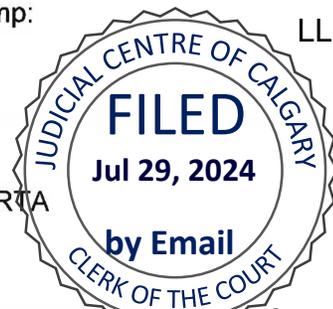


Clerk's stamp:



COURT FILE NUMBER	2301 - 08305	
COURT	COURT OF KING'S BENCH OF ALBERTA	
JUDICIAL CENTRE	CALGARY	
APPLICANTS	IN THE MATTER OF THE <i>COMPANIES' CREDITORS</i>	C71517
	<i>ARRANGEMENT ACT, RSC 1985, c C-36, as</i>	Aug 8, 2024
	amended	COM
	AND IN THE MATTER OF THE COMPROMISE OR	
	ARRANGEMENT OF WALLACE & CAREY INC.,	
	LOUDON BROS LIMITED, and CAREY	
	MANAGEMENT INC.	
DOCUMENT	<u>AFFIDAVIT NO. 5 OF PATRICK CAREY</u>	
ADDRESS FOR SERVICE AND	MILLER THOMSON LLP	
CONTACT INFORMATION OF	Barristers and Solicitors	
PARTY FILING THIS DOCUMENT	3000, 700 – 9 th Avenue SW	
	Calgary, AB, T2P 3V4	
	Attention:	James W. Reid / Pavin Takhar
	Phone:	403-298-2418 / 403-298-2432
	Email:	jwreid@millerthomson.com / ptakhar@millerthomson.com
	File No.:	0221652.0006

AFFIDAVIT NO. 5 OF PATRICK CAREY**Sworn on July 26, 2024**

I, Patrick Carey, of the City of Calgary, in the Province of Alberta, **MAKE OATH AND SAY THAT:**

1. This Affidavit is made in support of the application (the "**Application**") by Wallace & Carey Inc. ("**Wallace & Carey**"), Loudon Bros. Limited ("**Loudon Bros**"), and Carey Management Inc. ("**CMI**", and together with Wallace & Carey, and Loudon Bros, the "**Applicants**" or the "**Companies**") returnable August 8, 2024 before the Court of King's Bench of Alberta (the "**Court**").
2. Wallace & Carey is a family-owned business founded in 1921. Prior to filing for creditor protection under the *Companies' Creditors Arrangement Act*, RSC 1985, c C-36 ("**CCAA**"), Wallace & Carey was servicing more than 7,000 customers across the country and had grown to become one of Canada's largest independent wholesale distribution and logistics companies.
3. Wallace & Carey has owned and operated Loudon Bros since 2011. Loudon Bros was Thunder Bay's leading foodservice wholesaler and distributor, serving convenience stores, grocery stores, restaurants, foodservice providers, not-for-profits, and various retail sector businesses throughout Northwestern Ontario. Loudon Bros. ceased operations in late 2023.
4. Wallace & Carey and Loudon Bros (together, the "**Logistics Companies**") represent the Applicants' logistics business, while CMI is a holding company with ten subsidiaries, including Wallace & Carey.
5. CMI is the sole shareholder of Wallace & Carey. CMI provides management services to the Logistics Companies.
6. I am the sole director of CMI, Wallace & Carey, and Loudon Bros.
7. I have personal knowledge of the matters described in this Affidavit, except where I state that my knowledge is based upon information and belief, in which case I believe the statements to be true.

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I. NATURE OF APPLICATION AND OVERVIEW OF RELIEF SOUGHT

8. This Affidavit is sworn in support of the Application, seeking an Order for the following relief:

- (a) abridging the time for service of the Application and the supporting material, if necessary, and deeming service thereof to be good and sufficient;
- (b) authorizing and empowering Wallace & Carey to borrow an aggregate amount of \$1,300,000.00 under a credit facility agreement with The Bank of Nova Scotia (“**BNS**”), in accordance with the terms of the Credit Facility Agreement, dated July 15, 2024 (the “**BNS CFA**”);
- (c) granting a charge on certain cash collateral of Wallace & Carey (“**Cash Collateral**”) not exceeding an aggregate amount of \$1,300,000.00, plus interest, fees and expenses incurred in relation thereto as security for any advances made by BNS in accordance with BNS CFA (the “**BNS Charge**”); and
- (d) such further and other relief as the Applicants may request and this Honourable Court may grant.

II. BACKGROUND

A. Circumstances Leading to the CCAA Filing

9. The Logistics Companies faced unprecedented challenges due to the COVID-19 global pandemic, the resulting supply chain disruptions and lockdowns, and the subsequent inflationary pressures and interest rate increases.

10. The Logistics Companies fell into arrears with many of their creditors, and could not meet their obligations to creditors generally as they became due.

11. On June 22, 2023, the Applicants obtained a CCAA Initial Order in these proceedings, which order was amended and restated on June 30, 2023 (the “**ARIO**”). KSV Restructuring Inc. is the monitor in these proceedings (the “**Monitor**”).

12. Pursuant to the ARIO, various priority charges were granted (the “**Priority Charges**”) against the property of the Applicants.

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13. On August 23, 2023, the Court granted an Order approving a sale and investment solicitation process (“**SISP**”) due to the liquidity and cash flow challenges faced by the Applicants and in the absence of a viable restructuring plan. (the “**SISP Order**”). The Court also approved the Applicants’ engagement of Alvarez & Marsal Canada Securities ULC (the “**Financial Advisor**”) as financial advisor to conduct the SISP under the oversight of the Monitor.

14. On August 23, 2023, the Court also granted an ancillary Order, which amended the ranking and amounts of the Priority Charges and introduced a transaction fee charge against the property of the Applicants.

15. Following the SISP, 7-Eleven Canada, Inc. (the “**Purchaser**”) and the Applicants entered into a purchase and sale agreement (the “**Sale Agreement**”). The Sale Agreement was for the sale of the Applicants’ personal property and equipment assets located in Alberta and British Columbia and the intellectual property, technology, software and systems relating to the entire Logistics Companies’ logistics/distribution business across Canada. The Applicants are continuing to operate in various provinces across Canada, including BC, Alberta, Saskatchewan, Manitoba and Ontario.

16. Pursuant to the Sale Agreement and concurrent with the closing of that transaction, the Applicants and the Purchaser entered into a transition services agreement (“**TSA**”) pursuant to which Wallace & Carey continues to provide logistics services to the Purchaser in accordance with the terms and conditions contained therein. Pursuant to the TSA, the Purchaser is required to fund substantially all of Wallace & Carey’s and CMI’s costs from and after the effective closing time, being 12:01 a.m. on November 19, 2023.

17. On November 17, 2023, the Court granted an Order approving the Applicants entering into the Sale Agreement and TSA and approving the associated transaction which closed on November 21, 2023.

B. 7-Eleven Canada, Inc. Transaction

18. The term of the TSA is fifteen months from the closing date for the Wallace & Carey business in Alberta and British Columbia, and nine months from the closing date for the Wallace & Carey business east of Alberta. Each transition services period is subject to two 90-day extensions at the option of the Purchaser.

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19. Wallace & Carey remains subject to the TSA for at least six more months for the western Canada businesses and approximately four months for the eastern Canada businesses, subject to any further extensions.

III. APPROVING THE BNS CFA AND GRANTING THE BNS CHARGE

20. In order to facilitate operations during the terms of the TSA, Wallace & Carey requires access to credit, including a business VISA card and standby letters of credit/letters of guarantee.

21. The Purchaser uses BNS for their business banking in Canada, and it is the preference of the Purchaser to consolidate the banking of Wallace & Carey under BNS. This consolidation will assist the Purchaser in funding Wallace & Carey's costs.

22. BNS is prepared to extend the following credit facilities to Wallace & Carey, in accordance with the BNS CFA:

- (a) a Scotiabank VISA facility in the amount of \$300,000; and
- (b) standby letters of credit and letters of guarantee in the aggregate amount of \$1,000,000 (collectively, the "**BNS Facilities**").

23. A copy of the BNS CFA is attached as **Exhibit "A"**.

24. Wallace & Carey requires Court approval of this transaction for a number of reasons. BNS is only prepared to extend the BNS Facilities if they are secured by the BNS Charge, and pursuant to the ARIO, no further Priority Charges can be granted over any Property that rank in priority to, or *pari passu* with, any of the other Priority Charges in these proceedings without Court Order or the consent of the beneficiaries of the charges. Further, pursuant to paragraph 11(b) of the ARIO, approval of the Court is required prior to Wallace & Carey granting any security interests in respect of its property.

25. From time to time, proceeds of assets available to satisfy the claims of Wallace & Carey's creditors as of the date of closing of the Sale Agreement transaction have been deposited into W&C's bank account. Therefore, the Monitor, Wallace & Carey and the Purchaser have agreed that the Monitor will continue to have full visibility into transactions in the BNS account.

This is Exhibit "A" referred to in the Affidavit
Of Patrick Carey sworn before me this 26th day
Of July 2024

A handwritten signature in blue ink, consisting of stylized, cursive letters that appear to be 'M' and 'C'.

A Notary Public in and for British Columbia



July ■, 2024

Wallace & Carey Inc.

5445 8 St NE

Calgary, AB T2K 5R9

Attention: Pat Carey; Leslie Byle

Dear Sir/Madam:

We confirm that, subject to acceptance by you and the issuance of an Order by the Court of King's Bench of Alberta in the proceedings of **WALLACE & CAREY INC.** (the "**Borrower**") pursuant to the *Companies' Creditors Arrangement Act* (the "**CCA Proceedings**") approving the within transactions, The Bank of Nova Scotia (the "**Bank**") has agreed to make available to the Borrower certain credit facilities (the "**Credit Facilities**") on the terms and conditions set out in the attached Terms and Conditions Sheet and Schedule "A".

If the arrangements set out in this letter, and in the attached Terms and Conditions Sheet and Schedule "A" (collectively the "**Credit Facility Agreement**") are acceptable to you, please sign the enclosed copy of this letter in the space indicated below and return the letter to us by the close of business on August 30, 2024, after which date this offer will lapse.

Yours truly,

Derwin Hong
Sr. Client Relationship Manager

Each party hereto intends and agrees the electronic signatures above to have the same effect as handwritten signatures.

By signing this Credit Facility Agreement, you confirm that the product(s) and/or service(s) offered to you herein will not be used for, or on behalf of, any individual or entity other than you and the other parties named in the Credit Facility Agreement for whose benefit such products and services are intended.

The arrangements set out above and in the attached Terms and Conditions Sheet and Schedule "A" (collectively the "**Credit Facility Agreement**") are hereby acknowledged and accepted by:

BORROWER:

Name: **WALLACE & CAREY INC.**

Title: _____
CEO (Pat Carey)

Title: _____
VP Finance (Leslie Byle)

Date: _____

Each party hereto intends and agrees that the electronic signatures above to have the same effect as handwritten signatures.

TERMS AND CONDITIONS

CREDIT NO: 01**AUTHORIZED AMOUNT \$300,000**

TYPE

Scotiabank VISA Business Card - Availment, interest rate, and repayment as per Cardholder Agreement

CURRENCY

Canadian dollars

CREDIT NO: 02**AUTHORIZED AMOUNT \$1,000,000**

TYPE

Standby Letters of Credit and Letters of Guarantee.

CURRENCY

Canadian dollars

COMMISSION

2.00% per annum, calculated on the issue amount, based on increments of 30 days or multiples thereof, from the date of issuance to the expiry date. Periods of less than 30 days will be counted as a thirty-day increment. The amount is subject to the Bank's minimum fee as well as revision at any time and is payable upon issuance.

AVAILMENT

Letters of Guarantee/Standby Letters of Credit in Canadian dollars and/or U.S. dollars for a term not exceeding one year (with each availment subject to completion of an Application and Agreement for Standby Letter of Credit/Letter of Guarantee in form satisfactory to the Bank).

[Auto-Renewal of Standby Letters of Credit/Letter of Guarantee is permitted where required.]

GENERAL SECURITY, TERMS, AND CONDITIONS APPLICABLE TO ALL CREDITS

GENERAL SECURITY

The following security (collectively, the "**Security**"), evidenced by documents in form satisfactory to

TERMS AND CONDITIONS

the Bank and registered or recorded as required by the Bank, is to be provided prior to any advances or availment being made under Credit No. 1 and Credit No. 2 (collectively, the "**Credit**"):

Application and Agreement for Standby Letter of Credit/Letter of Guarantee

Cash security and Authority to Hold Funds duly registered under PPSA in an amount not less than the greater of (i) \$1,300,000 and (ii) 110% of the total indebtedness and liabilities outstanding hereunder or in connection herewith, including principal, interest, fees and expenses (including legal fees).

Resolution of directors authorizing this Credit Facility Agreement, the Security and all other documents entered into in connection herewith.

Certificate of Incumbency of signing officers to sign leases/equipment finance contracts.

Order of the Court of King's Bench of Alberta approving the Credit and the Security in the CCAA Proceedings (the "**Approval Order**")

The Security shall secure all of the Borrower's present and future debts and other obligations to the Bank of any kind whatsoever, whether described in this Credit Facility Agreement or any other agreement between the Borrower and the Bank. For certainty, if at any time the cash security is less than the amount required hereunder the Borrower shall promptly deposit with the Bank additional cash security, subject to the Approval Order. The Bank's recourse shall, at all times, be limited to the cash security.

REPAYMENT

Subject to any restrictions within the CCAA Proceedings, all indebtedness and liability of the Borrower to the Bank (including the Credit) is payable (or repayable) upon demand by the Borrower. In addition to, and notwithstanding the foregoing or anything else set forth herein, all such indebtedness and liability of the Borrower shall automatically become due and payable promptly upon the conclusion of the CCAA Proceedings.

EVENTS OF DEFAULT ON THE DATE OF THIS CREDIT FACILITY AGREEMENT

The Bank acknowledges that on the date hereof, an Event of Default is continuing under Section 8(b)(iv) of Schedule A to this Credit Facility Agreement (the "**Insolvency Default**"). Notwithstanding the Insolvency Default, the Bank confirms and agrees that the Credit shall not become immediately due and payable solely as a result thereof unless and until the Bank makes demand hereunder (which, for certainty, it may do at its sole discretion). Acceleration upon demand and any enforcement of the rights and remedies of the Bank hereunder are, notwithstanding the provisions set forth in Schedule "A" hereto or any other provisions of this Agreement, subject to the CCAA Proceedings.

GENERAL CONDITIONS PRECEDENT

The following conditions are to be met to the satisfaction of the Bank and its solicitors prior to any advances or availment being made under the Credit:

TERMS AND CONDITIONS

A duly executed copy of this Credit Facility Agreement.

A Cardholder Agreement in respect of Credit No. 1.

All Security has been duly executed, delivered and registered by perfection in all appropriate jurisdictions.

The Approval Order shall have been issued.

All fees payable hereunder, to the Bank or otherwise, shall have been paid.

GENERAL BORROWER REPORTING CONDITIONS

Until all debts and liabilities under the Credits have been discharged in full, the Borrower will from time to time provide the Bank with: (i) an Annual Compilation Engagement Statement of the Borrower and (ii) annual internally-prepared consolidated financial statements of the Borrower, in each case prepared in accordance with the elected Generally Accepted Accounting Principles ("GAAP") applicable at the date of the financial statements, within 120 days of the Borrower's fiscal year end. Statements are due February 28th for fiscal year end October 31st.

OTHER FEES

An Application Fee of \$1,500 is payable by the Borrower upon acceptance of this Credit Facility Agreement.

A Renewal Fee of \$1,500 is payable by the Borrower annually on each anniversary of the date of this Credit Facility Agreement.

In addition to, and not in substitution for the obligations of the Borrower and the rights of the Bank upon the occurrence of an event of default herein, the Borrower shall pay to the Bank administration fees of \$300 per occurrence (or such higher amount as may be determined by the Bank from time to time) for which the Borrower is late in providing the Bank with financial or other information required herein.

The imposition or collection of fees does not constitute an express or implied waiver by the Bank of any event of default or of any of the terms or conditions of the lending arrangements, security or rights arising from any default. Fees may be charged to the Borrower's deposit account when incurred.

The applicable fees are subject to increase by the Bank upon 30 days prior notice.

INCREASES TO INTEREST RATES AND FEES AFTER DEFAULT

In the event of a default in any of the terms and conditions set out herein, the Borrower agrees with the Bank that the interest rates and standby letter of credit and letter of

TERMS AND CONDITIONS

guarantee fees may, at the Bank's sole discretion be increased by three per cent (3%) per annum on all credits outstanding to the Borrower effective as of the date of default by the Borrower and continuing until the default is cured by the Borrower. The imposition and collection of these increased interest rates and fees will not constitute an express or implied waiver by the Bank of any event of default or any of the terms and conditions of the lending arrangements, security or rights arising from any default by the Borrower.

In the event of a conflict, the terms and conditions of any lease agreement and/or conditional sale contract supersede the terms and conditions in this Schedule "A" with regard to such leases and/or conditional sale contracts.

Calculation and Payment of Interest

1. Interest on loans/advances made in Canadian dollars will be calculated on a daily basis and payable monthly on the 22nd day of each month (unless otherwise stipulated by the Bank). Interest shall be payable not in advance on the basis of a 365 day year for the actual number of days elapsed both before and after demand of payment or default and/or judgment.

Interest on Overdue Interest

2. Interest on overdue interest shall be calculated at the same rate as interest on the loans/advances in respect of which interest is overdue, but shall be compounded monthly and be payable on demand, both before and after demand and judgment.

Indemnity Provision

3. If the introduction, adoption or implementation of, or any change in, or in the interpretation of, or any change in its application to the Borrower of, any law, regulation, guideline or request issued by any central bank or other governmental authority (whether or not having the force of law), including, without limitation, any liquidity reserve or other reserve or special deposit requirement or any tax (other than tax on the Bank's general income) or any capital requirement, has due to the Bank's compliance the effect, directly or indirectly, of (i) increasing the cost to the Bank of performing its obligations hereunder or under any availment hereunder; (ii) reducing any amount received or receivable by the Bank or its effective return hereunder or in respect of any availment hereunder or on its capital; or (iii) causing the Bank to make any payment or to forgo any return based on any amount received or receivable by the Bank hereunder or in respect of any availment hereunder determined by the Bank in its discretion, then upon demand from time to time the Borrower shall pay such amount as shall compensate the Bank for any such cost, reduction, payment or forgone return (collectively "**Increased Costs**") as such amounts are reasonably determined by the Bank and set forth in a certificate to the Borrower.

In the event of the Borrower becoming liable for such Increased Costs, the Borrower shall have the right to prepay in full, without penalty, the outstanding principal balance under the affected credit other than the face amount of any document or instrument issued or accepted by the Bank for the account of the Borrower, including, without limitation, a Standby Letter of Credit or, a Letter of Guarantee. Upon any such prepayment, the Borrower shall also pay the then accrued interest on the amount prepaid and the Increased Costs to the date of prepayment together with such amount as will compensate the Bank for the cost of any early termination of its funding arrangements in accordance with its normal practices, as such amounts are calculated in a certificate reasonably prepared by the Bank.

Calculation and Payment of Standby Fee

Standby fees shall be calculated daily and payable monthly based on a 365-day year for Canadian dollar credits, and based on a 360 day year for U.S. dollar credits. Standby Fees are payable on the 1st business day of each month for the preceding month.

Environment

4. The Borrower agrees:

- (a) to obey all applicable laws and requirements of any federal, provincial, or any other governmental authority relating to the environment and the operation of the business activities of the Borrower;
- (b) to allow the Bank access at all times to the business premises of the Borrower to monitor and inspect all property and business activities of the Borrower;
- (c) to notify the Bank from time to time of any business activity conducted by the Borrower which involves the use or handling of hazardous materials or wastes or which increases the environmental liability of the Borrower in any material manner;
- (d) to notify the Bank of any proposed change in the use or occupation of the property of the Borrower prior to any change occurring;
- (e) to provide the Bank with immediate written notice of any environmental problem and any hazardous materials or substances which have an adverse effect on the property, equipment, or business activities of the Borrower and with any other environmental information requested by the Bank from time to time.
- (f) to conduct all environmental remedial activities which a commercially reasonable person would perform in similar circumstances to meet its environmental responsibilities and if the Borrower fails to do so, the Bank may perform such activities; and
- (g) to pay for any environmental investigations, assessments or remedial activities with respect to any property of the Borrower that may be performed for or by the Bank from time to time.

If the Borrower notifies the Bank of any specified activity or change or provides the Bank with any information pursuant to subsections (c), (d), or (e) above, or if the Bank receives any environmental information from other sources, the Bank, in its sole discretion, may decide that an adverse change in the environmental condition of the Borrower or any of the property, equipment, or business activities of the Borrower has occurred which decision will constitute, in the absence of manifest error, conclusive evidence of the adverse change. Following this decision being made by the Bank, the Bank shall notify the Borrower of the Bank's decision concerning the adverse change.

If the Bank decides or is required to incur expenses in compliance or to verify the Borrower's compliance with applicable environmental or other regulations, the Borrower shall indemnify the Bank in respect of such expenses, which will constitute further advances by the Bank to the Borrower under this Credit Facility Agreement.

Initial Drawdown

5. The right of the Borrower to request the initial drawdown under the Credit is subject to the condition precedent that there shall not have been any material adverse changes in the financial condition or the environmental condition of the Borrower.

Periodic Review

6. The Bank may periodically review the financial condition or the environmental condition of the Borrower.

Evidence of Indebtedness

7. The Bank's accounts, books and records constitute, in the absence of manifest error, conclusive evidence of the advances made under all Credit Facilities, repayments on account thereof and the indebtedness of the Borrower to the Bank.

Acceleration on Demand

8. (a) All indebtedness and liability of the Borrower to the Bank is payable (or repayable) by the Borrower to the Bank at any time on demand by the Bank.
- (b) Notwithstanding the ability for the Bank to make demand of all indebtedness and liability of the Borrower to the Bank and to terminate the Credit Facilities at any time, all indebtedness and liability of the Borrower to the Bank shall, at the option of the Bank, become immediately due and payable, the security held by the Bank shall immediately become enforceable (and, for certainty, the Bank shall be permitted to set-off any outstanding indebtedness and liability from the cash security comprising a portion of the Security), if any one of the following Events of Default occurs:
- (i) the Borrower fails to make when due, whether on demand or at a fixed payment date, by acceleration or otherwise, any payment of interest, principal, fees, commissions or other amounts payable to the Bank;
 - (ii) there is a breach by the Borrower of any other term or condition contained in this Credit Facility Agreement or in any other agreement to which the Borrower and the Bank are parties;
 - (iii) any default occurs under any security listed in this Credit Facility Agreement under the Security or under any other credit, loan or security agreement to which the Borrower is a party, or any representation or warranty of the Borrower ceases to be true.
 - (iv) any bankruptcy, re-organization, compromise, arrangement, insolvency or liquidation proceedings or other proceedings for the relief of debtors are instituted by or against the Borrower and, if instituted against the Borrower, are allowed against or consented to by the Borrower or are not dismissed or stayed within 60 days after such institution;

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- (v) a receiver is appointed over any property of the Borrower or any judgement or order or any process of any court becomes enforceable against the Borrower or any property of the Borrower or any creditor takes possession of any property of the Borrower;
 - (vi) any course of action is undertaken by the Borrower or with respect to the Borrower which would result in the Borrower's reorganization, amalgamation or merger with another corporation or the transfer of all or substantially all of the Borrower's assets;
 - (vii) any guarantee of indebtedness and liability under the Credit Line is withdrawn, determined to be invalid or otherwise rendered ineffective;
 - (viii) any adverse change occurs in the financial condition of the Borrower.
 - (ix) any adverse change occurs in the environmental condition of:
 - (A) the Borrower of the Borrower; or
 - (B) any property, equipment, or business activities of the Borrower of the Borrower.
- (c) For certainty, and notwithstanding anything to the contrary in this Credit Facility Agreement, the Bank may, at any time and without prior notice, (a) suspend and/or withdraw any of the Credit Facilities made hereunder, (b) decline to allow further advances under all Credit Facilities made hereunder, and/or (c) terminate any Credit Facility hereunder.

Costs

9. All costs and expenses, including legal and appraisal fees and disbursements incurred by the Bank relative to this Credit Facility Agreement, Security and other documentation and the enforcement thereof, shall be for the account of the Borrower and may be charged to the Borrower's deposit account when submitted. For certainty, all such amounts shall form a part of the indebtedness, liabilities and obligations of the Borrower hereunder and shall be secured by the Security.

Judgment Currency

10. The obligations of the Borrower shall be payable in Canadian Dollars. Such obligations shall not be discharged or satisfied by any tender or recovery pursuant to any judgment expressed in or converted into any other currency except to the extent to which such tender or recovery shall result in the effective receipt by the Bank of the full amount of Canadian Dollars so payable. Accordingly, the obligation of the Borrower shall be enforceable as an alternate or additional cause of action for the purpose of recovery in Canadian Dollars of the amount (if any) by which such effective receipt shall fall short of the full amount of Canadian Dollars so payable and shall not be affected by any judgment being obtained for any other sum due hereunder.

Financing Statement

11. The Bank is hereby authorized to register a financing statement(s) in connection with the Security.

Counterparts and execution of documents.

12. This Credit Facility Agreement and any security and other documents relating to the credits established in it may be executed in counterparts and by different parties in different counterparts, all of which when taken together will constitute a single contract. Subject to applicable conditions precedent, a document will become effective when it has been executed by the Bank (if execution by the Bank is contemplated by the document) and the Bank has received counterparts of the document that, when taken together, bear the signatures of each of the other relevant parties. Delivery of an executed counterpart of a document or a signature page to the document by telecopy or by sending a scanned or other copy by electronic mail or similar means shall be as effective as delivery of an originally executed counterpart, but the Bank may from time to time require delivery of originally executed documents. The Bank may create and store copies of documents in any form as part of its business records, including by microfilm, photocopy and electronic image. Copies may be held in place of original documents and substituted for original documents for any purpose. In administering the credits established in the Credit Facility Agreement and in otherwise dealing with the Borrower, the Bank may rely and act on e-mail, telecopier and other electronic communications that it reasonably believes have been sent by or on behalf of the Borrower, but the Bank may from time to time require that communications from the Borrower be in a non-electronic form specified by the Bank.

Representation or Warranty

13. The Borrower represents and warrants to the Bank that all financial and other information (including, without limitation, any financial forecasts) provided to the Bank in connection with the credit(s) provided pursuant to this Credit Facility Agreement is true and accurate in all material respects and has been prepared in accordance with Canadian Generally Accepted Accounting Principles consistently applied, and acknowledges that the offer of credit contained in this Credit Facility Agreement is made in reliance on the truth and accuracy of this information and the representation and warranties above.

Borrower represents and warrants to the Bank that the properties owned (in part or in whole) and/or operated by the Borrower will at all times be used for lawful purposes and in compliance with applicable law, including but not limited to, *the Cannabis Act, the Controlled Drugs and Substances Act, the Criminal Code of Canada, the Food and Drugs Act*, and all relevant regulations promulgated thereunder, and any other applicable federal or provincial laws, regulations, rules or guidelines applicable to the production, distribution, transportation, sale or promotion or research in respect of cannabis in effect from time to time). If the foregoing fails to be true at any time the Borrower shall be in default of Borrower's obligations hereunder and the Bank shall have the right, but not the obligation, to demand repayment of all obligations, liabilities and indebtedness hereunder.

14. Cancellation Rights

In addition to any repayment or other cancellation rights that the Borrower might have pursuant to applicable law with respect to a particular Credit, if the Borrower is an eligible enterprise, the Borrower may cancel one or more Credits within three (3) Business Days of entering into this Credit Facility Agreement. If the Borrower notifies the Bank of cancellation of the applicable Credit within that time period, the Bank will acknowledge receipt of the cancellation notice and advise the

Borrower of any reimbursement amounts to which the Borrower may be entitled. The Bank is not obliged to reimburse the Borrower or return amounts to the Borrower in relation to (a) any amounts related to the Borrower's use of any Credit prior to cancellation, and (b) any expense that the Bank has reasonably incurred in providing the Borrower with any Credit.

Definitions Related to Cancellation Rights

An "Eligible Enterprise" means a business with authorized credit of less than \$1,000,000, fewer than 500 employees and annual revenues of less than \$50,000,000.