borrower have requested that the Agent and the Lenders forbear from exercising their rights as a result of such Events of Default and that the Lenders continue to provide and continue the Loans to the U.S. Borrower and the Canadian Borrower notwithstanding such Events of Default in order to provide the U.S. Borrower and the Canadian Borrower with the opportunity to borrow additional funds and to enable the U.S. Borrower and the Canadian Borrower to restructure their businesses and operations and to explore restructuring alternatives (including the sale of all or portions of their businesses, assets, property and undertakings) on and subject to the terms and conditions set out herein; and
- G. The Agent and the Lenders are willing to agree to forbear from exercising their rights and remedies and to provide further Loans for the period and on the terms and conditions specified herein and have authorized and directed the Agent on their behalf to enter into this Agreement with the U.S. Borrower and the Canadian Borrower and the Guarantors;

**NOW THEREFORE**, in consideration of the premises, the Agent and the Lenders agreeing to forbear their rights and remedies under the Credit Agreement and the other Loan Documents and to continue to make accommodations of credit available to the U.S. Borrower and the Canadian Borrower on and subject to the terms and conditions of this Agreement, and for other

good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the parties hereto, each of the parties hereto hereby agrees as follows:

## 1. INTERPRETATION

### 1.1 Definitions

Capitalized terms used but otherwise not defined herein shall have the meanings ascribed to such terms in the Credit Agreement unless the context expressly or by necessary implication otherwise requires.

### 1.2 Additional Definitions

As used herein, the following terms shall have the respective meanings given to them below and Annex "A" of the Credit Agreement is hereby amended to include, in addition and not in limitation, each of the following definitions (in correct alphabetical order):

"**Administrative Charge**" has the meaning ascribed thereto in Section (iv).

"**Application**" has the meaning ascribed thereto in the preambles hereof.

"**Application Collateral**" has the meaning ascribed thereto in Section 7.3(a) hereof.

"**Availability Event**" means if the Canadian Availability on any date is less than \$1; or if the U.S. Availability on any date is less than US\$1.

"**BIA**" shall mean the *Bankruptcy and Insolvency Act* (Canada).

"**Cashflows**" means (i) the cashflows delivered to the Lenders by each of the U.S. Borrower or the Canadian Borrower prior to the date hereof, or (ii) if requested by the Agent, the additional cashflows by the U.S. Borrower or the Canadian Borrower provided for in Section 6.1(I).

"**CCAA**" has the meaning ascribed thereto in the preambles hereof.

"**CCAA Charges**" means the Administrative Charge and the D&O Charge.

"**Code**" shall mean the U.S. Bankruptcy Code.

"**Court**" shall mean the Ontario Superior Court of Justice, Commercial List, sitting in the City of Toronto.

"**Credit Agreement**" has the meaning ascribed thereto in the preambles hereof.

"**D&O Charge**" has the meaning ascribed thereto in Section (v).

"**DIP Accommodations**" means all loans and financial accommodations made during or following the Term under or in connection with the Credit Agreement.

**"Existing Defaults"** has the meaning ascribed thereto in Section 2.2 hereof.

**"Existing Security"** means all Loan Documents as defined in the Credit Agreement and includes the security interests created by the General Security Agreement dated as of January 14, 2008 by and among W.C. Wood Corporation, Ltd. and CIT Business Credit Canada Inc. and created by the Guarantors and Collateral Agreement dated as of January 14, 2008 made by W.C. Wood Holdings, Inc., W.C. Wood Corporation, Inc., Wood Mexico Holdings, LLC and CIT Business Credit Canada Inc.

**"Initial Order"** shall mean collectively (i) the initial order issued or to be issued in connection with the Application, which order shall be in accordance with all terms hereof, including, without limitation, Section 6.1(q), and (ii) the interim and final order issued under the Code in recognition of the CCAA proceedings, and each and all of which shall otherwise be in form and substance satisfactory to the Agent in its discretion (including as to any amendments or supplements thereto).

**"Interim Default"** shall mean any one or more of the events described in Section 8.1 of this Agreement.

**"Lenders' Expenses"** has the meaning ascribed thereto in Section 11.9.

**"Loans"** means, collectively, all loans and letters of credit described in Article 1 of the Credit Agreement as well as the DIP Accommodations.

**"Maturity Date"** shall mean September 30, 2009 or as otherwise extended on agreement by the parties hereto.

**"Monitor"** shall mean BDO Dunwoody Limited, in its capacity as the Monitor appointed pursuant to the Initial Order.

**"Net Sales"** means the line item referred to as such in the Cashflows;

**"Obligations"** has the meaning ascribed to such term in the Credit Agreement but includes, without limitation, the DIP Accommodations and all principal, interest and all Lenders' Expenses and all other costs, expenses and fees incurred by the Lenders and the Agent in connection therewith, the Credit Agreement, the other Loan Documents and this Agreement.

**"Plan"** means a plan of reorganization in respect of the Borrowers which the Monitor has reviewed and confirmed to the Agent appears to it to be reasonable and viable.

**"Prior Claims"** has the meaning ascribed thereto in Section 7.3(a) hereof.

**"Priority Payables"** has the meaning ascribed thereto in Section 4.5 hereof.

**"Term"** has the meaning ascribed thereto in Section 3.1 hereof.

**"Termination Date"** has the meaning ascribed thereto in Section 7.2(a) hereof.

"UCC" means the Uniform Commercial Code, as in effect from time to time, applicable in any jurisdiction which applies to any collateral or where any collateral is located.

"Variance Event" means if (a) during each of the first three (3) weeks beginning with the week in which the Initial Order is obtained, Net Sales is less than seventy-five percent (75%) of the forecast Net Sales for any of such weeks as set out in the Cashflows for either the U.S. Borrower or the Canadian Borrower; (b) thereafter for week 4, if Net Sales on a trailing four (4) week period (inclusive of the first three weeks) is less than seventy-seven and one half percent (77.5%) of the forecast Net Sales for such period as set out in the Cashflows for either the U.S. Borrower or the Canadian Borrower (c) thereafter for week 5, if Net Sales on a trailing four (4) week period is less than eighty percent (80%) of the forecast Net Sales for such period as set out in the Cashflows for either the U.S. Borrower or the Canadian Borrower (d) thereafter for week 6, if Net Sales on a trailing four (4) week period is less than eighty-two and one half percent (82.5%) of the forecast Net Sales for such period as set out in the Cashflows for either the U.S. Borrower or the Canadian Borrower (e) thereafter (for week 7 and thereafter), if Net Sales on a trailing four (4) week period is less than eighty-five percent (85%) of forecast Net Sales for such period as set out in the Cashflows for either the U.S. Borrower or the Canadian Borrower; or (f) Canadian Availability or U.S. Availability is less than eight-five percent (85%) of the Canadian Availability or U.S. Availability, respectively specified in the Cashflows for a particular period.

### 1.3 Currency

Unless otherwise specified herein, all statements of or references to dollar amounts shall mean the lawful money of Canada.

## 2. ACKNOWLEDGEMENTS BY BORROWER

### 2.1 Indebtedness, Security, etc.

The U.S. Borrower and the Canadian Borrower acknowledge, confirm and agree as follows:

- (a) in calculating the U.S. Borrowing Base or the Canadian Borrowing Base, the Agent (subject to Section 12.2 of the Credit Agreement) will continue to be entitled to create and amend reserves as set out in the definitions of "U.S. Borrowing Base" and "Canadian Borrowing Base" set out in the Credit Agreement;
- (b) any accommodations of credit to the U.S. Borrower or the Canadian Borrower by the Lenders shall in no way be an obligation on the Lenders to make any further advances or accommodations of credit other than as may be specifically provided for in the Credit Agreement;
- (c) any and all costs, expenses and fees incurred by the Lenders and the Agent in connection with this Agreement, the subject matter hereof or the enforcement of the Agent's Liens shall form part of the Obligations and shall be secured by the Agent's Liens;

- (d) the Agent's Liens and any other Liens are in full force and effect, are legal, valid, binding and enforceable against the U.S. Borrower or the Canadian Borrower, and constitute general continuing collateral security for any and all of the Obligations owing to the Agent and the Lenders, whether under the Credit Agreement, this Agreement, any other Loan Document or otherwise, and including for greater certainty all DIP Accommodations;
- (e) as of the close of business on May 13, 2009, the Canadian Borrower is indebted to the Agent and the Lenders (A) directly for Canadian Revolving Loans in the principal aggregate amount of Cdn.\$7,709,253.53 plus interest in the amount of Cdn.\$135,396.70; plus (B) legal fees in the estimated amount of Cdn.\$86,000.00; plus (C) such other debits and credits not yet posted to the Obligations. Such Obligations, together with any fees, costs, expenses and other charges now or hereafter payable by the Canadian Borrower to the Lenders and the Agent are unconditionally owing by the Canadian Borrower to the Agent and the Lenders, without offset, defence or counterclaim of any kind, nature or description whatsoever;
- (f) as of the close of business on May 13, 2009, the U.S. Borrower is indebted to the Agent and the Lenders (A) directly for U.S. Revolving Loans in the principal aggregate amount of Usd.\$7,673,273.32 plus interest in the amount of Usd.\$108,192.27; plus (B) legal fees in the estimated amount of Usd.\$25,000; plus (C) in respect of a credit card accommodation provided by Bank of Montreal in the amount of Usd.\$27,017.08 (as at May 10, 2008); plus (D) such other debits and credits not yet posted to the Obligations. Such Obligations, together with any fees, costs, expenses and other charges now or hereafter payable by the U.S. Borrower to the Lenders and the Agent are unconditionally owing by the U.S. Borrower to the Agent and the Lenders, without offset, defence or counterclaim of any kind, nature or description whatsoever;
- (g) the execution and delivery of this Agreement shall not impose upon the Lenders, the Agent, or their respective employees or authorized agents or representatives, any duty of care or fiduciary duty in favour of the U.S. Borrower or the Canadian Borrower;
- (h) the Canadian Borrower, the U.S. Borrower, and the Guarantors all acknowledge and agree that they received, on May 14, 2009 a demand letter from the Agent and that they do not dispute their liability for the indebtedness demanded on any grounds whatsoever; and
- (i) the Canadian Borrower and the U.S. Borrower acknowledge that they received, on May 14, 2009, a notice given to them pursuant to Section 244 of the *Bankruptcy and Insolvency Act* of Canada and that they do hereby waive the ten day period set out therein, and consent to the immediate enforcement of the Credit Agreement and all other Loan Documents upon the completion of the Term, without further notice or observance of any other formality by the Agent or the Lenders.

## **2.2 Default**

The Canadian Borrower and the U.S. Borrower acknowledge, confirm and agree that one or more defaults or Events of Default under the Credit Agreement or events or conditions which, with notice or the passage of time or both, would constitute an Event of Default under the Credit Agreement have occurred and are continuing, more specifically, the insolvency of the U.S. Borrower or the Canadian Borrower and such borrowers' intentions to make (and the subsequent making of) an application for a stay of proceedings under the CCAA (and the subsequent issuance of the Initial Order), and under Chapter 15 of the Code to recognize such CCAA proceedings, and other Events of Default now existing arising under Section 9.1 of the Credit Agreement (collectively, the "**Existing Defaults**"), each of which constitutes an Event of Default under the Credit Agreement and entitles the Agent, in its discretion, to exercise its rights and remedies under the Credit Agreement and the other Loan Documents, the PPSA and other applicable law or otherwise, and the Existing Defaults constitute all of the Events of Default under the Credit Agreement and the other Loan Documents which have occurred and are continuing as of the date of this Agreement. The U.S. Borrower and the Canadian Borrower further acknowledge:

- (a) the Agent and the Lenders have not waived, and do not intend to waive such Existing Defaults and nothing contained herein or the transactions contemplated hereby shall be deemed to constitute any such waiver; and
- (b) the Agent and the Lenders have the presently exercisable and continuing right to (i) terminate the Commitments and the Credit Agreement; (ii) cease to make available or extend any Loans or provide Letters of Credit or Credit Support; (iii) reduce the Maximum Canadian Revolver Amount or the Maximum U.S. Revolver Amount, or the advance rates used in computing the U.S. Borrowing Base or the Canadian Borrowing Base, or lending formulas or amounts of any Loans; and (iv) pursue their other rights and remedies under the Loan Documents and applicable law.

## **3. TERM AND EFFECTIVE DATE**

### **3.1 Term and Effective Date**

This Agreement shall take effect as of the date of the making of the Initial Order and shall continue in full force and effect, subject to the terms of this Agreement, until the Termination Date unless this Agreement is terminated prior to such date in accordance with this Agreement or indefeasible payment and performance of the Obligations in full has occurred (the "**Term**").

## **4. FORBEARANCE AND REPAYMENT OF INDEBTEDNESS**

### **4.1 Forbearance by the Lenders**

Subject to the terms and conditions of this Agreement, the Lenders and the Agent agree that they will not exercise any of their rights and remedies as against the U.S. Borrower or the Canadian Borrower under the Credit Agreement or any other Loan Document in respect of or in connection with the Existing Defaults, or any of them, until the Termination Date. Upon the

expiration of the Term, the agreement of the Lenders and the Agent to forbear shall automatically and without further action terminate and be of no force and effect, it being expressly agreed that the effect of such termination will be to permit the Lenders and the Agent to exercise such rights and remedies as are available under the Credit Agreement, the other Loan Documents, this Agreement or applicable law.

#### **4.2 Acknowledgement and Waiver**

The Agent acknowledges the occurrence of the Existing Defaults and the continuation hereafter of such defaults until the Termination Date, but the occurrence after the date hereof of any new breach of, or new default under, any of the terms and provisions of the Credit Agreement, the Loan Documents or this Agreement (excluding, for greater certainty, any continuing Existing Default, the making of the Application or the granting of the Initial Order), shall constitute an Interim Default hereunder and this acknowledgement and waiver shall not constitute a waiver of any such Interim Default.

#### **4.3 Consent to Charges and Lenders' Expenses**

The Agent hereby acknowledges and consents to those CCAA Charges granted in the Initial Order, and confirms that the U.S. Borrowing Base and the Canadian Borrowing Base shall be calculated in accordance with the Credit Agreement, as amended hereby, with the inclusion of reserves or deductions in respect of such CCAA Charges and the Lenders' Expenses.

#### **4.4 Proceeds**

The U.S. Borrower and the Canadian Borrower hereby covenant and agree to continue to deposit any and all monies, negotiable instruments, cheques, wire or electronic transfers, drafts, all other forms of payment and proceeds of disposition into accounts in accordance with the Blocked Account Agreements and to continue to comply with the cash management and other banking and lending arrangements contemplated in the Credit Agreement. Without limitation to the foregoing, the Borrower shall continue in full force and effect and shall comply with all terms and conditions of the Blocked Account Agreement between the Agent, the Canadian Borrower and the Bank of Montreal and the Blocked Account Agreement between the U.S. Borrower, the Agent and Harris N.A.

#### **4.5 Priority Payables**

During the Term, the U.S. Borrower and the Canadian Borrower hereby covenant and agree to remit and pay, or to otherwise arrange for the remittance and payment on a current basis when due of, any and all Priority Payables in accordance with applicable laws save for property taxes, and vacation pay arrears for which the Agent has created a reserve from the U.S. Borrowing Base and the Canadian Borrowing Base. The term "**Priority Payables**" means those payments required by applicable law to be made, the non-payment of which could reasonably be expected to give rise to any Lien, charge or deemed trust ranking or capable of ranking in priority to or *pari passu* with the Liens in favour of the Agent, including, without limitation, goods and services tax under the *Excise Tax Act* (Canada), retail sales tax under the *Retail Sales Tax Act* (Ontario), payments and contributions required by the *Pension Benefits Act* (Ontario),

*Employment Insurance Act* payments, Canada Pension Plan payments and any source deduction remittances to Canada Revenue Agency.

#### 4.6 Fee

In consideration of the agreements set forth herein, the U.S. Borrower and the Canadian Borrower shall collectively pay to the Agent (for the rateable benefit of the Lenders in accordance with their commitments), an accommodation fee in the amount of \$100,000, which fee shall be fully earned as of the date hereof and \$50,000 payable (\$25,000 each by the Canadian Borrower to the Agent for the Canadian Lenders and by the U.S. Borrower to the U.S. Agent for the U.S. Lenders) contemporaneously with the execution of this Agreement and \$50,000 (\$25,000 each by the Canadian Borrower to the Agent for the Canadian Lenders and by the U.S. Borrower (in the U.S. currency equivalent) to the U.S. Agent for the U.S. Lenders) payable upon repayment of the Canadian Obligations or U.S. Obligations. Such fee is in addition to all other fees, interest, costs, and expenses payable in connection with the Credit Agreement or this Agreement, including the Lenders' Expenses, and may be debited by the Agent to the U.S. Borrower's or the Canadian Borrower's loan account as a U.S. Prime Rate Revolving Loan or a Canadian Prime Rate Revolving Loan, respectively. The accommodation fee shall be fully earned by the Lenders notwithstanding any failure by the U.S. Borrower or the Canadian Borrower to comply with any other term of this Agreement.

### 5. REPRESENTATIONS AND WARRANTIES

#### 5.1 U.S. Borrower's, the Canadian Borrower's and Holdings' Representations and Warranties

The U.S. Borrower, the Canadian Borrower and Holdings represent and warrant to the Agent and the Lenders as follows:

- (a) the preambles to this Agreement are true, complete and accurate in all respects;
- (b) save and except as noted on Schedule "A" hereto, as of the date hereof, there are no arrears for any government obligations including goods and services tax under the *Excise Tax Act* (Canada), retail sales tax under the *Retail Sales Tax Act* (Ontario), employer health tax or workers compensation or with respect to any source deduction remittances to Canada Revenue Agency, except due in the normal course;
- (c) save and except as noted on Schedule "B" hereto, as of the date hereof, all employee wages that have become payable are up-to-date and there are no amounts owing in respect of union dues, termination pay, severance pay or vacation pay, except due in the normal course or otherwise in accordance with the established practices and arrangements of the U.S. Borrower or the Canadian Borrower;
- (d) save and except as noted on Schedule "C" hereto, as of the date hereof, (i) no event described in Section 9.1(o) of the Credit Agreement has occurred and is continuing with respect to a Pension Plan which has resulted or could reasonably be expected

to result in a net liability of the U.S. Borrower or the Canadian Borrower; (ii) the aggregate amount of Unfunded Pension Liability among all Pension Plans does not exceed the sum of \$1; (iii) monthly contribution amounts in respect of all Pension Plans do not exceed the monthly amounts specified in the Cashflows; (iv) the U.S. Borrower and the Canadian Borrower have paid or remitted when due any amount for which it is liable in respect of any Pension Plan; and (v) no deemed trust or Lien has arisen and is continuing under the *Pension Benefits Act* (Ontario) under or in respect of any Pension Plan;

- (e) the Canadian Borrower is a duly incorporated and subsisting corporation under the laws of the Province of Ontario, and the Canadian Borrower has full corporate power and capacity to borrow the Loans and to enter into and perform the Obligations under the Credit Agreement, the other Loan Documents and this Agreement;
- (f) the U.S. Borrower is a duly incorporated and subsisting corporation under the laws of the State of Delaware and the U.S. Borrower has full corporate power and capacity to borrow the Loans and to enter into and perform the Obligations under the Credit Agreement, the other Loan Documents and this Agreement;
- (g) the execution, delivery and performance by the U.S. Borrower and the Canadian Borrower of the Obligations under the Credit Agreement, the other Loan Documents and this Agreement have been duly authorized by all necessary corporate action, each of such document has been duly executed and delivered by the U.S. Borrower or the Canadian Borrower to and in favour of the Agent and the Lenders to the extent applicable and each of such documents is legal, valid, binding and enforceable in accordance with its terms against the U.S. Borrower or the Canadian Borrower, respectively, subject only to applicable bankruptcy, insolvency, reorganization, moratorium or other laws affecting creditors' rights generally and subject to general principles of equity; and
- (h) the execution, delivery and performance by the U.S. Borrower and the Canadian Borrower of the Obligations under the Credit Agreement, the other Loan Documents and this Agreement does not breach, violate, conflict with, or constitute a default under, any applicable provincial or federal laws, their respective constating documents, or any agreement to which the U.S. Borrower or the Canadian Borrower are a party.

## **5.2 Lenders to Rely on Representations and Warranties**

The U.S. Borrower and the Canadian Borrower acknowledge that the Agent and the Lenders have entered into this Agreement in reliance on the truth, completeness and accuracy of the acknowledgements, representations, warranties and agreements set forth in this Agreement.

## 6. COVENANTS BY THE BORROWER

### 6.1 Borrower's Covenants and Agreements

During the Term, the U.S. Borrower and the Canadian Borrower covenant and agree with the Agent and the Lenders as follows:

- (a) except with respect to the Existing Defaults, to strictly observe and perform all of the terms and conditions under the Credit Agreement, the other Loan Documents and this Agreement, including, without limitation, the cash management arrangements contemplated and established therein and to pay when due all Obligations;
- (b) other than with respect to the Existing Defaults, to promptly advise the Agent in writing of any Interim Default that has occurred;
- (c) to maintain its corporate existence in good standing and comply with any and all applicable laws at any and all times;
- (d) not to, without the prior written consent and approval of the Agent and Lenders:
  - (i) enter into any consolidation, amalgamation, wind-up, dissolution or merger;
  - (ii) change its name;
  - (iii) other than as permitted under the Initial Order, sell, transfer, assign, convey, charge, mortgage, hypothecate, further encumber or otherwise dispose in any manner, whether directly or indirectly, of any interest in any of its undertaking, property and assets;
  - (iv) use any proceeds for any purpose other than for the payment of the expenses of a kind as set forth in the Cashflows or repayment of the Obligations, or as otherwise permitted in the Initial Order provided, however, that no payments shall be made in respect of any liabilities incurred prior to the date of the Initial Order individually or in the aggregate for such payments without the prior written approval of the Agent (it being agreed that the \$100,000 payment to the Wood family in respect of arrears of rent shall be permitted to the extent included in the Cash flows);
  - (v) make any expenditures of any kind, including any capital expenditures, other than in accordance with the Cashflows or as otherwise permitted by the Initial Order; and
  - (vi) undertake any new investments or enter into any new businesses;

- (e) in addition to the reporting requirements under the Credit Agreement, to provide the Agent with such reports of cash collections, deposits, sales and generation of accounts receivable, disbursements, expenses, estimated projections for U.S. Availability or Canadian Availability under the Credit Agreement and other financial information as the Agent or Lenders may require in its discretion, including, without limitation, weekly (by the third Business Day of the next following week) a comparison of actual results to the projections in the Cashflows on a weekly and a cumulative basis, a summary of all communications with and from Account Debtors (including in response to account verification letters) and satisfactory evidence of payment of all applicable Priority Payables, all amounts required to be paid in respect of each Pension Plan when due (including all required catch-up payments), business taxes and utilities, all in form and substance satisfactory to the Agent and Lenders, in their discretion;
- (f) to maintain, in full force and effect, all of the insurance required to be established and maintained under the Credit Agreement;
- (g) to permit the Agent, the Lenders, or their respective employees and authorized agents and representatives to have full access to the U.S. Borrower's and the Canadian Borrower's premises and books and records at all times during normal business hours to conduct appraisals and audits as the Agent or any Lender requires, in its discretion, and to make copies and take extracts therefrom. Without limiting the generality of the foregoing, the U.S. Borrower or the Canadian Borrower shall promptly provide to the Agent, the Lenders and their designated representatives and financial advisors any information or data reasonably requested to monitor compliance with the provisions of this Agreement and the Cashflows;
- (h) to provide the Agent with prompt written notice of any insolvency or enforcement proceedings relating to the U.S. Borrower or the Canadian Borrower and to promptly provide the Agent with any and all statements, documents, cashflows, affidavits, instruments, agreements, and reports, including, without limitation, any and all reports of the Monitor filed in connection with the CCAA and Code proceedings, and, with respect to any motion by on or behalf of the U.S. Borrower or the Canadian Borrower in the CCAA and Code proceedings, provide the Agent with no less than three (3) Business Days' notice if the Agent's or the Lenders' interests may be adversely affected by the order sought in such a motion, or, if the Agent's or the Lenders' interests may not be adversely affected by the order sought in such a motion, to use its best efforts to provide the Agent with no less than three (3) Business Days' notice, and in any event to provide the Agent with as much notice as is reasonably practicable in the circumstances;
- (i) to only pay wages, commissions and salaries and other forms of remuneration in the normal course of business consistent with past practice and the Cashflows and not to make any extraordinary payments or bonuses or other extraordinary forms of remuneration to any person whatsoever which is not in the normal course or

specifically contemplated and permitted under the Initial Order or the Cashflows, without the prior written consent of the Agent;

- (j) to carry on its business in the ordinary course;
- (k) to receive within three (3) days of the Initial Order, not less than U.S.\$500,000 in the case of the Canadian Borrower and U.S.\$500,000 in the case of the U.S. Borrower, of released escrow funds from the initial purchase of the Borrowers;
- (l) the U.S. Borrower or the Canadian Borrower shall promptly after the date of the Initial Order deliver cashflow projections covering the period from August 1, 2009 to the Maturity Date, all in form and substance acceptable to the Agent and Lenders;
- (m) all DIP Accommodations otherwise than by way of Canadian Prime Rate Revolving Loans or U.S. Prime Rate Revolving Loans, including Letters of Credit, Credit Support and Bank Products, Canadian Base Rate Revolving Loans, BA Equivalent Revolving Loans and LIBOR Revolving Loans, shall be in the Agent's and Lenders' sole, unfettered discretion;
- (n) on or before August 1, 2009, to complete a sale of all Mexican operations and assets or a sale of all real estate of the Canadian Borrower, in either case on terms and conditions satisfactory to the Agent and CITBCUS in regard to Mexican operations and assets and, in any event, the Borrowers will immediately commence to, and will diligently, market for sale such assets and provide regular updates to the Agent and Lenders in regard to such efforts (including by providing copies of all marketing materials, engagements, offer and related materials);
- (o) promptly to provide to Agent and Lenders all financial and other information, regular updates on all court proceedings, comments of the Monitor in regard to (i) any Cashflows or other forecasts, (ii) developments in regard to any plan(s) of arrangement and (iii) any assessments by the Monitor of any of the foregoing or any other financial information, regular updates on efforts to sell the Mexican assets and Canadian real estate, and such other information and documents as may be requested by the Agent and/or Lenders from the Borrowers and/or the Monitor;
- (p) on or before July 1, 2009, to propose a Plan which is acceptable to the Agent and Lenders in their discretion including as to viability, timing of implementation and the credit and security exposure of the Agent and Lenders;
- (q) that the Initial Order made in the CCAA proceedings to be commenced by the U.S. Borrower and the Canadian Borrower shall provide that (and, whether or not the Initial Order so provides, the U.S. Borrower and the Canadian Borrower agree that):
  - (i) the stay of proceedings shall not apply to the Agent and the Lenders (save for notice requirements specified in the Initial Order);
  - (ii) the Agent and the Lenders shall be "unaffected creditors" and shall not otherwise be affected by the plan of arrangement;

- (iii) the U.S. Borrower and the Canadian Borrower shall be obligated to continue to use the blocked account and lockbox arrangements established by the Loan Documents, and shall be prohibited from establishing other bank accounts or banking arrangements, or diverting receipts or collections;
- (iv) any charges in favour of the Monitor and its counsel and the U.S. Borrower's or the Canadian Borrower's counsel shall have priority over the Agent's Liens only up to the amount of \$175,000 (the "**Administrative Charge**") and any amounts in excess thereof shall be subordinated Liens of the Lenders' and the Agent's Liens;
- (v) any charges in favour of the directors and officers of the U.S. Borrower or the Canadian Borrower in priority to the Liens of the Lenders and the Agent's and Liens shall be limited to the amount of \$75,000 plus up to \$325,000 of vacation pay arrears that would otherwise benefit by a WEPPA priority over the Agent's Liens, and shall secure outstanding and future wages, salaries, commissions, employee and pension benefits, vacation pay and expenses and other similar amounts for individuals who are independent contractors providing services, and deemed trust amounts relating to source deductions in any case to the extent the non payment of which would give rise to a personal liability of the directors or officers (the "**D&O Charge**");
- (vi) there shall be limitations on paying pre-filing debt as provided for in Section 6.1(d)(iv) and a prohibition on the granting of any further Liens or security by the U.S. Borrower or the Canadian Borrower;
- (vii) Priority Payables shall be paid in accordance with Section 4.5 hereof;
- (viii) the U.S. Borrower and the Canadian Borrower shall be prohibited from selling assets (other than Inventory and receivables pursuant to supply chain financing arrangements with Lowe's currently in place, in the ordinary course of business) having a book value in excess of \$50,000 in the aggregate during the Term without the Agent's consent;
- (ix) the Monitor shall provide financial and other information to the Agent and the Lenders upon request and shall notify the Agent if the Monitor has actual knowledge of any Default, Event of Default, Variance Event or any material variance from the Cashflows;
- (x) if an Interim Default occurs, subject to any notice periods specified in the Initial Order, the Lenders shall have the right, immediately and without notice or observance of any other formality, to cease making further Loans or other financial accommodations;
- (xi) all Liens granted by the U.S. Borrower or the Canadian Borrower to the Agent (the "**Existing Liens**") shall be ratified and confirmed and shall continue in full force and effect securing all Obligations, including DIP

Accommodations, and the Agent shall be granted a fully perfected first priority Lien in, and first continuing charge on, all of the Application Collateral, to the extent provided in Section 7.3 to secure all DIP Accommodations;

- (xii) the Agent shall be authorized to effect registrations, filings, publications and recordings wherever in its discretion it deems appropriate in respect of this Agreement and in respect of Liens to be granted to it pursuant to the Initial Order or otherwise relating thereto or hereto;
- (xiii) the making of DIP Accommodations and the grant of Liens in favour of the Agent under the Initial Order and any and all documents executed and delivered by the U.S. Borrower or the Canadian Borrower relating thereto or hereto, including all actions taken to perfect, record, publish and register such Liens, do not constitute conduct meriting an oppression remedy, settlements, fraudulent conveyances or other challengeable or reviewable transactions under any applicable federal or provincial legislation;
- (xiv) the appointment of BDO Dunwoody Limited as the Monitor under the CCAA proceedings and recognition of the Monitor as a foreign bankruptcy official under the Code; and
- (xv) any and all proceedings under the BIA and the Code are stayed;
- (r) the Agent shall be entitled at any time to file a petition into bankruptcy under the BIA and the Code against the U.S. Borrower or the Canadian Borrower, or similar applicable foreign filing, provided that such proceedings are stayed without further leave of the Court; and
- (s) the U.S. Borrower and the Canadian Borrower shall within seven (7) business days of the date of the Initial Order send to all Account Debtors having accounts of \$50,000 or more a written confirmation of account balance and a waiver of set-off claims, which confirmation shall not require an express acknowledgment by the Account Debtors but shall invite responses directly to the Monitor and shall otherwise be in form and substance satisfactory to the Agent. If the Agent considers appropriate based on responses or lack of responses to the U.S. Borrower's and the Canadian Borrower's account verification letters, the Agent shall be entitled to verify Accounts directly with Account Debtors, verbally, in writing or in person and, in the Agent's discretion, with the assistance of the Monitor. The Agent will advise the U.S. Borrower and the Canadian Borrower and the Monitor if it intends to verify Accounts directly.

## **6.2 Holdings' Covenant**

Holdings covenants that it shall cause the U.S. Borrower and the Canadian Borrower to perform their covenants under Section 6.1 above.

## 7. LOAN AGREEMENT

### 7.1 Borrowing Base and DIP Accommodations

- (a) Subject to all of the terms and conditions of the Credit Agreement and this Agreement, and based on and relying upon the Cashflows, the Lenders agree to provide the DIP Accommodations to the U.S. Borrower or the Canadian Borrower. The DIP Accommodations shall be used solely to fund the types of itemized expenditures set forth in the Cashflows (as same may be permitted to vary in accordance with this Agreement). All DIP Accommodations hereunder will be deemed to be Obligations under the Credit Agreement, subject to the rights and priorities provided herein and therein, and will be advanced by the Lenders to the U.S. Borrower or the Canadian Borrower.
- (b) Except as otherwise consented to by the Agent and, with respect to making DIP Accommodations to the U.S. Borrower, CITBCUS, in its and their discretion, it shall be a condition to any obligation of the Lenders to make DIP Accommodations that the U.S. Borrower and the Canadian Borrower shall be in compliance with the Cashflows, including without limitation: (i) the kinds of disbursements in the Cashflows and (ii) Canadian Availability and U.S. Availability; provided that no Interim Default shall be deemed to have occurred based solely on a variance in Canadian Availability or U.S. Availability or Net Sales unless an Availability Event or Variance Event shall have occurred.
- (c) The Agent and the Lenders shall be entitled to recover all of the Lenders' Expenses incurred in connection with the Obligations, the Application and this Agreement. The U.S. Borrower and the Canadian Borrower shall pay the Lenders' Expenses upon demand therefor, if demand is so required under the Credit Agreement, any other Loan Document or this Agreement, and, failing such payment, by debit to the U.S. Borrower's and the Canadian Borrower's loan account as a U.S. Prime Rate Revolving Loan or Canadian Prime Rate Revolving Loan as applicable, even if such debit will create an over advance or place the U.S. Borrower or the Canadian Borrower in violation of the Cashflows.
- (d) The Agent and CITBCUS will create new or amend Reserves in their reasonable discretion.
- (e) The Credit Agreement is hereby amended as follows:
  - (i) the definition of "Total Facility" in Section 1.1 of the Credit Agreement is hereby amended by deleting the references to "\$24,000,000" and "U.S.\$18,000,000" and substituting "\$12,000,000" and "U.S.\$12,000,000" therefor;
  - (ii) deliberately deleted;
  - (iii) deliberately deleted;

- (iv) notwithstanding any other terms of the Credit Agreement, no Loans bearing interest based upon LIBOR Rate or BA Rate shall be available;
- (v) **deliberately deleted;**
- (vi) the definition of "Maximum Revolver Amount" in Annex "A" of the Credit Agreement is hereby amended by deleting the references to "\$24,000,000" and "US\$18,000,000" and substituting therefor "\$12,000,000" and U.S.\$12,000,000, respectively with corresponding changes to be made to the definitions of "Maximum Canadian Revolver Amount" and "Maximum U.S. Revolver Amount" in Annex "A" to the Credit Agreement;
- (vii) the terms "Canadian Base Rate", "Canadian Prime Rate" and "U.S. Prime Rate" as defined in Annex "A" of the Credit Agreement are hereby amended by increasing each rate therein specified by an additional two percent (2%) per annum;
- (viii) the terms "Canadian Letter of Credit Fee" and U.S. Letter of Credit Fee" in Section 2.6 of the Credit Agreement are hereby amended by deleting the reference to "two and one quarter percent (2.25%)" and substituting therefor "four and one half percent (4.5%)";
- (ix) Section 7.17 of the Credit Agreement is hereby amended by deleting paragraphs (b), (c), (g), (h) and (i) and substituting therefor "and (b) transactions to which the Agent has provided its previous written consent"; and
- (x) In addition to all other fees, Canadian Borrower and U.S. Borrower shall jointly and severally be liable to pay an Agent's monitoring fee of \$3,000 per month.

## 7.2 Termination of Obligations to make DIP Accommodations

- (a) The Lenders' obligation to make DIP Accommodations shall terminate and all Obligations hereunder and under the other Loan Documents shall be repaid in full on the earlier of the following dates (the "**Termination Date**"): (i) the Maturity Date; (ii) the implementation date of a plan of arrangement under the CCAA; or (iii) the occurrence of any Interim Default.
- (b) In addition to Section 7.2(a), the Termination Date shall be deemed to have occurred on the first date any of the following events occur (unless otherwise agreed to in writing by the Agent and Lenders and the U.S. Borrower and the Canadian Borrower): (i) entry of an order dismissing the Application or requiring liquidation of the U.S. Borrower's or the Canadian Borrower's assets, property or undertaking; (ii) entry of any order appointing a trustee or examiner with the power and authority to operate the business of the U.S. Borrower or the Canadian Borrower; (iii) entry of an order for stay, reversal, amendment or other modification in any respect (except

to the extent acceptable to the Agent in its sole discretion) of the Initial Order or any subsequent order in the U.S. Borrower's or the Canadian Borrower's CCAA or Code proceedings; or (iv) entry of any order dismissing the U.S. Borrower's or the Canadian Borrower's CCAA or Code proceedings.

- (c) Upon the Termination Date, all Obligations, including the DIP Accommodations, shall become immediately due and payable and the Agent and the Lenders shall be entitled, subject to any notice periods specified in the Initial Order, to exercise all rights and remedies available to them under this Agreement, the Initial Order or any subsequent order, the Loan Documents and applicable law.

### 7.3 Security for DIP Accommodations

- (a) All DIP Accommodations shall be secured by the Existing Security and shall be secured by, and the Agent is hereby granted and shall by the Initial Order be granted, a valid, binding, enforceable and perfected first fixed Lien in and on, subject only to Prior Claims (as defined below) and CCAA Charges, all presently owned and hereafter acquired real (immovable) and personal (movable) property and assets of the U.S. Borrower and the Canadian Borrower to the fullest extent permitted by applicable law of any kind and nature whatsoever, whether now owned or hereafter acquired and wherever located, and all proceeds, rents or profits thereof (collectively, the "**Application Collateral**"). As used herein, the term "**Prior Claims**" shall mean any non-avoidable, valid, enforceable, opposable and perfected Liens on the assets of the U.S. Borrower and the Canadian Borrower, as pre-Application debtors.
- (b) All Liens on or in the Application Collateral granted to the Agent and the Lenders hereunder are deemed duly perfected, enforceable, opposable, registered, filed, published and recorded under all applicable laws as of the date hereof, and no notice, filing, mortgage, hypothec, recordation, possession, further order or act shall be required to effect or continue such perfection, enforceability or opposability. The Agent and the Lenders may, in their sole discretion, and at the U.S. Borrower's and the Canadian Borrower's expense, make any filings, registrations, publications or recordations or take any other acts to do such other things as they deem appropriate with respect to such perfection, enforceability and opposability.
- (c) In consideration of the Lenders making available the DIP Accommodations, and subject to the Initial Order and the CCAA Charges, the U.S. Borrower and the Canadian Borrower hereby irrevocably waives and is barred from asserting or exercising any right without (a) the Agent's prior written consent, or (b) prior payment and satisfaction in full of the Obligations, to (i) grant or impose under any provision of the CCAA, the Code, the PPSA, the UCC or otherwise, senior or equal Liens on any Collateral; (ii) use, or seek an order granting the U.S. Borrower or the Canadian Borrower the right to use, cash collateral; or (iii) modify, vary or affect any of the rights of the Agent or the Lenders under this Agreement.

- (d) Any and all DIP Accommodations shall, in respect of the CCAA Charges, have the priority set out as herein provided and confirmed in the Initial Order.
- (e) Subject to the Initial Order, no sale, lease or other disposition of any Collateral outside of the ordinary course of business (including assignments of accounts receivable or any liquidation, auction or other similar sales) may be done prior to the Termination Date without the Agent's and, with respect to any Collateral of the U.S. Borrower, CITBCUS's prior written consent.
- (f) Except as specifically stated herein, the Credit Agreement and the other Loan Documents shall continue in full force and effect in accordance with the provisions thereof, as amended herein, and all Obligations of the U.S. Borrower and the Canadian Borrower under the Credit Agreement and the other Loan Documents are hereby ratified and confirmed and shall continue in full force and effect. Without limiting the generality of the foregoing, all Liens heretofore granted by the U.S. Borrower or the Canadian Borrower to the Agent and the Lenders including, without limitation, pursuant to the agreements constituting the Existing Security and any other security agreements constituting Loan Documents are hereby ratified and confirmed and shall continue in full force and effect, and secure all of the Obligations.

## 8. DEFAULT

### 8.1 Interim Default

Notwithstanding Section 4.1 and except for any of the Existing Defaults, upon the occurrence of any Event of Default under the Credit Agreement or any one or more of the following additional events (each an "**Interim Default**"), the Agent may, at its option, exercisable by the Agent in its sole and unfettered discretion or shall if directed by the Required Lenders, but subject to any notice requirements provided for in the Initial Order, be entitled to proceed to exercise or enforce any or all of its rights and remedies in connection with the payment or performance of the Obligations, including, without limitation, any and all of its rights and remedies granted under this Agreement, the Credit Agreement, the other Loan Documents and under any applicable law, including, without limitation, the PPSA:

- (a) the terms of this Agreement are modified or superseded by an order of the Court or any U.S. Court having jurisdiction over the U.S. Borrower (other than the Initial Order, but including any order sanctioning a plan of arrangement by the U.S. Borrower or the Canadian Borrower) or by any plan of arrangement of the U.S. Borrower or the Canadian Borrower; or if the U.S. Borrower or the Canadian Borrower shall breach or default under any covenant hereunder or any representative or warranty herein shall be incorrect in any respect;
- (b) the U.S. Borrower or the Canadian Borrower makes any payment of a kind that is not contemplated by this Agreement or in the Cashflows or if any Availability Event or Variance Event shall occur;

- (c) the U.S. Borrower or the Canadian Borrower fails to observe or perform or is in breach of any covenant, term or condition contained in this Agreement, the Credit Agreement or any other Loan Document or any other agreement between the U.S. Borrower or the Canadian Borrower, the Agent or the Lenders which is not cured within the period provided, if such a cure period is granted;
- (d) any creditor of the U.S. Borrower or the Canadian Borrower is not subject to a stay of proceedings (subject to obtaining a foreign recognition order of the CCAA and Code proceedings) or any proceeding is initiated by any person that is successful in lifting the stay of proceedings established under the Initial Order or to have the U.S. Borrower or the Canadian Borrower declared bankrupt, or a proceedings is taken to have a receiver, interim receiver, receiver and manager, agent, monitor, liquidator or other like person appointed over all or any part of the property, assets and undertakings of the U.S. Borrower or the Canadian Borrower or, except for the Monitor in the CCAA or Code proceeding, any such appointment is made or any creditor takes possession of all or any part of the property, assets and undertakings of the U.S. Borrower or the Canadian Borrower or otherwise enforces any of its rights against the U.S. Borrower or the Canadian Borrower;
- (e) if any proceeding is taken by any person to appeal or vary the Initial Order in any way prejudicial to the Agent without the Agent's prior written consent or the Initial Order otherwise ceases to be in full force and effect;
- (f) **deliberately deleted;**
- (g) any statement, representation or warranty made by the U.S. Borrower or the Canadian Borrower to the Agent or any of the Lenders is false, misleading, lacking fact, erroneous, incorrect or fails to disclose anything which could reasonably be expected to be material to the Agent or the Lenders, as the case may be, as at the time at which it is made;
- (h) if a substantial portion of the property or assets of the U.S. Borrower or the Canadian Borrower is at material risk of being lost, damaged or confiscated;
- (i) if any stay of proceedings is lifted or if any plan, proposal or arrangement thereunder is defeated by the U.S. Borrower's and the Canadian Borrower's creditors;
- (j) there is a strike, work stoppage, material unfair labour practice claim, or other material labour dispute against or affecting the U.S. Borrower or the Canadian Borrower or its employees;
- (k) if any key management personnel (as determined by the Agent) shall cease to devote their full time and attention to the U.S. Borrower's or the Canadian Borrower's business or the U.S. Borrower or the Canadian Borrower shall otherwise cease to be managed and controlled by its existing senior management without the Agent's (and in the case of the U.S. Borrower, CITBCUS) prior written consent;

- (l) if the U.S. Borrower or the Canadian Borrower ceases to co-operate with the Agent's financial advisors or the U.S. Borrower or the Canadian Borrower otherwise restricts access of the Agent or its respective financial advisors to senior management or any financial information;
- (m) if there shall occur any material adverse change as determined by the Lenders in their good faith judgment in the U.S. Borrower's and the Canadian Borrower's operations, business properties, conditions (financial or otherwise) or prospects, any security for the Obligations; or
- (n) if the U.S. Borrower or the Canadian Borrower proposes, approves or supports any additional financing arrangements with any other lender, the repayment of which is not fully subordinated and postponed to the payment and performance in full of the Obligations.

## **8.2 Obligations Due and Payable Upon Interim Default**

The U.S. Borrower and the Canadian Borrower hereby consent and agree with the Agent and the Lenders that following the occurrence of an Interim Default which remains uncured or unremedied, the Agent and Lenders shall have the right to cease making further DIP Accommodations, the Obligations shall become immediately payable and all of the Agent's Liens or Liens of the Lender shall become immediately enforceable without any further notice or demand whatsoever, except such notice as provided in the Initial Order.

## **9. FORBEARANCE WITHOUT PREJUDICE**

### **9.1 No Prejudice**

This Agreement shall be without prejudice to the rights and remedies of the Agent and the Lenders, except as expressly provided for in this Agreement.

### **9.2 Agreement Supplemental**

The Agent's and the Lenders' rights and remedies against the U.S. Borrower or the Canadian Borrower and its respective, undertaking, property and assets under this Agreement are in addition to and not in substitution for the Agent's and the Lenders' rights and remedies as such may have existed prior to this Agreement, subject to Section 4.1.

## **10. ASSIGNMENT**

### **10.1 Assignment**

Nothing in this Agreement shall prevent the Agent or the Lenders from assigning all or any part of the Obligations and the Liens securing same in accordance with the Credit Agreement and the other Loan Documents should any Lender or the Agent so desire, provided they do so subject to the provisions of the Credit Agreement. The Canadian Borrower and U.S. Borrower and each of the Lenders hereby waives any minimum notice period for resignation of the Agent. The U.S.

Borrower or the Canadian Borrower agree to execute and deliver to the Agent or whom the Agent may direct all acknowledgements or other documents reasonably required by the Agent in connection with such assignment.

## **11. MISCELLANEOUS**

### **11.1 Reservation of Rights; No Novation**

Except as expressly provided for in this Agreement, the rights and obligations of the U.S. Borrower and the Canadian Borrower and the rights, claims, Liens and priorities of the Agent and the Lenders arising under this Agreement, the Initial Order and any subsequent order are in addition to, and are not intended as a waiver or substitution for, the rights, obligations, claims, Liens and priorities granted by the U.S. Borrower or the Canadian Borrower, as a pre-Application debtor, under the Credit Agreement and any other Loan Documents, instruments or agreements executed and delivered in connection therewith. Except as otherwise provided in this Agreement, the Agent and the Lenders hereby reserve all of their rights and remedies under the Credit Agreement and the other Loan Documents and any other documents, instruments or agreements executed and delivered in connection therewith and any and all applicable law, including, without limitation, under the PPSA. This Agreement will not discharge or constitute novation of any debt, obligation, covenant or agreement contained in the Credit Agreement or any of the other Loan Documents but the same shall remain in full force and effect save to the extent same are amended by the provisions of this Agreement.

### **11.2 Effect on Guarantors**

The Guarantors (i) consent to and approve the execution and delivery of this Agreement by the parties hereto, (ii) agree that this Agreement does not and shall not limit or diminish in any manner the obligations of the Guarantors under their Guarantees and that such obligations would not be limited or diminished in any manner even if Guarantors had not executed this Agreement, (iii) agree that this Agreement shall not be construed as requiring the consent of Guarantors in any other circumstance, (iv) reaffirm each of their obligations under the Guarantees and the other Loan Documents to which they are a party, and (v) agree that the Guarantees and the other Loan Documents to which they are a party remain in full force and effect and are hereby ratified and confirmed.

### **11.3 Time, Waiver, etc.**

Time shall be of the essence of this Agreement. Any failure by the Agent or the Lenders to strictly enforce any provision of this Agreement shall not operate as a waiver of the Agent's or the Lenders' right to insist upon strict compliance with this Agreement.

### **11.4 Entire Agreement Re Forbearance**

This Agreement constitutes the entire agreement of the parties with respect to the forbearance by the Agent and the Lenders in the enforcement of their rights and remedies under all Liens granted to them under the Loan Documents and except as amended hereby the provisions of the Credit Agreement remain in full force and effect unamended hereby.

### **11.5 Benefit**

Each party hereto intends that this Agreement shall not benefit or create any right or cause of action in or on behalf of any other person whatsoever other than the parties hereto and any other person who may become a party hereto, and no other person shall be entitled to rely on any of the provisions hereof in any action, suit, proceeding, hearing or other forum.

### **11.6 Severability**

If any provision of this Agreement is held to be illegal or unenforceable, such provision shall be fully severable, and the remaining provisions of this Agreement shall remain in full force and effect and shall not be affected by such severance.

### **11.7 Enurement**

This Agreement is binding upon and enures to the benefit of the Agent, the Lenders and the U.S. Borrower, the Canadian Borrower and the Guarantors and their respective successors and assigns.

### **11.8 Further Assurances**

The Agent, the Lenders, the U.S. Borrower, the Canadian Borrower and the Guarantors agree to make, do, execute and deliver all such further and other assurances as may be reasonably required to implement this Agreement.

### **11.9 Expenses**

The U.S. Borrower and the Canadian Borrower, jointly and severally, covenant and agree to pay to the Agent, all of the Agent's and the Lenders' reasonable costs, expenses and fees of every nature and kind whatsoever incurred by the Agent and the Lenders in connection with the Obligations, the Credit Agreement, the other Loan Documents or this Agreement, including, without limitation, the reasonable legal fees incurred by the Agent and the Lenders and that such costs, expenses and fees shall form part of the DIP Accommodations and the Obligations (collectively, the "Lenders' Expenses").

### **11.10 No Effect Unless in Writing**

No waiver by the Agent or the Lenders of any of their rights or remedies under the Credit Agreement, this Agreement or any of the other Loan Documents or otherwise and no amendment of this Agreement shall be effective against the Agent or the Lenders unless such waiver or amendment, as the case may be, is in writing and signed by the Agent and the Lenders.

### **11.11 Course of Conduct Not Waiver**

No course of conduct shall constitute a waiver by the Agent or the Lenders of any of their rights or remedies under the Credit Agreement, this Agreement or the other Loan Documents. Without limiting the generality of the foregoing, no delay or forbearance by the Agent or the Lenders in the enforcement of their rights or remedies arising after the occurrence of an Interim Default

hereunder shall constitute or be deemed to be a waiver by the Agent or the Lenders of such rights.

#### **11.12 Survival of Terms**

All covenants, representations and warranties of the U.S. Borrower, the Canadian Borrower and the Guarantors shall continue and survive the execution, completion, failure or termination of this Agreement and shall not merge with the execution or completion of this Agreement or with any judgment obtained by the Agent or the Lenders in respect of the Obligations owing by the U.S. Borrower or the Canadian Borrower to the Agent or the Lenders. No exercise of any right or remedy by the Agent or the Lenders against the U.S. Borrower, the Canadian Borrower, or the Guarantors or their undertakings, property or assets shall operate to extinguish or exhaust the remaining rights and remedies of the Agent or the Lenders against it and its undertakings, property and assets until such time as any and all Obligations have been indefeasibly paid in full.

#### **11.13 Governing Law**

This Agreement and all documents delivered pursuant hereto shall be governed by and interpreted in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein. The U.S. Borrower, the Canadian Borrower, the Guarantors, the Agent and the Lenders hereby irrevocably attorn to the non-exclusive jurisdiction of the courts of Ontario.

#### **11.14 Counterparts**

This Agreement may be executed in one or more counterparts, each of which shall constitute an original and binding agreement as and when so executed. Any signature received via facsimile transmission shall be fully binding and enforceable.


**[the next page is the signature page]**

IN WITNESS WHEREOF, the parties have entered into this Agreement on the date first above written.

**BORROWERS**

**W.C. WOOD CORPORATION, LTD.**

Per:

  
Name: Michael Hadjinian

Title: President and CEO

Per:

  
Name: Joseph Angi

Title: Chief Operating Officer

**W.C. WOOD CORPORATION, INC.  
(F/K/A WOOD U.S. ACQUISITION CO.,  
INC.)**

Per:

  
Name: Michael Hadjinian

Title: President and CEO

Per:

  
Name: Joseph Angi

Title: Chief Operating Officer

**GUARANTORS**

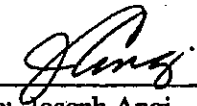
**W.C. WOOD HOLDINGS, INC.**

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

  
Name: Michael Hadjinian

Title: President and CEO

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

  
Name: Joseph Angi

Title: Chief Operating Officer

**WOOD MEXICO HOLDINGS, LLC**

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

  
Name: Michael Hadjinian

Title: President and CEO

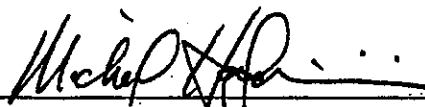
Per: \_\_\_\_\_

  
Name: Joseph Angi

Title: Chief Operating Officer

**W.C. WOOD CORPORATION, INC.  
(F/K/A WOOD U.S. ACQUISITION CO.,  
INC.)**

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

  
Name: Michael Hadjinian

Title: President and CEO

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

  
Name: Joseph Angi

Title: Chief Operating Officer

**GUARANTORS**

**WC WOOD SERVICIOS, S.A. de C.V.**

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

  
Name: Michael Hadjirian

Title: President and CEO

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


  
Name: Joseph Angi

Title: Chief Operating Officer

Duly Authorized

**WC WOOD, S.A. de C.V.**

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

  
Name: Michael Hadjirian

Title: President and CEO

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

  
Name: Joseph Angi

Title: Chief Operating Officer

Duly Authorized

AGENT

**CIT BUSINESS CREDIT CANADA INC.**

Per: 

Name: DON ROGERS

Title: SUP

Per: 

Name:

**Nick Bassel**

Title:

**Vice President**

CANADIAN LENDER

BANK OF MONTREAL

Per: J Elliott-Boyd

Name: JANE ELLIOTT-BOYD

Title: SR. ACCOUNT MANAGER

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

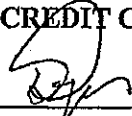
Name:

Title:

CANADIAN LENDER

CIT BUSINESS CREDIT CANADA INC.

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

  
Name: DON ROBERTS

Title: SVP

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

  
Name:

Title: **Nick Bassi**  
**Vice President**

U.S. LENDER

**BANK OF MONTREAL CHICAGO  
BRANCH**

Per: 

Name: Larry Allan Swiniarski

Title: Vice President

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

Name:

Title:

**U.S. LENDER**

**BANK OF MONTREAL CHICAGO  
BRANCH**

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

Name:

Title:

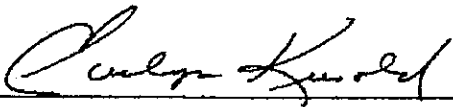
Per: \_\_\_\_\_

Name:

Title:

**U.S. LENDER**

**THE CIT GROUP/BUSINESS CREDIT,  
INC.**

Per: 

Name:

Title: Evelyn Kusold  
Vice President

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

Name:

Title:

**SCHEDULE "A"**

**PRIORITY PAYABLES ARREARS**

None

**SCHEDULE "B"**

**UNPAID EMPLOYEE WAGES MATTERS**

None

**SCHEDULE "C"**

**PENSION MATTERS**

**None**



## **APPLICATION**

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

## **PLAN OF ARRANGEMENT**

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

## **POSSESSION OF PROPERTY AND OPERATIONS**

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

5. THIS COURT ORDERS that each Applicant shall be entitled to continue to utilize the cash management system currently in place as described in the Hadjinian Affidavit (the "Cash Management System") and shall continue to use the Lockbox Accounts described in the Hadjinian Affidavit unless and until the DIP Financing becomes effective with the DIP Lender as set forth in paragraph 35, below, and that any present or future bank providing the Cash Management System shall not be under any obligation whatsoever to inquire into the propriety, validity or legality of any transfer, payment, collection or other action taken under the Cash Management System, or as to the use or application by each Applicant of funds transferred, paid, collected or otherwise dealt with in the Cash Management System, shall be entitled to provide the Cash Management System without any liability in respect thereof to any Person (as

hereinafter defined) other than each Applicant, pursuant to the terms of the documentation applicable to the Cash Management System, and shall be, in its capacity as provider of the Cash Management System, an unaffected creditor under the Plan with regard to any claims or expenses it may suffer or incur in connection with the provision of the Cash Management System.

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

- (a) all outstanding and future wages, salaries, employee and pension benefits, vacation pay, bonuses and expenses payable on or after the date of this Order, in each case incurred in the ordinary course of business and consistent with existing compensation policies and arrangements;
- (b) payments to vendors deemed by the Applicants to be critical vendors, with consent of the Monitor and consent of the Lenders, including the payment of Cdn \$100,000 to the Wood family described in the Hadjinian Affidavit; and
- (c) the fees and disbursements of any Assistants retained or employed by each Applicant in respect of these proceedings, at their standard rates and charges.

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

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

8. THIS COURT ORDERS that each Applicant shall remit, in accordance with legal requirements, or pay:

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

9. THIS COURT ORDERS that until such time as an Applicant delivers a notice in writing to repudiate a real property lease in accordance with paragraph 11(c) of this Order (a "Notice of Repudiation"), that Applicant shall pay all amounts constituting rent or payable as rent under real property leases (including, for greater certainty, common area maintenance charges, utilities and realty taxes and any other amounts payable to the landlord under the lease) or as otherwise may be negotiated between each Applicant and the landlord from time to time ("Rent"), for the period commencing from and including the date of this Order, twice-monthly in equal payments on the first and fifteenth day of each month, in advance (but not in arrears). On the date of the first of such payments, any arrears relating to the period commencing from and including the date of this Order shall also be paid. Upon delivery of a Notice of Repudiation, the Applicant shall pay all

Rent due for the notice period stipulated in paragraph 11(c) of this Order, to the extent that Rent for such period has not already been paid.

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

### **RESTRUCTURING**

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

- (a) permanently or temporarily cease, downsize or shut down any of its business or operations and to dispose of redundant or non-material assets not exceeding \$100,000 in any one transaction or \$250,000 in the aggregate, subject to paragraph 11(c), if applicable;
- (b) terminate the employment of such of its employees or temporarily lay off such of its employees as it deems appropriate on such terms as may be agreed upon between the Applicant and such employee, or failing such agreement, to deal with the consequences thereof in the Plan;
- (c) in accordance with paragraphs 12 and 13, vacate, abandon or quit the whole but not part of any leased premises and/or repudiate any real property lease and any ancillary agreements relating to any leased premises, on not less than seven (7) days notice in writing to the relevant landlord on such terms as may be agreed upon between the Applicant and such landlord, or failing such agreement, to deal with the consequences thereof in the Plan;
- (d) repudiate such of its arrangements or agreements of any nature whatsoever, whether oral or written, as the Applicant deems appropriate on such terms as may be agreed

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

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

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

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

13. THIS COURT ORDERS that if a Notice of Repudiation is delivered, then (a) during the notice period prior to the effective time of the repudiation, the landlord may show the affected leased premises to prospective tenants during normal business hours, on giving the Applicant and the Monitor 24 hours' prior written notice, and (b) at the effective time of the repudiation, the relevant landlord shall be entitled to take possession of any such leased premises without waiver of or prejudice to any claims or rights such landlord may have against the Applicant in respect of such lease or leased premises and such landlord shall be entitled to notify the Applicant of the basis on which it is taking possession and to gain possession of and re-lease such leased premises

to any third party or parties on such terms as such landlord considers advisable, provided that nothing herein shall relieve such landlord of its obligation to mitigate any damages claimed in connection therewith.

#### **SALE OF MEXICAN BUSINESS**

14. THIS COURT ORDERS that the sale process described in the Hadjinian Affidavit in relation to sale of the Mexican Business is hereby approved and the Applicants are hereby permitted to take any and all steps that are necessary and appropriate to negotiate an Agreement of Purchase and Sale in relation to the Mexican Business in a manner that is generally in accordance with the terms described in the Hadjinian Affidavit subject to approval by this Court of any Agreement of Purchase and Sale.

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

15. THIS COURT ORDERS that until and including June 18, 2009 or such later date as this Court may order (the "Stay Period"), no proceeding suit, complaint, action, arbitration, application, enforcement process, right or remedy (judicial or extra-judicial, statutory or non-statutory) (each, a "Proceeding") shall be commenced or continued against or in respect of any of the Applicants or the Monitor or in any way affecting the Business or the Property, except with the written consent of each Applicant and the Monitor, or with leave of this Court, and any and all Proceedings currently under way against or in respect of the Applicants or affecting the Business or the Property are hereby stayed and suspended pending further Order of this Court.

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

16. THIS COURT ORDERS that during the Stay Period, all rights and remedies of any individual, firm, corporation, governmental body or agency, or any other entities (all of the foregoing, collectively being "Persons" and each being a "Person"), whether judicial or extra-judicial, statutory or non-statutory, against or in respect of either or both Applicants or the Monitor or affecting the Business or the Property, are hereby stayed and suspended except with the written consent of the Applicants and the Monitor, or leave of this Court, provided that nothing in this Order shall: (i) empower the Applicants to carry on any business which each Applicant is not lawfully entitled to carry on; (ii) exempt the Applicants from compliance with

statutory or regulatory provisions relating to health, safety or the environment; (iii) prevent the filing of any registration to preserve or perfect a security interest; or, (iv) prevent the registration of a claim for lien.

#### **NO INTERFERENCE WITH RIGHTS**

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

#### **CONTINUATION OF SERVICES**

18. THIS COURT ORDERS that during the Stay Period, all Persons having oral or written agreements with either or both Applicants or statutory or regulatory mandates for the supply of goods and/or services, including without limitation all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation, services, utility or other services to the Business or the Applicants, are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the Applicants, and that each Applicant shall be entitled to the continued use of its current premises, telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the Applicants in accordance with normal payment practices of the Applicant or such other practices as may be agreed upon by the supplier or service provider and each of the Applicant and the Monitor, or as may be ordered by this Court.

#### **NON-DEROGATION OF RIGHTS**

19. THIS COURT ORDERS that, notwithstanding anything else contained herein, no creditor of the Applicants shall be under any obligation after the making of this Order to advance or re-advance any monies or otherwise extend any credit to the Applicants. Nothing in this Order shall derogate from the rights conferred and obligations imposed by the CCAA.

## **PROCEEDINGS AGAINST DIRECTORS AND OFFICERS**

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

## **DIRECTORS' AND OFFICERS' INDEMNIFICATION AND CHARGE**

21. THIS COURT ORDERS that each Applicant shall indemnify its directors and officers from all claims, costs, charges and expenses relating to the failure of the Applicants, after the date hereof, to make payments of the nature referred to in subparagraphs 6(a) and 8(a), 8(b) and 8(c) of this Order which they sustain or incur by reason of or in relation to their respective capacities as directors and/or officers of the Applicants except to the extent that, with respect to any officer or director, such officer or director has actively participated in the breach of any related fiduciary duties or has been grossly negligent or guilty of wilful misconduct.

22. THIS COURT ORDERS that the directors and officers of each Applicant shall be entitled to the benefit of and are hereby granted a charge (the "Directors' Charge") on the Property, which charge shall not exceed an aggregate amount of \$75,000 and an additional charge to the extent claims exceed the amount covered by the Directors' Charge, above, in relation to vacation pay arrears (not termination or severance) that would otherwise be entitled to a WEPPA priority (the "Additional Directors' Charge") which shall not exceed an aggregate amount of \$325,000, as security for the indemnity provided in paragraph 21 of this Order. The Directors' Charge and Additional Directors' Charge shall have the priority set out in paragraphs 40 and 42 herein.

23. THIS COURT ORDERS that, notwithstanding any language in any applicable insurance policy to the contrary, (a) no insurer shall be entitled to be subrogated to or claim the benefit of the Directors' Charge, and (b) each Applicant's directors and officers shall only be entitled to the

benefit of the Directors' Charge to the extent that they do not have coverage under any directors' and officers' insurance policy, or to the extent that such coverage is insufficient to pay amounts indemnified in accordance with paragraph 21 of this Order.

#### **APPOINTMENT OF MONITOR**

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

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

- (a) monitor each Applicant's receipts and disbursements;
- (b) report to this Court at such times and intervals as the Monitor may deem appropriate with respect to matters relating to the Property, the Business, and such other matters as may be relevant to the proceedings herein;
- (c) assist the Applicants, to the extent required by the Applicants, in their dissemination, to the DIP Lender and its counsel on an agreed basis to be detailed in the DIP Term Sheet, of financial and other information as agreed to between the Applicants and the DIP Lender which may be used in these proceedings including reporting on a basis to be agreed with the DIP Lender;
- (d) advise the Applicants in the preparation of the Applicants' cash flow statements and reporting required by the DIP Lender, which information shall be reviewed with the Monitor and delivered to the DIP Lender and its counsel as required by the DIP Lender in the DIP Term Sheet;
- (e) advise the Applicants in the development of the Plan and any amendments to the Plan;

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

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

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

pursuance of the Monitor's duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

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

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

30. THIS COURT ORDERS that the Monitor, counsel to the Monitor and counsel to each Applicant shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges, by the Applicants as part of the costs of these proceedings. The Applicants are hereby authorized and directed to pay the accounts of the Monitor, counsel for the Monitor and counsel for the Applicants promptly when due.

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

32. THIS COURT ORDERS that the Monitor, counsel to the Monitor, if any, and Applicants' counsel shall be entitled to the benefit of and are hereby granted a charge (the "Administration Charge") on the Property, which charge shall not exceed an aggregate amount of \$175,000, as security for their professional fees and disbursements incurred at the standard rates

and charges of the Monitor and such counsel, both before and after the making of this Order in respect of these proceedings. The Administration Charge shall have the priority set out in paragraphs 40 and 42 hereof.

33. THIS COURT AUTHORIZES AND DIRECTS the Monitor to apply to the United States Bankruptcy Court for the District of Delaware (the "US Bankruptcy Court") for an Order recognizing these CCAA proceedings as foreign main proceedings and, in the alternative, foreign non-main proceedings with respect to each Applicant and giving full force and effect to this Order in the United States of America.

### **DIP FINANCING**

~~34A. THIS COURT ORDERS that paragraphs 34 to 39 of this Order shall not be effective until further Order of this Court.~~

34. THIS COURT ORDERS that each Applicant is hereby authorized and empowered to obtain and borrow under a credit facility from the Lenders, with CIT Business Credit Canada Inc., as Agent (the "DIP Lender") in order to finance the Applicants' working capital requirements and other general corporate purposes and capital expenditures, provided that borrowings under such credit facility shall not exceed the amount specified in the Commitment Letter, defined below, unless permitted by further Order of this Court.

35. THIS COURT ORDERS THAT such credit facility shall be on the terms and subject to the conditions set forth in the ~~commitment letter to be~~ Accommodation Agreement entered into between the Applicant and the DIP Lender on May 21, 2009 (the "Commitment Letter").

36. THIS COURT ORDERS that the Applicants are authorized and empowered, ~~following the effective date of the Commitment Letter described in paragraph 35,~~ to execute and deliver such credit agreements, mortgages, charges, hypothecs and security documents, guarantees and other definitive documents (collectively, the "Definitive Documents"), as are contemplated by the Commitment Letter or as may be reasonably required by the DIP Lender pursuant to the terms thereof, and the Applicants are hereby authorized and directed to pay and perform, ~~following the effective date of the Commitment Letter described in paragraph 35,~~ all of their indebtedness, interest, fees, liabilities and obligations to the DIP Lender under and pursuant to

the Commitment Letter and the Definitive Documents as and when the same become due and are to be performed, notwithstanding any other provision of this Order.

37. THIS COURT ORDERS that ~~upon the effective date of the Commitment Letter described in paragraph 35,~~ the Agent on behalf of the DIP Lender and the DIP Lender shall be entitled to the benefit of and is granted a charge (the "DIP Lender's Charge") on the Property, which charge shall not exceed the aggregate amount owed to the DIP Lender under the Definitive Documents. The DIP Lender's Charge shall have the priority set out in paragraphs 40 and 42 hereof.

38. THIS COURT ORDERS that, notwithstanding any other provision of this Order, ~~following the effective date of the Commitment Letter described in paragraph 35:~~

- (a) the DIP Lender may take such steps from time to time as it may deem necessary or appropriate to file, register, record or perfect the DIP Lender's Charge or any of the Definitive Documents;
- (b) upon the occurrence of an event of default under the Definitive Documents or the DIP Lender's Charge, the DIP Lender, upon two (2) days notice to each Applicant and the Monitor, may exercise any and all of its rights and remedies against the Applicants or the Property under or pursuant to the Commitment Letter, Definitive Documents and the DIP Lender's Charge, including without limitation, to cease making advances to the Applicants and set off and/or consolidate any amounts owing by the DIP Lender to the Applicants against the obligations of the Applicants to the DIP Lender under the Commitment Letter, the Definitive Documents or the DIP Lender's Charge, to make demand, accelerate payment and give other notices, or to apply to this Court for the appointment of a receiver, receiver and manager or interim receiver, or for a bankruptcy order against the Applicants and for the appointment of a trustee in bankruptcy of the Applicants, and upon the occurrence of an event of default under the terms of the Definitive Documents, the DIP Lender shall be entitled to seize and retain proceeds from the sale of the Property and the cash flow of the Applicants to repay amounts owing to the DIP Lender in accordance with the Definitive Documents

and the DIP Lender's Charge, but subject to the priorities as set out in paragraphs 40 and 42 of this Order; and

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

39. THIS COURT ORDERS AND DECLARES that the DIP Lender, ~~following the effective date of the Commitment Letter described in paragraph 35,~~ shall be treated as unaffected in any plan of arrangement or compromise filed by the Applicants under the CCAA, or any proposal filed by the Applicants under the *Bankruptcy and Insolvency Act* of Canada (the "BIA"), with respect to any advances made under the Definitive Documents, and the DIP Lender shall not be stayed pursuant to paragraphs 15-18 and 20 herein; however, it shall seek leave of the Court prior to any enforcement steps.

#### **VALIDITY AND PRIORITY OF CHARGES CREATED BY THIS ORDER**

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

First – Administration Charge (to the maximum amount of \$175,000);

Second – Directors' Charge (to the maximum amount of \$75,000);

Third – DIP Lender's Charge, if any; and

Fourth – Additional Directors' Charge, if any (to the maximum amount of \$325,000).

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

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

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

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

- (a) neither the creation of the Charges nor the execution, delivery, perfection, registration or performance of the Commitment Letter or the Definitive Documents shall create or be deemed to constitute a breach by the Applicants of any Agreement to which either or both Applicants is a party;

- (b) none of the Chargees shall have any liability to any Person whatsoever as a result of any breach of any Agreement caused by or resulting from the Applicants entering into the Commitment Letter, the creation of the Charges, or the execution, delivery or performance of the Definitive Documents; and
- (c) the payments made by the Applicants pursuant to this Order, the Commitment Letter or the Definitive Documents, and the granting of the Charges, do not and will not constitute fraudulent preferences, fraudulent conveyances, oppressive conduct, settlements or other challengeable, voidable or reviewable transactions under any applicable law.

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

#### **SERVICE AND NOTICE**

46. THIS COURT ORDERS that each Applicant shall, within ten (10) business days of the date of entry of this Order, send a copy of this Order to its known creditors, other than employees and creditors to which each Applicant owes less than \$1,000, at their addresses as they appear on each Applicant's records, and shall promptly send a copy of this Order (a) to all parties filing a Notice of Appearance in respect of this Application, and (b) to any other interested Person requesting a copy of this Order, and the Monitor is relieved of its obligation under Section 11(5) of the CCAA to provide similar notice, other than to supervise this process.

47. THIS COURT ORDERS that each Applicant and the Monitor be at liberty to serve this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or electronic transmission to each Applicant's creditors or other interested parties at their respective addresses as last shown on the records of each Applicant and that any such service or notice by courier, personal delivery or electronic transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

48. THIS COURT ORDERS that each Applicant, the Monitor, and any party who has filed a Notice of Appearance may serve any court materials in these proceedings by e-mailing a PDF or other electronic copy of such materials to counsels' email addresses as recorded on the Service List from time to time, in accordance with the E-filing protocol of the Commercial List to the extent practicable, and the Monitor may post a copy of any or all such materials on its website at [www.bdo.ca](http://www.bdo.ca).

## **GENERAL**

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

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

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

52. THIS COURT ORDERS that each of the Applicants and the Monitor be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order.

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

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

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

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IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, AS AMENDED R.S.C. 1985, c. C-36  
AND IN THE MATTER OF A PROPOSED PLAN OF COMPROMISE OR ARRANGEMENT WITH RESPECT TO  
W.C. WOOD CORPORATION, LTD., W.C. WOOD HOLDINGS INC. AND W.C. WOOD CORPORATION INC.

Court File No. CV-09-8194-00CL

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

Proceeding Commenced at Toronto

**AMENDED INITIAL ORDER**

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Solicitors for the Applicants  
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IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, AS AMENDED R.S.C. 1985, c. C-36  
AND IN THE MATTER OF A PROPOSED PLAN OF COMPROMISE OR ARRANGEMENT WITH RESPECT TO  
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**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**  
**(COMMERCIAL LIST)**

Proceeding Commenced at Toronto

**MOTION RECORD**

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