

Appendix “C”

Court File No. 31-CL-2084381

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

**IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A
PROPOSAL OF DANIER LEATHER INC., a corporation
incorporated pursuant to the laws of the Province of Ontario,
with a head office in the City of Toronto, in the Province of
Ontario**

**AFFIDAVIT OF BRENT HOULDEN
SWORN FEBRUARY 4, 2016**

I, Brent Houlden, of the City of Toronto, in the Province of Ontario, MAKE
OATH AND SAY:

1. I am the Chief Financial Officer of Danier Leather Inc. ("**Danier**" or the "**Company**"). I have been Chief Financial Officer since July 2, 2015. I have been actively engaged in the discussions and negotiations surrounding the proposed restructuring of the Company. As such I have personal knowledge of the matters referred to in this Affidavit. Where I have relied upon other sources of information, I have stated the source of that information and verily believe such information to be true.

OVERVIEW

2. On February 4, 2016, the Company filed a notice of intention (the "**NOI**") to make a proposal under the *Bankruptcy and Insolvency Act* (Canada) (the "**BIA**") and KSV Kofman Inc. was appointed as the proposal trustee (the "**Proposal Trustee**").

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3. Over the past several years, the Company has incurred substantial operating losses as a result of declining sales and gross margins, increased competition and other macro-economic trends generally affecting many Canadian retailers. Despite implementing a series of cost reduction and other restructuring initiatives (described in detail below), the Company's revenues have continued to decline and it anticipates that liquidity will continue to erode indefinitely. The principal objective of these proceedings is to run a sales and investor solicitation process (the "**SISP**") with the goal of identifying one or more potential purchasers of, or investors in, the Company or its business.

4. As described in further detail below, the Company, with the assistance of Consensus Advisory Services LLC and Consensus Securities LLC (jointly, the "**Financial Advisor**") and the Proposal Trustee, has commenced the first phase of the SISP and approached the market for interested purchasers or investors to act as a stalking horse bidder for the purposes of the second phase of the SISP and ultimately entered into an agency agreement (the "**Stalking Horse Agreement**") with GA Retail Canada, ULC or an affiliate thereof (the "**Agent**") to conduct the liquidation of the inventory and furniture, fixtures and equipment located in certain retail stores and outlets operated by the Company. The Stalking Horse Agreement is subject to Court approval.

5. This Affidavit is therefore sworn in connection with the motion brought by the Company for an Order:

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- (a) authorizing the Company to conduct the SISP to market its business and assets and approving the SISP Procedures (as defined below);
- (b) authorizing the Company to enter in the Stalking Horse Agreement and approving the Stalking Horse Agreement for the purposes of conducting the SISP, including the Break Fee, the Expense Reimbursement and the Signage Cost Obligations (each as defined below) payable to the Agent thereunder;
- (c) authorizing the Company to perform its obligations under its engagement letters with the Financial Advisor and OCI Inc. ("**OCI**"), including making the payments contemplated thereunder;
- (d) granting a charge to secure the fees of the Financial Advisor,
- (e) granting an administration charge to secure the fees and disbursements of the Proposal Trustee, counsel to the Proposal Trustee, counsel to the Company, the directors of the Company and their counsel;
- (f) approving an indemnity and priority charge to indemnify the directors and officers for any obligations and liabilities they may incur in such capacities;
- (g) approving a key employee retention plan in respect of certain of the Company's employees and consultants and granting a charge to secure the amounts payable thereunder; and
- (h) sealing the key employee retentions plans attached to this Affidavit as confidential Exhibit "H" and the b attached as a confidential appendix to the first report of the Proposal Trustee (the "**Report**").

THE BUSINESS

6. The Company is a designer, manufacturer and retailer of fashion leather and suede apparel and accessories, including men's and women's coats, jackets, sportswear, handbags, travel bags, gloves, wallets, belts, hats and scarves. The Company's merchandise is marketed under the "Danier" brand name and is available in

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Canada in shopping malls, street-front, power centre and outlet locations across the Country and on-line via its website.

7. The Company's business is integrated. The Company sources leather and other raw materials, employs an in-house design team to design its products, manufactures the products (both domestically and overseas), purchases finished goods from third party suppliers and operates as a retailer (collectively, the "**Business**").

8. Danier is a public company existing under the *Business Corporations Act* (Ontario) whose shares are listed on the Toronto Stock Exchange under the trading symbol "DL". Danier is a reporting issuer in British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, Quebec, New Brunswick, Nova Scotia, Prince Edward Island and Newfoundland. The fiscal year of the Company ends on the last Saturday of June each year.

9. The Company directly owns 100% of the equity of (a) Danier International Corporation ("**DIC**"), a Barbados corporation that procures merchandise from outside Canada on behalf of the Company, and allows profits earned on merchandise sold to customers or license fees earned by DIC outside Canada to be taxed at Barbados tax rates and owns all of the Danier trademarks registered outside of Canada, and (b) Danier Leather (USA), Inc., a Delaware corporation, which is a dormant corporation with no material assets or liabilities.

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10. The Company does not own any real property and its head office, warehouse and manufacturing facility is operated out of a leased premises located at 2560 St. Clair Avenue West, Toronto, Ontario (the "**St. Clair Facility**"). Danier previously owned the St. Clair Facility but, as described in paragraph 29 below, the Company completed the sale of the property in October 2015 and leased it back from the purchaser. The Company currently operates its retail business from 84 stores and outlet locations located throughout the Provinces of British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, Quebec, New Brunswick, Nova Scotia, and Newfoundland, which are all leased. The Company also has a distribution centre in Toronto and two offices in China, from which it contracts production from China-based vendors.

11. Danier employs approximately 1,293 individuals, comprised of 1,065 store-level employees, 106 employees in manufacturing and distribution, 102 employees in its head office and administration and 20 employees in China. The Company's workforce is not unionized and the Company does not maintain a pension plan. The Company is not party to a collective agreement nor are any of its employees represented by a union or other employee association. The Company does not offer a pension plan or RRSP to its employees.

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ABL FACILITY AND EXISTING SECURITY

12. The Company is party to a third amended and restated credit agreement with Canadian Imperial Bank of Commerce ("**CIBC**") pursuant to which CIBC provides a secured asset-based revolving credit line of up to \$28.5 million (the "**ABL Facility**"). The Company's obligations under the ABL Facility are secured by the present and after acquired personal property of the Company and DIC, which guaranteed the indebtedness. The ABL Facility is used by the Company to fund its working capital requirements and for general purposes. As at the date of this Affidavit, there were no amounts outstanding under the ABL Facility.

13. In connection with the ABL Facility, CIBC has registered *Bank Act* security, and its security interest is registered under the personal property regimes in British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, Quebec, New Brunswick, Nova Scotia, Prince Edward Island and Newfoundland (collectively, the "**CIBC Security**").

14. *Bank Act* searches and searches against the Company's name in the personal property registries in each of the Provinces of British Columbia, Alberta, Saskatchewan, Manitoba, New Brunswick, Nova Scotia, Prince Edward Island and Newfoundland and the register of personal and movable real rights for the Province of Quebec showed no registrations against the Company other than those in favour of CIBC.

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15. In Ontario, the following parties, in addition to the CIBC have a registered security interest against the Company:

- (a) Hewlett-Packard Financial Services Canada Company has a registration against the Company's equipment and other assets, which relates to leased office printers and which expires in April 2016;
- (b) Honda Canada Finance Inc. has a registration against consumer goods, equipment and motor vehicle, which relates to a car leased for one of the Company's executives and which expires in April 2016; and
- (c) Toyota Credit Canada Inc. has a registration against consumer goods, equipment and motor vehicle, which relates to a car leased for one of the Company's executives and which expires in March 2016,

(collectively with the CIBC Security, the "**Existing Security**").

16. Attached as **Exhibit "A"** to my Affidavit is a true copy of the personal property and *Bank Act* searches with file currencies of January 18, 2016 and January 20, 2016.

17. The Company has not granted any security interests other than the Existing Security.

THE FINANCIAL SITUATION OF THE COMPANY

The Company's Financial Difficulties

18. The financial performance of the Company has been declining over the past several years due to a number of internal and external factors. In 2013, Danier implemented a strategic plan to grow the business and improve on its performance. The strategic plan was, amongst other things, to consolidate parts of the Business to

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improve coordination of activities; to grow the less seasonal and higher margin accessory business; recoup lost sales in outerwear through greater differentiation of fabrications; differentiate the factory outlets from the malls; improve brand effectiveness and improve sales and margins through better merchandising and planning.

19. While the results of that plan initially appeared to be promising, the plan faltered and caused a decline in the Company's revenues in fiscal years 2014 and 2015. The strategic plan effected change too quickly and resulted in the unintended loss of institutional knowledge due to new management hires during this period and the unplanned departure of long-standing employees, particularly in the key areas of merchandising and planning. The personnel changes led to a lack of understanding of the Company's customer base and trends in outerwear. There was also too great an emphasis placed on serving a younger demographic, which resulted in a loss of sales to the Company's historic customer base. The strategic plan also included a large marketing budget, as well as increased selling, general and administrative costs to support an enhanced infrastructure that was put in place to meet the anticipated growth in sales.

20. In addition to the issues implementing the strategic plan, a number of internal and external factors also adversely influenced the Company's profits in fiscal years 2014 and 2015, particularly during its historically busy selling season during the months of October to December. Many of the Company's products, particularly leather

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outerwear and sportswear, are subject to seasonal fluctuations in spending. The extremely cold and long winters in fiscal years 2014 and 2015 resulted in the Company having insufficient quantities of heavily-lined winter coats to meet higher customer demand during the prolonged winter season and an oversupply of lighter-weight and non-insulated jackets. Furthermore, in the marketplace in general, there was a dramatic shift towards purchases of down filled outerwear and less demand for leather jackets (lined or unlined). The adverse weather conditions in Ontario and Eastern Canada in fiscal 2015 also deterred shoppers from venturing to shopping malls during the peak holiday shopping season, which further contributed to a decrease in sales and a build-up of inventory. These factors caused the Company to implement large discounts in each of fiscal years 2014 and 2015 to reduce inventory and record larger than normal inventory markdowns.

21. Furthermore, the Canadian retail market is highly and increasingly competitive, particularly for discretionary fashion items of the nature supplied by Danier. American and international retailers have also entered the Canadian retail market in recent years which has created additional competition for Danier.

22. In fiscal 2014, the Company incurred a net loss of \$7.7 million compared with net earnings of \$1.4 million for fiscal 2013. The Company's revenues decreased by 8% or \$13.1 million to \$141.9 million in fiscal 2014 from \$155.0 million in fiscal 2013. In fiscal 2015, the Company's net loss was \$19.9 million and its revenues further decreased by

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11% to \$126 million in fiscal 2014. For the six-month period ended December 26, 2015 (being the first half of fiscal 2016), sales declined by 6.6% from \$75.9 million to \$70.9 million for the corresponding six-month period in fiscal 2015 and the Company anticipates a net loss in its current fiscal year 2016.

Restructuring Initiatives

23. Commencing in late 2014, the Company implemented a series of operational turnaround initiatives focused on improving merchandise sourcing, planning and display, rationalizing operations, reducing its cost structure, improving branding, growing online sales and improving price management and inventory mark downs. More recently, in November 2015, the Company continued with its turnaround initiatives by reconstituting its board of directors (the "**Board**"), renegotiating supply terms with certain of its key suppliers, reducing headcount, seeking rental assistance from its landlords (including rent relief, rebates and lease buyouts), increasing its online presence, improving its branding and digital marketing strategy and modifying inventory ordering practices and recruiting back certain key employees in merchandising and planning.

24. Recognizing that cost reductions and rationalization of its operations would be insufficient to offset its decline in revenues, in late 2014 Danier also began to explore strategic alternatives to improve its financial situation. Options considered included a private placement or other offering of equity or debt, the sale, lease or financing of

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certain assets of the Company, or a sale, merger or other business combination. In this respect, in 2014, the Company engaged the Financial Advisor and formed a special committee (the "**Special Committee**") comprised of independent members of the Board to assist in its strategic review.

25. As part of its engagement, the Financial Advisor conducted a seven month marketing process commencing in February 2015 to solicit offers from parties to acquire the Company (the "**2015 Solicitation Process**"). In connection with the 2015 Solicitation Process, the Financial Advisor contacted approximately 189 parties. Of the parties contacted, 33 parties executed confidentiality agreements and received a confidential information memorandum describing the Company and the Business.

26. Between March and July 2015, the Financial Advisor had meaningful conversations with several interested parties but did not receive any formal offers to provide capital to and/or acquire shares of the Company. At the same time, the financial performance of the Company continued to decline and its internal financial forecasts were repeatedly revised downward. I understand from the Financial Advisor that many of the parties contacted in the 2015 Solicitation Process expressed concerns that the Company's risk profile was too great in light of its declining revenues and the operational changes that were underway.

27. In addition, starting in March 2015 the Financial Advisor assisted the Company with the refinancing of the Company's then-existing credit facility (the "**Operating**

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Facility") with CIBC. The Company had determined that it would be in breach of its financial covenants under the Operating Facility by the end of the first quarter of fiscal 2016, and needed to amend the Operating Facility or replace it with a new facility in order to avoid a default. Furthermore, HSBC Bank Canada advised the Company that it would no longer make amounts available under a \$10 million demand facility and foreign exchange line of credit that Danier had in place with HSBC for a number of years.

28. By August 2015, the Special Committee determined that the 2015 Solicitation Process would not likely result in a capital transaction. As at June 27, 2015, the Company's fiscal year end, the Company had net bank indebtedness of \$1.4 million as compared to a cash balance of \$13.5 million at the end of 2014. Consistent with the seasonal trends of the Business, between June and August 2015, the indebtedness under the Operating Facility increased to \$23 million, primarily due to the Company drawing down under the facility to fund its Fall/Winter fiscal 2016 inventory purchases. Management therefore also began exploring alternative strategies in an effort to generate cash and to provide the Company with sufficient liquidity to implement its operational turnaround initiatives.

29. On August 17, 2015, the Company entered into a sale and leaseback transaction pursuant to which it agreed to sell the St. Clair Facility for net proceeds of \$11.4 million with a closing date of October 1, 2015. Shortly thereafter, on August 27, 2015, the

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Company entered into a third amended and restated credit agreement with CIBC to convert the Operating Facility into the ABL Facility to allow the Company more flexibility with its borrowing requirements. The sale proceeds from the sale of the St. Clair Facility were used to repay a portion of the Company's indebtedness under the ABL Facility.

30. In September 2015, the Special Committee was disbanded to allow the Company to focus its efforts on its turnaround initiatives in the hopes that its financial performance would improve.

Filing of NOI and Decision to Pursue SISP

31. Historically, approximately 40% of the Company's total annual sales have been generated during the months of November and December, and the Company's operational results depend heavily upon significant sales being generated during this period. In October 2015, sales and margins improved when compared with October 2014 but sales and margins in the critical months of November and December (which were abnormally warm) declined compared to the corresponding prior periods, which were also down from the previous year. For the period from June 28, 2015 to December 26, 2015, being the first six months of fiscal 2016, sales declined in all months from the prior year except for the month of October 2015, and it became evident that the turnaround initiatives described above were not sufficient to offset the on-going decline in sales and margins suffered in the last several years. The Company is projecting significant net losses for fiscal 2016. Despite its efforts to effect an

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operational turnaround, the Company continues to see a consistent decline in its financial performance.

32. The recent devaluation of the Canadian dollar against the American dollar is likely to contribute to make Danier's business more challenging in the future because many of its inventory sourcing costs are in US dollars, while all sales are in Canadian dollars.

33. Attached as **Exhibit "B"** is the Company's MD&A for the first quarter of 2016, being the 13-week period ending September 26, 2015. As shown in the attached Exhibit "B", revenues for this period decreased by 12% or \$2.4 million to \$18.2 million from \$20.6 million in the first quarter of 2015.

34. The Company currently has approximately \$9.6 million in cash on hand but is projected to be cash flow negative every month until at least September 2016. The Company anticipates that it will be required to borrow under the ABL Facility in July 2016.

35. To remain in compliance with the financial covenants under the ABL Facility, the Company is required, among other things, to maintain a minimum tangible net worth of approximately \$18 million for the period of January 1st to June 30th each year and \$10.6 million for the period of July 1, 2016 to November 30, 2016. The Company is projecting that it will not meet the financial covenant at its fiscal year end on June 25,

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2016, and perhaps sooner. Based on its deteriorating financial situation and financial projections, the Company is uncertain whether it will be permitted to draw down amounts sufficient to fund inventory purchases for its critical Fall and Winter seasons under the ABL Facility due to its inability to satisfy this covenant. The Company is adverse to incurring obligations that it may not be able to fund in the future because of the uncertainties that arise if it breaches covenants under the ABL Facility. Furthermore, the Company is subject to an annual credit review under the ABL Facility if it wishes to make any borrowings thereunder and it is uncertain that Danier would be allowed any future borrowings after of such credit review. In fact, on February 4, 2016, following the filing of the NOI by the Company, the CIBC issued a notice of default under the ABL Facility.

36. Furthermore, for the 12 months ending December 31, 2015, 30 of the Company's 84 store locations were unprofitable on a four-wall basis. If the Company elects to close those store locations it would be required to terminate the leases in respect thereof. The claims of the landlords for those store locations would be substantial and the Company will not be able to satisfy such claims in the normal course.

37. As the Company's profits and gross margins continue to decline in fiscal 2016, it has become evident that the Company will not have the financial resources to sufficiently implement a restructuring of its affairs if it delays a filing under the BIA until it has entirely used up its cash resources.

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38. After consulting with the Financial Advisor, I believe the 2015 Solicitation Process was unsuccessful because, among other things, it focused on soliciting a share acquisition transaction, which ultimately became unappealing to prospective purchasers in light of the Company's deteriorating financial condition and the significant liabilities that would be assumed and incurred if a prospective purchaser attempted to restructure the Company's affairs by taking such measures as closing unprofitable store locations or terminating employees. Many of these concerns have been addressed with the SISP, which is flexible and allows parties to invest in the Company, acquire the Business or all or some of the Company's assets.

39. In light of the continued decline of the Company's profits and gross margins and the reasonable belief of the Company that a Court-supervised sales process will be successful, it was determined that it was in the best interests of the Company to file for protection under the BIA and seek the Court's approval to enter into the Stalking Horse Agreement and implement the SISP.

40. On February 4, 2016, the Board approved the filing of the NOI.

THE STALKING HORSE AGREEMENT AND SISP

41. The sales and investor solicitation process is comprised of two phases. In the first phase (described in paragraphs 42 to 44 below), which occurred during the weeks of December 31, 2015 to January 25, 2016, the Financial Advisor solicited stalking

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horse bidders and ultimately identified the Agent (the "**Stalking Horse Process**"). The Company is now seeking the Court's approval of the Stalking Horse Agreement for use in the second phase of the SISP and of the SISP itself, which are conditions to the effectiveness of the Stalking Horse Agreement.

The Stalking Horse Agreement

42. Commencing December 31, 2015, the Financial Advisor contacted 19 of the parties who had participated in the 2015 Solicitation Process (and 16 of which signed confidentiality agreements in connection therewith). It also engaged with three additional parties to determine whether any party was interested in acting as a stalking horse bidder in the context of a Court-approved sales and investor solicitation process. Eighteen interested parties were granted access to an electronic data room (the "**Data Room**") compiled by the Company, were provided with a confidential "teaser" (the "**Teaser**") summarizing the acquisition or investment opportunity and were asked to submit offers for consideration on or before January 22, 2016.

43. In response, the Company received offers from three interested parties. The Company, its advisors, the Financial Advisor and the Proposal Trustee analysed the benefits of each transaction on a number of criteria and determined that the offer presented by the Agent was the best offer and would generate competitive offers in the SISP. A summary of the offers received is filed in connection with this motion as confidential Appendix "1" to the Report (the "**Offer Summary**"). Michael O'Hara of the

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Financial Advisor has also sworn an affidavit in support of this motion which provides a more detailed description of the evaluation of the offers and the ultimate decision to select the offer presented by the Agent.

44. On February 4, 2016, the Company, with the assistance of the Financial Advisor and the Proposal Trustee, entered into the Stalking Horse Agreement. The Stalking Horse Agreement is attached as **Exhibit "C"** to my Affidavit.

45. The Agent under the Stalking Horse Agreement is an affiliate of Great American Group LLC ("**Great American**"), a United States based company that has extensive experience in conducting retail store liquidations. Great American has led inventory dispositions for a wide variety of current and former retailers, including Target Canada, Sterling Shoes, Petcetera, Zacks Fashion, Cache, Love Culture, Payless Shoes, Office Depot and Officemax.

46. The Stalking Horse Agreement contemplates that it will serve as the stalking horse bid in the SISP. Pursuant to the Stalking Horse Agreement, the Agent will serve as the exclusive liquidator for the purpose of disposing of the Company's inventory (the "**Merchandise**") and furniture, fixtures and equipment ("**FF&E**") (subject, in the case of the FF&E, to certain exceptions) located in all¹ of the Company's stores and outlet

¹ Other than Merchandise currently being liquidated at eight of the Company's stores by Tiger Capital Group, LLC

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centers (the "**Closing Stores**"). The Agent will dispose of the Merchandise by conducting a "store closing" or similar sale at the Closing Stores (the "**Sale**").

47. The consideration payable under the Stalking Horse Agreement is as follows:

- (a) **Guaranteed Amount:** The Company shall receive a net minimum amount (the "**Guaranteed Amount**") equal to 94.6% (the "**Guaranty Percentage**") of the aggregate "Cost Value" of the Merchandise, provided that the Cost Value of the Merchandise on the date that the Sale commences is no less than \$22 million and no more than \$25 million. The Guaranty Percentage will decline by .1% per day if the Sale does not commence by March 3, 2016. On this basis, the Company will receive between \$20.8 million and \$23.7 million on account of the Guaranteed Amount, subject to adjustments based on, among other things, the seasonal mix of inventory included and the Merchandise failing to meet the aforementioned Cost Value range. The "**Cost Value**" of the Merchandise is based on the actual SKU level cost of such Merchandise in the Company's records.
- (b) **Commission:** After payment of the Guaranteed Amount and the expenses of the Sale, the Agent is entitled to retain proceeds of the Sale equal to 5% of the aggregate Cost Value of the Merchandise (the "**Commission**").
- (c) **Sharing Amount:** Any additional proceeds of the Sale after payment of the Commission are thereafter divided equally between the Agent and the Company (the "**Sharing Amount**").

48. A summary of the other key terms of the Stalking Horse Agreement are as follows:

- (a) the Stalking Horse Agreement and the transactions described therein are subject to Court approval and Court approval of the SISF;
- (b) the Sale will commence on the first business day after the Stalking Horse Agreement and the transactions thereunder are approved by the Court

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and no later than March 10, 2016 and will end no later than June 30, 2016:

- (c) the Agent will be responsible for the expenses of the Sale, which include, among other items:
 - (i) payroll (including overtime, commissions and bonuses), benefits (up to 17% of base payroll) and an employee incentive plan (up to 10% of base payroll) for Store level employees that work during the Sale;
 - (ii) occupancy costs on a *per diem* and per Store basis up to prescribed maximum amounts (such amounts reflected in Exhibit 4.1(a) of the Stalking Horse Agreement);
 - (iii) advertising, promotional and signage expenses for the Sale;
 - (iv) credit card fees and other credit card related expenses and certain bank service charges;
 - (v) cost of store supplies and costs to transfer Merchandise between Closing Stores;
 - (vi) costs associated with the supervision of the Sale by the Liquidator, the Liquidator's legal fees and insurance costs associated with the Sale; and
 - (vii) central services costs of \$10,000 per week;
- (d) to the extent that any FF&E is sold to another party pursuant to the SISF, the Company would pay the Agent for each Closing Store for which the Agent is not permitted to sell the FF&E; and
- (e) Pursuant to the "Sale Guidelines" attached to the Stalking Horse Agreement as Exhibit 8.1, the Sale shall be conducted in accordance with the terms of the applicable leases or other occupancy agreements for each of the Closing Stores.

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49. The Agent has agreed to provide a letter of credit to secure its obligations to pay the Guaranteed Amount and once such amount has been paid in full, such letter of credit will secure one week's expenses.

50. The Stalking Horse Agreement contemplates the creation of a Court-ordered charge to secure amounts owing to Agent thereunder. If the Stalking Horse Agreement is the Successful Bid, the Company will seek an order creating the charge together with an order approving the Stalking Horse Agreement and the transactions therein.

51. The Stalking Horse Agreement also provides that the Agent is entitled to (a) a break fee in the amount of \$250,000 (the "**Break Fee**"), (b) an expense reimbursement for its reasonable and documented out-of-pocket expenses in an amount not to exceed \$100,000 (the "**Expense Reimbursement**"), and (c) the reasonable costs, fees and expenses actually incurred and paid by the Agent in acquiring signage or other advertising and promotional material in connection with the Sale in an amount not to exceed \$175,000 (the "**Signage Costs Obligations**"). The Break Fee, Expense Reimbursement and Signage Costs Obligations are payable if the Stalking Horse Agreement is not the Successful Bid and the transaction contemplated by the Successful Bid is closed. If a Liquidation Proposal (other than the Stalking Horse Agreement) is a Successful Bid however, the Successful Bidder would be required, pursuant to the SISP and Stalking Horse Agreement, to buy the signage and advertising

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material prepared by the Agent *in lieu* of the requirement to pay the Signage Costs Obligations.

52. The Break Fee and Expense Reimbursement represent approximately 1.75% of the minimum consideration payable under the Stalking Horse Agreement and with the Signage Cost Obligations approximately 2.5% of the minimum consideration payable under the Stalking Horse Agreement. I have been advised by the Proposal Trustee that these bid protections are reasonable in the circumstances based on the Proposal Trustee's experience in similar transactions.

53. The Company and the Proposal Trustee have been provided with details relating to the financial wherewithal of the Agent (including financial commitments provided to it) and are satisfied that the Agent will be in a position to complete the transaction contemplated by the Stalking Horse Agreement. Within one day following Court approval of the Stalking Horse Agreement and SISP, the Agent will provide the Proposal Trustee with a deposit in the amount of \$2.2 million, which is estimated to be more than 10% of the minimum consideration payable under the Stalking Horse Agreement.

54. The Stalking Horse Agreement is structured to allow the Company to proceed with the second phase of the SISP and that process is designed to test the market to ascertain whether a higher or better offer can be obtained from other parties. While the

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Stalking Horse Agreement contemplates liquidating the Company's inventory, it also establishes a floor price that is intended to encourage bidders to participate in the SISP.

55. I am advised that the Financial Advisor has had meaningful conversations with parties who have varied interests in the Company ranging from liquidators, competitors of the Company who may be interested in acquiring some or all of the Company's assets, leases and employees, and parties who are interested in the Business as a going concern, many of whom have expressed an interest in participating in the SISP but were unprepared to act as the stalking horse bidder. I therefore believe that the Stalking Horse Agreement, if approved, will likely have the desired effect of generating additional offers for the Company and its assets. Based on my oversight of the process to date, I anticipate the SISP may generate offers from a number of parties.

Sales and Investor Solicitation Process

56. The Company is also seeking at this time the Court's approval of the second phase of the SISP. The SISP and the procedures for conducting the second phase of the SISP (the "**SISP Procedures**") contained therein are attached as **Exhibit "D"** to my Affidavit.

57. The SISP was designed by the Company, in consultation with the Proposal Trustee and Financial Advisor. The second phase SISP will be administered by the Company in accordance with the SISP Procedures unless it elects to proceed with an

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auction (the "**Auction**"), in which case, the Auction will be conducted by the Proposal Trustee. The material features and relevant dates of the second phase of the SISP are described in greater detail below.

Material Features and Key Dates of the SISP

58. For the period from the date that an Order approving the SISP is issued until February 22, 2016 (the "**Bid Deadline**"), the Financial Advisor will solicit interested parties that wish to make a binding proposal (a "**Bid**") to acquire the Business or all or substantially all or any part of the Company's assets, including any of its retail stores leases, intellectual property and FF&E (a "**Sale Proposal**"), to make an investment in the Company (an "**Investment Proposal**") or to liquidate the Company's inventory and FF&E (to the extent not sold pursuant to a Sale Proposal) (a "**Liquidation Proposal**"). The Company has also engaged OCI to solicit interested parties in China, India, Qatar and the United Arab Emirates for purposes of participating in the SISP.

59. In addition, the Company issued a press release immediately following the filing of the NOI, which was disseminated using Canada Newswire and made available on SEDAR. The press release is attached as **Exhibit "E"** to my Affidavit. The press release provides details about these proposal proceedings and the intention of the Company to pursue the SISP using the Stalking Horse Agreement. The press release also directs any party that is interested in participating in the SISP to contact the Financial Advisor.

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60. Any interested party that has executed a confidentiality agreement will be provided with a copy of the Teaser and given access to the Data Room.

61. While the Stalking Horse Agreement was being negotiated, the Financial Advisor has continued discussions with a number of potential purchasers for the Company or its assets in the expectation that they may take part in the second phase of the SISP. For parties who have signed a confidentiality agreement, the Financial Advisor has continued to provide access to the Data Room so that they can conduct due diligence on the Company. These efforts will further facilitate an expeditious and effective SISP. Additionally, the Financial Advisor will reach out to other parties who participated in the 2015 Solicitation Process and new parties and OCI will engage with parties in the international market.

62. In addition, the second phase of the SISP is a public, transparent process that may attract other prospective bidders in addition to those that have already been identified. In particular, we believe that other prospective bidders may come forward now that they have an option to acquire some, all or substantially all of the Business or assets of the Company, rather than just the shares of the Company. The SISP may be particularly appealing to prospective purchasers in light of the fact that the Company has filed the NOI and can convey its assets with the benefit of a vesting order and without compliance with the *Bulk Sales Act*.

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63. For a Bid to constitute a "**Qualified Bid**", interested parties must deliver a signed Bid on or before the Bid Deadline together with the information and materials required by the SISP Procedures, including:

- (a) a cash deposit equal to 10% of the consideration or imputed value of the proposed transaction.
- (b) in the case of a Liquidation Proposal, it must be for an amount that exceeds the Guaranty Percentage by not less than 2%,
- (c) in the case of a Sale Proposal or Investment Proposal, the overall result or value of the purchase price or imputed value must be an amount that exceeds the Guaranty Percentage by not less than 2%;
- (d) (i) an executed agency agreement in the form of the Stalking Horse Agreement, with a blackline to the Stalking Horse Agreement (in the case of a Liquidation Proposal), (ii) an executed purchase agreement in the form attached as Appendix A to the SISP, with a blackline to the form purchase agreement (in the case of a Sale Proposal), or (iii) an executed term sheet describing the transaction (in the case of an Investment Proposal);
- (e) in the case of a Liquidation Proposal, an agreement to acquire the signage and advertising material prepared by the Agent for use at the Sale at the Agent's cost;
- (f) if the Sale Proposal or Liquidation Proposal includes an offer to acquire or sell the Company's inventory, such Bid must be for not less than all of the Company's inventory;
- (g) written evidence that the interested party has the necessary financial ability to close the contemplated transaction on or before the Outside Date (as defined below) and the corporate (or other) authority to consummate the transaction;
- (h) it is an "as is, where is" offer that is not conditioned on due diligence or financing;
- (i) it does not include a break fee or expense reimbursement or similar payment;

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- (j) it identifies liabilities to be assumed (including lease obligations) and the number of employees to be retained.

64. Following receipt of the Bids and no later than two business days after the Bid Deadline, the Company will advise any interested party if its Bid constitutes a Qualified Bid and whether such interested party is a Qualified Bidder (each as defined in the SISP).

65. The Company, in consultation with the Proposal Trustee, Financial Advisor and OCI, if applicable, will evaluate Qualified Bids on various grounds, including the consideration or imputed value of the proposed transaction, whether the transaction contemplated by the Bid could closed on or before a date that is 15 business days after the Bid Deadline (the "**Outside Date**"), the treatment of creditors and related implied recovery for creditors and the value of the assumed liabilities and any non-cash consideration.

66. Following such evaluation the Company may (a) accept, subject to Court approval, one or more Qualified Bids (each, a "**Successful Bid**"), (b) conditionally accept, subject to Court approval, one or more Qualified Bids (each, a "**Back-Up Bid**"), which acceptance will be conditional upon the failure of the transactions contemplated by the Successful Bid to close, or (c) pursue the Auction in accordance with the procedures set out in Schedule D to the SISP Procedures. Within five business days after the Bid Deadline the Company will advise any Qualified Bidder if its Bid is the

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Successful Bid or Back-Up Bid, or if the Company is proceeding with the Auction, the date, time and location of the Auction.

67. The Company may, in its discretion, conduct the Auction if it receives more than one Liquidation Proposal (which are Qualified Bids). The Company has asked for Sale Proposals to be submitted on a sealed basis on the Bid Deadline. However, if the Company receives a Sale Proposal or Investment Proposal (which is a Qualified Bid), which the Company or Proposal Trustee considers would result in a greater value being received than the Liquidation Proposals, then the Proposal Trustee may include such Qualified Bid(s) in the Auction.

68. If the Company determines to conduct the Auction, it will be conducted by the Proposal Trustee and will be held on a date to be determined by the Company, provided that it is no later than seven business days after the Bid Deadline. Only Qualified Bidders will be permitted to participate at the Auction. The Proposal Trustee may adopt rules for the Auction at or prior to the Auction that will better promote value maximization, including the amount of the minimum bid increments. The highest and best bid at the conclusion of the Auction will become the Successful Bid.

69. The SISP allows the Company, with the assistance of the Financial Advisor, to continue to market the unsold business and assets of the Company (including its real property leases) if no acceptable offers materialize as a result of the SISP.

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70. The second phase of the SISP is designed to be flexible and ensure that offers can be solicited with the goal of improving upon the terms of the Stalking Horse Agreement. In that regard, the Company and the Proposal Trustee (in the event that the Auction is conducted) may engage in discussions with Qualified Bidders and accept revisions to Qualified Bids and waive compliance with any one or more of the requirements with respect to Qualified Bids in their discretion. The Company and the Proposal Trustee also have the right to adopt rules for the SISP Procedures and the Auction to better promote the objective of the SISP including modifying the Bid Deadline or other dates set out in the SISP Procedures.

71. Once the Company has determined the Successful Bid (whether at the Auction or otherwise), the Company will make a motion to the Court to approve the Successful Bid and Back-Up Bid within five business days following such determination.

72. In summary, the key dates of the second phase of the SISP are as follows:

| | |
|--|---|
| Commencement of Second Phase of the SISP: | The second phase of the SISP will commence upon approval by the Court |
| Bid Deadline: | February 22, 2016 |
| Advising Interested Parties Whether Bids Constitute Qualified Bids: | No later than two business days after Bid Deadline |
| Determining Successful Bid and Back-Up Bid (if there is no | No later than five business days after Bid Deadline |

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Auction):**Advising Qualified Bidders of Auction date and location (if applicable):**

No later than five business days after Bid Deadline

Auction (if applicable):

No later than seven business days after Bid Deadline

Bringing Motion for Approval:

Within five business days following determination by the Company of the Successful Bid (at Auction or otherwise)

Back-Up Bid Expiration Date:

No later than 15 days after the Bid Deadline, unless otherwise agreed

Outside Date:

No later than 15 business days after the Bid Deadline

Alternatives to Stalking Horse Agreement and SISP

73. The SISP and the Stalking Horse Agreement have been carefully considered by the Company and its advisors, the Financial Advisor and the Proposal Trustee. The Company believes that a comprehensive sales process is warranted at this time. The Stalking Horse Agreement ensures that at a minimum, the Company would receive the amount guaranteed thereunder for the benefit of its stakeholders.

74. While the timelines in the second phase of the SISP are relatively tight, they reflect the fact that there has been a prior solicitation process that resulted in the Financial Advisor contacting approximately 189 prospective bidders during mid-2015

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and the fact that the more serious parties have re-engaged and had access to material non-public information about the Company the commencement of the Stalking Horse Process.

75. In addition, the Company believes it is necessary to execute the second phase of the SISP quickly and on the timelines established therein in order to maximize value. As described in paragraph 31 above, the Company's business is seasonal and its revenues are largely generated during the Fall and Winter. If a transaction cannot be consummated, the liquidation value of the Company's inventory will depreciate significantly as it enters the Spring season. This is reflected in the decrease in the Guaranteed Percentage in the Stalking Horse Agreement if the Sale does not commence by March 3, 2016. Furthermore, the Company expects to generate significant losses from now until September due to the normal seasonality of the Business. Moreover, the Company makes decisions in March about which products it will carry and raw materials it requires for the next fiscal year's Fall/Winter season. Therefore, it is crucial that any purchaser of the business as a going concern has the opportunity to acquire the business and make the necessary business decisions regarding product lines and materials so that it can meet the Fall/Winter 2016 purchasing cycle.

76. The Company believes that the SISP and the Stalking Horse Agreement provide the best structure to maximize recoveries and to potentially generate a going-concern

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offer for some or all of the Business. Based on the results of the 2015 Solicitation Process, the Company does not believe that any party will have an interest in acquiring its shares or developing a plan of reorganization.

FINANCIAL ADVISOR FEES AND THE FEES OF OCI

77. Having regard to the many months the Financial Advisor spent marketing the Company in the 2015 Solicitation Process, the Company believes that it is beneficial to continue to use the services of the Financial Advisor for the purpose of implementing the SISP. A copy of the engagement agreement (the "**Engagement Agreement**") between the Financial Advisor and the Company dated December 31, 2015, is attached as **Exhibit "F"** to my Affidavit.

78. Pursuant to the terms of the Engagement Agreement, the fees payable to the Financial Advisor are as follows: (a) a success fee of US\$350,000 plus 1.5% of the proceeds of any transaction consummated pursuant to the SISP, provided that the aggregate success fee cannot exceed US\$525,000 (per the terms of its engagement agreement, the Financial Advisor will credit against the success fee 50% of its retainer or \$25,000. Therefore if the success fee calculated equals \$525,000, \$500,000 is payable to the Financial Advisor), plus (b) a bonus calculated on the number of store leases assigned, in an amount not to exceed US\$150,000, for a maximum aggregate payment of US\$675,000 (US\$50,000 of which has already been paid to the Financial Advisor by way of retainer).

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79. As described above, the Company has also engaged OCI to assist the Company with implementing the SISP in international markets, including China, India, Qatar and the United Arab Emirates. A copy of the engagement letter (the "**OCI Engagement**") between the Company and OCI dated January 11, 2016 is attached as **Exhibit "G"** to my Affidavit.

80. Pursuant to the terms of the OCI Engagement, OCI is only entitled to receive a success fee if the Company consummates a liquidity transaction or a share or asset divestiture or business combination originated by OCI and involving the Company and one or more strategic parties or target companies introduced to the Company by OCI. The success fee will be equal to 4% of the transaction value. I believe that OCI could potentially identify a purchaser or strategic investor in overseas markets, which would result in a more competitive sales process.

COURT ORDERED CHARGES AND KEY EMPLOYEE RETENTION PLAN

Consensus Charge

81. The Company is seeking a charge in the amount of US\$500,000 to cover the Financial Advisor's success fee payable under the Engagement Letter and described in paragraph 78 above (the "**Consensus Charge**"). The Consensus Charge would rank behind the Existing Security, *pari passu* with the Administration Charge and ahead of the D&O Charge and KERP Charge (each as defined below).

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82. As a result of the 2015 Solicitation Process, Consensus is familiar with the Company and the market for its business and assets. It is my view that they will play an integral role in ensuring the successful implementation of the SISP. I therefore believe it is important to secure their fees pursuant to the Consensus Charge in order to ensure that Consensus completes its assignment.

Administration Charge

83. The Company is seeking a charge on its assets (the "**Administration Charge**") in favour of the Proposal Trustee, counsel to the Proposal Trustee, counsel to the Company and the Financial Advisor as security for payment of their respective fees and disbursements, in each case at their standard rate and charges.

84. The Administration Charge will also secure the fees of the directors of the Company and the fees and disbursements of their counsel. This will provide the directors with comfort that their fees will be paid during the course of these proposal proceedings and incent them to stay in their roles. I believe that the continued involvement of the directors is critical to a successful sales process and therefore believe it is important to include their fees in the Administration Charge.

85. Given the number of professionals and the fact that the guarantee of directors' fees, the Administration Charge will be in the amount of \$600,000 and will rank *pari*

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passu with the Consensus Charge and ahead of the D&O Charge and KERP Charge (each as defined below) but behind the Existing Security.

D&O Charge

86. As part of these proceedings, the Company is seeking a charge on its assets in favour of its directors and officers in an amount not to exceed \$4.9 million (the "**D&O Charge**"), which would rank ahead of the KERP Charge (defined below) but behind the Consensus Charge, the Administration Charge and Existing Security.

87. The Company and its subsidiaries currently have a directors' and officers' insurance policy through Chubb Insurance Company of Canada, Liberty Mutual Insurance and Arch Insurance Canada (collectively, the "**Policy**"), which covers the period from January 31, 2016 to January 31, 2017. The Policy provides that if there is a change in risk, the insurer, at its discretion, may terminate the Policy or increase the premium thereunder. It is unclear whether the insurer would consider the Proposal proceedings to constitute a change in risk under the Policy and therefore whether the directors and officers are sufficiently covered for an insurable event arising after the filing of the NOI.

88. In its by-laws, the Company has agreed, subject to certain exceptions, to indemnify current and former directors and officers of the Corporation for any matter claimed against them by reason of their status as directors or officers of the Company,

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except due to their gross negligence or wilful misconduct. However, the Company does not anticipate it will have sufficient funds to satisfy those indemnities should the directors or officers of the Company be found responsible for potential obligations. The amount of the D&O Charge takes into account payroll obligations, vacation pay obligations, employee source deduction obligations and sales tax obligations that may arise during these proposal proceedings. It is expected that all of these amounts will be paid in the normal course and the Company expects to have sufficient funds to pay these amounts. Accordingly, it is unlikely that the D&O charge will be called upon.

89. Given Danier's current financial circumstances, the directors and officers of the Company have indicated that they are not prepared to remain in office without knowing that they will be fully protected from any liability which may arise during their continuance as directors and officers. As mentioned above, I believe that the sales and investor solicitation process will benefit from the continued involvement of the Company's directors and this view extends to the Company's officers. Accordingly, the Company requests the D&O Charge against obligations and liabilities that the directors and officers may incur after the date of the NOI (except for misconduct or gross negligence), to the extent that the Company is unable to satisfy its indemnity obligations.

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Key Employee Retention Plan and Charge

90. The Board has determined that it is in the best interest of the Company to ensure that key personnel remain with the Company during these proceedings by implementing key employee retention plans (collectively, the "**KERP**"). The KERP would apply to 11 of the Company's employees, an executive of the Company and the Company's consultant, all of whom have been determined to be critical to ensuring a successful sale or investment transaction in respect of the Company, the Business or the Company's assets. The parties who are covered by the KERP have industry knowledge, are intimately familiar with the operations of the Company and have relationships with parties who are integral to the performance of the Business and therefore will be an invaluable resource during the SISP and restructuring of the Company. Absent a retention plan, it is highly probable that these parties would seek employment elsewhere.

91. The Company will pay the key employees up to a retention bonus in the maximum aggregate amount of \$213,500, provided that these employees remain actively employed with the Company until the earlier of the completion of the SISP, the date upon which the liquidation of the Company's inventory is complete, the date upon which the Company ceases to carry on business, or the effective date that the Company terminates the services of such employees. The Company will pay each of the consultant and the Company's executive (a) a \$25,000 retention bonus, (b) a further

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\$25,000 retention bonus calculated on a *pro rata* basis for each day they remain in their positions after the first three months following the date of the NOI, and (c) an amount equal to \$105,000 as a termination payment. The forms of the KERPs together with a schedule of entitlements of each employee, consultant or executive thereunder are attached to my Affidavit as confidential **Exhibit "H"**.

92. The Order sought in connection with this motion contemplates a charge on the assets of the Company for up to \$524,000 in respect of the KERP, which would rank behind the Existing Security, the Consensus Charge, the Administration Charge and the D&O Charge.

REQUEST FOR SEALING

93. As part of this motion, Danier is requesting that forms of the KERPs and the schedule of entitlements thereunder filed as confidential Exhibit "H" be sealed. I believe that it would be detrimental to the operations of the Company to disclose the identity of the individuals who will be receiving the KERP payments as this may result in other employees requesting such payments or feeling underappreciated. As a result, the Company is requesting the KERPs be sealed until the completion of these proposal proceedings.

94. The Company is also requesting that the Offer Summary be sealed until the completion of the transactions contemplated by the Successful Bid(s). The Offer

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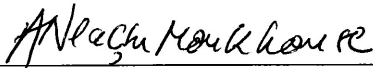
Summary contains highly sensitive commercial information of the Company and the Business that could undermine the integrity of the SISP. In my opinion, the disclosure of the Offer Summary prior to the completion of the transactions under the Successful Bid(s) would pose a serious risk to the SISP in the event that the Successful Bid(s) do not close as it could jeopardize dealings with any future prospective purchasers or liquidators or the Company's assets.

CONCLUSION

95. The Board unanimously resolved that it is in the best interest of the Company to enter into the Stalking Horse Agreement, if approved, implement the SISP and seek approval of the KERP and the Court-ordered charges described above.

96. For the reasons expressed herein, I am of the view that the Company is acting in good faith and with due diligence in seeking approval of the Stalking Horse Agreement, the SISP and SISP Procedures and the Court-ordered charges.

SWORN BEFORE ME in
the City of Toronto, in the
Province of Ontario, this 4th the day
of February, 2016



Commissioner for taking
Affidavits, etc.

**Alexandra Monkhouse, a Commissioner, etc.,
Province of Ontario, while a Student-at-Law.
Expires March 19, 2017.**



BRENT HOULDEN

Appendix “D”

Danier Leather Inc. (the "Company")

Interim Statement of Receipts and Disbursements

For the Period March 21, 2016 to December 31, 2017

(CAD; unaudited)

| Description | Notes | Amount |
|--|-------|-------------------|
| Opening bank balance | | <u>34,342,310</u> |
| Receipts: | | |
| Proceeds from liquidation | 1 | 47,151,731 |
| Sales tax refunds | | 1,619,933 |
| Miscellaneous refunds | 2 | 849,624 |
| IP sale | | 599,970 |
| Lease assignments | 3 | 550,085 |
| Other | | 434,153 |
| Total receipts | | <u>51,205,497</u> |
| Opening bank balance and receipts | | <u>85,547,806</u> |
| Disbursements: | | |
| Dividends paid to creditors (including levy) | | 18,933,953 |
| Payments to Agent | 1 | 29,640,059 |
| Wages, source deductions and benefits | | 6,184,493 |
| HST/GST paid | | 7,152,272 |
| Rent and occupancy | | 3,054,004 |
| Sundry expenses | 4 | 1,926,490 |
| Professional fees | | |
| Receiver and Trustee | | 1,494,274 |
| Legal | | 703,040 |
| Employee Representative Counsel | | 224,493 |
| Chief Restructuring Officer | | 243,093 |
| Tax Advisor | | 120,359 |
| Total disbursements | | <u>69,676,530</u> |
| Ending Bank balance | | <u>15,871,276</u> |

This statement has been prepared on a cash basis and does not include accruals.

Notes

1. The Company entered into a Court-approved transaction with a contractual joint venture comprised of Merchant Retail Solutions, ULC and Gordon Brothers Canada ULC (jointly, the "Agent"), resulting in the execution of an agency agreement pursuant to which the Agent sold the Company's inventory, furniture, fixtures and equipment in 76 of the Company's stores.
2. Miscellaneous refunds are primarily comprised of security deposits returned by vendors.
3. Represents proceeds from the assignment of the Company's Yorkdale Shopping Centre, Halton Hills Shopping Centre and Avalon Mall leases.
4. Sundry expenses includes: credit card fees, IT services, telecommunications, transportation, repairs and maintenance, security, and other items.

Appendix “E”

Danier Leather Inc.
Estimated Funds Available for Distribution
As at December 31, 2017
(CA\$; unaudited)

| Description | Amount (\$) |
|---|--------------------|
| Funds on hand as at December 31, 2017 | <u>15,871,276</u> |
| Estimated disbursements | |
| Professional fees | 750,000 |
| Contingency | 150,000 |
| Employee Representative Counsel (Koskie Minsky LLP) | 50,000 |
| Operating costs, including storage and destruction of books and records | 50,000 |
| Additional creditor claims | <u>25,000</u> |
| | <u>1,025,000</u> |
| Estimated fund available for shareholders | <u>14,846,276</u> |
| Estimated funds available for shareholders per share | <u>3.85</u> |

Appendix “F”

PAYING AGENT AGREEMENT

November 21 2017

Computershare Investor Services Inc.
100 University Avenue
8th Floor
Toronto, ON
M5J 2Y1

Attention: Michael Cagayat, Project Manager, Corporate Actions

Dear Sirs and Mesdames:

On March 21, 2016, Danier Leather Inc. (the "Company") filed an assignment in bankruptcy and KSV Kofman Inc. ("We" or the "Trustee") was appointed the Company's trustee in bankruptcy under the *Bankruptcy and Insolvency Act* (Canada) ("BIA"). On the same date, We were also appointed as the receiver of the Company for the purposes of realizing on the Company's assets. Having completed the realization of the Company's assets and the satisfaction of all proven creditors' claims pursuant to the bankruptcy and insolvency proceedings, it is expected that approximately CAD\$15 million in surplus cash will remain, after payment of all costs incurred and to be incurred and satisfaction of all liabilities in the administration of the bankruptcy, and be available for distribution (the "Shareholder Distribution") to the Company's holders of Subordinate Voting Shares (the "Shareholders"). We would like You to accept the appointment as Paying Agent in respect of the Shareholder Distribution, consisting of one or more cash payments to be made to the Shareholders effective on one or more payment dates determined by the Trustee (the "Effective Date") and subject to one or more orders of the Ontario Superior Court of Justice (Commercial List) (the "Court") (i) authorizing and directing the Trustee make the Shareholder Distribution and (ii) authorizing and approving the entering into of this Agreement by the Trustee and the performance of its obligations hereunder (collectively, the "Court Order").

This paying agent agreement (the "Agreement") is in respect of the cash payment(s) to the Shareholders (the "Payees") of the Company which will be paid out by You to each Payee based upon the Payment Record (as defined below) to be provided to You by the Trustee, as appointed under the BIA.

1. Appointment, Payments and Mailings

1.1 Computershare Investor Services Inc. ("You", "Your", "Computershare" or the "Paying Agent") is hereby appointed by the Trustee to act as Paying Agent in connection with the Shareholder Distribution, and Computershare hereby accepts such appointment in respect of the Shareholder Distribution and agrees to observe and be bound by the terms and conditions of this Agreement.

1.2 On behalf of the Company, the Trustee shall deliver to Computershare a payment record setting out the names, addresses and payment entitlements of the Payees (the "Payment Record") entitled to receive payment on one or more agreed upon dates, in electronic format, which You will load to Your register to effect the required payments to the Shareholders.

1.3 On behalf of the Company, the Trustee shall deliver or cause to be delivered to You funds (the "Funds") by wire transfer or certified cheque not less than three (3) business days prior to the Effective Date(s), or make such other arrangements for the provision of the Funds as may be agreeable to You, in an amount equal to the total aggregate payments payable to the Payees as set out in the respective Payment Record. You shall promptly acknowledge in writing the receipt thereof and hold such Funds in trust for the Trustee. On the Effective Date(s), You will make the payments set forth in the respective Payment Record in accordance with the instructions of the Trustee. Notwithstanding the aforementioned, any payments in excess of \$25 million in Canadian dollars must be made by electronic transfer, rather than by cheques, bank drafts or other, traditional, paper-based payment methods. It is agreed that wire payments and/or cheques, if applicable, will be drawn on a designated and separated trust account maintained by You. Cheques will be forwarded to the address of each Payee as shown on the Payment Record provided to You by the Trustee. If the Trustee determines and advises Computershare in writing that delivery by mail may be delayed, Computershare will make arrangements for Payees to take delivery of the Funds to which such Payees are entitled, less any applicable withholdings, at Computershare's offices in Toronto maintained under Section 4.1 until the Trustee determines that delivery by mail will no longer be delayed.

1.4 [Reserved.]

1.5 Computershare is further authorized and directed to forward the Funds to a Payee via wire transfer or direct deposit, at the Payee's expense, in accordance with the explicit instructions (if any) contained in the Payment Record.

1.6 If, within twelve (12) months of the Effective Date, any portion of the Funds distributed by Computershare to Payees is unclaimed by a Payee or is returned to Computershare as a result of a Payee being unknown or a Payee's whereabouts being unknown (in any case, an "Unclaimed Amount"), upon written request by the Trustee from time to time, Computershare shall notify the Trustee in writing with full details concerning all such Unclaimed Amounts and shall, unless otherwise directed by the Trustee, by agreement with the Public Guardian and Trustee in the Province of Ontario pay to the Public Guardian and Trustee an amount equal to the Unclaimed Amount to be held by the Public Guardian and Trustee in trust for the respective Payee(s). Computershare shall be under no obligation to invest or reinvest any Unclaimed Amount and shall only be obligated to hold same in a current or other non-interest bearing separated account in trust for the applicable Payee(s).

1.7 As promptly as practicable, but no later than three (3) business days after receipt from the Trustee of any notices and letters to registered Shareholders, You will be responsible for mailing such notices and other letters to each registered Shareholder providing information to such Payees in respect of the Shareholder Distribution. You will mail each such notice and/or letter to each registered Shareholder by first class mail to the address of each Shareholder as set out in the Payment Record. You will also coordinate the provision of such notices and other letters to CDS & Co., the Canadian Depository for Securities ("CDS") as requested by the Trustee for further distribution or publication to the participants in CDS and will coordinate with CDS to effect such distributions and/or publications.

2. Placement of Amount Held

2.1 The Funds delivered to Computershare pursuant to Section 1.3 hereunder (collectively, the "Amount Held") shall be held in trust for the Trustee and, following the Effective Date(s), for the Payees, in a separate non-interest-bearing account of Computershare to be maintained by Computershare. Such account shall be designated in the name of the Trustee as the trustee in bankruptcy of the Company.

2.2 Until paid out in accordance with this Agreement, the Amount Held shall be kept segregated in Computershare's records and deposited in one or more trust accounts to be maintained by Computershare in Computershare's name at one or more banks listed in Schedule "B" to this Agreement (each such bank, an "Approved Bank").

2.3 All amounts held by Computershare pursuant to this Agreement shall be held by Computershare for the Trustee. The amounts held by Computershare pursuant to this Agreement are at the sole risk of the Trustee and, without limiting the generality of the foregoing, Computershare shall have no responsibility or liability for any diminution of the Amount Held which may result from any deposit made with an Approved Bank pursuant to this Section 5.2, including any losses resulting from a default by the Approved Bank. The Trustee acknowledges and agrees that Computershare acts prudently in depositing the Amount Held at any Approved Bank, and that Computershare is not required to make any further inquiries in respect of any such bank. To the extent that there are net losses or the Amount Held diminishes for reasons other than the payment of the Shareholder Distribution to Payees, Computershare shall notify the Trustee promptly, and in any event within two (2) business days, of such occurrence.

2.4 At any time and from time to time, the Trustee shall be entitled to direct Computershare by written notice (a) not to deposit any new amounts in the account(s) maintained by Computershare on behalf of the Trustee pursuant to this Section 2 with any Approved Bank specified in the notice and/or (b) to withdraw all or any of the Amount Held that may then be deposited in the account(s) maintained by Computershare on behalf of the Trustee pursuant to this Section 2. With respect to any withdrawal notice, Computershare shall withdraw and/or pay such amount specified in the notice in the manner directed by the Trustee as soon as reasonably practicable, and in any event within three (3) business days of a withdrawal notice by the Trustee, and the Trustee acknowledges and agrees that such specified amount remains at the sole risk of the Trustee prior to and after such withdrawal.

2.5 Computershare does not have any interest in the Amount Held but is serving as Paying Agent only and is not a debtor of the Trustee or the Company in respect of the Amount Held.

3. Fees and Expenses

3.1 Your fees for acting hereunder will be those set forth in Schedule "A" attached hereto. We will pay all your reasonable out-of-pocket expenses in connection with your duties hereunder (including, without limitation, overtime expenses, postage, courier, long distance calls, H.S.T., mailing insurance, photocopying, and reasonable counsel fees and disbursements). All fees and out-of-pocket expenses will be paid by the Trustee within thirty (30) days from the date of invoice and We acknowledge that late payment may be subject to reasonable and customary interest charges as indicated on the invoice. The Company and Trustee acknowledge and agree that the fees of Computershare are confidential information. As such, the Company and Trustee agree not to disclose any such fees to any third party without Computershare's prior written consent, save and except for disclosure (a) to the Company's and Trustee's professional advisors, employees or representatives, held to strict confidence; (b) as required or otherwise compelled by law or legal process; and (c) as required or requested by any regulatory, governmental or court authority or legal process.

4. Offices

4.1 You agree to maintain your principal office in Toronto, the office at which payment to the Payees as contemplated by the Payment Record may be picked up at all times during business hours.

5 Liability and Approval

5.1 Neither Computershare nor the Trustee shall be liable for any action taken or omitted to be taken by such party under or in connection with this Agreement, except for losses caused by such party's fraudulent act, willful misconduct or gross negligence. Without limiting the foregoing, in no case will either party or its affiliates be liable under any circumstances for any (a) breach by any other party of securities law or other rule of any securities regulatory authority, (b) lost profits, loss of bargain, economic loss or similar losses or (c) special, indirect, incidental, consequential, exemplary, aggravated or punitive losses or damages. The parties agree that in lieu of any indemnification obligations of any party, the Trustee will seek to obtain the Court Order authorizing the Shareholder Distribution and the appointment of Computershare as the Paying Agent, the entering into of this Agreement by the Trustee and the performance of its obligations hereunder, and including language substantially similar to that set out in Schedule "C" to this Agreement authorizing and directing Computershare and CDS to take all steps and actions required to effect the Shareholder Distribution and, in connection with performing its obligations under this Agreement and as instructed by the Trustee and in accordance with such Court Order, stating that Computershare shall not be liable to any of the Shareholders of the Company or any other person.

5.2 Notwithstanding any other provision of this Agreement, Your liability shall be limited, in the aggregate, to the amount of fees paid by the Company and/or Trustee to You or Your affiliates in the twelve (12) months immediately prior to You receiving the first notice of claim; provided, however, that any losses or liabilities caused by Computershare's fraud, willful misconduct or gross negligence shall not be subject to such limit.

5.3 The parties acknowledge and agree that the entering into of this Agreement and the performance of the parties' respective obligations hereunder, including the limitation of liability set out in Section 5.1 hereof, shall be subject to the prior approval of the Court pursuant to the Court Order in form and substance satisfactory to the Trustee, acting reasonably, pursuant to the proceedings under the BIA.

6. Tax

6.1 The Trustee shall be solely responsible for all tax processing relating to or arising from the duties or actions contemplated by this Agreement, including evaluation, reporting, remittance, filing, and issuance of tax slips, summaries and reports, except as is specifically delegated to You pursuant to this Agreement or as may be agreed subsequently, as confirmed in writing by the parties.

6.2 You shall process only such tax matters as have been specifically delegated to You pursuant to this Agreement or as may be agreed subsequently, and, in so doing, You do not undertake to carry out any inquiry, evaluation, reporting, remittance, filing or issuance of tax slips, summaries and reports necessarily incidental thereto, which shall remain the sole responsibility of the Trustee. You shall be entitled to rely upon and assume, without further inquiry or verification, the accuracy and completeness of any tax processing information, documentation or instructions received by You, directly or indirectly, from or on behalf of the Trustee. It is agreed that any such direction must be supplied to You prior to processing any payment.

6.3 Computershare is hereby directed to issue the following tax slips and related summaries to assist Payees with their respective tax reporting obligations in accordance with the Trustee's instructions:

- (a) issue T5 federal tax forms and transaction slips to Shareholders resident in Canada in respect of any dividend portion of the Shareholder Distribution; and

- (b) issue RL-3 Québec tax forms and transaction slips to Shareholders resident in the Province of Québec in respect of any dividend portion of the Shareholder Distribution.

7. Termination

7.1 Either party may terminate this Agreement for any reason whatsoever upon thirty (30) days written notice to the other party or such other shorter period as the parties may agree to in writing. This Agreement shall terminate automatically without the need for any party to take any further action with respect to such termination following the distribution by Computershare to all Payees of all Funds held by Computershare pursuant to this Agreement and the later of (a) the date on which all Unclaimed Amounts have been claimed by the Payees or distributed to the Public Guardian and Trustee in accordance with Section 1.6 and (b) the date that the Trustee is discharged pursuant to the BIA.

7.2 Section 5, this Section 7 and Section 8 shall survive any termination of this Agreement for a period of twelve (12) months from the effective date of termination.

8. General

8.1 In acting as Paying Agent, You:

(a) shall have no duties or obligations other than those set forth herein or as may subsequently be agreed to by You and the Trustee;

(b) shall have no obligation to make payment to the Shareholders of the Company unless the Trustee shall have provided the necessary funds in advance to pay in full all amounts due and payable with respect thereto;

(c) shall not be obliged to take any legal action that might in Computershare's reasonable judgment involve any expense or liability unless You shall have been furnished with reasonable funding and indemnity;

(d) may consult with legal counsel satisfactory to You (including the Trustee's or the Company's counsel) at the Trustee's expense and the advice or opinion of such counsel shall be full and complete authorization or protection in respect of any action or omission taken by You thereunder, in good faith, in accordance with the advice or opinion of such counsel; provided that any fees or expenses of counsel individually or in the aggregate in excess of CAD\$5,000 shall be subject to the prior written approval of the Trustee; and

(e) may rely upon any instructions, instrument, certificate, report or paper provided by or on behalf of the Trustee believed by You to be genuine and to have been signed or presented by the proper person(s) and You shall be under no duty to make any investigation or inquiry as to any signature or statement contained therein, but may accept the same as having been properly given and as conclusive evidence of the truth and accuracy of any statements therein contained.

8.2 This Agreement shall not be assigned by either of the parties hereto without the prior written consent of the other.

8.3 This Agreement shall enure to the benefit of and be binding upon the parties hereto and their respective successors and permitted assigns.

8.4 This Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein.

8.5 This Agreement may be signed in any number of counterparts, each of which will be deemed an original, but all of which together will constitute one and the same instrument.

8.6 Time shall be of the essence of this Agreement.

8.7 All dollar references in this Agreement are in Canadian dollars.

8.8 No modification of or amendment to this Agreement shall be valid or binding unless set forth in writing and duly executed by both of the parties hereto. This Agreement and the schedules attached hereto represent the entire agreement between the parties with respect to the subject matter hereof.

8.9 The use of headings and division of sections and paragraphs is for convenience of reference only and does not affect the construction or interpretation of the Agreement.

8.10 You shall not be liable, or held in breach of this Agreement, if prevented, hindered, or delayed in the performance or observance of any provision contained herein by reason of act of God, riots, acts of war, epidemics, governmental action or judicial order, earthquakes, or any other similar causes (including, but not limited to, mechanical, electronic or communication interruptions, disruptions or failures). Performance times under this Agreement shall be extended for a period of time equivalent to the time lost because of any delay that is excusable under this Section.

8.11 The Trustee hereby represents that any account to be opened by You, and any money, securities or other assets to be held by You, in connection with this Agreement, for or to the credit of the Trustee, are not intended to be used by or on behalf of any party other than the Trustee in its capacity as trustee in bankruptcy of the Company. You hereby expressly waive any lien, encumbrance or right of set-off whatsoever that You may have with respect to any funds deposited with you pursuant to this Agreement by reason of amounts, if any, owed to You or Your affiliates by the Trustee, the Company or any other person, or any of its or their subsidiaries or affiliates, pursuant to any agreement or arrangement with You or Your affiliates.

8.12 The parties hereto confirm that it is their wish that this Agreement as well as all other documents relating hereto, including notices, have been and shall be drawn up in English. Les parties aux présentes confirment leur consentement à ce que cette convention de même que tous les documents, ainsi que tout avis s'y rattachant, soient rédigés en anglais.

Kindly indicate your acceptance of the terms of this letter by signing and returning to the Trustee the duplicate hereof, in which case this letter will form an agreement between us.

KSV KOFMAN INC., solely in its capacity as trustee in bankruptcy of Danier Leather Inc., and not in its personal or any other capacity

Per: 

Name: ROBERT HARCAN
Title: MANAGING DIRECTOR

Accepted and agreed to as of the ___ day of _____, 2017.

COMPUTERSHARE INVESTOR SERVICES INC.

Per: 

Name:
Title:

Michael Cagayat
Professional, Corporate Actions
Computershare Investor Services Inc.

Per: 

Name:
Title:

Eamon O'Leary
Senior Professional, Corporate Actions
Computershare Investor Services Inc.

SCHEDULE "A"

[Intentionally Deleted]

SCHEDULE "B"

Approved Banks

| Bank | Relevant S&P Issuer Credit Rating (as at October 2, 2017) |
|------------------------------------|--|
| Bank of Montreal | A+ |
| The Bank of Nova Scotia | A+ |
| Canadian Imperial Bank of Commerce | A+ |
| HSBC Bank of Canada | AA- |
| National Bank of Canada | A |
| Royal Bank of Canada | AA- |
| The Toronto-Dominion Bank | AA- |

SCHEDULE "C"

Draft Court Order Language

THIS COURT ORDERS that the Trustee is authorized to appoint Computershare as the Paying Agent, to enter into the Paying Agent Agreement and to perform its obligations thereunder and that each of the Trustee, Computershare and CDS, and their respective affiliates, partners, directors, employees, agents and controlling persons, shall have no liability with respect to any and all losses, claims, damages or liabilities, of any nature or kind, to any person (including any shareholder of the Company) in connection with or as a result of carrying out their obligations pursuant to the Paying Agent Agreement or, in the case of Computershare and CDS, at the direction of the Trustee, except to the extent such losses, claims, damages or liabilities result from the fraudulent act, gross negligence or willful misconduct of the Trustee, Computershare or CDS, as applicable.

Appendix “G”

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



THE HONOURABLE)

FRIDAY, THE 8TH

MR. JUSTICE HAINEY)

DAY OF DECEMBER, 2017

**IN THE MATTER OF THE BANKRUPTCY OF
DANIER LEATHER INC.**

ORDER

THIS MOTION, made by KSV Kofman Inc. (the "**Trustee**"), in its capacity as Trustee in Bankruptcy of Danier Leather Inc. (the "**Company**") pursuant to the *Bankruptcy and Insolvency Act* (Canada) (the "**BIA**"), for an order, among other things,

- (a) authorizing the Trustee to enter into the agreement (the "**Paying Agent Agreement**") in form and substance attached as Appendix "A" to the Fifth Report of the Trustee dated November 29, 2017, and to perform its obligations thereunder;
- (b) declaring that the Trustee, Computershare Investor Services Inc. ("**Computershare**") and CDS & Co., the Canadian Depository for Securities ("**CDS**"), and their respective affiliates, partners, directors, employees, agents and controlling persons, shall have no liability with respect to any and all losses, claims, damages or liabilities, of any nature or kind, to any person (including any shareholder of the Company) in connection with or as a result of carrying out their obligations pursuant to the Paying Agent Agreement or, in the case of Computershare and CDS, at the direction of the Trustee, except to the extent such losses, claims, damages or liabilities result from the fraudulent act, gross negligence or willful misconduct of the Trustee, Computershare or CDS, as applicable; and


- (c) sealing Schedule "A" to the Paying Agent Agreement from the public record until further Order of the Court,

was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the motion record of the Trustee, and on hearing submissions of counsel for the Trustee, and such other counsel as were present:

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion and Motion Record herein be and is hereby abridged and that the motion is properly returnable today and service upon any interested party other than those parties served is hereby dispensed with.
2. **THIS COURT ORDERS** that the Trustee is authorized to enter into the Paying Agent Agreement, and to perform its obligations thereunder.
3. **THIS COURT ORDERS** that the Trustee, Computershare and CDS, and their respective affiliates, partners, directors, employees, agents and controlling persons, shall have no liability with respect to any and all losses, claims, damages or liabilities, of any nature or kind, to any person (including any shareholder of the Company) in connection with or as a result of carrying out their obligations pursuant to the Paying Agent Agreement or, in the case of Computershare and CDS, at the direction of the Trustee, except to the extent such losses, claims, damages or liabilities result from the fraudulent act, gross negligence or willful misconduct of the Trustee, Computershare or CDS, as applicable.

4. **THIS COURT ORDERS** that Schedule "A" to the Paying Agent Agreement shall be sealed and shall not for part of the public record, subject to further Order of this Court on notice to Computershare.

A handwritten signature in blue ink, appearing to read "Hainey J", is written over a horizontal line. The signature is cursive and extends to the right of the line.

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

ORDER

BENNETT JONES LLP
3400 One First Canadian Place
P.O. Box 130
Toronto ON M5X 1A4

Sean Zweig (LSUC# 573071)
Tel: (416) 777-6254

Counsel to the Trustee in Bankruptcy,
KSV Kofman Inc.